HUMAN RIGHTS
IN RUSSIAN REGIONS
COLLECTION OF REPORTS
ON THE HUMAN RIGHTS SITUATION
ACROSS THE TERRITORY
OF THE RUSSIAN FEDERATION
IN THE YEAR 2001

BY
MOSCOW HELSINKI GROUP
This Collection of Reports was compiled by the Moscow Helsinki Group within the framework of the Project “Monitoring of Human Rights in Russia” with participation of the Union of Councils for Soviet Jews and regional human rights organizations from 89 subjects of the Russian Federation.

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This Collection of Reports represents a generalization of findings of regional human rights organizations monitoring observance of human rights in all the 89 regions of the Russian Federation. Materials from the mass media and evidence given by Moscow based human rights organizations were used also in the compilation of this book. Please note that the absence of reference to a specific information source implies that the said data was derived from the regional report submitted to the Moscow Helsinki Group by the partner-organization from the given region.
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MOSCOW HELSINKI GROUP
THE OLDEST OF ALL THE RUSSIAN HUMAN RIGHTS ORGANIZATIONS
NOW ACTIVE FOUNDED ON MAY 12, 1976

BACKGROUND

1976–1982

On August 1, 1975, the Helsinki Conference on Security and Cooperation in Europe ended. By signing the Final Act of the Conference, the leaders of the USSR undertook to abide by certain international standards in the sphere of human rights. On May 12, 1976, on the initiative of a prominent physicist and human rights activist, Yuri Orlov, the Moscow Helsinki Group (MHG) was created to support the USSR’s compliance with the humanitarian articles of the Final Act. The first members of this non-governmental, independent public association were Ludmilla Alexeeva, Mikhail Bernshtam, Yelena Bonner, Alexander Ginzburg, Pyotr Grigorenko, Alexander Korchak, Malva Landa, Anatoly Marchenko, Yuri Orlov (Chair), Vitaly Rubin and Anatoly Shcharansky.

In the course of its activity, the MHG issued 195 informational and analytical documents and a number of announcements and statements on violations of the Helsinki Accords in the USSR. Following the MHG example, similar associations were created in Armenia, Georgia, Ukraine and Lithuania. In the early 1980s, the International Helsinki Federation was founded.

From the very first days of its existence, the MHG was persecuted by the Soviet authorities. Many old and new members of the group were arrested and sentenced to prison terms and/or internal exile; others were forced to emigrate. In 1982, reduced to three active members, the MHG announced its own dissolution in light of the never-ceasing campaign of repression.

1989…


In 1990–1993, Larisa Bogoraz organized a series of six seminars for human rights activists from different regions of Russia. These seminars ensured the continuity of the human rights movement by teaching its history, philosophy, problems and achievements.

In 1996, at the Jubilee Conference on the 20th anniversary of its creation, the MHG announced a new work strategy: Well-rounded service
and support for regional human rights organizations and their human rights initiatives became the MHG’s chief priority.

LEADERS OF THE MHG

Yuri Orlov (1976–1982)
Ludmilla Alexeeva (1996 — to the present)

GOALS

The principal goals of the Moscow Helsinki Group are:

✓ to assist to the observance of the RF Constitution, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and all international legal obligations of the Russian Federation in the sphere of human rights;
✓ to provide well-rounded support for further development of the Russian regional human rights movement;
✓ to collect, systematize and analyze information on violations of human rights and the rule of law in Russia;
✓ to inform Russian and international government and non-government organizations, and a wide public about the human rights situation in Russia;
✓ to advocate human rights standards and philosophy.

NETWORK OF REGIONAL ORGANIZATIONS

Today in Russia there exists a network of human rights organizations that covers all the regions of the RF. Most of the MHG projects target close cooperation with regional partners. Over 100 regional human rights organizations participate in joint projects with the MHG. The number of regional organizations with which the MHG maintains contacts is already more than 1500. The MHG possesses a regularly up-dated and expanding database on over 2000 provincial human rights organizations.

MONITORING

For the first time in the history of the Russian human rights movement, the MHG is carrying out a human rights monitoring program in all the regions of the Russian Federation.
This project follows the model developed by the MHG: a strong Moscow-based organization develops a methodological foundation for a monitoring program and drafts all-Russia reports. Local organizations monitor the human rights situation in their respective regions in accordance with that methodology, and draft regional reports on their findings.

Annually, the MHG publishes a multi-volume collection of reports entitled “Human Rights in Russian Regions,” comprising reports by the MHG regional partners and a comprehensive all-Russia report by the MHG.

In addition, the MHG has carries out topical monitoring projects and published comprehensive reports on such issues as violations of legislation on elections and the status of women. Currently, the MHG in cooperation with, the International Helsinki Federation, the Polish Helsinki Foundation, the Netherlands Helsinki Committee and regional human rights organizations in all the subjects of the Russian Federation is conducting a two-year program that involves four thematic monitoring efforts accompanied by release of reports based on monitoring findings and active public campaigning. The first two topics, those selected for the year 2002, are (1) xenophobia, nationalism, discrimination and (2) situation in the penitentiary facilities.

Monitoring findings are disseminated through local, all-Russia and foreign mass media. The reports are submitted to federal-level and regional-level power bodies and to Russia’s partner-states in the OSCE and the Council of Europe. The reports are also sent to libraries, research institutes, universities, schools and public organizations interested in human rights problems.

EDUCATIONAL PROGRAM

Within the framework of the MHG educational program, the following projects are underway:

- **Assistance to Independent Monitoring**

  This joint project with the University of Nottingham (UK) targets the development of training courses and a well-rounded manual to assist non-government organizations working in the field of human rights monitoring in the RF.

- **Human Rights Summer School**

  This project targets preparation of trainers for regional human rights schools in Russia and Belarus and conduction of workshops for NGOs with the engagement of these trainers. It is being carried out in cooperation with the Netherlands Helsinki Committee and the Polish Helsinki Committee.

- **Human Rights for Beginners**
This project aims at providing comprehensive basic human rights training to activists from new regional human rights organizations and young people that recently joined human rights organizations.

Also, in 1999-2002, the Moscow Helsinki Group held over 30 seminars for several hundreds of human rights activists from different regions of the Russian Federation. The lectures were given and the discussions led by prominent human rights activists, specialists in the international system of human rights defense, and experts on criminal and civil law.

NETWORKING ACTIVITIES

Since 2000, networking has been one of the top priorities of the MHG. In addition to assisting to the building of a Russia-wide network of action-based regional coalitions of NGOs and helping these coalitions organizationally, technically and creatively in carrying out public campaigns on human rights, women’s and ecological issues of high significance, the MHG is an active member of the Network of Russian NGOs against Racism and Network of Russian NGOs for Economic and Social Rights.

PUBLIC RELATIONS FOR HUMAN RIGHTS ORGANIZATIONS

In 2000, the MHG has selected as one of its priorities the problem of public relations for human rights organizations. In this light, the MHG has been carrying out two projects:

✓ Human Rights and Russian Media

This project conducted in cooperation with the Netherlands Helsinki Committee is aimed at teaching Russian regional human rights activists the skills of effectively interacting with media and drawing the attention of journalists to human rights problem.

✓ Human Rights on TV and Video

Under this project a small production unit was created within the MHG to promote human rights on federal and local TV and make educational films for provincial human rights activists. The MHG production unit has been actively working since summer 2001.

BULLETIN “CHRONICLE OF THE MOSCOW HELSINKI GROUP”

Since June 1996, the MHG has regularly published the bulletin “Chronicle of the Moscow Helsinki Group” (prior to 1999 — “Chronicle of Current Events”). This monthly informational publication is devoted to three main themes:
✓ events of primary importance in the field of human rights (in Russia and abroad);
✓ activities of the MHG;
✓ activities of regional human rights organizations.

The Information Center for the Human Rights Movement, founded by the MHG, takes an active part in compiling and disseminating the “Chronicle of the Moscow Helsinki Group.” The bulletin’s print-run is 2,000 copies and it is circulated free-of-charge. Over 1,500 copies are sent to human rights organizations in most of the regions of the Russian Federation, as well as to libraries and mass-media bodies; the rest are distributed at human rights conferences and seminars. The bulletin’s electronic version is featured in the Internet.

**GRATIS LEGAL AID**

The MHG public legal aid office was founded in 1997 in order to render gratis legal assistance to the poor and socially unprotected sectors of the population. In addition to giving legal consultations, the office staff help to draft bills of complaints and petitions, represent their clients in courts and other state-power bodies located in Moscow, and give written advice in response to citizens’ letters.

Up to 100 persons per week are assisted by the MHG public legal aid office. Two-thirds of the visitors are Muscovites and one-third are from other regions of the RF and from the newly independent states.

**COOPERATION WITH HUMAN RIGHTS ACTIVISTS FROM THE CIS**

Over 20 human rights organizations from across the CIS regularly receive from the MHG the informational bulletin and other materials issued or disseminated by it, including useful legal and human rights publications and data on charity foundations.

In order to gather and spread accurate information on the human rights situation in the countries of Caucasus and Central Asia, the MHG has been carrying out the project “Political and Religious Persecution in the CIS Countries.”

Local monitors and human rights activists from nine states (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kirgizstan, Tajikistan, Turkmenia, Uzbekistan) regularly supply the MHG with data on political and religious persecution and on the current human rights situation in their respective countries. On the basis of these communications, the monthly bulletin “News Round-Up” is issued and disseminated in both print and electronic versions. Each issue is accompanied by a significant
number of documents and other materials in electronic format. Among
the bulletin’s recipients are information agencies, TV companies, radio
stations, Moscow newspapers and magazines, press services of foreign
embassies, foreign mass-media bodies, and regional human rights or-
ganizations.

INTERNATIONAL ACTIVITIES

With the assistance of the IHF and independently, the MHG has been
actively working with the international power agencies within the UN,
OSCE and the Council of Europe so as to ensure that adequate pressure
is rendered by the governments of Western democracies on the Russian
state with regards to improving the human rights situation in the con-
temporary Russia.

Representatives of the MHG have participated in the World Conference
Against Racism (August–September 2001), in the last three annual ses-
sions of the UN Commission on Human Rights, and in numerous inter-
national conferences, workshops and fora. The MHG has been provid-
ing up-dated information on the human rights situation in Russia on a
range of special rapporteurs and structures of the United Nations and
Council of Europe.
INTRODUCTION

Human Rights in Russian Regions — 2001 is the fourth in a series of yearly reports prepared by the Moscow Helsinki Group (MHG). The information presented here is the result of the 2001 monitoring effort conducted by the MHG with the assistance of several other Moscow-based human rights organizations and more than 80 provincial human rights groups.

The idea of carrying out such Russia-wide monitoring, which was initially developed by the Moscow Helsinki Group, found ardent supporters among Russian regional NGOs, who actively joined in the realization of the project. What began in 1997 as an ambitious experiment conducted in the five Russian regions where the civil movement at that time was the most active, has today become a multi-functional, unified, nationwide Russian network for human rights monitoring. The “Monitoring Human Rights in Russia” project that was conducted in 1998–2002 and supported by the United States Agency for International Development played a key role in the development of this network.

The human rights situation in Russia is monitored jointly by the Moscow and regional human rights organizations. The MHG has developed a unified methodology, coordinates the monitoring process, and compiles the comprehensive annual All-Russian Report on human rights. Local organizations monitor the human rights situation in their regions and, on the basis of their findings, formulate the regional reports.

To date, this is the only country-wide monitoring effort, but we hope that its success will inspire our colleagues in the human rights movement to undertake similar initiatives.

Although the “Monitoring Human Rights in Russia” project is now completed, the network that has been established will continue to monitor the human rights situation in the subjects of the Russian Federation. The knowledge and skills acquired in more than four-year period of systematic work have also enabled network member organizations to achieve a qualitatively new level in their operations — they are now capable of monitoring specific, acute human rights problems. Four such focused monitoring efforts will be implemented in 2002–2004 with the assistance of the European Commission, which is lending its support to the activities of the human rights monitoring network in Russia. The first of these efforts is already underway, dedicated to racism and xenophobia in the Russian Federation.

The primary difference between this publication and previous editions of the Human Rights in Russian Regions is that we have not included the original texts of regional organizations’ reports. This is due to the fact that over the several years of cooperation, our regional partners have acquired sufficient expertise in writing reports based on results of generalized monitoring and do not need our assistance in preparing their texts for publication. We deliberately encouraged regional organizations to independently find funding for publication and presentation of their
reports in their regions. Some of the regional organizations have been successful at this. At the same time, we felt it necessary to include into this collection a special report on the human rights situation in the Chechen Republic, since this region continues to have one of the most serious human rights problems in the international arena.

In addition, this compilation includes several essays focusing on specific issues. The bulk of the Collection contains a Russia-wide assessment of the human rights situation prepared on the basis of regional reports. Included also is an overview of the basic trends in the development of regional legislation compiled by the Independent Council of Legal Expertise, as well as an essay on the effects of the decentralization processes on the human rights situation in the RF.

We would like to draw your attention to the fact that this publication does not address all forms of human rights violations that are occurring in contemporary Russia. Moreover, in view of a number of specific circumstances, several topics that were covered in last year’s edition (first and foremost — socio-economic rights) were not covered this year. On the other hand, this compilation does include materials on topics that had not been covered before, such as regional legislation and the rights of sexual minorities. In addition, authors of some of the chapters made an attempt to explore the human rights situation more in depth and with an eye towards history. On the whole, as with the 1999–2001 editions, this publication describes the human rights situation in Russia in general. We attempted to present updated information on trends described earlier and to expand on the overall picture of human rights violations in contemporary Russia.

In 2001, the overall human rights trends in Russia have remained the same. On the other hand, some negative phenomena did become rooted and conspicuously took on a long-term appearance, while a number of important positive political elements introduced by President V. Putin are slowly and inconsistently being implemented, not as yet affecting the overall situation in any significant way.

Major “losses” in 2001 occurred in the sphere of civil and political rights. The Russian political environment is becoming ever less pluralistic. In April 2001, the federal power prevailed in its struggle for control over the third most important television channel broadcasting within the meter frequency range — NTV, the administration of which was transferred from V. Gusinsky to a semi-state company, Gazprom. In January 2002, following a series of court investigations, the last private meter-frequency television channel of federal importance, TV-6, ceased broadcasting. The two main television companies, ORT and RTR, are in essence propagandistic instruments of the federal power and there are no other media of any importance to create balanced and fair reporting. The most significant consequence of the systematic destruction of the media-holding of V. Gusinski and annihilation of TV-6 by semi-state and private companies, loyal to the federal power, was

1 Formally, the MNVK company that used to broadcast at TV-6 still exists (as of May 2002) but is banned from the air and is to be liquidated by court decision.
that now mass media owners and managers clearly realize what consistent criticism of the Kremlin can lead to.

As a result, the current federal power has acquired vast opportunities to use television and radio as instruments of political manipulation,\(^2\) while the opposition’s access to these airwaves has been limited.\(^3\)

Freedom of the mass media in the regions is even more limited than in the center. Primarily, regional authorities control the media, while the few independent media outlets that remain are gradually being taken over or put out of business.

Elections that took place in a number of Russian regions in 2001 demonstrated that the electoral process in Russia is becoming ever less democratic and fair. More and more, open competition among candidates is substituted by administrative confrontation resulting in the victory of a group within the power structures and the victory of associated business representatives. Compromises between political parties are also limiting voter choice. Such a compromise, for example, was reached during the elections for the Moscow City Duma, the results of which had been predetermined long before any voting took place, as the four largest political parties, except the Communists — the “Unity” (“Edinstvo”), “Fatherland — All Russia” (Otechestvo — Vsya Rossia), Union of the Right-Winged Forces (SPS), and “Yabloko” divided election districts among themselves.\(^4\) As the presidential election campaign in the Republic of Sakha (Yakutia) unfolded, the entire country observed an administrative intrigue, during the course of which one out of three real contenders remained alone, and in the absence of real competitors assumed the presidential office. Thus, the electoral process in Russia is assuming a quasi-democratic character with voters given the choice from among candidates of whom one is “destined” to win.

The human rights situation in the Chechen Republic remains the most painful in Russia. Most sadly of all, practically no trend of improvement during 2001 was seen at all. Although large-scale military operations have stopped since the first half of 2000, the federal forces continue to rob and exercise violence against the civilian population, including by implementing the so-called “mop-up operations.”\(^5\) Chechens detained by representatives of the federal forces, allegedly for affiliation with armed resistance, fall victim to cruel torture and disappear. Many of them are later found murdered.

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\(^2\) The controlling interest of the only large non-governmental socio-political radio station, “Echo of Moscow,” is also owned by the Gazprom. The company’s management, which has remained very much the same since 1991, can be replaced at any moment.

\(^3\) One indicative example: NTV, prior to becoming property of the Gazprom, allowed leaders of all parliamentary factions to briefly comment on the most important political events of the week in a weekly analytical program. The “new” NTV stopped this practice.

\(^4\) In view of the enormous influence of Yu. Luzhkov, Mayor of Moscow, on the capital’s political process and the merger of the “Fatherland — All Russia” movement (one of whose leaders was Yu. Luzhkov) with the pro-presidential “Unity” party that won parliamentary elections in 1999, the opportunities for other political parties to have their candidates elected were radically reduced. To overcome this situation, an agreement was reached between the merged “Fatherland” and “Unity,” on one hand, and political parties SPS and “Yabloko,” on the other.

\(^5\) According to the “Memorial” Human Rights Center, they were more than twenty in 2001.
Since the spring of 2001, Russian authorities have been attempting to return to Chechnya the more than 150 thousand refugees who had settled in neighboring Ingushetia. Registration of “forced migrants” in Ingushetia was stopped on April 13. Federal authorities and the administration of the Chechen Republic try to force these people to come back to the places of their permanent residence by depriving them of state assistance and by limiting activities of international organizations in the region.

In the fall of 2001, Russian authorities and A. Maskhadov, President of Chechnya, undertook tentative steps to initiate a process of negotiations. However, judging by official announcements, the contacts between Russian officials and representatives of A. Maskhadov did not result in anything positive.

As a result, the widespread and blatant violations of human rights in the Chechen Republic are assuming a lingering, chronic character, while Russian authorities demonstrate no true readiness to negotiate — the only possible way to settle the conflict. The lack of political will to regulate the conflict peacefully is reflected in the official rhetoric of Russian authorities at the international level. In particular, at the 58th Session of the UN Commission on Human Rights that ended in April 2002, the RF delegation declared that suggesting that Russia negotiate with the Chechens is equivalent to suggesting that member states of the anti-terrorist coalition start negotiating with representatives of the Al-Qaida.

In justifying massive violations of human rights in Chechnya by declaring a fight against international terrorism, Russian authorities are unable to protect the population from semi-organized fascist youth groups (skinheads). Attacks on descendants from the Caucasus, Asian, and African countries have assumed a permanent character. Even more so, real organized massacres took place in two Moscow marketplaces in April and October of 2001, with the law enforcement authorities unable to prevent loss of life.

Undoubtedly, discriminatory practices towards migrants from among ethnic minorities, which have become pervasive in the activities of representatives of authorities and law enforcement agencies in Moscow and a number of other RF subjects, represent an auspicious background for such events. In the Krasnodar territory, declarations of the authorities are characterized by openly nationalistic rhetoric. This situation culminated in the passing of new discriminatory norms and the actual deportation of some “illegal” migrants in early 2002, implemented on the basis of ethnicity.

In 2000, after the Supreme Court of the Russian Federation acquitted Alexander Nikitin, who had been charged with espionage for researching the status of nuclear waste in the North-West of Russia for a Norwegian environmental organization, observers presumed that the rest of such cases would be similarly decided. But despite the ongoing public advocacy exercised by human rights activists, lawyers, and representatives of the Russian and international community in support of Grigory
Pasko, Igor Sutiagin, Valentin Moiseyev, and others who have been groundlessly charged with espionage, courts continue to either decide to conduct additional investigations on such cases, or rule in favor of the Federal Security Service (FSB). In addition, while the 2001 process in Valentin Moiseyev’s case resulted in a commuted sentence, Grigory Pasko was found guilty in December 2001 not only on the charge of abuse of job functions and powers, but also on the charge of espionage.

Moreover, in 2001, another “victim of spying fever” — physicist Valentin Danilov from Krasnoyarsk, was arrested on February 16, 2001. His case has been under investigation since May 2000, and he has been kept in a pretrial detention facility ever since. In February 2002, his case was, typically enough, forwarded for additional investigation.

According to V. Moiseyev’s attorney, Anatoli Yablokov, “The trend is such that even if there is no proof, those who have been charged in cases investigated by FSB are still punished. This is a truly alarming trend.”

The situation regarding other major human rights-related problems has not improved. Despite the declaration of the new Internal Affairs Minister, B. Gryzlov (appointed in May 2001) about the necessity of serious police reform, no information indicating the elimination of torture practices and other illegal techniques of investigative and operative activity was registered in 2001. The same holds true for the situation in the military: the transition to contractual army recruitment is being implemented very slowly, despite the fact that it is obvious that there is no other way to put an end to the infamous dedovschina (cruel bullying and mistreatment of younger servicemen) and other violations in the Armed Forces.

Some changes have taken place in the realization of the constitutional right to an alternative civil service that has still not been implemented into federal law. In early 2001, a draft law on alternative service was finally introduced to the State Duma by the Russian government, which gives hope that it will be adopted soon. However, its present version promotes the interests of the Ministry of Defense more than it does the interests of Russian citizens. The draft law stipulates an alternative service that is twice as long as the military service. In addition, it puts the burden of proof on the citizen to prove adherence to views incompatible with military service. While the draft law is under development, courts quite often continue to make unconstitutional decisions denying the right to alternative service.

The MHG and other human rights organizations have repeatedly expressed their support for declarations by President V. Putin and his Administration about the need to intensify reform of the judiciary. The pri-

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6 Note that all the accused remain under arrest despite repeated petitions of lawyers.
7 He is accused of “parricide” for his intention to provide China within a commercial order with information containing a state secret. However, the information that V. Danilov allegedly passed on was declassified in 1992 and has already been openly published (according to nineteen scientists who signed a collective letter in V. Danilov’s defense).
8 The Supreme Court kept Valentin Moiseyev’s sentence in force (for more information, see: www.hro.org).
mary event in this sphere was the adoption of a new Criminal Procedure Code (UPK) in December 2001. The Criminal Procedure Code introduces the institute of Justices of the Peace who, by reviewing and making decisions on insignificant cases, can reduce the workload of federal judges. In addition, trial by jury will now apply to all of the Russian regions (previously — only to nine), but the process of its introduction will continue until 2004. Moreover, arrest based on a warrant from a prosecutor has been replaced with arrest based on an arrest warrant issued by a court, and the defender has been granted authority to collect and present evidence to the court. Finally, among the changes that protect the human rights of criminal defendants is the ability of judges to render inadmissible any testimony that has been obtained outside the presence of an attorney.

At the same time, the Criminal Procedure Code does not provide for an opportunity to appeal a court decision. In addition, it deprived NGO representatives of the right to participate in a court procedure in the capacity of public advocates.

A certain re-orientation of Russia’s external politics following the events of September 11 can be viewed as a positive change, as Russia chose to establish a closer relationships with the West. Increased cooperation with western countries may result in the Russian government paying more attention to the problem of human rights observation, while Russia’s integration into the western community will undoubtedly positively affect the human rights situation within the country in the long run. However, it must be acknowledged that the immediate consequences of the new international situation have also had a negative effect — Russian diplomacy took advantage of the general anti-terrorist rhetoric to justify Russia’s actions in Chechnya (see above). In addition, it seems that governments of western democracies have become more tolerant with respect to violations of human rights in Russia. For example, this spring the problem of Chechnya was removed from the agenda of the UN Commission on Human Rights.

Given such an uninspiring background, the close of 2001 was still better than could have been expected for Russian NGOs. Authoritative directives of the current Russian government made one presume that in its relationships with the non-profit sector it would interact exclusively with loyal organizations and ignore and even limit the activities of the rest. During the summer of 2001, it seemed that the situation was moving in that very direction. Organizational structures of the Civil Forum, that had been expected to become a place for the very first large-scale dialogue between non-profit organizations and those in power, in fact ignored a significant portion of truly active NGOs. Later however, representatives of the Presidential Administration and the government officials changed their initial position and began to interact with independent organizations, including human rights groups. These negotiations resulted in the active participation of the latter in the organization and proceedings of the Civil Forum, which was held in November 2001. In addition, in response to the insistence of the independent non-governmental community, the Forum focused not on plenary meetings but on panel discussions about the most acute problems in the sphere of human rights and NGO activities. This gathering quite adequately reflected the composition of the Russian non-
profit sector and notably intensified interaction between the state and NGOs, for example, within the confines of the long-term negotiation platforms on a number of actual issues. In order to be seen as supporters of the development of civil society in the country, authorities were ready to not only start a dialogue with human rights organizations, which constantly criticize state politics, but also to acknowledge their key role within the third sector. At the same time, there is no guarantee that the constructive interaction between NGOs and state authorities that emerged during the Civil Forum will become permanent.

Events of 2001, and those of recent years, indicate that human rights are not perceived by Russian authorities as one of their political priorities. The human rights agenda is only an element of positive image-making that should be upheld only as long as it does not require much effort or contradict more vital interests. It is through this prism that information collected by the human rights monitors and presented in the Collection of Reports Human Rights in Russian Regions — 2001 must be viewed.
ALL-RUSSIAN
COMPREHENSIVE REPORT
ON THE HUMAN RIGHTS SITUATION
IN 2001
SECTION 1

RESPECT FOR THE INVIOLABILITY OF THE PERSON
POLITICAL AND OTHER EXTRAJUDICIAL MURDERS

The problem of political assassinations and forced disappearances is one of the most difficult to analyze. Proof of political motives for crimes are normally very difficult to obtain. If persecutions on the part of authorities are often obvious, authorities’ actual involvement in assassinations is very difficult to prove. The only exception to this today is the combat zone in Chechnya, where political assassinations are committed almost openly and by both sides. The bulk of this chapter of the report covers not only specific instances of political assassinations, but also discusses definitions and reviews sources of information.

In 2001, media reports of deaths and attempts to assassinate well-known political figures of the Russian (regional) political elite made allusions to political motives behind such actions. However, we are unaware of even a single case where political reasons for a crime were treated by investigators and journalists as the main ones.

Below, we shall consider in detail two examples from the North Caucasus. Political motives featured in the shooting episode of State Duma Deputy Bashkir Kodzoev, member of the fraction “Unity” and deputy chairman of the Committee on the Problems of the North and Far East. On March 14, 2001, in downtown Moscow, his car came under small arms fire, and he was wounded in the chest and arm. This was the first attempt at taking the life of a representative of the “presidential” faction in the State Duma. On June 15, 2001, in downtown Irkutsk, four gunmen armed with automatic rifles and pistols opened fire on the car of B. Kodzoev’s brother, Timur Kodzoev, and killed him. Among the different explanations circulating, the following was also mentioned: the Kodzoev brothers are in opposition to Ruslan Aushev (then the Head of Ingushetia) and had more than once publicly demonstrated this. At the same time, the motives most often put forward are criminal and economic.

Bashir Kodzoev, who occupied a high position in the Duma, seemed to be an important politician, and Timur Kodzoev — a political opponent of the Ingush President Ruslan Aushev, ran for the presidency of Ingushetia and took part in the Duma elections.

But a closer look shows that this clash for power can hardly be referred to as a political struggle. During the presidential elections, Timur Kodzoev used Islamic slogans, but his efforts were in vain — Ruslan Aushev beat him. At the parliamentary elections, Timur Kodzoev was campaigning as an absolutely “secular” politician. He was supported by “force trade unions,” “Afghan” veterans, “Chernobyl cleaners” and even… Ingush Cossacks. But this change in political orientation did not help him either:

9 The author thanks A. Cherkassov of the “Memorial” Human Rights Center for his assistance in drafting this chapter.
11 This Further proof of a merger between “public” and “commercial.” Ingush “Cossacks” operating in accordance with charter documents of Russia’s “registered” Cossack groups; they have the appropriate IDs. Local Cossacks are not “Russian speaking” people, but
Alikhan Amirkhanov supported by R. Aushev became Duma Deputy instead.

Some observers link Timur Kodzoev’s death with his participation in the elections, but “political assassination” or “assassination committed by the authorities” could hardly be the cause of this death. After the elections, the authorities did not bring any pressure against– Yevloyev, the most “disturbing” opponent of Amirkhanov, who rated fourth in the election, though before the elections this confrontation had been accompanied by shootings.12 Also, no harm was done to runner up Belkharoev, a “successful manager” of a greenhouse complex. Both Yevloyev and Belkharoev lived in Ingushetia and getting to them was easier, whereas Timur Kodzoev was killed very far away from this republic.

Sources in Ingushetia and within the Ingush community of the Irkutsk region, where Kodzoev had lived since the 1980s, explain his death by the fact that he had been granted huge loans for the election campaign. The loans were supposed to be paid back with “administrative resources”13 — and this is only one version of the events.14

The third of the Kodzoevs brothers, Murad Kodzoev, gave a news conference on March 20, 2001. The regional investigation department of the Ministry of Internal Affairs (MVD) is searching for this man in connection with Case the #43858, a theft of 15 billion roubles (1996 prices). The arrest warrant was issued, but the case was suspended “because Kodzoev was impossible to find.”15

Thus, the murder of Timur Kodzoev, which on the surface appeared 100% “political,” can be called such only in the context of today’s Russia.

In June 2001, in Makhachkala, an explosion fractured Magomed-Salikh Gusaev’s leg. He also suffered minor burns. Gusaev is the Minister of Information, Foreign Relations and Ethnic Relations of the Dagestan Republic. Though the report on the attempt to take his life stated that representatives of the “title” ethnic groups. On the territory of other subjects of the Russian Federation, Ingush Cossacks are engaged in commercial operations cooperating with local Cossacks (who evolved from public associations into “economic entities”). Cossacks’ IDs often protect them against police prejudiced against the so-called “persons of the Caucasus extraction.”12

12 Amirkhanov’s proponents were distributing free flour to voters and Yevloyev’s supporters became indignant. The local branch of the Union of the Right-Winged Forces (SPS), which supported Yevloyev and consisted of wrestlers of Roman and Greek style. This “mixture of politics and sports” is typical of today’s political scene in Russia!

13 Yet another link between politics and business in Russia today.

14 The Kodzoev brothers were involved in seasonal deliveries to northern areas of the Irkutsk region. Murad Kodzoev took a loan from the Leninsk branch of Sberbank (Savings bank) in the amount of 300 million roubles, after which his cooperative was closed and all documents burnt, together with the accountant. In 1999 the brothers were suspected of having stolen 53 railroad cars with sugar, worth of 13 billion roubles. All witnesses have either disappeared or died, and relevant documents have been burnt. After Bashkir Kodzoev was elected Duma deputy and deputy head of the Duma Committee, criminal cases were initiated against all editors of the Irkutsk newspapers that had published materials about the Kodzoev brothers, under Article 129, Part 2: “Slander With Bringing a Serious Crime Charge” (L. Michurina, “The Kodzoevs Hunt Goes On.” Gazeta.Ru (June 15, 2001).

15 Baikal’skaia Otkrytaia Gazeta (May 1, 2001).
this action was linked to the Minister’s official duties, no specific details were provided to support this statement.16

Russian media often calls Dagestan one of the most criminal and corrupted regions of the Russian Federation. The national movements and their leaders control many positions and structures throughout the republic and locally, so to some extent they may be referred to as “the holders of power.” These groups control a sizable part of the economy of the republic. Some of them even have their own armed ‘paramilitary units,” legalized at the end of 1999. In confrontations between political, commercial, criminal interests (intra-system conflicts), explosives and firearms are used often.17 The “Vahhabbits” (extra-system opposition) do not hesitate to resort to arms either. People became accustomed to assassination attempts against Dagestan’s officials, who were considered to be “criminal and commercial.” Many commentators came to the conclusion that the attempt to kill Magomed-Salikh Gusaev was specifically the result of his being “criminal and commercial.”

However, the attempted murder of Magomed-Salikh Gusaev must be singled out. There were in all probability political motives behind this attempt. The Minister of Information, Foreign Relations and Internationalities Relations in the government of Dagestan was operating not in the interests of individual clans but in the interests of the whole republic, working toward stability and integrity of the Russian Federation.18 Those two examples show that we may talk about “political assassinations” only after a thorough examination of each case. Similarly, to reliably identifying a murder (or attempted murder) as a “political assassination,” let alone to conducting an investigation, finding the criminals and bringing them to trial, is difficult everywhere in Russia, not only in Dagestan and Ingushetia.

In Uglick (Yaroslavl region), the chairman of the district organization of the Union of the Right-Winged Forces (SPS), Boris Surkov, fell out of a hotel window on August 13, 2001.19 His death triggered many rumors. He had entered politics on the perestroika democratic wave and for many represented quite an “inconvenience.” One journalist maintains that rumor had it that B. Surkov was in possession of information about a financial group that had acquired control over a very “lucrative” area, the Uglick river port. The leader of SPS, Boris Nemtsov, who expressed his condolences to Surkov’s family in a telegram, stressed that “taking into account the circumstances of his death, which appear to be very odd, SPS promises to keep a shrewd eye on the investigation.”

17 There were multiple attempts on the life of the Mayor of the city of Makhachkala (Dagestan Republic), Amirov. Two most drastic results of these attempts were as follows: his legs were paralyzed and one whole street was destroyed.
18 For instance, in the Fall of 1999, he aggressively curbed the attempts of Lakh and Avar (popular paramilitary detachments) to prevent Akkin Chechens from coming back to the Novolakk district, after Basaev and Hattab’s units had been ousted from Dagestan to Chechnya; at that time, this was done against the will of practically all the “movements” in Dagestan.
Against this criminal and economic background, the “political” component of the activities of a politician is regarded as a “cover.” If a politician confronts criminal-economic structures and this consequently leads to a tragic outcome, it is likely to be explained by “gang against gang’ reasoning. The model of an “honest politician operating on behalf of society” seems like a fairy-tale in this context. “Looks fine. I would like to believe it, but it is all a lie,” anyone would say. Unfortunately, such an approach applies to politicians not involved in criminal or commercial activities, and is shared not only by journalists but also by law enforcement and particularly investigative agencies. The best-known example is the investigation into the murder of the prominent democratic leader Galina Starovoitova. The investigation has been going on for years with no result. In March–April of 2001, reports appeared that there was some hope of cracking the crime “in the foreseeable future,” but this was not followed by any real results. Galina’s sister, Olga Starovoitova, who was a plaintiff in the case, and her lawyer, Yury Shmidt, in November of 2001 turned to the Dzerzhinsky district court of St. Petersburg, complaining against the refusal to be familiarized with the case files and to be issued a copy of the ruling extending the duration of the preliminary investigation:

Under Part 1, Article 133 of the RSFSR Criminal Procedure Code, preliminary investigation of a criminal case must be completed within two months.” But in “exceptional cases” this term may be extended without limitation... Galina Starovoitova’s family and friends were patiently awaiting investigation results which never appeared. Numerous public statements were made by various law enforcement representatives who assured the public that some tremendous amount of work had been done and the murderer would finally be apprehended. Why have neither the killers nor those who had ordered the crime been identified and brought to court? Why do we have to believe words without knowing if all the investigative measures have been taken, if all the facts and versions of the press have been followed up?

On March 23, 1999, the Constitutional Court confirmed the right of interested parties to bring complaints against “inaction on the part of investiga-

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20 In society, public interest is becoming a “denotation without a designator,” and that is cause for concern.
21 Murdered in November 20, 1998, in St. Petersburg, on the stairs of her apartment building. Her assistant was seriously injured. Investigations of such murder cases take years. In May 2001, the investigation was extended again, making its total duration 36 months. For more information, see: “Galina Starovoitova Case Investigation Extended Again.” Kommersant (May 18, 2001).
23 In April of 2001, Vladimir Belyaev (nickname “Bob Kemerovsky”) was escorted from Kiev to St. Petersburg. Journalists were of the opinion that he had been involved in the killings of Vice-Governor of St. Petersburg, Mikhail Manevich, and Duma Deputy, Galina Starovoitova, based on a statement by the regional FSB head, Sergei Smirnov. See: P. Petroshinsky, “Galina Starovoitova Case: We Are In for Sensations.” Parlamentskaya Gazeta (April 28, 2001).
24 As a rule, this document contains the reason for the extension.
tory bodies that result in endless extensions of the investigation” and reminded judges of their obligation to check if such endless extensions are justified. Olga Starovoitova believes that “there is no interest in resolving this case,” “as in many other well-known ordered crimes.” But her own assumptions are subjective and vague. She rejects “the established opinion about the “SPS-on-the-blood,” that is unification and strengthening of the Union of the Right-Winged Forces on Starovoitova’s blood,” and maintains that “there is another option more promising for investigators,” i.e., Deputy Starovoitova’s request into the activities of the National Security Academy (ANB) — a certain enigmatic body within the State Duma. Galina Starovoitova completed the investigation and made its results public through the Severnaya Stolitza newspaper.

Participation in an investigation is sometimes dangerous for the investigators themselves. The March 2001 attack on Nina Tkachenko, investigator of the St. Petersburg prosecutor’s office within the department for investigation of grave crimes and banditism, is connected by her colleagues with her professional activities as a member. She is reputed to be one of the most skilled investigators and has taken part in investigations of the most prominent cases, including that of Yury Shutov’s mob.

The 51-year-old woman was cruelly beaten at midnight, next to the entrance to her house, 14 Pestel Street. The criminal hit her several times on the head, grabbed her handbag, which contained documents and money, and fled. In the hospital, she was diagnosed as having “brain injury and a broken jaw.” Journalists link the attack with the recently completed investigation of the murder of the deputy of the St. Petersburg Legislative Assembly, Victor Novoselov. The attack was committed during the period when the defendants were familiarizing themselves with the case files, after which the case was to go to the city court.

Court proceedings on politically-tinged cases are also far from smooth. Let us take, for instance, the case of Dmitry Kholodov, Moskovsky Komsomolets’ staff-correspondent, who died as a result of an explosion. The explosion took place right on the premises of the newspaper, with the object exploding being a briefcase, which D. Kholodov brought to the office himself, believing that it contained some written materials of sensational character. The investigation of this murder case has been

27 Yuri Shutov, currently held in remand prison, was former deputy of A. Sobchak, Mayor of St. Petersburg until 1996.
28 V. Novoselov was killed on October 20, 1999, while riding in a car to his office. Artur Gadkov, who set off the explosive device, was arrested at the scene of the crime. He gave the names of some of his accomplices. Four persons were arrested. All of them happened to be former commandos. The investigators failed to find out who had ordered the murder but they discovered that the former commandos had committed two more ordered killings and three attempted murders. Among their victims were Arkady Solar, assistant to the former (1st and 2nd convocation) State Duma Deputy Vladimir Pchelkin (Liberal Democratic Party of Russia), and businessman Evgeny Kasarov, who had been on the “wanted” federal list for fraud; the hired killers made two abortive attempts on the life of the criminal “baron” Victor Sloka (he was, by the way, murdered after their arrest), they shot at “Ocean” company director, Vasily Golubev, and were preparing an attack on former vice-president of the St. Petersburg Fuel Company Vladimir Barsukov (Kumarin). See: “Investigation of Medium Degree of Seriousness.” Kommersant (March 22, 2001).
conducted for many months now by the Moscow military district court.  

However, the atmosphere surrounding this trial remains heated, which unfortunately does not predispose to fair court decisions.

To label a murder as “political” is difficult because the term ‘political’ itself is considerably distorted in today’s Russia.

Political and public activities in Russia today often go hand in hand with economic and criminal activities. On the one hand, there is a “hermetic” notion of “power” as something consolidated. On the other hand, “power” is clearly “atomized, fragmented” and businessmen and criminals are actively “privatizing” its separate parts. And some of the fragments not co-opted by criminals and business operate independently, pursuing their own interests, “converting power into capital,” and organizing their own business, sometimes by obviously criminal methods, but remaining part of the “power structure.” This understanding of an unbreakable triad — politics, business and crime is dominant in the public’s mind. Such linkage has become not just something common but indispensable: those who put themselves outside of this triad raise suspicion. As a result, it is easy to regard a “political” murder as a murder committed by hired killers in an “economic dispute” (if not a criminal “settlement of accounts”). For instance, the investigators on Galina Starovoitova’s case were persistently pushing an “economic” version: G. Starovoitova was allegedly carrying a large sum of money for the election campaign. It is equally easy to term a murder of an official involved in a criminal fight over property as a “political” assassination.

It is hard indeed to single out a murder triggered by political reasons (or attempts to commit such murders) against Russian criminal background. For this reason, the “power” has every reason to say (and does say) that an ordinary criminal incident took place. Even if it is absolutely clear that a public figure was the object of a targeted attack, the “political” motive very often happens to be only one of many possibilities. The probability of pinpointing some “authorities” (they may be different!) ordered the which is also very low.

However, there are two arguments which make it possible to considerably narrow down the scope of our focus.

On the one hand, in 2001, we could say with confidence that in contemporary Russia (as a whole) political assassinations are not common or in any way broadly used tools of state management. The power elite is strong enough to use this strength itself as a sufficient instrument. During all of last year’s conflicts, both national and regional (for now, leaving the armed Chechnya conflict aside), opponents gave in under the pressure of arguments not as convincing as the proverbial “nine grams of lead.”

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30 Usually, “black PR” in conjunction with “pinpoint accuracy” law enforcement was sufficient.
On the other hand, in 2001, there were no groups, parties, or organizations in Russia that were in obvious opposition to the federal authorities, whose leaders and activists were in need of such strong persuasion. (The strong ones are within the system, and the radical and extra-systemic are weak and marginal.) In the process of consolidating “fragmented” power, it became evident that opponents deserving of such harsh treatment were non-existent. Repression (legal and illegal) did not generally become tools in the hands of the power elite in Russia.

However, there is one exception, which may become a rule in the future and by all means deserves special consideration: i.e., the situation in the armed conflict zone in the Chechen Republic.

Within the conflict zone, Russian federal authorities are represented by the Command of the Joint Group of Forces in the North Caucasus. This Command enjoys practically unlimited powers because of the law on countering terrorism. The federal forces do not stop at eliminating their opponents of the Chechen Republic (Ichkeria). The latter (as in any guerrilla movement) do not restrict themselves in any way and kill “accomplices” of the federal authorities. In Chechnya, both the motives and those who order killings are obvious.

On the rather extensive list of those who were detained and then murdered in Chechnya are such prominent figures as Chairman of the Parliament of the Chechen Republic, a minister, and the head of a rural administration.31

However, based on information coming from the Chechen Republic,32 we cannot say anything positive about the Russian Federation’s compliance with obligations imposed by the International Covenant on Civil and Political Rights (Articles 6, 14, 15) to prevent and oppose political assassinations and other killings committed in an extrajudicial mode.

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31 For more information, see “List of Civilians Detained in the Zone of the Armed Conflict in the Chechen Republic by the Federal Forces and Consequently “Disappeared” or Killed” compiled by the “Memorial” Human Rights Center and published at www.memo.ru

32 For this as well as for a detailed list of victims of political killings and assassination attempts in Chechnya, see the report on human rights in Chechnya, which is part of this Collection of Reports.
DISAPPEARANCES OF PEOPLE

In 2001, the problem of disappearance of people was mentioned in reports covering 16 Russian regions, including Chechnya. Unfortunately, no substantial improvement has been observed since 2000 in either the existence of the problem itself or in the way regional human rights activists describe it. The only noticeable difference compared to the situation with disappearances in 2000 is that the structures against organized crime have been less frequently featured as offenders in the reports of regional human rights organizations on forcible detention of people involving representatives of authorities.

Regional reports, just as last year, reflect popular discontent with the methods used and results generated by activities of law enforcement agencies in searching for missing persons (statistics presented are mostly frequently related to such cases).

A detailed description of the situation existing in Chechnya, where instances of forcible disappearance of people have to date been occurring on a large scale, is excluded from this overview because it is fully presented in the report on the situation in the Chechen Republic, which is also part of the Collection of Reports Human Rights in Russian Regions — 2001.

Detention by Official Authorities

Only isolated instances have been reported of officials involved in forcible detentions of persons across Russian regions (Chechnya is, of course, an exception).

In the Irkutsk region, an investigation is currently underway into the disappearance of R. Zurabov and A. Oskanov, who, on the night of October 11–12, were forcibly taken away by persons wearing police uniforms (staff of the police station #20, located at Pobeda St. in the town of Bodaibo). K. Zurabov, father of R. Zurabov, believes that the investigation has been poorly carried out, hampered by excessive redtape. He has received only pro-forma responses from authorities to his numerous written complaints.

In the Jewish autonomous district, at the November 2001 meeting of the Birobidjan Town Duma, one of the local legislators, V. Davidovitch, pressed for accelerating the investigation of a fight between police officials and Birobidjan-2 micro-district residents. (The investigation had been going on for a whole year by then.) V. Davidovitch stated that Dmitry Malyarenko, who figured in the investigation, was reported missing after being summoned to the police station. On February 12, 2001, the prosecutor’s office of Birobidjan initiated criminal proceed-

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33 Also not implemented is a practical suggestion made in the RF Ombudsman’s report of last year to set up a unified state center, which would accumulate data on all missing persons.

34 The sole exception is provided by reports from the Saratov and Amur regions, which specify a number of cases instituted in connection with the kidnapping of persons — 12 and 11 respectively (the Amur report even compares the statistics for 2001 against the data for 2000 and 1999 and notes an increase by 2.2 and 2.5-fold respectively).
ings in connection with the disappearance of D. Malyarenko, based on Article 126 of the RF Criminal Code (kidnapping of a person). On January 31, 2001, he was detained by police officials on suspicion of having committed a theft (D. Malyarenko’s complaint against their unlawful actions was considered and dismissed by the Birobidjan town court in February 13, 2001). On February 3, 2001, at 11 a.m., the young man was set free from a temporary detention ward (on decision taken by A. Butun, GOVD (Town Police Department) investigator). Nobody has seen him since. According to one version of events, the police officials who had been held criminally responsible for the abusive exercise of their official powers in the case about the fight between police officials and Birobidjan-2 micro-district residents organized his disappearance. D. Malyarenko’s mother lodged a complaint with the RF Prosecutor General’s Office.

Detention by Criminal Groups and Individuals

It is reported from the Amur region that, in the town of Blagoveschensk, persons who are kept in pre-trial detention facilities and temporary detention wards are classified as missing persons. The officials of detention facilities not only fail to comply with the requirements of the RF Criminal Procedure Code of mandatory notification of a detainee’s (arrested person’s) relatives, but they also ignore direct inquiries made by relatives.

Disappearances in the Kurgan and Smolensk regions seem to have been politically motivated. In both cases, journalists were the victims. On May 17, 2001, V. Kirsanov, editor-in-chief of the Kurgansky Vest’ newspaper, disappeared. At about 10 a.m., he went to his garage to get his car and drive to the office, as he had several appointments scheduled for the day. No one has seen him since then. On that same day, his car was found in a parking lot in front of his office. During the investigation, they found blood in V. Kirsanov’s garage and traces of blood in the boot of his car. On May 30, they discovered V. Kirsanov’s documents on the riverbank just across the street from a police station. Particularly remarkable is that the documents were not at all destroyed by water. The regional prosecutor’s office opened criminal proceedings under Article 105 of the RF Criminal Code (premeditated murder). The principal topics of V. Kirsanov’s journalistic investigations were the so-called cases of Governor O. Bogomolov and his entourage (Bank “Zauralsky Business” — a regional financial pyramid, mishandling of budgetary funds and assets of state-run enterprises, etc.). T. Menshikova, Chair of the Union of Journalists’ regional branch and editor of Novy Mir regional newspaper, publicly questioned the possibility of the disappearance being politically motivated. One month

Unfortunately, this does not provide us with absolutely positive grounds to assert that, in territories contiguous to Chechnya, this problem has become less critical. However, the attention of local human rights activists and journalists has, at least, been focused on other problems.
In the Smolensk region, on December 14, 2001, S. Kalinovsky, editor-in-chief of the MK-Smolensk weekly, disappeared under quite mysterious circumstances. He was known to Smolensk residents as a host of CT Radio “Dobry Vetcher” (“Good Evening”), SCS TV-channel “Smolenskaya Nedelka” (“Smolensk Week”) and TV-30 channel “Kriminarium” programs, which are notable for being critical about local authorities. The regional prosecutor’s office initiated criminal proceedings in connection with his disappearance under Article 126 of the RF Criminal Code (the kidnapping of a person). Although the case file already numbers more than 200 pages and about 50 witnesses have been interrogated, the investigative activities have failed so far to yield any substantial results. There are three basic versions of the kidnapping discussed among journalists: something connected to S. Kalinovsky’s professional activity; a random murder; or a murder of his close contacts with the underworld, including major crime bosses.

According to the Chief Police Directorate (GUVD) data, the number of people abducted in the city of St. Petersburg and the Leningrad region in the year 2001 declined in comparison with the previous year. Nevertheless, kidnapping still continues to be a lucrative criminal business. The Department Against Organized Crime (UBOP) officials managed to curb the activity of a gang which kidnapped elderly people, with the goal of obtaining their apartments (the report from the Amur region, on the contrary, describes instances when police officials refused to initiate searches for allegedly missing persons despite the efforts of non-relatives to dispose of their living quarters). An organized criminal group made up of Georgian nationals, seeking to get ransom money, kidnapped a sales representative of a major industrial enterprise. The criminals kept a special apartment on Moskovsky Avenue, which contained a secret room to hold hostages. The kidnapped person was set free as a result of the efforts of the criminal investigation department.

In the Penza region, in November 2001, a son of V. Vdovin, Chairman of the board of directors of “Tarkhany” Bank and head of “Mayak” open joint company, was taken hostage. They demanded that the banker pay $100 000 as ransom for his son. The two kidnappers were arrested. One of them turned out to be a police official.

Kidnapping as a means of “knocking out debts” and settling scores has remained quite “popular” up to the present day. Thus, in the city of Khabarovsk, when a person responsible for a road accident failed to fulfil his promise to compensate for the damage, he was kidnapped and unlawfully held in an apartment on Pionerskaya St. and subjected to beatings. He was released only when he was forced to make another promise to pay the damage. He then chose to contact the law enforcement agency.
In the Penza region, in December 2001, a hostage was taken in the town of Nizhny Lomov. The hostage was set free quite promptly (only ten hours after the information was received) during an operation undertaken by the regional FSB officials. The captive was to pay $5,000 for a Niva-car, which had been allegedly hijacked by him. At the present time, criminal proceedings have been brought against Botchkarev, as the alleged organizer of the kidnapping, under Article 206 of the RF Criminal Code (hostage-holding).

In June 2001, in the city of Smolensk, V. Petrov, who worked at a commercial stall, was reported to be missing. According to eyewitnesses, unknown persons had driven up to the stall in two cars, beat up V. Petrov, put him into their Mercedes and taken him away in an unknown direction. Although investigative activities provided grounds to believe that the crime had been committed by an organized criminal group, the Promyshleny police department officials refused for a quite long time to accept V. Petrov’s mother’s application about her son’s disappearance. They did not take adequate search measures, regardless of the availability of witnesses of the kidnapping and addresses and phone numbers of persons who had extorted money from the kidnapped person and threatened him.

The human rights report from the Arkhangelsk region provides information on the disappearance of Ye. Dratchyov, director general of one of the largest enterprises — Solombalsky wood-sawing and wood-working complex. This disappearance occurred during an outbreak of criminal showdowns in the forestry business in the Arkhangelsk region (a string of murders and assassination attempts on the life of businessmen and officials involved in this sphere, a violent fire at one of the successful plants in the town of Onega). The case connected with Ye. Dratchyov’s disappearance, just as other criminal cases of the so-called “forest men,” has never been solved.

Reports of kidnapping of children came from the Bryansk and Vologda regions, and the city of St. Petersburg. Unfortunately, the motive for the kidnappings was specified only in the report from the Vologda region. There, on September 6, 2001, the Babayevsky district court ruled the two women (mother and daughter) guilty of having committed a crime under Clause 2, Article 126 of the RF Criminal Code (“the kidnapping of a person”) and sentenced each to nine years’ imprisonment in a general-regime penal colony. The women intended to sell a new-born baby they had abducted.

During the course of the monitoring effort for 2001, several instances of disappearance of people were recorded that seem to have been politically motivated, as well as quite a number of incidents testifying to the commonality of crimes associated with the kidnapping and illegal detention of people. Unfortunately, however, one has to state once again that both the content and quality of the data available do not make it possible to draw any specific conclusions (except, as it was earlier noted, for the territory of the

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36 The regional report mentions that the regional FSB officials chose not to answer the question put to them by a journalist as to whether the alleged hostage-taker Botchkarev is a relative of the Penza Governor.
Chechen Republic) on the situation concerning disappearances of people across the country as a whole.
This overview of the slavery and forced labor in the Russian Federation is not comprehensive. The reason for this lies primarily in our research methodology: the available regional monitoring and mass media reports rarely contain any information about local law enforcement fighting the new forms of slavery. This has to do with the fact that many of these crimes and corpus delicti are not included in law enforcement statistics (despite the fact that crime researchers have been insisting for many years on the need to collect broad-based statistics). Also, the problem is compounded by the fact that Russian (just like Soviet) criminal legislation is lacking many badly needed definitions (for example, for the term “trafficking in humans”), undermining the legal basis for fighting these new crimes.

This “hereditary imperfection” in legislation and law enforcement practices needs to be understood. Slavery and the use of forced labor in Russia have traditionally been linked with the government, particularly in the forced use of prison labor. Other coercive structures, especially the military, have also been mentioned in this regard. Given that the utilization of forced labor had been a rule in the “Soviet legal arena,” it is only natural that this lamentable practice has been continued in the new Russia, to the extent that the new Russian government has replicated the ways of the former Soviet Union.

Over the past decade, a host of reports has been released that tell of the uses of forced or slave labor by organized crime groups and ethnic communities. This phenomenon is not surprising since the government has slackened control and created conditions favorable for the surge in criminal activities and the introduction of an archaic “communal law.”

From the findings of the monitoring effort, one can see that the types of forced or slave labor have not significantly changed. Numerous facts have been collected to confirm that enforced slave and bondage labor has been used to support “domestic,” “household,” construction and handicraft tasks. Yet, another aspect to this problem is the so-called “trafficking in women” and prostitution (also of minors).

“Closed government” structures in Russia, including the penitentiary system and armed forces, have traditionally used forced labor.

The old “Soviet” ways are being maintained in certain regions of the Russian Far East, where logging operations are still under way pursuant to a Russian–North Korean agreement. As a matter of fact, these logging camps are some sort of ex-territorial GULAG enclaves, with foreign loggers toiling under terrible conditions and North-Korean special services openly enforcing their own regulations.

The author thanks A. Cherkassov of the “Memorial” Human Rights Center for his assistance in drafting this chapter.

Just as in other former Soviet republics and “socialist bloc” countries.

E. Gontmakher, head of the Department for Social Policies of the Government of the Russian Federation, released a rather odd pronouncement on the legal aspects of North Koreans working in the Russian Federation. In particular, he insisted that Russia had nothing to do with maintaining foreign loggers because North Korea administered these logging camps. A somewhat more balanced statement on the matter came from the RF Ministry of Foreign Affairs. One paragraph in particular reads as follows: “North Korean organizations and nationals within the Russian Federation enjoy the same legal safeguards as Russian organizations or citizens.”

Admittedly, over the past few years, forced labor has been used less and less by the Russian penitentiary system secondary to the overall economic slump and inefficiency of forced labor. Importantly, administrations of many penitentiary facilities have been unable to have most of their “charges” employed. In the last few years, prisoners (and even military draftees) have been employed to perform many different labor tasks. More often than not, this work beyond the prison or barracks walls brings neither a “gulp of freedom” nor an opportunity to make a few extra roubles.

The report based on monitoring findings for the Komi-Pernyatsky autonomous district, in an illustration of the above, reads as follows:

The Kudymkarsk-based pretrial detention center (SIZO) #4 makes use of prisoner labor only if the inmates detainees give their consent. People are normally assigned to logging, saw-bench, or loading-unloading operations. In the summer, they usually tend the in-house vegetable garden. When interviewed individually, they inevitably admit they are happy to have a job. Though many want to be useful in some way, the SIZO facility does not have enough jobs for all. Given the circumstance, the right to work becomes a reward for exemplary conduct.

However, the unlawful character of those activities nearly always goes hand in hand with a lack of basic safety measures. For example, on August 17, 2001, the Ustiuzhensk district court (Vologda region) eventually brought to a close a half-year-long trial of MVD Colonel Sobanin, former head of the local general security penal colony. The defendant was found guilty of the death of convict V. Pankratov, who was part of a prisoner team involved in constructing a country cottage for the penal colony chief. As the groundwork was being prepared, a deep trench collapsed and V. Pankratov was badly injured. He soon passed away in a local hospital. Colonel Sobanin received a three-year prison sentence for having abused his office and generated fraudulent gains.

Russian penitentiary facilities are reported to have nearly no labor protection regulations. For example, the division #7 of the notorious ZhKhh-385 penal colony in the Republic of Moldova had prisoners working 20-hour shifts with no days off (fourteen convicts worked at a local dairy farm from 06.30 through 19.00 hours, and three others — from 03.00 to 22.00 hours).

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40 It is the former Dubrovlag penal colony — a specialized Stalin-era facility commissioned to hold political prisoners and dissidents under the Khrushchev and Brezhnev times.
The Amur regional administration officials are reported to have engaged local prisoners to produce souvenirs (including those occasionally presented to visiting government officials), repair car parts, fix gardening tools and build apartment doors and window frames. The work was compensated by commuting sentences or making leisure time available.

Exploiting military labor has become the order of the day in the Russian Federation.

In December 2001, in the Samara region, a small-scale anonymous poll was conducted of 23 active duty draftees. Eight responded that they had been engaged to perform labor tasks beyond their duty assignments. Another nine soldiers stated that they were aware of draftees being employed to do non-military tasks (doing odd jobs at construction sites or driving vehicles). The Novosibirsk regional report, which is yet to be properly substantiated, reads that draftees have been employed to construct summer cottages for commanding officers and that some military chiefs have leased conscript soldiers to private-sector developers and operations.

In the Amur region, the local farming organizations are known to have concluded informal arrangements with military bases to have the military labor made available for a certain period of time. In the fall, one can see uniformed soldiers digging up potatoes and harvesting cabbages in the fields of the Tambovsky, Mikhailovsky, Belogorsky and Arkharinsky districts.

When referring to the use of slaves or forced labor “in the non-legal arena,” one normally has in mind the Chechen Republic.

In 2001, the numbers of reports on hostage takings, demands for ransom payments and use of slave labor within the Chechen Republic have been on the wane. This shift is primarily the result of the fact that it is rather risky to maintain “house slaves” under conditions of never-ending “mop-up operations.” Most of the aforementioned communications are about individuals being taken hostage and turned into slaves during the past decade.

To provide another example, on August 8, 2001, liberated from Chechen captivity was a Samara resident, S. Kuzmina (employee of a Russian charity house), who had been held hostage for 779 days. In June, 1999, while going about the business of tracking down and liberating Russian servicemen taken prisoner by the Chechen militants, S. Kuzmina herself was captured along with the Samara-based reporter, V. Petrov. However, in June 2001, V. Petrov managed to escape from his captors.

Importantly, the circumstances surrounding the release of S. Kuzmina continue to be rather murky: allegedly no ransom had been paid. The Novaya Gazeta reporter V. Izmaylov, who was involved in making preparations for S. Kuzmina’s liberation, said that R. Gelaev, who insisted that S. Kuzmina’s release should be arranged, had coerced the captors. On the other hand, in return for S. Kuzmina’s liberation, some non-governmental structures promised to assist in the effort to have a Chechen militant,

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L. Islamov, released from a federal prison. Therefore, certain elements of “horse-trading” continue to be applied in this area.

In discussing Chechnya and the Caucasus region in general, we should be aware that various families and clans continue to maintain primitive slave holding practices.

To provide an example to this effect, in early 1991, as he traveled to stay with a friend in Ulyanovsk to find a good-paying job, S. Yakovlev ended up becoming a slave. A casual co-traveler offered a “better deal.” As a result, S. Yakovlev found himself in the village of Tanghi-Chu in the southern part of Urus-Martanovsky district (Chechen Republic) with all of his documents taken away from him. Over the past years, he had been employed to tend the cattle and slept right in the cowshed. When one day he tried to escape, he was captured and nearly killed. He said that he somehow managed to talk his masters into keeping him alive. When the 1999 “anti-terrorist operation” was launched, a military scout team finally liberated S. Yakovlev.42

Russian-speaking residents of Chechnya had often been turned into slaves. For example, following the first Chechen war, the family of the former Grozny resident, Natalya S. (maiden name Grecian), was sentenced by militants to extermination because her husband (dead by that time) had worked for FSB (Federal Security Service). While her elder son was killed, her younger one was thrown into a dungeon. Natalya herself had all her teeth knocked out. She was beaten up and raped for several days. When her younger son tried to defend his mother, he had his rib broken with a rifle butt. Then, they were both turned into slaves and taken to a mountain village to do the dirtier chores. For the night, they would be forced into a deep pit. They were fed only once a day with meager leftovers. It was purely accidental that mother and son escaped from their captivity. In being pressed to repay a debt, the master offered his slaves in exchange. When they were shipped to their new location, Natalya encountered her former neighbor from Grozny. The latter helped her and her son escape by leaving the dungeon’s door unlocked for the night.43

On the other hand, it is not only in Chechnya that slave labor is in the Russian Federation. By way of example, the report from the Chuvash Republic tells of V. Yakovlev, who spent the last ten years laboring as a slave at a hamlet held by some Javdeth from Azerbaijan. It was only because of his mother’s persistent efforts that V. Yakovlev was finally liberated.44

Also, a Krasnodar-city resident, who had been kidnapped by “some Caucasians,” was taken to a construction site and forced to do odd jobs “in the company of transients,” according to the last Krasnodar regional report. The victim said, “They would beat me up nearly on a regular basis and give me just scraps of food to eat. I lost a lot of weight in that captivity. The security was very tight, and we were not allowed to leave the area. Communicating with the local boss would normally end up with another

43 Ibid.
Disparate slave labor practices have been seen propagating through rather unconventional ways. Evidently, the experiences of the Chechen "anti-terrorist operation" have been telling of some of the elements of federal coercive structures.

The Voronezh regional report carries a story of a certain Nikolay from Estonia, who had been held in slavery for close to ten years in Chechnya and finally happened to be set free by the Voronezh special police unit, deployed to Chechnya on a temporary assignment. When Nikolay was brought to Voronezh, he was given shelter at a locker lean-to in the Voronezh-based district police department office yard. He was tasked with standing watch and being a janitor. During the summer months, he was employed as a helper at private development projects pursued by the local police chiefs. Though Nikolay had a Russian domestic passport issued in his name (which was apparently to be some compensation for his being tolerant and useful), he has yet to receive it from his new masters.

Numerous ethnic crime gangs (including Chechen) have been undertaking kidnapping operations for ransom money in other Russian regions as well, according to the local law enforcement authorities.

For example, in 2001, an effort was undertaken in the Astrakhan region to put in check the criminal activity of a gang of eleven criminals of Chechen-origin, that had been involved in kidnappings and robberies since 1999. The case is being considered by the Astrakhan-based Trusovsky district court. The criminals kidnapped S. Utegenova (9 years of age), O. Shcherbakova (10 years of age), M. Pogosian, V. Jalilov and other children. The kidnappers had kept their "prey" for over half a year, demanding ransoms ranging from 3 500 to 150 000 US dollars. The most active member of the gang was R. Khimaev, public safety police inspector from the Astrakhan regional-based Chernoyarsk district police department, who did his best to take advantage of his connections in the local law enforcement structures.

Clearly, this case provides an object example of regular criminal activity — taking hostages to secure ransom money. Though this type of crime has for the most part been attributed to Chechnya, numerous investigations of kidnappings by Chechen-based criminals have revealed that this conventional perception is not fully reflective of reality. Firstly, all those crime gangs have not been "ethnically homogeneous" — among those criminals would be found "Slavs," who happened to be even more cruel to their prisoners than ethnic "Chechens." Secondly, those kidnapped elsewhere in Russia would often be kept out of Chechnya, but threat messages were sent from Chechnya, where the bargaining was pursued. Importantly, Chechnya, where no steady rules had been applied and where the federal law enforcers had been ineffective, was important as a "safe haven" to keep (sometimes allegedly) the hostages and provide security for the kidnappers. It was sort of an "offshore zone" designed to assure links on prospective ransom deals. With that veritable "black hole" being essentially denied the "normal" functional capacity, the scope of "trafficking in humans" across Russia has been reduced. Obviously, this threat has been criminal, rather than "ethnic," in character.
A traditional community, where “customary law” is applied exclusively to “friends,” is reflective of the only “ethnic aspect” of slave labor. Members of such a closely-knit conventional community do not find it criminal to turn an alien into a slave. With Russian society becoming more retrograde, and given the current inefficiencies in the judicial system, “customary law” has been increasingly implemented. It has been internationally acknowledged that at a certain stage in its disintegration, a crumbling society produces unruly criminal gangs. It is against this backdrop that one should primarily view the information on slave labor used by the Roma. Reports discussing this, in particular, are coming from the Primorsky territory, Novosibirsk and other regions.

“Regular” crime gangs have also been using slave labor. To provide an example, close to Vanino in the Khabarovsk territory (Vanino–Kholmsk ferry run is one of the major routes for moving illegal drugs to Sakhalin), the local drug dealers established a laboratory to produce hashish. When law enforcers uncovered the facility, they found four transients running the laboratory. In order to keep them “on the job,” they were chained to the wall. During his seven-month captivity, one of the foursome — a seventeen-year-old resident of the Irkutsk region — made a number of unsuccessful attempts to escape. After being caught each time, he was severely punished.

Some of the most atrocious forms of gang-related slavery have been sexual exploitation of women and minors. Examples to this effect are numerous.

In the Altai territory, a criminal gang had operated for many months, tempting job-hunting girls with lucrative offers and taking them to Novosibirsk. There, they were eventually coerced into prostitution. One of the sex-slave girls was killed. On February 15, 2001, the gang’s principal players were apprehended. It is noteworthy that the city police were somewhat reluctant to put in check the crime gang’s activity, according to the Novosibirsk-based daily Svobodny Kurs.

In a different case, two young female prostitutes from Omsk somehow got heavily in debt. They agreed to move to Moscow in the hope of making more money. Once in Moscow, they were put up in a two-room apartment along with 13 other girls. Their masters appropriately dressed them up and assigned them to “patrol” the area around “Dinamo” Stadium. Being unhappy with the whole arrangement, the two girls decided to run away. But it happened that they were harshly contacted in Omsk with demands of paying back 20,000 roubles for the outfits that they had allegedly stolen from their Moscow “landlords.” First, the girls were threatened and then beaten up. Then, one of them was forced to come back to Moscow. However, while en-route, she decided to go to the police with her trouble. In the end, some of the crime gang’s members were detained.

Notably, juvenile prostitution has been growing at a very alarming pace. The St. Petersburg police and Leningrad region police have joined

forces to apprehend the management of three dens for under-age prostitutes, where 14–16-year-old girls are kept by force. Pay for their sexual service was collected by their masters. Even an underground cellar was constructed for the more unruly girls to be punished. The pimps would make under-age prostitutes receive new clients and offer drinks that contained psychotropic substances.

In January 2001, the police arrested A. Oshurkov, a pimp who “worked” with juniors. Under-age boys were directed to find their clients independently and then bring them to their manager to settle accounts. More often than not, it was alcoholic or drug-addict parents that send out their kids to “earn some money.” The incremental growth of juvenile prostitution in the city of Blagoveshchensk has been indicated in the Amur regional report. Monitors from the Novgorod and Rostov regions and the Komi-Permyatsky autonomous district have also noted this problem.

Domestic sex trade and trafficking in humans, especially, trafficking in women, have resulted in Russian-origin females being exported to supply the increasing demands of the international sex industry. Notably, Russia and the former Soviet republics have been turned into suppliers of slaves and prostitutes, according to the UN and Interpol structures.

According to L. Zavadskaya (American Association of Lawyers), head of the program for protection of women’s rights of the women quite consciously willing to be involved in that industry because of the intolerably low living standards in the post-Soviet arena frequently become victims of trafficking and enslavement. Given the circumstance, suggested amendments to the RF Criminal Code should “make unlawful trade in humans a criminally punishable act, even if the trader states that the “target” gave his/her consent.” Loopholes in the Russian law enable domestic recruiters (reaching a total of more than 300 firms) to operate in this line of business nearly freely and without any fear. The superior returns on investments are comparable with those generated by arms or illegal drug trade. This observation is substantiated by the fact that recruiting companies encounter no difficulty in providing clearances for young and single females wishing to travel to their destinations. The Leningrad regional report, for example, reads as follows:

“Members of the St. Petersburg city police department have been attending international conferences on issues relating to trafficking in humans. They have already established solid business contacts with their counterparts from the Netherlands, Finland, and Germany. However, the deals are yet to be fulfilled. One of the explanations for slow progress is that the recruiters apparently have police protection.”

To add, the problem of trafficking in human beings has become rather acute in the Russian Far East, especially in the regions close to Asia-Pacific countries. In July 2001, K. Chaika, Deputy Prosecutor General for the Russian Far-Eastern Federal District released statistics, which stated that over 15 thou-
sand young Russian women and minors have been used as “sex slaves” in China. The local cities have as many as 149 crime groups (40 of those being international ones) engaged in that sort of business.  

Another rather common form of slavery (with primarily minors being the victims) is forced labor managed by assorted criminal structures. These “juvenile” earnings do not necessarily come from sex industry. Increasingly common is the phenomenon of begging (the fact being highlighted by the Amur, Novosibirsk and Chita regional reports).

In the Omsk region, the growing incidence of juvenile begging is reported to be the result of increasingly large numbers of refugees and migrants arriving from Chechnya, Kazakhstan and other near-abroad lands. The police operation “Brodiga” (“Tramp”) led to the detention of about a thousand beggars. Children (including infants) continue to be exploited by professionals. A recent police operation led to the apprehension of a 32-year-old woman from Kashkadair (Republic of Tajikistan), who “directed” a small group of children from five through seven years of age.

However, there is no monopoly on the part of criminal structures for exploiting juvenile labor. Admittedly, some of these practices could be attributed to the governmental bodies’ inertia (since Soviet times) with regards to the use of forced labor. To provide a more common example, school children are frequently directed to carry out disparate chores for local organizations.

For instance, in Bashkortostan prior to President Rakhimov’s arrival to the city of Tuimazy, all local schools received the following instructions from the head of the Tuimazy administration: “From September 7 though September 14 daily clean-up activities shall be carried out from 09.00 to 17.00 hours to keep the assigned territories tidy. All school classes (except for junior school classes) within the indicated period shall be canceled.” While most of the schools had their lessons temporarily suspended, other educational establishments in the city of Tuimazy and local district had their classes limited to two–four periods in baseline subjects. School kids had been busy tidying up streets, yards and even entryways in some residential buildings.

In the city of Vorkuta (Komi Republic), in September 2001, most local high school students had been directed to spend their Saturdays tidying up the city streets and parks. Notably, the entire effort came at the cost of school hours, with the students toiling for free. The Vorkuta authorities seem to have been repeating this practice for several years now, with the Komi Ministry of Education duly providing the needed authorization.

All of the above cases can be categorized as either governmental or criminal (traditional) exploitation of slave or forced labor.

49 “Fifteen Thousand Russians Turned Slaves in China.” Rossiyskaya Gazeta (July 12, 2001).
50 B. Egorov, “Give a Penny for Bread.” Trud-7 (September 19, 2001).
To emphasize, the more alarming recent manifestations of slave and forced labor have been produced by the so-called “new economy” with its “new rules and codes.” Not infrequently a person newly hired might have his passport seized. This radically changes the quality of employer-employee relationship because, without an identification document, a person actually becomes a hostage to a bad-faith businessman or genuine criminal. The principal argument for maintaining the domestic passport system was precisely that law enforcers would be better equipped to fight crime.51 It is within this context that the country continues to be increasingly filled with migrants and the homeless.

Migrants have generally become hostages to their employers because government (including law enforcement) officials look into cases of forced labor only when they are accompanied with especially fanatical cruelty.

E. Gontmakher, head of the Government Department for Social Policies, admitted that the government has failed to make proper arrangements to assure registration of migrant laborers. The relevant regulatory vehicle is still pending official confirmation, resulting in a situation where just one migrant out of 7–10 foreign workers coming into Russia to look for jobs secures appropriate registration. This registration situation with migrants is unlikely to change for the better in the short term.52 Special mention should be made of an experiment conducted by a few Moscow-based reporters to find out why migrants from the CIS countries have been treated so arbitrarily in Russia. The reporters first tried to identify the Moscow-based municipal structure that could help the unfortunate migrants, who had been swindled out of their passports, assigned to specified jobs, maintained on poor diets for three months and eventually evicted without any compensation. Out of numerous Moscow governmental structures, only the social reception facility #2 of the Moscow police department displayed a measure of readiness to receive such migrants. The manager cautioned, however, that “they received undocumented foreigners suspected of misdemeanors and felonies. Within a space of a month, they would sort out all relevant issues, restore the documents and have those individuals dispatched to the places of their permanent residence. The living conditions here are comparable with a regular prison.”53

The Buryat Republic is a Russian province where illegal migrants (mostly from the People’s Republic of China) have been providing forced labor resources on an almost regular basis. During 11 months of 2001, the Buryat police had uncovered 304 illegal immigrants living and working within the region without appropriate registration. Following an investigation into the matter, 77 of those were found to have repeatedly violated Russian laws and were expelled from Russian territory. To provide another example, the non-functional Ulan-Ude-based “Buryatferrnash”

51 O. Smirnova, “Slavery in the Regional Center and Outside Becomes a Fact of Life.” Komsomolskaya Pravda (July 18, 2001).
53 A. Dorofeeva, “Medvedkovo Laborers Turned into Tramps.” Moskovsky Komsomolets (March 5, 2001).
The industrial facility had illegally established a scrap-metal smelting operation, with undocumented Chinese migrants employed as forced laborers. The Chinese laborers had had their passports taken and received no compensation for four months. Fugitives would be invariably caught by security police on the border between the Zaigraevsky and Kizhinginsky districts and brought back to their facility by force. However, 24 Chinese workers (that were responsible for the maintenance of smelting operations in the unfinished Ulan-Ude-based motor-assembly plant) managed to get back to their homeland. To emphasize, all those Chinese had arrived in Buryatia on invitations from Nikonov, deputy head of “Vtormet” company. In Buryatia’s Pribaikalsky district, eight Chinese illegal workers were apprehended, all of whom had come on invitations from “Sputnik-Buryatia” travel agency. As it turned out, they had not obtained required registration with the local authorities and were engaged in work at a logging operation. Following completion of the “Regime” and “Volna” operations run by the local passport and visa service, penalties were assessed against Barguev, deputy director of “Burmanles” company, Pliusnin, director of “Druzhba-21” company, Korobets, head of TETs-1 power utility division, and Avdiushin, local entrepreneur.

In the Khanty-Mansiisky autonomous district, some local companies are known to have made use of cheap labor provided by migrants from different CIS countries (Moldova, Tajikistan, Uzbekistan). Notably, these affordable labor resources have been readily exploited not only by entrepreneurs, but also by some local town administrations, especially when it came to tackling such summertime tasks as planting trees and tidying up streets and yards. In these cases, the willing immigrants would be granted temporary registrations and allowed to enter into contractual arrangements with different employers. Paychecks, however, remained uncashed.

The living conditions in which most migrants find themselves are awful: the dormitories’ rooms hold ten to fifteen tenants each, and hygiene and sanitary rules remain largely unobserved. Once their contracts (mostly for the summer and fall months) and registrations expire, these migrant workers do not even consider going back to their hometowns. They stay put in various cities and townships of the autonomous district, explaining their situation by the lack of money to pay for the trip home. Although local self-government structures do assist in funding deportations, foreign migrants keep coming back. The Amur regional report, for one, concludes that the meager paychecks collected by migrant laborers from either China or North Korea are conducive to their dealings in drugs as a means for survival.

Incidents of transients and tramps being forcibly engaged in work have been regularly mentioned in regional reports.

In the Krasnodar territory, local transients have generally been coerced into performing disparate activities. For example, P. Bezoit, member of the Leningradsky district council, informed the media that she personally had been to the onion plantations tended by transients who were working “for peanuts.” Local employers often attract these sorts of in-
individuals to do “heavy-lifting,” with the latter advancing no particular requirements for pay levels or job conditions.

In the Orenburg region, the local authorities openly use the services provided by teams of migrants or transients who earn their living by doing construction-related jobs. In exchange for the authorities officially extending (or rather, overlooking) their stays in the region, those “teams” are supposed to “do some painting, washing, cleaning or repairing jobs” as instructed by their benefactors.

Regional reports for the year 2000 already mentioned local entrepreneurs not only disregarding the applicable labor laws, but also fraudulently coercing individuals (fearful of losing their employment) into paying compensations for imaginary losses allegedly suffered by employers. As a consequence, such laborers are actually turned into slaves.

Also, in the Amur region, the former workers of the “Rossiya” company’s store #8 claim that they had been fired on fraudulent charges with no money paid. Frequent misuse of the so-called “probation period” has also been reported. In this approach, newly hired workers are so grossly underpaid that at the end of the month their wages fail to cover the cost of meals they received while working. (To clarify, the workers could not cook for themselves for lack of time (10–15 minutes) allowed for breaks during their shifts.)

Concerning drafted servicemen, their forced labor has become so habitual that the topic seems to be no longer referred to the domestic regional human rights activists. There is no reason for optimism in the recent discussions of the alternative civil service issue. Military officials are apparently steadfast in their insistence for continued military hard labor that could be counterbalanced only by an equally hard labor alternative service.

The aforementioned use of transients and migrants to perform odd jobs has likewise become generally accepted. The latest regional reports, however, have been somewhat different from the previous ones in that now some local administrations and law enforcement structures have increasingly employed this affordable labor resource.

The need for effective involvement in these matters by such high-profile intergovernmental organizations as the UN, ILO and other international structures continues to be most pressing. This is especially so, given that neither Russia nor any of the other former Soviet republics are adequately equipped to effectively tackle these overwhelming problems in the near future.
Overview and History

Over the past few years, the much-publicized cruelty displayed by Russian law enforcement bodies has been causing a good deal of public alarm. On the one hand, the old Soviet-era perception that “my militia is always there to protect me” has become obviously at odds with the daily realities of life in post-Soviet Russia. On the other hand, government censorship has been lifted and human rights activists and journalists are seeking to expose social ills, drawing public attention to innumerable cases of police torture, beating and humiliation. In the meantime, it would be foolhardy to count on the public at large to exercise meaningful pressure on authorities in this particular regard. The heart of the matter is that Russians appear to have always believed that unlawful violence and arbitrary practices by the authorities are inevitable and that available non-governmental resources are completely insufficient to rectify the situation. As a consequence, torture and cruelty have been increasingly indicative of the true image of Russian law enforcers, while inhuman or degrading treatment continues to be perceived as inevitable features of life in Russia.

During Soviet times, beatings and other types of organized cruel treatment had eventually been outlawed by official decrees and directives, and long-practiced techniques of torture were largely abandoned, with specialized practitioners themselves eliminated in the course of massive repression. The last of the aforementioned documents was passed shortly after Stalin’s death in 1953. In April 1953, the then-Minister of Internal Affairs issued an order to withdraw and destroy all technical implements designed to administer torture. Soon after that order was put into effect to eliminate all evidence of officially authorized torture practices, the chiefs of police and investigation authorities were tried and sentenced to varied terms of imprisonment, with some of the former officials (including the very same Minister of Internal Affairs and his close aids) executed by firing squad. Notably, one of the arguments underpinning the severity of that punishment was the “socialist laws” being breached on a massive scale in the course of investigative efforts. Although police and prosecutors made an effort to avoid application of qualified torture practices following that disciplining act, outright violence continues to be the principal strategy applied to investigate circumstances surrounding criminal cases in Russia. This unlawful approach is either implemented in a relatively “soft” version (with a detainee being kept in a pretrial detention facility where the living conditions are below any and all standards) or a “hard” one (with a detainee being either beaten up, thrown into a “pressure-hut,” suspended to the ceiling, stretched, electrocuted, stifled, threatened with rape, or taken through an out-of-court execution sequence). To point out, “torture with the use of physical force has normally been applied by police in combination with psychological pressures, including rude remarks,
Clearly, the armed conflicts that followed the disintegration of the Soviet Union and the two Chechen campaigns served to reintroduce torture practices into Russian society. To clarify, the army “fast-track” interrogation techniques\(^5\) first started to be used to handle the adversarial elements in armed conflicts, the procedure being quickly replicated to unlawfully “investigate” the “unwelcome” better-off individuals. Today, many Russian law enforcers who have been in Chechnya on short-term assignments are once again fully aware of the specifics of qualified torture practices. Because of their participation in arbitrary killings, robberies and marauding raids, nearly all MVD and FSB SWAT-type elements have been effectively corrupted; cover-up attitudes reign supreme. What is more, the “Chechen experience” has now been regarded as principal leverage for a law enforcer to quickly climb up the career ladder. Notably, the specific “Chechen” style of investigative work has now been turned into sort of a model for those police officers and prosecutors that have not yet been to Chechnya and taken part in war crimes.

However, with the level of legal culture in Russian society being rather low, cruel treatment of detainees and prisoners for the most part continues to be perceived as either an inevitable evil or some sort of involuntary behavior on the part of officers employed by domestic coercive structures. To emphasize, verbal accounts of the victims of police torture, beating or cruel treatment serve to confirm the functioning of the established system of “beating-out” the needed evidence. Normally, cruel treatment is applied during detentions, transits or when detainees are in a remand prison or temporary detention ward. Admittedly, the victims or witnesses of cruelties by police have largely flatly declined to be identified or to stand up for their rights in a legal fashion. More often than not, the individuals who have been made targets of torture by police just refuse (for fear of worse to come) to call in a doctor in order to confirm the evidence of physical damage caused by the law enforcers. Notably, whenever the victims try to sue law enforcers for the application of unlawful investigative techniques, prosecutors generally seek to have the abusers acquitted of any criminal charges.

Detainees in Russia are not allowed to make telephone calls to their homes to tell their family members of their being taken into custody or ask for legal aid, which certainly amounts to a severe breach of the law. Any attempt to use established rights are normally sharply put in check by the attending police officers, who are ready to apply physical force “as necessary.” Given the scene, the detainees are usually advised to meet all requirements set by the local law enforcers. It is only following his/her release from a given police precinct that an individual is free to raise an issue of his/her illegal detention or have his/her statutory rights restored.

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\(^5\) For more details, see the chapter on torture in Human Rights in Russian Regions — 2000.
The ongoing MVD structural reform, aimed at having special law enforcement forces less dependent on regional-level authorities, has been proceeding without any noticeable changes. Notably, an effort is underway to create a criminal police service in place of the federal criminal police committee, which had been originally intended but never established. To point out, the problem of evaluating the performance of law enforcement bodies in Russia appears to be most pressing. The moves to officially reject the crime clearance rate as the principal indicator of efficiency of police authorities across the country and introduce a policy to draw up totals of all reported misdemeanors and offenses are believed by the professionals themselves as inadequate measures, capable of further compounding the uneasy situation. The new approach might serve to reduce the totals for reported and registered offenses, particularly the aggregates for crimes that are especially difficult to clear.

To underscore, the rush for improved statistics has already resulted in Moscow reporting an apartment-theft crime clearance rate of 40–50% and a car-theft clearance indicator balancing between 5–6%. This obvious disparity is explained by the fact that any individual whose car has been stolen cannot easily be dissuaded from making an official statement to the police. What is more, one can see direct competition between two neighboring police forces. Should the police catch an apartment thief within the confines of their precinct and secure an admission of apartment thefts committed in an adjoining area, they keep the “intelligence” to themselves, so as not to help the competitors improve their crime clearance rate.56

With B. Gryzlov (a political appointee, rather than an MVD or FSB senior career officer) becoming Minister of Internal Affairs, unfortunately no impetus has been provided either to expedite the MVD structural reform or improve the state of law enforcement in the country. Notably, the gloomy outlook for the reform’s future comes primarily from yet another attempt to step up the performance of law enforcement bodies merely through structural reshuffles. Lack of optimism about a change for the better is rooted in the currently unmanageable problem of inadmissibly low cultural levels displayed by most of the MVD personnel, ranging from junior ranks all the way through senior and general officers. As a matter of fact, for several decades now police continue to be staffed from the same social pool that provides candidates for organized crime gangs. For example, prosecutors (not infrequently coming from the families of Russian and Soviet intellectuals), that used to be conspicuous because of their superior general knowledge and excellent training, have now been rapidly losing that lofty social station. The low social standing of current law enforcement agents, their inadequate compensation packages, high rates of corruption, continuous shortage of qualified personnel and the never-ending outflow of better minds to fill jobs in the private sector clearly indicate that the situation might go from bad to worse. The law enforcement structures are continuing to be further criminalized. To provide another example, from January through November 2001, nearly 10 thousand policemen had been brought to justice, 2 000 of which were charged with committing corruption-related crimes, according to E. Solovyev, Deputy Minister of Internal Affairs.

Many active-duty and retired policemen in Russia strongly maintain that adequate crime clearance rates cannot be achieved unless unlawful investigative strategies continue to be employed. Often, by just monitoring a detainee’s reaction to the application of “strong-arm” techniques, policemen claim they can quickly conclude if the individual in question has actually committed a crime or not. In addition, many policemen and investigators are tempted to resort to unlawful investigative approaches because of a large number of objective hardships. Police, normally overburdened with excessive volumes of disparate tasks, just lack the time to quietly and thoroughly investigate reported crimes. They lack the requisite technical assets, to say nothing of the fact that certain limitations have been placed on the use of costly crime scene examination procedures. Also, the generally acknowledged thoroughness of enquirers and investigators (actually performing some of the court’s functions) in Western countries cannot be achieved under local conditions. This particular aspect has been covered by numerous regional reports that carry various examples of Russian law enforcement officers continuing to be corrupted into committing assorted legal offenses.

In 1998, the Russian Federation joined the European Convention for the Protection of Human Rights and Fundamental Freedoms. Article 3 of the Convention contains a provision banning the use of torture and cruel treatment: “No person shall be subjected to torture, inhuman or degrading treatment or punishment.” Pursuant to the relevant interpretation made by the European Court of Human Rights, Article 3 of the Convention not only carries an explicit and absolute ban on the use of torture but also commits the signatory-states to launch an effective investigation into any case of a person substantively claiming to be either tortured or humiliated by a government official. To underscore, this provision of Article 3 is supported by Article 13 of the Convention, which bounds all signatory-countries to providing effective protection for persons whose rights or freedoms defended in the Convention have been breached by a government official. To explain, this provision of Article 13 provides for an immediate and impartial action to be launched into the circumstances of the substantively reported use of torture or humiliation, according to the European Court of Human Rights.

As compared to 1998, torture practices have somewhat changed for the better, according to V. Abramkin, Director of the Center for Promoting a Reform of Criminal Justice:

*The more critical challenges have moved from the Chief Department of Penalty Implementation (GUIN) to the local police precincts and their temporary detention wards, generally known in Russia as KPZ cells. The statistics for torture inflicted at pretrial detention facilities and penal colonies are reported to have meaningfully decreased. Lower numbers of incoming appeals and torture-related criminal cases are reflective of this trend. Admittedly, the removal of GUIN from under the auspices of the Ministry of Internal Affairs and assignment to a different law enforcement agency has produced this positive shift. Now, we see*  

57 See, for example, the following jurisprudence of the European Court: *Aksoy v. Turkey* or *Assenov v. Bulgaria.*
the wardens of pretrial detention facilities refusing to accept detainees with obvious marks of beatings from the police. There have been some situations when prison attendants themselves have approached prosecutors with a request to look into the origins of physical injuries sustained by the detainees and bring a legal action against a possible suspect should the available evidence be sufficient. B. Fedotov, former warden of the Pskov-based pretrial detention facility, even paid his own money to buy a video camera to tape evidence of bodily injuries. He actually says that every third prisoner needs to filmed.

Remand prisons per se are no different from torture chambers because inmates suffer from the “lack of sleep, fresh air and, simply, space.” To emphasize, this admission has been made by Yu. Kalinin, Deputy Minister of Justice and Russia’s “Chief Warden,” who has spent over 30 years of his life building up his career within the country’s criminal penalty implementation system.

Unfortunately, measures undertaken by the Prosecutor General’s office, MVD and FSB in-house security services to look into the appeals and grievances reported by individual torture victims have been extremely ineffective; only a small number of such complaints end up considered by a court of law. To add, less than one quarter of criminal cases involving abuse of power by police and penalty execution system personnel, have been initiated because of evidence collected by the in-house security services. The remaining portion of the cases has been initiated by complaints filed by individual persons. For example, a quarter of all complaints lodged with the Krasnoyarsk Regional Ombudsman against actions by local law enforcement officials have been related to the police using violence, breaching formal law procedures while pursuing investigative efforts or even coercing the suspected persons into providing the desired evidence. Despite the fact that such complaints in large numbers also have been forwarded to the regional prosecutor’s office, in the overwhelming number of cases, the local prosecutors have ruled to ignore the individual complaints. Whenever a criminal case was launched, it was normally closed within a short time. Of course, one can hardly rule out the possibility of a number of complaints being filed just to avoid criminal responsibility. Sometimes it is, indeed, nearly impossible to determine whether a reported incident of torture has actually been the work of police, especially when relevant statements are made after some time has passed (for example, in the course of a trial by a court of law). However, focused observations have led to the conclusion that the key reason for accused torturers escaping legal punishment lies elsewhere.

Individual statements and complaints are generally examined and considered only superficially, with the accused policemen usually denying any use of unauthorized violent tactics. Importantly, no exhaustive efforts are made to secure unbiased knowledge of the circumstances surrounding the case in question. To provide another example, the given crime scene is almost never thoroughly examined in order to uncover traces of torture or any implements used for that purpose. The overall

impression is that prosecutors do not so much seek to arrive at the truth, as they attempt to protect police from any criminal liability. They are often successful in achieving the latter, even when reported materials contain sufficient evidence (for example, timely secured and properly certified medical statements of sustained bodily injuries) of the police torture or other rough methods of investigation.

Clearly, one of the reasons for the poor state of affairs in the area of exposing unlawful investigative strategies used by Russian law enforcement agents lies in the fact that local prosecutors and police have primarily been tasked to counter crime, with their principal indicator of performance continuing to be crime clearance rates. Obviously, a number of objective (police being inadequately equipped with technical facilities to investigate and uncover crimes) and subjective (low training standards, inability to effectively take advantage of criminal investigation-related provisions in applicable laws, etc.) factors stand in the way of an effort to improve that performance indicator. As a result, the main proof of a suspect’s guilt is more often than not his admission of guilt, which has in most cases been secured through the use of unlawful investigative methods.

Admittedly, any impartial prosecutorial supervision has been largely prevented by the fact that Russian prosecutors are usually engaged backing up the prosecution in criminal cases. This “obviously results in prosecutors being least interested in uncovering the use of any rough methods applied to the detainees or defendants. Should it be revealed that unlawful investigative strategies had been used to build up a body of evidence for a given trial, such evidence would seriously undermine the prosecution-backed position in a court of law.” Revealingly, Russian prosecutors usually join forces with police to battle against crime, and they largely operate as a single unit. Given the circumstance, Russian prosecutors are tasked to perform two incompatible functions — investigating the reported crimes, on the one hand, and checking to see if the police investigators operate in compliance with the established law, on the other hand. Notably, because the former function reigns supreme, prosecutors pay little attention to the issue of use of torture during an investigation.

Just as in previous years, Russian courts of law have been inclined to turn down complaints filed by detainees who alleged that they had either been tortured or humiliated in the course of police detention. In such cases, judges would normally question one of the available investigators on the matter or make an inquiry with the local prosecutors. The invariable response would be that no unlawful methods had been applied. In addition, judges would never demand that prosecutors submit the materials of relevant inspections, and they would never check to see if those prosecutor-conducted inspections had been thorough and fair. If the defendant had not filed any complaints to that end during the investigation, or if such statements had not been appropriately registered, judges for the most part would just ignore any declarations made to that effect by the

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defendants. Generally, statements made by defendants, and sometimes by witnesses, in the course of investigative efforts outweigh those made during a court trial. Exceptions to the rule have been rather rare. Unfortunately, those have included the cases of judges being unlawfully swayed by the defendants’ well-connected friends or relatives.

Should the trial be by jury, it needs to be underscored that, whenever a defendant makes statement to the effect that he had been made a target of torture or humiliation by police during an investigation, the judge would normally order the jurors out of the courtroom and singly consider the defendant’s statement. Then the presiding judge would have the jurors return to the courtroom and tell them that the defendant’s complaint had been unjustified and that the jurors could proceed from the evidence secured during the pretrial investigation.

So, the Russian system of investigation and justice (primarily built on verbal evidence) remains largely on the medieval level, where the defendant basically has a choice of either admitting his guilt or dying from torture. In too many cases, Russian law enforcement officers have failed to look for other types of evidence.

As was emphasized by V. Abramkin of the Center for Promoting a Reform of Criminal Justice:

No true statistics on how widespread the use of torture is in Russia have been made available. Criminal cases of detainees being beaten by police have largely been lost in the multitude of abuse-of-office cases. Today, it is nearly impossible to find out how many Russian policemen have been brought to justice for torturing detainees. The thing is that, once they have been found guilty of committing criminal offenses, the uniformed sadists would normally be first expelled from the ranks of the police force and then prosecuted as regular civilians.60

Overall, “the cases where the party guilty of either torturing or mistreating of detainees have been effectively prosecuted and put behind bars appear to be isolated exceptions, rather than the rule,” observed O. Mironov, Ombudsman of the Russian Federation.61

However, the lack of court sentences or exact statistics for police brutality do not result in the general public’s entertaining illusions about the real state of affairs of law enforcement in Russia. Clearly, Russians for the most part seem to be distrustful of the domestic police authorities. This conclusion has been indirectly confirmed by the findings of the September 10 — October 4, 2001 inspection carried out by MVD in the Smolensk region. Specifically, a public survey conducted by the regional police authority revealed that only 21% of respondents regard local law enforcement officers in a positive light. Nearly one third of those queried stated that “they were not ready to assist the police because they saw no point in it.” Crime victims in the St. Petersburg area gave the same types of responses. Just one third of those surveyed said they had readily contacted the police to report what had happened to

60 M. Glikin, “Goblins are Coming.” Obshchaya Gazeta (February 8, 2002, #6).
them, with 38% of respondents explaining their reluctance to call for police help by saying, "the police would not budge to help anyway."  

The reasons for such attitudes on the part of the public toward those who are supposed to safeguard public law and order are quite clear from the reports submitted by Russian regional human rights activists.

**Cruel and Degrading Practices Used to Deter Crime, Detain Suspects, Impose Administrative Penalties and Terminate Unauthorized Public Events**

Recent Russian experiences have graphically shown that the use of disproportionate physical force to deter crime or detain suspects has become routine. In many cases, the police authorities have resorted to unwarranted use of emergency resources, including special or SWAT-type elements from MVD, FSB, Ministry of Justice and Tax Police. Obviously, the purpose of such forceful interventions is not only to rule out any possible resistance from the suspected party but also to intimidate the targeted individuals, publicly humiliate them and prevent them from resorting to legal methods in standing up for their rights. Clearly, persons detained following such terribly harassing police raids usually fall despondent and become easy prey for dishonest inquirers or investigators. Sometimes, traces of beatings sustained by detainees while either transited to a local police station or kept in a detention ward are attributed to the suspects’ stubborn resistance while being apprehended.

The unwarranted employment of special coercive police elements, which has nearly become standard practice in dealing with conflict-of-interest situations (it would suffice to refer to the early 2001 “Most-Media” holding escapade widely covered at the time by Russian press), directly compromises domestic authorities. The so-called “masked performers” have become the usual actors on most Russian television news programs. Not a week passes without local television anchors reporting that investigators from some of the numerous coercive structures (including the prosecutor authorities) were accompanied by armed police elements to pay a visit to a commercial bank or private company office.

On January 12, 2001, during a meeting of Russian prosecutors in the Kremlin, the President of the Russian Federation, V. Putin, felt compelled to publicly target the Prosecutor General’s Office for the notorious “masked performer” shows. It was only two weeks later (January 30, 2001) that V. Ustinov, Prosecutor General of the Russian Federation, responded to the presidential criticism and issued an order “to improve prosecutor supervision over the police activities undertaken to carry out searches or expropriations.” The document read as follows:

> It has been determined that the strategy of providing power backing for investigators has often been used to exert psychological pressure on suspected parties. This approach frequently leads to crude violations of constitutional civil rights and excessive disruptions of established business cycles maintained by private businesses...

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62 V. Kostiukovsky, “My Police is There to…” *Novye Izvestia* (June 23, 2001).
63 Mask-wearing members of special police units.
Prosecutors of all levels are supposed to resolutely put in check any attempt to employ special police elements for the purpose of exercising psychological pressure on targeted individuals.

However, it was only on February 19, 2001, that this document was released by Russian mass media.

Notably, the delay in the release of the order was explained by L. Troshin, public relations officer for the Prosecutor General, who referred to a special inspection (launched before the aforementioned presidential criticism came to pass) that needed time to be properly finalized. The inspection revealed that the power-backing strategy indeed had been applied under certain conditions for deterrence purposes. L. Troshin admitted that an example of implementation of such a strategy was when the police-backed investigators undertook a search raid of the Moscow-based ORT television head office at the close of 2000.64

Pursuant to the aforementioned Prosecutor General’s order, special police elements (normally coming from MVD, FSB or Tax Police) “should only be involved to support investigative activities under exceptional conditions. Such situations, for example, might emerge when there is a high risk of the targeted individuals offering active (or armed) resistance or insubordination to investigators performing their lawful functions.” Then, the document goes on to read as follows: “the cases of prosecutor-authorized searches under non-extreme conditions shall be viewed as gross violations of the applicable law.” Notably, those extreme conditions imply the presence of “circumstances reflective of the targeted individual taking steps to eliminate incriminating evidence.”

Prosecutors received even the belated response to President Putin’s critical remarks with ambiguity. In his interview for the Rossiya daily, G. Bespalikhin from the public relations department of the Prosecutor General’s Office, as a matter of fact, tried to disavow V. Ustinov’s order as he suggested that it was just another internal document, written to cover situations when search and expropriation actions are performed by investigators from prosecutor offices. The order allegedly could not be applied to other Russian law enforcement bodies. Whenever MVD or FSB officials approach the relevant prosecutor office to secure a search warrant, they do not seem to be committed to report on how they intend to carry out their plans and whether they want to engage an armed police element to back up the operation.

However, even a non-premeditated show of force by law enforcement officers and their preparedness to apply no-holds-barred tactics in order to achieve their objectives on the premises of company offices is a problem with which that the Russian public has become increasingly concerned. To add, the chapter of this Collection of Reports on the predicament of ethnic minorities in the Russian Federation most graphically describes the bizarre strategies applied by MVD elements to pursue their operations against this country’s ordinary people. Whenever targets for those actions

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are those from the Caucasian or Central Asian ethnic communities, or by Roma or Meskhetian Turks, the tactics employed by MVD personnel are increasingly reminiscent of the infamous “mop-up operations” in Chechnya. A pointed example of that sort of law enforcement practice in Moscow was made by the March 27–28, 2001 nighttime “mop-up operation” on the premises of the Chechen “Nakhi” studio-theater’s dormitory at the State University of Culture. A Moscow-based special police unit (just back from a Chechen assignment) undertook unlawful action there, together with the Moscow region-based Khimki district police department against organized crime.

Importantly, even an average person can hardly feel secure against the arbitrary rule of the police. An example of an excessively cruel police performance in apprehending a suspect has been provided by the Khabarovsk regional report.

On the night of November 10–11, 2001, in the city of Khabarovsk, V. Voropaev, a popular television anchor and editor-in-chief of the Panorama news program on the Dalnevostochnaya Radio and Television Network, left his office and headed home on foot. He walked along Lenin St. (one of the city’s three central thoroughfares), which was quiet and empty at that late hour. As he approached the block on which the high school #12 is located, V. Voropaev suddenly saw a police patrol car approach him and make an abrupt halt. Almost immediately, he was assaulted and savagely beaten by several policemen from the patrol car. Just as V. Voropaev realized there must have been some mistake, he had enough time to cry out his name before he passed out. When he came to, the policemen admitted it was a case of mistaken identity, displayed their credentials and let the journalist proceed home. It so happened that shortly before that unfortunate incident, the local police precinct was contacted by a woman who reported that her purse had just been stolen by some street hoodlum. The woman was asked to get into a police patrol car and help scout the neighborhood in order to catch the criminal. As she spotted the journalist leisurely walking home, the woman allegedly recognized her assaulter. By the time everything was sorted out, V. Voropaev had his skull fractured, nose broken and face badly bruised.

Regrettably, neither the patrol car in question nor the woman, who might have helped the journalist (who launched his own investigation) to throw more light on the whole matter, could be found. The Khabarovsk police have flatly denied that such an incident transpired on that night.\(^{65}\)

In order to have the entrepreneur, A. Pavlov, from the town of Lebedian of the Lipetsk region, unlawfully taken into custody, the police used excessive physical force by binding his hands and feet in a crosswise fashion. When A. Pavlov was carried out of his home to a police vehicle, his head repeatedly hit the cement floor and the vehicle’s door (that was “mistakenly” left shut). Following this rough treatment, A. Pavlov sustained a serious brain concussion. Notably, even the temporary detention facility’s

\(^{65}\) Khabarovskiy Vestnik (November 13, 2001).
warden refused to accept the brutally beaten detainee delivered by the police.66

In a different case, V. Artemyev (charged with committing a triple manslaughter) said he had been shipped from Kovrov (Vladimir region) over to Moscow in a car trunk with his arms and legs shackled in the so-called “envelope” fashion. When in Moscow, V. Artemyev was suspended by his shackles and made wear a gas mask with the air pipe temporarily plugged (the technique known as the “elephant” procedure). He also had a heavy concrete slab dropped on his chest several times and was repeatedly hit on his head and heels with a water-filled plastic bottle. He was tortured so that he would provide proper evidence and admit his guilt in the crimes attributed to him.67

Torture and Other Unlawful Investigation Strategies

Frequent beatings and unlawful use of physical force during detainment or prisoner transit notwithstanding, the principal complaints against the application of torture and other unlawful investigative techniques have mostly been made about preliminary enquiry efforts conducted by either regular or special police elements at local police stations. It is precisely there that experts in the use of unlawful investigation strategies are practicing torture.

Over the past decade, the field-phone-set-based electrocuting torture techniques have been applied on a wide scale at Russian police stations.68 Given the large numbers of reports, this strategy appears to have become the most frequently used technology-based torture. Admittedly, though this procedure has become standard in terms of specifics, some local “talents” seeking to upgrade the strategy can always be found. For example, to augment their performance indicators, criminal investigators from the Volgograd-based Tsentrny district police department chose to resort to a magneto-type generator to produce powerful AC pulses. They used it on detainees to secure badly needed confession of guilt. This particular case is currently being considered by the local prosecutor’s office, pursuant to the provisions of Part 3 (“inflicting physical injuries”), Article 286 of the RF Criminal Code. The three policemen involved in the use of that unlawful interrogation technique have been put behind bars pending their trial.69

Members of the regional prosecutor’s office have uncovered an exceptional case in the Republic of Tatarstan, where local torture “specialists” never stopped honing their “strong-arm” investigation skills.

In November 2000, Sergeant K. Khramov, junior investigator from the Kazan-based Sovetsky district police department, shot a 17-year-old detainee to death during an interrogation. As the case was broadly publi-

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66 For more details, see the Lipetsk regional report on the human rights situation in 2001 at www.mhg.ru (available in Russian only).
68 To learn of the technique’s origins, see the chapter on torture in the Collection of Reports Human Rights in Russian Regions — 2000.
Members of this Kazan-based district police force, the best crime-solvers in the city for the year 2000, could not be easily prosecuted because the local police bosses would variously and most resourcefully stand up for their “friends.” Revealingly, most of Khramov’s and Artemyev’s colleagues claimed they had seen or recalled nothing of the kind. The few policemen who were initially resolved to reveal the torture practices then thought otherwise; they claimed that in their first deposition they had been intimidated by investigators from the regional prosecutor’s office into providing “convenient” evidence. Notwithstanding the circumstance, official investigators secured sufficient evidence to have Sergeant Khramov and Sergeant Artemyev appropriately prosecuted and indicted.

Pursuant to the investigation materials of the given case, in September 2000, Sergeant Khramov and Sergeant Artemyev were assigned to handle the suspect E. Antonov, who had already admitted to committing five thefts. The local police department, though, had a few more non-attributed thefts reported and registered in the Sovetsky district. E. Antonov was supposed to assume those “remaining” offenses, thereby “assisting” the police. It took quite a while for the local expert investigators to talk the suspect into providing the right evidence. First, Khramov and Artemyev spent three days ruining the detainee’s kidneys. When that did not work, Sergeant Khramov pulled a plastic bag over E. Antonov’s head and had it tightened on the neck of the suspect with a string. (The victim still wears a dark-red scar from that cruel torture.) Eventually, E. Antonov confirmed whatever was demanded of him, but at the trial he once again refused to take those “add-on” thefts imposed on him. To emphasize, the judges concurred with the defendant on that particular point.

Apart from physical torture, the two sergeants were known to have used psychological pressure on their victims as well. K. Khramov, for one, enjoyed breaking into parts and putting together again his standard-issue Makarov pistol in the course of interrogation sessions. While suggesting that a detainee might get killed when attempting to make a break, he would normally press the trigger. However, this methodology did not prove to be universally effective. Cruel beatings and torture had to be frequently applied to achieve the desired objectives. To provide another example, A. Rokhlov, who had been handled by the two sergeants, admitted to committing 27 thefts in a single night. Then, the suspect was shown around the crime scenes where the police officers explained to him what he had lifted and under which circumstances.
Actually, A. Rokhlov had been illegally dealing in non-ferrous metals, but he was caught while committing a minor misdemeanor. Once delivered to the Sovetsky district police station, he was given a solid beating. However, during the trial, the sergeants claimed they had not touched the given detainee. Allegedly, the latter had a drug abstinence-related seizure, and the sergeants took pity on him. They brought him over to their room for a heart-to-heart talk. “We were just having a cup of coffee and talking about life in general,” argued Sergeant Khramov and Sergeant Artemyev. But somehow, the detainee left that room with a ruptured eardrum.

The regional prosecutors provided their own story of how that “small talk” transpired. For starters, K. Khramov trained his unloaded gun at the victim’s face and pulled the trigger. Then he loaded the gun, sent a bullet into the chamber and said there would be no more jokes. Also, K. Khramov pointed out that A. Rokhlov was not registered on the list of detainees and nobody would think of coming to this particular police department to look for him.

Once they learnt that the detainee had been chemically treated for alcoholism, the two detectives had his hands manacled and made him drink vodka. Then, they threatened to rape him unless he agreed to submit a statement of confession. Admittedly, A. Rokhlov assumed a few thefts, but that did not leave the sergeants fully satisfied. They took the detainee to a local dump yard, put a gun muzzle in his mouth and said, “Now, say a prayer, bugger, before you die.” At that point, A. Rokhlov agreed to write and sign whatever was demanded of him. Then, he was taken to a local compound of summer cottages where he was asked to show the scenes of his crimes. To add, the sergeants beat the suspect two more times during the course of the investigative effort.

The principal episode, which was actually used by the prosecution to kick off an effort to look into the methods used by members of the Sovetsky district police department, was the killing of the 17-year-old P. Yashkov. K. Khramov described the relevant circumstances as follows:

During an interrogation session, I remembered that I had to check in my gun. As I turned to my safe-deposit box to retrieve the gun, I felt the detainee assaulting me from behind. He grabbed me by the sweater that I wore on that day. In a scuffle that followed, Yashkov seized a pair of scissors from my desk and attempted to stab me. As I tried to fire a warning shot, I inadvertently got him in the head.

However, the prosecutor uncovered an inconsistency in the story presented by K. Khramov. On that particular day, the Sovetsky district police department was put on a “heightened alert,” and the policemen were not required to check in their weapons at all. Also, there were other irregularities. Sergeant Khramov was much stouter and stronger than the frail-looking suspect. Given his tremendous operative experience, he could easily defeat an assaulter of that caliber. Finally, the scissors did not bear the victim’s fingerprints. Under the circumstances, the investigators and then the judges concluded that the sergeant threatened to use his gun unless the suspect provided the right evidence. Evidently, he pressed the trigger just habitually...
because he was either carried away with his threats or simply forgot that the gun had been loaded in the first place.

As a result, K. Khramov was found guilty of committing involuntary manslaughter, though he could not but be fully aware of the applicable firearm regulations, and he could also foresee the potential effects of his rash actions. Also, Sergeant Khramov and Sergeant Artemyev were ruled guilty of abusing their status and torturing detainees. However, the sentence appeared to be rather soft: while Khramov got six years in jail, Artemyev, who merely “learned” from his senior and more experienced colleague, received a suspended sentence of three years, with two years on probation.70

The task of providing concrete examples of torture is rather complicated because of the fact that one cannot fully trust the submitted complaints. What is more, the prosecutor’s brief responses to the effect that either no legal action could be taken on the matter in question or the relevant case has been terminated usually carry little substance. These responses also make it nearly impossible to conclude that the requested review or investigation had been diligently completed or that the denial of a full-fledged legal intervention had been soundly substantiated. To add, the pertinent materials cannot always be accessed for review. It has been rather common that applicants who had made statements on the use of torture by investigators then show little interest in the results of relevant probes. Of course, the reasons for such an attitude are varied, with police coercive pressures being one of them. As a consequence, numerous testimonials on the use of “strong-arm” tactics by the police in Russia continue to be largely disregarded.

However, there is one category of cases when the media especially quickly gets wise to the use of unlawful investigative techniques and torture by the police. Those incidents for the most part have to do with genuinely innocent individuals getting apprehended by mistake. To provide an example, on January 4, 2001, A. Vinogradov was summoned by V. Kulikov (prosecutor) to the Oktiabrsky district police department to be interrogated as a witness, according to the Vladimir regional report. As A. Vinogradov was brought to the local police station, he was almost immediately assaulted by three policemen, who started to beat him with their fists, rubber batons and booted feet. Shortly afterwards, they suggested that A. Vinogradov might try to make a break by jumping out the window from the second floor. Then, they threatened to shoot and kill him should he try to do that. Notably, beatings (aimed to secure a confession pertaining to the case of a policeman found dead in December 2000) went on until an investigator arrived and stated that the detainee most positively was not the man he wanted to see, even though that man’s last name was also Vinogradov. Then, A. Vinogradov was questioned and let go. On his way home A. Vinogradov paid a visit to the nearby clinic to be examined by a doctor, who confirmed that he sustained a broken rib and multiple serious injuries in the back, chest and arms.

Another similar accident has been reported by the regional monitors from Krasnoyarsk. In June 2001, a few local policemen detained a person named V., brought him to their police station and stated that they suspected V. of having shot and wounded their colleague a few days ago. Inasmuch as V. would refuse to cooperate, they set out to beat him. At that very moment, some of V.’s friends (students from the local law school and sympathizers of the regional human rights organization) came to the police station to find out why their friend had been detained. They saw their friend being convoyed along the main corridor of the police building, his face heavily bruised. Then, they heard V. cry out from heavy blows he was apparently receiving.

The following day, V. was released. He immediately visited the local clinic to have the injuries appropriately recorded. Then V. went to the local prosecutor’s office to lodge claim for the guilty party to be properly prosecuted. Notably, apart from the beatings, the policemen in question could be charged with committing other offenses as well. In particular, V.’s detention for nearly one day failed to be adequately documented. The police tried to conceal this circumstance by filling out a report to the effect that V. was apprehended for minor hooliganism. The relevant materials (variously corrected) were then dispatched to the court. However, given that the witnesses confirmed V.’s alibi, the judge just closed the case without finding any grounds for having V. tried on the given charges. Clearly, the policemen in this case could be held fully responsible for torturing V., keeping him in detention without any grounds and committing fraud while officially charging him with minor hooliganism.

A few days later, the police eventually apprehended the individual that had killed the aforementioned policeman, with V.’s innocence in that matter thereby being made obvious.

Given the circumstances underlying the sequence of the transgressions, a criminal action was appropriately instituted against the police. A never-ending paper shuffling followed. For months on end, V. would urge the investigator to energize their effort. However, the latter would always respond by saying that the investigation deadline had been missed. Meanwhile, members of the local police station held a few meetings with V. to let him know that they had reached an understanding with the local prosecutor’s office on terminating the case under the proviso that V. would not appeal against such a decision. Within six months, the case was eventually closed.

The validity of the submitted reports on police torture and beatings also have been corroborated by a limited number of court sentences passed to punish the law enforcers who abused their job status. Below is a typical example reflecting the level of police arbitrariness and the severity of the relevant punishment.

Here is an excerpt from a sentence passed by the Tuimazinsky district court of the Republic of Bashkortostan:

August 7, 2001, between the hours of 13.30 and 15.30, police officer I. Kamaletdinov requested I. Shaimukhametov to come into his office and started asking him if he knew anything about the current
whereabouts of Morozov, his wife’s brother. Shaimukhamedov responded negatively. Then, Kamaletdinov began to threaten Shaimukhamedov and hit him in the face with a fist, thereby badly injuring the latter’s right cheekbone. Also, Kamaletdinov forcefully and simultaneously slapped his hands on Shaimukhamedov’s ears, and went on hitting the latter in the chest and abdomen. What is more, in a room being visited by R. Karimov (member of the local police force), Kamaletdinov made Shaimukhamedov do 40 push-ups and 100 sit-ups, counting out loud. After that, Kamaletdinov ordered that Shaimukhamedov should squat on his feet, stretch his arms forward and keep that posture for 30 minutes. Then, Karimov hit Shaimukhamedov in the chest with his knee several times, while threatening that he would break his ribcage unless Shaimukhamedov revealed where Morozov was. Shaimukhamedov continued to deny any knowledge of Morozov’s whereabouts. Then, Karimov several times hit Shaimukhamedov in the back and legs with his feet. What is more, Karimov proceeded to have Shaimukhamedov’s arms immobilized behind his back and have the latter’s pants unbuckled and pushed down. Following that humiliation, Kamaletdinov pointed to an upended chair with one of the legs wearing a condom and said that now Shaimukhamedov would be put astride and turned into a woman. At that point, Shaimukhamedov could stand the torture no longer and promised to find out where Morozov was. Then, he was let go, with Kamaletdinov signing a summons for Shaimukhamedov to come to the police station at 09.00 the following morning. Notably, he warned that Shaimukhamedov should refrain from telling anyone about the beatings that he had sustained. Pursuant to the relevant medical statement, Shaimukhamedov received rather severe injuries in the areas of his right cheekbone, abdomen, right knee and ear drums.

To point out, the sentence provides a description of just a part of the torture applied by the police to the victim. In particular, the judges somehow failed to check if three unidentified plain clothes policemen were involved in the interrogation session, as was claimed by the detainee. Allegedly, one of those individuals had Shaimukhamedov thrown over his shoulder down on the floor. Then, the policemen would repeatedly grab him by his hands and feet and toss him upwards for a subsequent freefall. To underscore, they replayed the procedure while he was handcuffed. The aforementioned circumstances notwithstanding, the court sentence reads: “While determining the type and degree of punishment for Kamaletdinov and Karimov, the court takes into account good references from the workplace, local residential community and schools, and the fact that this is a first conviction. The court believes that the officers could rectify their attitudes without being isolated from the society.” As a result, the court passed a suspended sentence of three years for I. Kamaletdinov and R. Karimov, with the latter also obligated to pay 2 649 roubles to I. Shaimukhamedov as compensation for physical injuries and 50 000 roubles as compensation for moral damages. However, I. Shaimukhamedov refused to accept the court ruling and appealed for the “suspended” sentence to be reviewed. Currently, the case is pending consideration by the Supreme Court of the Republic of Bashkortostan.
Apart from torturing and beating the detainees, the police also might chose to take the detainees’ loved ones into custody. For example, in November 2001, during an investigative effort run by the Amur Regional Court, the defendant S. Shmatko argued that he had been unlawfully placed behind bars by the police. While he initially refused to provide the desired evidence, the police also arrested his wife, thereby leaving uncared for their two little daughters (nine and four years of age). After S. Shmatko had been repeatedly beaten in his temporary detention ward, he signed the statement of “evidence” incriminating himself and other innocent people. It was only then that his wife was eventually released. Pursuant to the relevant investigation materials, S. Shmatko’s wife had never been interrogated as a suspect while she was kept in custody. The court determined that under the given criminal case, as many as four persons had been kept behind bars without any grounds.

Particularly alarming are the cases when habitual torture or beatings of detainees have been reflective of certain racial motivations. In November 2001, the Nikulinsky district court had two former policemen (Major Evdokimov and his driver, Sergeant Adaniaev) sentenced for abusing their job functions to six months of correctional labor (with 10% of their wages being withdrawn for the government) and six months behind bars respectively. Both sentences were, however, suspended.

On October 29, 2001, R. Guseynov, a 29-year-old Azeri with an expired Moscow residence registration, was apprehended. The detainee was brought to a police station, taken into a briefing room and ordered to face the wall. Sergeant Adaniaev then started to work on him. He hit at his kidneys, liver and legs, while seeking to leave no traces. Meantime, Major Evdokimov was just looking on. Then, the policemen filled out a detention record, which stated that R. Guseynov had offered stubborn resistance to the police authorities.

The detainee was lucky to have been allowed to make a telephone call to a reporter-friend of his. When the latter arrived, he threatened to kick up a major scandal unless his friend was released. The two police officers apparently became scared and let R. Guseynov go in peace. To restore justice, R. Guseynov headed directly for the Nikulinsky prosecutor’s office and did whatever was needed to launch an investigation into the matter.

Major Evdokimov turned out to be connected with the local neo-Nazis. While the court hearings lasted, hundreds of black-bereted and uniform-jacketed skinheads would gather in front of the courthouse, attend the court sessions and even shout their slogans “Hail Hitler!” or “Glory to Russia!” As the sentence was read out, they chose to boo the judge.

The police authorities had the two cop-criminals punished separately. While Major Evdokimov was “retired” with a pension, his driver Adaniaev was allowed to leave the ranks of his own free will.
Investigations Conducted by Prosecutors and Courts Examining Cases of Torture or Other Types of Unlawful Inquiry Techniques

As was already pointed out, Russian prosecutors and courts have been extremely inefficient in looking into the cases of torture, beatings or other types of unlawful investigative strategies. Effectively completed cases in this category have been rare and far between, while the courts continue to pass light suspended sentences to punish the criminals or even have the latter amnestied. This was the case with the former Moscow-based policeman, E. Averyanov, who in March 1999 savagely battered a 16-year-old, V. Zinovyev, and had his cigarette butts put out on the latter’s body. Revealingly, it was only in 2001 that E. Averyanov was sentenced to three years in jail, pursuant to the provisions carried by Clause “a,” Part 3, Article 286 of the RF Criminal Code. Notably, he was immediately amnestied on the 55th Anniversary of the Great Victory in the Great Patriotic War of 1941–1945.

To emphasize, throughout a most lengthy investigation on the School Student V. Zinovyev v. Police NCO E. Averyanov case, which had been conducted by the local district prosecutor's office in keeping with all rules of enquiries, identifications, reviews, witness interviews and other investigative sequences, the schoolboy's parents had been continuously pressured by the defendant's friends and colleagues. The latter's objective was to force the parents to withdraw their statement and have the case terminated. They would resort to assorted intimidations, while threatening to make Vlad Zinovyev suffer even more. During the court hearings, E. Averyanov’s friends (some of them being visibly intoxicated) had repeatedly tried to humiliate Vlad Zinovyev and his mother. Admittedly, while being sober and more or less clear-minded, the interested policemen would talk of compassion and empathy. Each time they would say that shortly E. Averyanov would soon have a second baby in his family and that he just could not be put behind bars.²¹

A detailed description of police beatings and torture by electrocution for an alleged theft of five chickens is detailed in the latest Krasnodar regional report. Two members of the Krasnodar-based Prikubansky district police department summoned a local resident, Gorban (who had a previous conviction), to their office “for a preventive orientation talk,” which ended with Gorban being handcuffed (hands under knees) and suspended from a metal pipe. Then, as he had his feet painfully hit with clubs, the interrogators demanded that he should admit to having stolen five chickens, which Gorban refused to do. As the investigators insisted, they made Gorban wear a gas mask and at regular intervals plugged the breathing pipe. What is more, they had his fingers coiled with telephone wires and applied power to give Gorban a “shock therapy.”

The victim’s statement, duly lodged with the Prikubansky district prosecutor’s office, was quickly checked out. Within ten minutes following Gorban’s appeal, the local prosecutors descended on the police

station in question. It was precisely this swiftness and surprise that prevented the cop-criminals from covering up their tracks, which they, indeed, tried to do. Admittedly, none of the policemen were on the job, their rooms being locked up and keys unavailable.

The prosecutors were compelled to break into the rooms, only to find a club (used to beat up Gorban), which bore one of the suspects' initials, and two gas masks without filtering units (apparently intended for torture). In one of the safe-deposit boxes, they found a military field telephone set with bare wires appropriately coiled to fit human fingers.

Importantly, the facts of torture applied by the policemen had been fully proven. Unfortunately, that was not an exceptional case within the confines of the Prikubansky district police department. Recently, the local court sentenced a policeman who used to knock the needed evidence out of the detainees. Last year saw as many as 23 members of the local police force variously punished on the submissions from the Prikubansky district prosecutor’s office.

Regrettably, the Krasnodar-based uniformed criminals for the most part have been getting off scot-free in the court.

The persons interviewed about the circumstance, namely, Eisk interregional prosecutor Markov, head of criminal police Volokhov and head of regional police department against organized crime Skotinin, explained that they had never instructed their personnel to make use of illegal techniques to perform investigation tasks. What is more, the investigator from the Eisk interregional prosecutor’s office, Meretukov, policemen Zarochatsky, Bondarenko, Kucherov and Baranov also stated that in the course of early investigative efforts, no unlawful techniques or methodologies had been applied either by staff of police stations or by prosecutor’s offices. Given the aforementioned, no legal action on the matter could be instituted.

Notably, the scene had been researched and clarified, following “a thorough review,” by the senior supervision prosecutor Dub, whose report was appropriately “approved” by Basta, assistant prosecutor for the Krasnodar territory. Interestingly enough, Golodko, deputy prosecutor for the Primorsko-Akhtarsky district, had drawn similar conclusions. This is what he stated:

“...The local assistant prosecutor, Monogarov, thoroughly questioned on the matter, explained that no physical force or psychological pressures had been used on the detainees. No complaints on the matter had been filed. The detainees bear no visible marks of torture or beatings. Overall, the review has explicitly shown that the earlier appeals and grievances (the list of applicants being attached) could not be corroborated. Hence, no legal action could be initiated for lack of corpus delicti.”

According to local mass media reports, the Krasnodar-based prosecutors would normally refer to the temporary detention ward’s logbook, which allegedly holds all information about calls to medical doctors made by the detainees. To point out, no prisoner is reported to have

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called for a doctor to have his bruises registered. Indeed, the Staroshcherbinovsky-based remand prison’s logbook carries this entry: “Doctor called to treat Goiman for intestinal colic. Following an examination, the doctor diagnosed the case as cholecystopancreatitis (overstressed liver, pancreas and spleen) largely produced by eating too much fatty food.”

However, this is what Goiman himself (who never suffered from cholecystitis) had to reveal at his court trial: “Right after my apprehension, I was savagely beaten by the policemen, who hit me in the kidney, back and liver. They cracked my pelvic bone, to say nothing of the liver, which was totally dislodged.”

Obviously, the information held by remand prison logbooks or registers could hardly be truthful and comprehensive. Detainee Rezodubov, for one, cut open his own belly as a sign of protest against the use of beatings and illegal investigation techniques. In that particular case, the doctor, of course, was called to patch up the belly, the operation being completed with no anesthesia so that the prisoner would “learn his lesson.” But the temporary detention ward logbook failed to carry any mention of the circumstance.

The principal argument for those who deny any use of “strong-arm techniques or psychological pressure” during investigation efforts is that none of the detainees has filed any complaint. To clarify, it would suffice to refer to some testimonials provided by former detainees. This is what Rezodubov had to say:

> When I was delivered to the local temporary detention ward, I initially wanted to dispatch a complaint, but they would not give me either a pen or paper. Soon I realized that, even if they had met my request, my complaint would never leave the four walls of the ward. It was only after they had moved me to a remand prison that I resolved to write complaints to the Eisk district prosecutor and the Krasnodar regional prosecutor. Then, it occurred to me that all my epistles would not make any difference.

The point is that his complaints would go to the very officials that subsequently would be tasked to run checks, only to conclude that “the alleged facts could not be confirmed.” Another victim of the police torture, Ovchinnikov, was handcuffed and brought to a police station, where he was severely beaten, which he described at his court trial. Also, Ovchinnikov indicated that he was not in a position to write a complaint because they had badly damaged his fingers. “I just could not hold a pen,” said Ovchinnikov. Yet another victim, Burachenko, somehow managed to slip out his complaint. However, the doctors only arrived two weeks later, when no traces of beatings could be registered. Revealingly, Goiman, whose case was mentioned above, handed his complaint directly to prosecutor Dolgov (at the Staroshcherbinskaya temporary detention ward), who came to inspect the local facility. Unfortunately, we never managed to find that particular complaint. Prose-

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73 Ibid.
Although now and again the prosecutors make isolated attempts to oppose the ongoing arbitrary police practices, for the most part they seek to cover up the transgressions committed by law enforcers. What is more, criminal investigators from the regional prosecutor offices have increasingly been resorting to the use of unlawful investigative strategies (beatings or threats of beatings). For example, the Voronezh regional report carries a few testimonials by Voronezh University law students, who served their apprenticeship at a local district prosecutor’s office. Notably, assistant prosecutor for the Voronezh-based Zheleznodorozhny district had the following guideline conspicuously displayed on the wall: “You have the right to remain silent, but then, you will have your muzzle messed up. You have the right to talk, but then, whatever you say can be used against you.” Notably, during 2001, the Voronezh regional prosecutors launched over a hundred legal actions against police charged with abusing their job functions, exceeding their powers or committing other grave offenses. The relevant indicators for 2001 are that the Voronezh regional prosecutors have instituted legal actions on 52 criminal cases, with as many as 71 policemen being prosecuted. However, 51 of the criminal cases have been terminated, with most of those being closed on the grounds of rehabilitation of the defendants.

Coercing Collaboration with Threats of Physical Reprisal

The facts of coercing prisoners into secret collaboration with the police have come to light extremely rarely. This circumstance is generally explained by prospective informers being recruited from amongst criminals, with the law enforcers usually being reluctant to make any comments on the matter. Notably, a piece of relevant evidence related to the case of the Russian National-Bolshevik Party appears to be particularly valuable.

On the night of November 1–2, 2001, an unknown person, claiming to have some fresh knowledge on a scheduled meeting with a courier from Moscow, called out D. Kolesnikov, the 20-year-old leader of the Altai regional chapter of the National-Bolshevik Party. Lured out of his apartment at two o’clock in the morning, D. Kolesnikov was shown to a car steered by a driver, whom he identified as senior FSB agent for the Altai territory. What is more, the driver was actually the same FSB captain that questioned D. Kolesnikov some time ago as a witness in connection with the criminal case involving E. Limonov, leader of the National-Bolsheviks. As they proceeded towards the Vlasikhinsky cemetery, the driver suggested that D. Kolesnikov should better “rat” on his associates in exchange for personal security and unconstrained operation of the Altai regional chapter of National-Bolsheviks under the FSB “protection.” According to D. Kolesnikov, further developments unfolded in the following manner:

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Ibid.
course, now I can hardly be certain if the gun was genuine, but then I had no doubt about it. The captain looked at me and said: “Listen, buddy, now you only have a single alternative: either you sign the deal and we both go home or I have you shot dead.” Now, after some time has elapsed, I recall the whole scene and conclude that the pressure strategy had been well designed, though even then I had a hunch that he was not likely to shoot. Anyway, I was scared… After I declined his suggestion again, he just walked back to his car and sped off, leaving me where I was.

Shortly afterwards, D. Kolesnikov filed a complaint with the regional prosecutor’s office demanding that the FSB officer be prosecuted pursuant to the provisions under Article 286 (“exceeding the specified job functions”) of the RF Criminal Code.75

Unlawful Actions by Law Enforcers During Off-Duty Hours

More often than not, Russian law enforcers can be found using their job-related powers to pursue illegal objectives. Not only are detainees or unmanageable witnesses subjected to beatings and torture, but so are victims, especially those that had been targeted by the police. An example to that effect has been provided by the regional monitors in the Jewish autonomous district.

On February 2, 2001, shortly after 8.00 p. m., A. Zubtsov, head of the regional non-governmental organization “Compassion,” received word that members of the Birobijan-based police department apprehended N. Romanov, who was inadvertently manhandled in a scuffle between local police and residents of the Birobijan-2 neighborhood. N. Romanov was reported to be chained to a central heating pipe in one of the local police station’s rooms. When A. Zubtsov called the police, he was told they had no information about N. Romanov’s detention. Then, A. Zubtsov, accompanied by a few witnesses, went to the police station. As he walked around the outside of the police building, he heard somebody tapping on one of the windows. He quickly entered the building, located the right room and heard N. Romanov’s calls for help. N. Romanov confirmed that he was chained to the central heating pipe. The given corridor in the police building appeared to be deserted: no guards, no sign of any activity. A. Zubtsov started to loudly slam on the doors of different rooms until he saw Masiuk (head of the local criminal investigation unit, who is a suspect in the case relating to the scuffle between the police and residents of the Birobijan-2 neighborhood) emerge from one of the rooms. Masiuk explicitly stated that N. Romanov was not in the building. Notwithstanding this obstruction, A. Zubtsov called an ambulance, a prosecutor, and a reporter from a local daily. While operating in the presence of medical doctors, the policemen unlocked the specified room where they found Romanov sprawl on the floor and chained to the central heating piping, one of his hands being seriously cut and bruised. The doctors had the event registered and escorted A. Romanov to a local clinic to have his wounds appropriately treated.

75 MK in Altai (2001, #48).
The Oryol-based Zavodskoy district police department closed a criminal case against the non-staff member of the Zavodskoy district police department, D. Sergienko, who broke into S.’ apartment while on duty, inflicted physical injuries on her and allegedly stole the money held by S. The Zavodskoy district prosecutor’s office instituted a criminal action on the matter pursuant to Article 213 of the RF Criminal Code (hooliganism), the case being handed over for investigation to the same Zavodskoy district police department that employs D. Sergienko. Revealingly, S.’ application to criminally sue Sergienko under Article 330 (arbitrary use of powers) of the RF Criminal Code was not even considered. As the relevant enquiry got under way, S. was repeatedly pressured. It would suffice to recall that in the presence of the Executive Secretary of the Oryol Regional Human Rights Commission, the head of the investigation division at the Zavodskoy district police department, Pronin, threatened the victim with administrative arrest, shackles, etc. When asked by the Zavodskoy district prosecutor’s office about the progress on the case and due diligence of the inquirers, the police officials responded by explaining that an “inspection” failed to reveal any unlawful investigation practices. Importantly, the investigators did not care to collect S.’ or the executive secretary’s evidence. Eventually, the criminal charge against a member of the Zavodskoy district police department was dropped by the investigator (from the same district police department), A. Vinokurova, with the case thereby being effectively closed. To add, assistant regional prosecutor S. Legostaev reported that the case had been resolved in keeping with the law. Also, he indicated that when it came to S. sustaining physical injuries inflicted by D. Sergienko, “she could address that matter by entering a civil suit against the suspect.”\(^{76}\)

In the year 2000, in Moscow, two young residents of Volgodonsk were beaten up by the police in the Kantemirovskaya metro underpass. In addition, the boys were severely bitten by a stray dog tamed and effectively turned into sort of an unauthorized watchdog by two members of a special police unit, Mishin and Kirichansky, who had been assigned to provide for security of the Moscow metro. To avoid any responsibility for their doings (the dog bites were properly registered by a doctor), the policemen accused the youngsters from Volgodonsk of “assaulting the law enforcers.” Notably, the documents submitted to the court were ruled to be fraudulent, and somehow they carried no mention of the watchdog. To crown it all, the boys had been kept in the Butyrka before the trial prison for ten months, one of them contracting hepatitis and the other — suffered a severe case of pneumonia. As a matter of fact, those conditions had been instrumental in getting the scheduled court trial repeatedly postponed. Eventually, the long-awaited court hearing of the case was launched at the close of 2001. The policemen could not conceal the watchdog incident. However, there is no hope that those law enforcers would be appropriately disciplined by their superiors.

Nevertheless, unlike many cases mentioned above, this incident has legal perspective, at least in principle. There are other incidents of the kind. For

\(^{76}\) The report on the human rights situation in the Oryol region is available on www.mhg.ru (in Russian only).
example, on July 25, 2001, three Azeris were beaten up in Koigorodok (Komi Republic) by V. Turubanov, assistant head of the local district police force, V. Misharin, head of the town highway traffic inspection unit, and their subordinates, V. Pafnuchev and A. Griaznykh. It so happened that the policemen just demanded that the Azeris give them some money to buy a few bottles of vodka. Notably, to catch up with the Azeris' vehicle and pull it over, they used a specially-outfitted office car and standard-issue weapons. Eventually, they got the Azeris out of their car and beat them with fists, booted feet and weapons. The victims had sustained at least 60 heavy blows on their bodies. In the end, all four policemen were accused of going beyond their job functions. However, they merely received suspended sentences and were released in the courtroom following completion of the case.

Admittedly, courts of law in the Komi Republic are also capable of metering out harder sentences to punish the accused criminals from law enforcement bodies. At the close of 2001, a number of long-lasting criminal cases had been completed, with certain law enforcers receiving real prison sentences. On December 5, 2000, S. Makarov and R. Tazhudinov, criminal investigators from the Inta-based town police department, had a suspect delivered to their police station, beat him and pressured him to provide the desired evidence. In January 2001, in the town of Ezhva, P. Kotelnikov, senior police sergeant, came up to a slightly drunk passerby, battered him and delivered him to the local sobering-up station. In November 2001, while moving independently of each other, the Inta and Ezhva-based federal district courts ruled to pass prison sentences on the aforementioned cases. In both cases, the criminals were put behind bars for one and a half years. In December 2001, the Vorkuta-based city court considered the case of V. Prikhodko, junior police lieutenant, who in 1998, arranged for massive beatings some of teenagers apprehended and delivered to the Timan police station. He had 13 teenagers up against the wall and beat them with his fists and feet. What is more, he tried to strangle one teenager and had another one repeatedly slammed against a tiled wall in the lavatory. V. Prikhodko received a four-year prison sentence. Regrettably, this concurrent effort of the local courts to crack down on police crimes might only be indicative either of yet another drive to establish law and order across the region or of a focused policy for the local courts to achieve some assigned targets for their performance.

In January 2001, the Omsk regional prosecutor’s office completed consideration of the case of the rural policemen that tried to use their off-duty hours to make a local teenager guilty of all evils that befell the parent of one of those policemen. To be precise, it so happened that the home cellar of the parents of that police officer was burglarized, with a few jars of jam stolen. It occurred to the dutiful son that the job had been done by some of the local boys. Not to waste too much time, the policeman and his colleagues apprehended D. Otskin, the first suspicious-looking character that they encountered while off duty. First, the boy was beaten up and then ordered to pay several thousand roubles as compensation for the time he took from the police. Shortly afterwards, the policemen visited D. Otskin’s parents and said they would not see their son alive unless they paid the

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78 A. Egorov, “Should Someone, Sometime and Somewhere — We Have…” MS (February 21, 2002, #8).
Arbitrary Detentions and Unlawful Arrests

Clearly, the reasons for arbitrary detentions are multiple and varied. In a number of cases those reasons have to do with the law enforcers maintaining low training standards. Another root cause for illegal apprehensions has been the detentions made for self-interested purposes, which apparently are little different from regular kidnapping operations carried out for ransom money. However, there are cases when the motivations for police detentions have been out of the ordinary. For example, in 2001, in Barnaoul (Altai territory), there were some arbitrary detentions produced by a conflict between private taxi-drivers and city transit operators with the law enforcers that were denied a free lift by the former. On March 21, 2001, a conductor on the coach service #20 just refused to allow a team of local policemen to ride for free. Then, the policemen “accosted the driver and ordered him to drive his vehicle over to their police station for further investigation. At the police station, the policemen surrounded the coach. Notably, the coach also carried about a hundred passengers that likewise happened to be unlawfully detained,” according to the local media reports.

Also, on August 6, 2001, a local assistant prosecutor refused to pay for a ride on a private coach. The fare collector, I. Meteleva, then said the coach would not go anywhere “until the unticketed rider left.” Eventually, one of the passengers had the assistant prosecutor roughly pushed out of the vehicle. Surprisingly, a criminal legal action was instituted against the coach fare collector who uttered not a single word of insult to the assistant prosecutor, according to her defense attorney. At the end of August 2001, the investigator responsible for the given case, sent out a team of policemen to detain the aforementioned coach driver and fare collector, and have them delivered to the police station. Notably, he did not even try to send out official summons to have those individuals visit his office. I. Meteleva first was kept in custody for three days and then for another seven days, following a dedicated ruling issued by the acting prosecutor for the Oktiabrsky district. Meantime, the investigators had been making desperate attempts to secure some evidence against her. Eventually, while trying to charge I. Meteleva with hooliganism-provoking behavior, the acting prosecutor for the Oktiabrsky district directed that I. Meteleva’s apartment be searched by the police. To underscore, it was only following her defense attorney, O. Barkalova, being interviewed on the Panorama television program (GTRK “Altai” Radio and Television) that I. Meteleva was finally released uncharged. Interestingly enough, the prosecutor’s order to release

V. Filonenko, “Those Cruel, Cruel, Cruel Policemen.” Novye Izvestia (February 8, 2001, #22).
Svobodny Kurs (2001, #13).
I. Meteleva came at 8.00 a. m. on September 6, 2001, just hours after the defense attorney’s interview on the matter in question was aired the previous night.81

Overall, the state of affairs in the area of unlawful police detentions in Russia could be appropriately characterized by some statistics released by R. Adelkhanian, Stavropol regional prosecutor. “Not only ungrounded apprehensions but also illegal police detentions of persons have become nearly a regular affair,” according to the regional prosecutor. Over just half a year, the Predgorny district had more than 100 people arrested unlawfully, with the Krasnogvardeysky district having four policemen sentenced to serve time in jail for beating up a person that soon died from the injuries sustained.82 A total of more than 500 members of the Stavropol regional police force had been punished for abusing their job functions, with over 100 of those being criminally prosecuted for committing job-related offenses.83 Unfortunately, the actual numbers of unlawful police detentions and other transgressions appear to be much higher, with most of those, alas, remaining unregistered.

It is by no means accidental that the police have never registered many detentions. As long as this practice is tolerated, one cannot take full advantage of the detention-registration procedure, which appears to be part (though minimally) of legal protection of individual persons. To provide an example in this regard, in 2001, the Tula-based central district court considered a manslaughter and beatings-related suit against two criminal police investigators. On July 10, 1998, S. Gusev and A. Kopan, two criminal police investigators, had A. Denisov (charged with extortion of ransom money) delivered to their police station.

The indictment-related materials confirmed by the Tula-based Tsentralny district prosecutor read as follows:

Following their criminal collusion, Kopan and Gusev have materially breached the rights and interests of the plaintiff Denisov, who happened to be unlawfully detained and delivered to the Tsentralny district police department. There, Denisov suffered heavy injuries: open wounds in the right side of the scull, abrasions and bruises in the face and ears, brain contusion, multiple hemorrhages and fracture of his ninth rib, which caused the death of Denisov.

To point out, A. Denisov passed away right on the grounds of the police station. What is more, on February 2, 2000, S. Gusev and A. Kopan (together with some of their colleagues) inflicted numerous bodily injuries to the detainee, S. Chernopiatov, at the very same police station in the presence of A. Rybin, deputy head of the district police department’s criminal investigation unit.

Pursuant to the relevant indictment, members of the Tsentralny district police department:

81 MK in Altai (2001, #37).
82 A. Volodchenko, “Prosecutors, Show Your Diligence!” Stavropol’skaya Pravda (July 11, 2001, #147).
83 “We Know How to Punish.” Stavropol’skaya Pravda” (January 24, 2002, #16).
While acting contrary to their job responsibilities, clearly going beyond their functions, proceeding from the ill-perceived service interests, seeking to improve the crime clearance rates and willing to make Chernopiatov admit to stealing the aforementioned car, applied physical force to the victim by shackling Chernopiatov, throwing him to the floor, beating him with boot kicks and fists. The victim sustained numerous hits in the head, chest and sides.

Notably, the perpetrators — Zaitsev and Gusev — started to pull off S. Chernopiatov’s slacks, while threatening that they would “drive a rubber baton up his ass and have the scene put on film.” S. Chernopiatov could not stand the police threats and torture any longer. He somehow shook off his torturers, jumped on a windowsill and threatened to leap out from the fifth floor. Notwithstanding, he was grabbed by his legs, brought down and beaten up again and again. Finally, S. Chernopiatov provided the desired evidence. He fraudulently confessed to stealing a private car.

To underscore, the police logbook for detentions carried no mention of A. Denisov or S. Chernopiatov being brought in and registered.84

Even a more outrageous case was registered in the Lipetsk region. The Lipetsk-based Sovetsky district courthouse was the scene where a person (who came to file a suit) was savagely beaten by the court personnel and police.

A group of retirees persistently tried to appeal against the local government’s decision to cut a large number of trees that made an attractive and environmentally valuable spot in their neighborhood. One day, Oleg Zimenkov visited the courthouse together with a team of senior citizens. This is what M. Khairullin, correspondent of Novye Izvestia newspaper, wrote about what transpired next:85

As the two elderly women and Oleg came into the office room held by Khutornoy, presiding judge of the district court, the latter just rerouted the delegation over to Judge Dolgova, who had been assigned to look into the matter and have it resolved.

“You will have the response mailed to you,” said the judge without much ado.

However, the applicants quite judiciously objected by saying that there was no point in using the post services as long as they were already in the office, where a definitive decision could be passed. What happened next is hard to explain.

None of the visitors ever noticed when the judge called a uniformed security officer who soon entered the room and without a word assaulted Oleg. Within seconds, the security officer (referred to by the judges as marshal) left Zimenkov with a torn shirt, broken nose and black eye.

84 V. Vassilyev, “Uniformed People Engage in Free-For-All.” Nezavisimaya Gazeta (January 17, 2001, #6).
Then, the retirees and battered Oleg proceeded over to the presiding judge to lodge their complaints. The latter was rather quick to pass his judgment:

“Did you act on the judge’s orders?” he asked the security fellow roughly. The latter just gave a nod.

“Then, everything appears to be in good order. Fill out a record for administrative detention. The visitor seems to be a bit drunk.”

When the morally shattered Oleg left the judge’s room, the elderly female sympathizers just whispered in his ear:

“Son, you’d better leave here as soon as possible before they do you in for good.”

However, just as the terribly frightened Oleg left the official building, the security officer caught up with him and sprinkled a dose of tear-gas in his face. Then, Oleg truly came to realize that they could kill him and broke into a run. The security officer pursued Oleg for several blocks but could not catch up with him. Zimenkov immediately rushed to the nearest clinic to have his injuries appropriately registered and get his blood tested for alcohol content. He knew he was completely sober. Regrettably, that did not help him much. Within three days, he got a telephone call from a police officer, who introduced himself as reporter for the local De-Facto daily and suggested that they should meet for an interview. Accompanied by his mother, Oleg went outside only to meet two young-looking “correspondents” equipped with a video-camera.

The make-believe reporters duly heard out Oleg’s mother, put the whole interview on tape and then said:

“And now, mother, walk away, we are going to interview your son.”

Clearly, those people had a most peculiar notion of doing interviews. As they put away their cameras, they assaulted Zimenkov, threw him on the ground and started to beat him. All of a sudden, two other cops emerged from their ambush and joined the original attackers to complete the perfectly designed operation. Then, they dragged Oleg into a nearby police vehicle.

“Don’t you make any noise, mother, or we’ll get you, too!” they said to the elderly woman, who could not help crying.

“I made them take me along to the police station,” said Inna Aleksandrovna, Oleg’s mother, to a Novye Izvestia correspondent. “My son’s condition was awful: he just could not stand on his own feet after he was shackled and thrown into a detention ward. When I demanded that an ambulance be called, despite my respectable age (I am 63), I was kicked out into the street. Notwithstanding, I went over to a pay phone and called an ambulance.”

In the meantime, the so-called “reporters” took Zimenkov to the courthouse to secure the desired detention days. Admittedly, the “petty street hooligan” made such a pitiful sight that even the “compassionate” Sovetsky district judges did not dare to have him tried on that same day.

“Okay, we’ll have him tried tomorrow. Now, take him back to the police station,” said the judge to the policemen.
The judge apparently hoped that a night of “rest” in the “monkey-house” would do Oleg a lot of good in terms of health. Luckily, every cloud has a silver lining. It so happened that the police were compelled to have Zimenkov registered in keeping with the applicable regulations. That turned out to be the only police document recording his detention and, in particular, reading that he “shouted and hysterically waved his arms in the courtroom.” This is a good example of the Lipetsk police first detaining and beating up a person and then recording that he committed an administrative transgression while in custody.

By then, an ambulance car (called by Oleg’s mother) had already been parked at the police station building. The doctor examined Oleg and found his condition extremely poor. He demanded that the patient be immediately taken to hospital. While being forcibly detained, Oleg sustained a heavy brain concussion and a severe knee injury. Subsequently, Oleg would have several surgical interventions, but he would never regain full functionality of his knee.

Following repeated objections, the police finally let the battered and still handcuffed Oleg go to hospital. It was only at the hospital that the persistent policemen could be shown to the door. Admittedly, it took some time to explain to the law enforcers that, inasmuch as the patient carried no charge, they had no right to keep him behind bars in this poor condition. Only then the policemen admitted they had operated on the verbal orders from their boss. They could produce no arrest or detention warrant.

Notably, that sad story is yet to be forgotten. According to Oleg Zimenkov’s mother, they continue to live in the atmosphere of ongoing fear:

“We have been stalked or persecuted for months now. We keep getting threatening telephone calls, with the police now and again waiting for somebody in our building’s entryway. Of course, I do know that my son is no criminal, and they can hardly take him into custody. They would better be as persistent in their effort to search out and catch real criminals. Nobody seems to care that they have turned my son into a disabled person. Recently, they have closed my son’s case with a mocking conclusion: “for lack of the corpus delicti.” You just tell me, how we should carry on under these conditions? Can we ever secure justice in the country where you can be battered even in a courthouse?”

To understand, while enjoying the right to detain persons at the scene of a crime, the police take advantage of their powers to make arrests yet to be authorized by the prosecutor. On May 13, 1999, the Bryansk-based police apprehended Victor S. Leonov at his home, the motivation being that, at the end of April 1999, the local police received an advisory to be on the lookout for someone called the same name. Actually, the Moscow region-based Voskresensky district police department had been looking for Viktor S. Leonov, born November 16, 1937, who was reported to have committed a double manslaughter. The advisory was duly dispatched to the local residence registration enquiry office. On the very same day, it turned out that the man under the given first name, family name and patronymic, born in 1937, indeed, lived in Bryansk. However, there was one minor disparity — the Bryansk resident
V. Leonov was born February 22, rather than November 16. But the repressive machine was already set in motion and could not be rapidly halted.

V. Leonov was delivered to the Sovetsky district police department, where investigator A. Senin had him properly booked. The reason for detention was as follows: “Leonov was caught red-handed and right after committing his crime, the witnesses and victims exposing him as perpetrator of the given offense.” Now, how could A. Senin know all that? After all, he had never traveled over to the Moscow region on this matter, and he had never interviewed the victims. In the “detainee’s comments” section, V. Leonov just wrote: “I need a defense attorney.” But no defense attorney was made available for him, which amounted to a breach of the law. Notwithstanding the circumstance, Yu. Konovalov, head of the Sovetsky district police department, confirmed the record for the detention, and V. Leonov was put into the local temporary detention ward. Revealingly, V. Leonov’s wife was not even informed that her husband had been apprehended.

In the end, Viktor Leonov, who tried to make his keepers (including the supervisory prosecutor) understand that he had nothing to do with the crimes committed, that he had never traveled to the Moscow region in the specified time period but had been staying in Bryansk, was transferred the Moscow region-based Kolomna pretrial detention facility. Even there, investigators paid little attention to the personal data disparity. God knows for how many more months V. Leonov would have been kept behind bar, had it not been for the real criminal, a Moscow-based retiree, turning himself over to police in early August. He just entered the nearby police station and made his confession of manslaughter committed on personal grounds.

The Kolomna city prosecutor ruled to have Victor Leonov released from the remand prison. Unfortunately, he did not enjoy his life for long. Within half a year from, he died from a new aggravation of his longstanding heart condition. It would not be too far-fetched to conclude that V. Leonov’s death had been expedited by the sufferings produced by his unlawful detention. Shortly after her husband’s death, V. Leonov’s wife entered a legal action against the local police.

In 2001, the court ruled that the actions undertaken by the Sovetsky district police department and the Kolomna-based pretrial detention facility IZ-27 vis-à-vis Victor S. Leonov had been unlawful, with the Bryansk-based Sovetsky district prosecutor’s office displaying its inaction in this matter. To make up for V. Leonov’s spouse’s moral damages, the Ministry of Internal Affairs, Ministry of Justice and Prosecutor General’s Office had been each committed to pay 2 000 roubles, the total redress amount reaching 6 000 roubles. However, this ruling has been overturned by the regional court moving on the review appeal lodged by I. Banny, authorized agent of the Prosecutor General’s Office. The case has been sent for repeated consideration. Apparently, the amount of 6 000 roubles was seen by Russian law enforcers as too
much to pay for the life and dignity of a regular Russian citizen. As they say, this attitude begs no comment.86

Constraining the Detainee or Prisoner Rights to Receive Immediate Defense Attorney Assistance

While breaching the constitutional rights of Russian citizens during detention, insulting their human dignity, beating them during transit and refusing to have detainees booked for hours on end, the law enforcers thereby clearly seek to have their victims morally crushed. Obviously, given the circumstance, it is only through overcoming the concerted resistance on the part of MVD and FSB elements that the detainees manage to secure access to desired legal assistance. Admittedly, as was mentioned above, even permission to make a telephone call (allowed by Russian law) in most cases could be considered a major coup.

Any effort to access legal aid comes at a cost during any subsequent stage in the course of investigation. It should be particularly noted that the principal body of evidence is generally beaten out of the detainees in the early stages. Apart from securing the desired evidence, the investigators also make the detainees give up their plans to request legal aid. Under exceptional cases, the detainees are coerced into asking for the services of officially authorized defense attorneys, the principal motivation being not only to facilitate the prosecution-pursued effort, but also to prevent traces of illegal investigative actions from being put on record. For example, at the Kosikhi district police department (Altai territory), the detainee D. Ledenev had been beaten on the head by two policemen with a glass bottle. The police persuaded him not to ask for a defense attorney. In return for his concurrence, they promised to let him out pending trial under the proviso that he would formally vow not to leave the neighborhood. They even promised to help him get the minimal sentence. The glass-bottle procedure led to D. Ledenev’s ending up in hospital, losing a good deal of blood and sustaining a bad concussion. The police torture left the victim with an ugly five-centimeter-long scar on his head.87

Unlawful Use of Physical Force at Sobering-Up Stations

Police violence at closed MVD establishments, particularly at the so-called “medical sobering-up stations,” continues unabated. The year 2001 saw quite a number of court sentences on the cases related to the use of violence at sobering-up facilities.

During 2001, while being pressured by mass media and public organizations, the prosecutor’s office of the Republic of Komi protested against the very soft ruling by the Ezhva district court on the case of two policemen torturing their victims at the Syktyvkar-based Ezhva district sobering-up facility in July 2000. Following a new court ruling, the two criminals received real prison sentences.

87 MK in Altai (2001, #36).
Notwithstanding this unusual event, local public organizations continue to be informed of torture and beatings practiced by the managers of that particular sobering-up station. On the night of April 9–10, 2001, A. Merzliakov, resident of Ezhva, had been detained for drunkeness by police and locked up in the local sobering-up facility, where he was severely beaten up by the staff attendants. The following day, the victim had his injuries recorded by a doctor and appealed to the Ezhva district prosecutor’s office, where his complaint was turned down because of the relevant corpus delicti was lacking altogether. Unfortunately, the same response was received by A. Merzliakov when he appealed on the matter to the Komi Republic prosecutor’s office.

It took nearly ten months for the Omsk city court to consider the case of O. Savenko, a police lieutenant, who beat up the 56-year-old Yu. Zhiullo, who was held by the local sobering-up facility. The latter insisted that he had been steadily walking home from visiting with friends, and that he had not bothered anyone. However, he was forced into a police patrol car and delivered to the Omsk-based Sovetsky district sobering-up station. The policemen that carried out the detention maintained that Yu. Zhiullo had represented a hazard for road traffic.

According to Yu. Zhiullo, it was quite by accident that the locking assembly in the facility’s cell came loose as he and other inmates started to tap and lean on the metal door to get the guard’s attention. As the door flew open, the attendant (O. Savenko) became absolutely furious. He immediately attacked the inmates with his bare fists. He threw them down on the floor and tried to strangle each one of them with the use of a make-shift garotte. At the trial, O. Savenko claimed that he applied no physical force to the inmates and merely wanted to have the unmanageable “client” brought to heel.

The court proved the lieutenant’s guilt but also found some mitigating circumstances to pass a milder sentence. O. Savenko received a suspended three-year prison sentence for abusing his job functions, while forfeiting the right to hold a police job. Also, the court had him committed to pay 1,000 roubles as compensation to the victim, despite the fact that the plaintiff had spent a much larger amount (3,000 roubles) for treatment procedures and medications. Notably, the moral damages were merely valued at two thousand roubles, rather than 50,000 roubles originally claimed by the victim. The obviously mild sentence notwithstanding, O. Savenko thought it was unfair and appealed to the regional court to have it reviewed.

**Framing Criminal Cases**

Clearly, the criminal charges either built on unlawfully derived evidence or beaten out of the detainees through the use of violence can hardly be regarded as legally valid. Planting drugs or handguns on detainees in the course of detention or searches, either at home or in the workplace, has now become a regular investigation ruse.

Admittedly, ill-intentioned efforts to frame a criminal case for the most part remain nearly impossible to prove. The total number of sentences on criminal cases, where the evidence has been fabricated in the course
of coercive investigation sessions or searches, seems to be prohibitively high. The number of convicts sentenced for drug trafficking through the use of fraudulently received evidence has been in excess of the number standing for genuine drug traffickers put behind bars, according to a number of Russian human rights activists. Framing a criminal case in Russia today appears to be so easy and safe that very many of investigators have applied this strategy. The principal motivation is to bring down the overall volume of investigative actions and close the current and much hated criminal case as early as possible.

For example, as was revealed by Yu. Sheveleva at the July 4, 2001 court hearing of the case of Yu. Belevitsky, who was eventually sentenced to six and a half years in prison with compulsory treatment against drug addiction pursuant to Part 4 (“keeping and selling illegal drugs in especially large quantities”), Article 228 of the RF Criminal Code, she was not present at Yu. Belevitsky’s apartment when the place was searched by the police. Yu. Sheveleva explained:

*I attended no police search… I just signed a paper in the room held by investigator Miroshnichenko. The thing is that we had the car title stolen from our apartment on that particular day, and my husband and I decided to go to the Ramenki district police department to report the incident and ask for help. A young-looking investigator, who introduced himself as Alexander, said to us, “Listen, guys, do me a small favor. Just sign here to confirm that you were in attendance during an apartment search.” It never occurred to me that I had actually been asked to play the part of a witness. I just wanted to help out the mom of that boy, who was arrested for drug trafficking.*

An vivid example of framing evidence has been provided in the criminal case of Yu. Yaroslavtsev. Within two weeks of March 2001, the Moscow regional office of the All-Russian Movement “For Human Rights” had been approached by three entrepreneurs that happened to be charged by several Moscow-based district police departments with committing criminal offenses pursuant to Article 228 (“illegal acquisition or storage of drugs”) of the RF Criminal Code. The applicants unanimously stated that the police who arrived to apprehend them had planted the drugs on them. Notably, those newly-established businessmen had been doing just superbly until they had a conflict of interest with their business partners. The three businessmen had maintained huge receivables that were supposed to be covered by their partners, who apparently sought to avoid sharing wealth. Each of the three entrepreneurs had nearly the same story to tell. They had all been detained outside with illegal drugs miraculously found in their coat pockets, the circumstance producing a string of legal actions as a consequence. Following the human rights activists approaching the Moscow city prosecutor’s office, certain supervisory checks were made, with two of the aforementioned criminal cases being eventually closed for lack of *corpus delicti.* Notably, the third case, however, had been stretched out because the relevant investigator wanted to have it terminated through an amnesty move rather than

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by using some other technique that could compromise the local police unit. The defendant, Yu. Yaroslavtsev, pleaded not guilty and refused to settle for a trade off.

Then, the principal investigation-versus-defense battle unfolded around the fact that tests had allegedly revealed traces of cocaine in the detainee on the day following the day after the drug was consumed. The suspect turned to the Narcology Research Institute under the Ministry of Healthcare of the Russian Federation, whose medical experts made an official statement to the effect that the given individual had never used the pertinent drug and was a psychologically sound and stable person. What is more, the experts from the Narcology Research Institute explained that pure cocaine could not be uncovered in human body because it readily interacts with protein, thereby breaking down into metabolites within 30 minutes.89

It has been common knowledge that many of the drug-related criminal cases have been built on fraudulent evidence. To counter this trend, some judges resort to running their own investigative efforts, with the faked cases crumbling into pieces as a consequence. Being concerned with this unpleasant circumstance, on November 29, 2001, A. Sergeev, head of the Main Directorate for Drug Enforcement under the Ministry of Internal Affairs, came up with a proposal to have witnesses barred from courtroom “because the latter often are inclined to backtrack whenever queried by a particularly sharp defense attorney.” Then, he also described the established practice with the “committed civilian helpers of the special services” always being on hand to confirm whatever is needed. Oddly enough, A. Sergeev concluded that any mention of the use of witnesses during court hearings should be removed from the new Criminal Procedure Code and that the police should be allowed to do the assigned job with no external interference.90 Attempts continue to be made to plant not only drugs but also handguns on detainees. Following a focused investigation into dealings pursued by Lieutenant Colonel M. Ignatyev from the department against organized crime of the central district of Moscow, who was suspected of talking E. Chaikovskaya, a noted figure skating coach, into paying a kickback to have her son released from pre-trial confinement, some unsavory episodes in the police officer’s career were uncovered. After he was eventually detained and put in a pretrial detention facility, the investigators came to know that, in February 2001, M. Ignatyev and his assistant, Captain Zolotovsky,, in downtown Moscow, beat up a businessman and had a handgun planted on him as incriminating evidence. The framed entrepreneur was then “duly” detained. Also, all efforts to doctor criminal statistics in order to bring down the numbers of registered crimes can be regarded as something close to fabricating criminal cases.91

91 For more information see the chapter of this Collection of Reports on refusal to provide non-judicial remedies.
DENIAL OF FAIR TRIAL

GENERAL CHARACTERISTICS OF REGIONAL JUDICIAL PRACTICES IN CRIMINAL CASES.

Analysis of some of the judgements passed by the low and medium level courts in various territories of the Russian Federation allows for certain general conclusions to be drawn about the basic characteristics of regional judicial practices.

The sampling technique used in this research does not preclude obtaining accurate findings about the general trends in the judicial system, because the underlying judicial processes are subject to the same group of factors typical to all regions of Russia.

Monitoring the implementation of human rights during criminal trials allowed identification of the following shortcomings common to regional judicial practice in the field of criminal justice:

a) one-sided and incomplete nature of criminal proceedings, bias and arbitrariness on the part of judges;

b) substantial violations of the procedural criminal law during the trial of criminal cases;

c) reluctance of the judges to observe the rules on admissibility of evidence;

d) inadequacy of the judgement passed by the court to the actual circumstances of the case.

Violation of the principle of presumption of innocence occupies a special place among the substantial violations of procedural criminal law that take place during trials. Such violations are most striking when a sentence is based on assumptions.

An example of such shortcomings has been documented in an expert review, prepared by the Independent Council of Legal Expertise on the case of A. Antropov, who was charged with robbery along with I. Kalmykov.

*A. Antropov was wrongly imputed with a robbery act committed "with objects which can be used as a weapon" (Clause "d," Part 2, Article 162 of the RF Criminal Code). The court did not find whether the suspect was really in the possession of any object to be used as a weapon, nor did the court establish what kind of object that was. Meanwhile, according to Clause 13 of Ruling #31 of the Plenary Meeting of the Supreme Court of the Russian Federation "On the Judicial Practice in the Cases on Robbery," passed on March 22, 1966, establishment of the nature of the tool endangering life and health of the victim is necessary for proper qualification of the imputed crime.*
The deed of I. Kalmykov, which was in fact an excessive act, cannot be imputed on A. Antropov, as the latter did not show in any way his support or approval of his friend act. Moreover, during the trial, no evidence was obtained that could point to a premeditated collusion between the defendants in the robbery case. “A premeditated collusion... assumes an explicitly expressed agreement of two or more persons that had taken place prior to the criminal act” (Clause 3, Part 10 of Ruling #1 of January 27, 1999, of the Plenary Meeting of the Supreme Court of the Russian Federation). As a matter of fact, the victim in the trial, V. Frolov, gave the defendants, I. Kalmykov and A. Antropov, a lift in his car to the house of their friend, Khudobin, and stopped at I. Kalmykov’s request in front of a large apartment building, rather than in a dark back alley more suitable for a criminal attack. Neither I. Kalmykov nor A. Antropov ever mentioned to their friends, investigating officer, or other people that there had been a prior agreement to rob the car driver. Thus, there is no evidence pointing to a premeditated collusion. The court’s conclusion about the presence of such collusion was based on assumptions, rather than on evidence. Therefore, the qualification of the act as “committed by a group of persons based on premeditated collusion” (Clause “a,” Part 2, Article 162 of the RF Criminal Code) should be removed from the court judgment in A. Antropov’s case, as one imputed on assumption...

The judgment passed by the court also significantly violates the principle of the presumption of innocence (Part 1, Article 49 of the RF Constitution) and the prohibition of basing the conviction on assumptions (Part 2, Article 309 of the RSFSR Criminal Procedure Code). The courts of the first instance and appeal have ignored the recommendation of the Plenary Meeting of the Supreme Court of the Russian Federation on deciding doubtful issues, relevant to specific details of the case, in favor of the defendant (Clause 4 of Ruling #1 of the Plenary Meeting of the Supreme Court of the Russian Federation of April 29, 1996, “On Sentencing”).

In addition, the principle of the presumption of innocence is also violated when the judges or prosecutors publicly pronounce the defendants guilty before their guilt is established in court.

Thus, for example, in the trial of S. Lazarev, held in the Khamovnicheski inter-municipal court of Moscow, the prosecutor stated at the very beginning of litigation that the defendant’s guilt had been fully established, when none of the available evidence had yet been examined. The protest of the defense, demanding to dismiss the prosecutor was denied by the bench.

Extension of deadlines for the consideration of criminal cases is also one of the most common procedural violations.

One such example was brought before the expert review in the case of A. Ivanov by the Independent Council of Legal Expertise.

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92 Review of the case of A. Antropov by the Independent Council of Legal Expertise (expert: S. Pashin, Associate Professor of Law).
The materials at hand show that the litigation process in this criminal case has been going on for more than three years. It is noteworthy that several unlawful and unsubstantiated judgements have already been passed in this case, which indirectly points to the existence of reasonable doubt in the guilt of A. Ivanov and to the presence of a kind of solidarity between the court and the prosecution.

In our opinion, the length of this drawn-out court proceeding and the status of defendant being attached to A. Ivanov for several years, violates his constitutional right to legal protection of his rights and freedoms (Part 1, Article 45 and Part 1, Article 46 of the RF Constitution). It is also inadmissible, keeping in mind the right of every person “to fair and public trial within reasonable period of time” proclaimed by the European Convention for the Protection of Human Rights and Fundamental Freedoms (Clause 1, Article 6 of the Convention).93

The reluctance on the part of the judges to function within the rules of admissibility of evidence has often been displayed when the judge would refuse to dismiss evidence as inadmissible before retiring to the conference room to pass the verdict.

The aforementioned review of the case of A. Ivanov, who was sentenced under Part 1, Article 222 of the Criminal Code of the Russian Federation (“illegal purchase, transfer, sale, storage or possession of arms, ammunition, explosives or bombs”), highlights a similar situation.

The issue of admissibility of specific evidence in support of some circumstances relevant to the criminal case, which is being contested by the sides to the case as obtained by unlawful means, may be decided by the court both in the preliminary stages and during the trial, because the court would rule on the legal admissibility of evidence rather on the reliability of a specific document. The former situation provides for evaluation of the evidence in relation to other materials of the case, while in the latter situation this, as a rule, is decided by the court both in the preliminary stages and during the trial, because the court would rule on the legal admissibility of evidence rather on the reliability of a specific document. The former situation provides for evaluation of the evidence in relation to other materials of the case, while in the latter situation this, as a rule, is decided by the court both in the preliminary stages and during the trial, because the court would rule on the legal admissibility of evidence rather on the reliability of a specific document. The former situation provides for evaluation of the evidence in relation to other materials of the case, while in the latter situation this, as a rule, is decided by the court both in the preliminary stages and during the trial, because the court would rule on the legal admissibility of evidence rather on the reliability of a specific document. The former situation provides for evaluation of the evidence in relation to other materials of the case, while in the latter situation this, as a rule, is decided by the court both in the preliminary stages and during the trial, because the court would rule on the legal admissibility of evidence rather on the reliability of a specific document. The former situation provides for evaluation of the evidence in relation to other materials of the case, while in the latter situation this, as a rule, is decided by the court both in the preliminary stages and during the trial, because the court would rule on the legal admissibility of evidence rather on the reliability of a specific document. The former situation provides for evaluation of the evidence in relation to other materials of the case, while in the latter situation this, as a rule, is decided by the court both in the preliminary stages and during the trial, because the court would rule on the legal admissibility of evidence rather on the reliability of a specific document. The former situation provides for evaluation of the evidence in relation to other materials of the case, while in the latter situation this, as a rule, is decided by the court both in the preliminary stages and during the trial, because the court would rule on the legal admissibility of evidence rather on the reliability of a specific document. The former situation provides for evaluation of the evidence in relation to other materials of the case, while in the latter situation this, as a rule, is decided by the court both in the preliminary stages and during the trial, because the court would rule on the legal admissibility of evidence rather on the reliability of a specific document. The former situation provides for evaluation of the evidence in relation to other materials of the case, while in the latter situation this, as a rule, is decided by the court both in the preliminary stages and during the trial, because the court would rule on the legal admissibility of evidence rather on the reliability of a specific document. The former situation provides for evaluation of the evidence in relation to other materials of the case, while in the latter situation this, as a rule, is decided by the court both in the preliminary stages and during the trial, because the court would rule on the legal admissibility of evidence rather on the reliability of a specific document. The former situation provides for evaluation of the evidence in relation to other materials of the case, while in the latter situation this, as a rule, is

93 Review of the case of A. Ivanov by the Independent Council of Legal Expertise (expert: S. Pashin, Associate Professor of Law).
In fact, there is no special “stage” specifically designed to be used for removing inadmissible evidence from the litigation process, which is also the case in a jury trial. The use of such materials shall “not be admitted” (Part 2, Article 50 of the RF Constitution) by the court and shall be recognized as legally invalid in the following situations: in the beginning of the court hearings and during judicial inquiry in the form of considering and granting the motions to the interested party; during sentencing; in the verdict. The sides shall have the right to file motions (Part 3, Article 46 and Part 2, Article 51 of the RSFSR Criminal Procedure Code), and the court is not entitled to deprive them of the opportunity to receive an answer (Part 1, Article 46 of the RF Constitution and Article 58 of the RSFSR Criminal Procedure Code). There has been no single ruling of the Plenary Meeting of the Supreme Court of the Russian Federation, which would provide for deciding the legality of evidence only and exclusively during the sentencing process (such a limitation is absent, for example, in Clauses 16–18 of Ruling #8 of October 31, 1995, and Clause 3 of Ruling #1 of April 29, 1996). On August 9, 1996, the Presidium of the Supreme Court of the Russian Federation upheld in its ruling on the case of Mityeyev and Polygalov the decision taken by the judge during the preliminary hearing to remove from consideration evidence obtained in violation of evidence collection rules. Clause 1.14 of Order #31 passed by the Prosecutor General of the Russian Federation on June 18, 1997, assigns to the subordinate prosecutors the responsibility to “ensure the inadmissibility of evidence, obtained in violation of legal procedures and to remove from the judicial inquiry the evidence that was obtained in violation of constitutional requirements and criminal procedural legislation of the Russian Federation.”

It is well known that the Moscow City Court has repeatedly passed judgements during judicial inquiries on various pieces of evidence, the admissibility of which had been contested by both sides in the case (see, for example, the ruling of the Moscow City Court of June 25, 1999, on the criminal case #2-197/99 against S. Filippov).

Thus, by dogging timely consideration of the motion to dismiss a particular piece of evidence as legally void, the court effectively admits into the judicial process evidence obtained by unlawful means (testimonies, written acts, items). This method can be used as a way to deprive a party of the right to legal protection.

Another form taken by this type of violation is references made during sentencing to inadmissible evidence or recognition of particular evidence as inadmissible without giving due notification to the parties concerned.

The expert review prepared by the Independent Council of Legal Expertise on the case of V. Moiseyev highlights the following violation:

The court wrote the following when handing down the sentence on the case: “The evidence collected in violation of the law and having

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94 Ibid.
dubious legal validity in the opinion of this court shall be excluded from the body of evidence produced by the investigation.” Nevertheless, the court did not make any further reference to the specific evidence excluded from the case. This is a gross violation of the following requirement, contained in Clause 3, Part 3 of Ruling #1 of the Plenary Meeting of the Supreme Court of the Russian Federation of April 29, 1996, “On Sentencing” (“Should the court decide to exclude a particular piece of evidence obtained in violation of the law, the court must justify its decision to exclude it from the body of evidence in the case by providing exact reference to the specific legal rules that had been violated.”)

The court left unnoticed the motion of the defense, which pointed to the violation of the defendant’s right (provided by the provisions of Part 1 and Part 3, Article 237 of the RSFSR Criminal Procedure Code) to be given a copy of the indictment and to have unlimited access to this main document of the prosecution, in order to be able to prepare an effective line of defense while being kept in the pretrial detention facility”).

The courts often admit evidence in spite of clear indications that the information was obtained through torture. The following cases can be brought up as examples of this practice. The case #1-137/2000 against A. Bulygin, charged under Clauses “a,” “c” and “d,” Part 2, Article 162 of the RF Criminal Code, O. Zulpiakov, charged under Clauses “a,” “c” and “d,” Part 2, Article 162 and Parts 1 and 4, Article 222 of the RF Criminal Code, R. Koshelev, charged under Clauses “a,” “c,” and “d,” Part 2, Article 162 and Parts 1 and 4, Article 222 of the RF Criminal Code.

A. Bulygin was arrested on March 27, 1999, at 7 p. m. on charges of committing assault and robbery and taken to the police station #107 of the Chief Police Directorate of Moscow. Prior to the arrest and at the time of the arrest, the suspect did not receive any injuries. This was later established during the court inquiry.

While being “questioned” (volume 1, page 231 of the case) and interrogated as a suspect in the case (volume 1, page 233 of the case) immediately after the arrest, A. Bulygin categorically denied his involvement in the robbery.

Nevertheless, on March 28, 1999, at a quarter past 5 a.m., i.e., 10 hours 15 minutes after the arrest, an ambulance was called to the police station #107 to take A. Bulygin to an emergency ward where the examining doctor found that A. Bulygin had “bruises on both feet,” which were allegedly a result of a “domestic injury.” The detainee’s feet were so swollen that he could barely stand on them (volume 1, page 261 of the case).

On the morning of March 28, 1999, after sustaining the above-mentioned injuries, A. Bulygin gave a testimony admitting his guilt.

95 Review of the case of V. Moiseyev by the Independent Council of Legal Expertise (expert: S. Pashin, Associate Professor of Law).
Following A. Bulygin’s transfer to the detention center #48/2, the facility’s doctor also registered the above-mentioned injuries (volume 1, page 262 of the case).

According to A. Bulygin’s later testimony, he was beaten in the police station and pressured to admit his guilt. In particular, he was beaten with a rubber club against the heels. He was chained with handcuffs to a radiator and was denied visits to the bathroom. His torturers allegedly put a plastic bag on his head and kept it tight around his neck.

The courts of the first instance and appeal did not have sufficient reason to see any knife or weapon in his hands. During the pre-trial investigation, according to A. Bulygin’s later testimony, he was beaten in the police station and pressured to admit his guilt. In particular, he was beaten with a rubber club against the heels. He was chained with handcuffs to a radiator and was denied visits to the bathroom. His torturers allegedly put a plastic bag on his head and kept it tight around his neck.

The Khamovnicheski inter-municipal court of Moscow took no notice of the information about torture, admitted the interrogation protocol of A. Bulygin as evidence and made reference to it in the court’s sentence dated March 13, 2000.

The city court of Moscow dismissed the appeals filed by the defense lawyers.

Inconsistency of the conclusions made by the court with the actual circumstances of the case also constitutes a common departure from the rules of the legislation on criminal procedure. The essence of such practice is well exemplified by the following passage from the opinion of the Independent Council of Legal Expertise on the above-mentioned case:

“A. Antropov was found guilty of colluding on December 15, 1998, with I. Kalmykov to commit a robbery. The defendants stopped a car driven by V. Frolov, who gave them a lift to 10 Yaroslavski Avenue in the city of Moscow. When they stopped in front of the house, I. Kalmykov, who was in the front seat, took out a knife and, using it as weapon and threatening the life and health of the victim, put the knife to the shoulder of the motorist and demanded money. A. Antropov, who was in the back seat, took hold of V. Frolov’s jacket from behind, not letting him out of the car and also put an unidentified object to the victim’s neck and made a threat of violence, endangering the victim’s life and health.”

The judicial tribunal of the Moscow city court overseeing criminal cases left the sentence of June 23, 1999, unchanged.

We find the judicial decisions taken in this case unlawful and unjustified. We also believe that they should be reversed on the following grounds.

The courts of the first instance and appeal did not have sufficient reason to reject the testimony of the victim, V. Frolov, who freely confirmed at the public trial, without any pressure made against him, that A. Antropov was innocent, that at the time of the crime he was drunk sleeping in the back seat of the car and did not in any way threaten V. Frolov’s life or assault him. The victim’s testimony shows that he was threatened only by I. Kalmykov, did not pay attention to A. Antropov’s actions and did not see any knife or weapon in his hands. During the pre-trial investigation, A. Antropov by the Independent Council of Legal Expertise (expert: S. Pashin, Associate Professor of Law).
V. Frolov gave a different testimony, because he had intentionally chased in his car A. Antropov and I. Kalmykov, caused injury to the latter, put him in the trunk and was attempting to take a bleeding and unconscious body of I. Kalmykov to an unknown destination when he was stopped by the police. Trying to escape punishment, V. Frolov gave false testimony about the incident and A. Antropov’s role in it, but during the trial decided to tell the truth to the court.

Throughout the pre-trial investigation and during the trial, A. Antropov was consistent in his testimonies and denied any wrongdoing in the assault against V. Frolov. Once he learned that the police were looking for him, he freely and willingly went to a police station, where he stated his innocence.

Thus, the conclusions made in the court’s sentence do not correlate to the actual circumstances of the case (Clause 2, Article 342 and Clause 1, Article 344 of the RSFSR Criminal Procedure Code).

All in all, the trends identified above represent the main limitations on the right to fair trial.
REFUSAL TO PROVIDE GUARANTEED
NON-JUDICIAL REMEDIES OF INFRINGED RIGHTS

The right to non-judicial redress (filing claims and appeals directly to government bodies, i.e., primarily law enforcement agencies) is based on the provisions of the Constitution of the Russian Federation (Article 33), as well as on a number of federal laws (“On Police,” “On Prosecutor’s Office,” etc.) and other statutes. The most significant legal basis for this right is set in Ordinance #2534-VII of the Presidium of the Supreme Soviet of the USSR of April 12, 1968, “On the Procedures to Review Public Recommendations, Claims and Appeals” (as amended on March 4, 1980, and February 2, 1988). Nevertheless, the existing legislative framework needs further improvement. Experts believe that the current body of laws requires systematization on the basis of “general principles and concepts.” Another significant drawback found in current legislation is that it “does not provide a procedural framework for making a government body or official responsible for the implementation of citizens’ right to appeal” against a violation of legal rights.97

Direct and indirect denial of law enforcement agencies to provide non-judicial redress is one of the most acute problems in Russia today.

The new Minister of Internal Affairs, Boris Gryzlov, appointed in March 2001, started his term by publicly denouncing the non-recording of crimes by law enforcement officials. He once again criticized the internal statistical analysis of the Ministry, which uses the percentage of solved cases as the main benchmark for evaluation. Police officers are, therefore, induced to record only those crimes that they believe to be potentially solvable. According to the Informatics for Democracy Foundation (INDEM), up to 75% of crimes reported are never registered.98 In fact, more than one third of all victims choose not to turn to the law enforcement bodies for help.99 And it is not only petty offenses that fail to get on record. An inquiry conducted by the Chief Police Directorate (GUVD) of the city of Moscow revealed two thirds of the initially out concealed crimes 471 of them qualified as grave offences. It should be noted that the inquiry had apparently revealed only a fraction of the concealed crimes.

Rank and file police officers are not necessarily content with the existing procedure. According to a poll conducted by the Moscow city police officers’ trade union, 79% of police officers are not happy with the quota system in which the number of crimes to be solved and the number of administrative offences to be detected are dictated from the top. They are also not happy with the fact that the efficiency of their work is judged solely on the bases of the percentage of the crimes solved.100

98 “Up to 75 % of All Crimes Committed Are Not Investigated.” *Inostranets* (June 14, 2001).
In the meantime, the statements made by the new Minister of Internal Affairs do not necessarily mean that the situation will improve any time soon. Rank and file officers, who dare live up to the principles proclaimed by their Minister, often end up fighting against the rigid resistance of the system. In late November 2001, a group of police officers at the Solntsevo district police station of Moscow, citing the public statements of Boris Gryzlov, refused to be forced to work after-hours in order to fill the existing quotas. In reply, they were told that the order issued by the Moscow City Police Chief as early as 1994, which introduced specific planned quotas, has never been repealed. In other words, it still in force, and therefore, their protests are illegal.101

It would not come as a big surprise if the reform-oriented public pronouncements of the new Minister of Internal Affairs would eventually amount to just another campaign for revealing previously concealed offences. Indeed, a lot of evidence to this effect has been gathered as a result of inspections, conducted by the prosecutor’s office and other agencies.

In the Voronezh region, for example, an investigation carried out by the prosecutor’s office in 2001 revealed 2 150 crimes that local police officers refused to register. During the first half of 2001, in the Kurgan region, prosecutor’s offices registered 1 100 additional crimes, which had originally been kept off the records by police (compared with the year 2000 total of only 1 142 concealed crimes). Regular inspections conducted by the prosecutor’s office of the Saratov region have revealed 1 439 previously concealed offences related to the period of 2001, as well as instances of illegal decisions to refuse to open a criminal investigation.

The prevalent practice of refusing to investigate a criminal offence is corroborated not only by departmental inspections but also by specific cases cited in the reports of regional human rights organizations.

The reports of regional human rights organizations also refer to those registered instances when police officers simply denied people citizens their lawful protection. Thus, according to the report on the Kirov region, members of the board of the gardening collectives, Medtechnica and Rural Construction Worker, where 50 summer cottages had been burglarized, received the following reply from the deputy head of the Vakhrushevsk police station (OVD) Pashin: “You need it, you get in the car and go find the burglars.” Officers of town district police departments (ROVD) also refuse to register people’s appeals received by phone. On January 27, 2002, for example, desk sergeant Ovchinnikov of the Leninsky district police department, refused to file a complaint of an individual against his rowdy neighbor, pleading lack of a patrol car.

More often, police officers simply do not register the complainants received.

Thus, a statement made by N. Milutin on November 17, 2001, at the Sovetsky police department (ROVD) of the city of Bryansk, about a

crime committed against him (an attempted car theft and robbery, causing grievous bodily harm, as well as an attempted murder) was not put on record. It was registered three days after later only because a regional legislature member, L. Komogortseva, sent a written complaint to the head of the Sovyetsky police department, Poleschenko.

Nevertheless, the law enforcement officials sometimes choose to ignore even calls coming from members of representative bodies. Thus, T. Kotlyar, a member of Kaluga regional legislature and head of an Obninsk-based human rights organization, in August of 2001, forwarded to the regional prosecutor’s office a joint complaint of a resident of Polotnyany village against arbitrariness of the head of the local municipal authority (Dzerzhinsky district). The latter decided to close a local medical facility and cancel a 20% allowance for local teachers’ salaries. Instead of providing a reply, prosecutor N. Privalov inquired who empowered T. Kotlyar to send a collective complaint to the prosecutor’s office. In December 2001, in the absence of any reply to the initial request, T. Kotlyar sent a second letter to the regional prosecutor’s office but so far has not received any response.

In any case, most citizens end up being one on one with the local law enforcement bodies without any hope of getting due legal protection. The following are two examples from the Chuvash Republic. In September 2001, a resident of the Anatkasy village of the Marposadsky district made a statement to the local police department that he had become a victim of a theft. Initially, his statement was put on file, but it turned out later that both his statement and other materials of the police investigation were missing. It was claimed that no investigation in this case had ever been opened.

L. Tikhonova, another villager from the Marposadsky district, has encountered a similar attitude from the local police force. During the summer of 2001, L. Tikhonova, who is a pensioner, had been burglarized twice. Both times police officers promised the victim that they would “look into the matter” and get in touch with her as soon as something turned up. Finally, L. Tikhonova tried to get an appointment with the head of the Marposadsky police department, E. Koshkin. On her seventh attempt (and after a personal call from the local administration head), the police chief finally received L. Tikhonova. But, according to L. Tikhonova, instead of helping her, the police officials promised that she would be “severely punished” for her exorbitant persistence. In fact, the police investigation had never been opened. Operative Nikolayev, who conducted the preliminary inquiry, concluded that the amount of damage caused by the theft was insignificant (eleven geese and a TV antenna). The antenna was valued at 60 roubles (i.e., less than one minimal wage, which means that the offence should be classified as a tort), and it was claimed that the geese were not stolen but perished from local dogs or a traffic accident.

Trying to deny people the right to non-judicial redress, police officers often resort to all sorts of casuistic arguments justifying their refusal to open a criminal investigation. In 2001, the wife of Mark Greenfeld, Director of the Eurasia Foundation, in the South and Central Russia, was bur-
glarized on the streets of Saratov. The operatives, who arrived at the scene, did not start the search for the criminals, but instead spend over an hour grilling the victim about the exact spot where the crime had been committed. Then, the police officers explained to M. Greenfeld that because the crime was committed on the border of the respective territories of responsibility of two adjacent police stations', they were convinced that at the time of the burglary the perpetrators were physically located outside of their zone of responsibility and advised her to get the other police station to look into her case.

Even false evidence is being made use of to “neutralize” some complainants. For example, the husband of a resident of the Podosinovets village, T. Mokhina, died of heavy bodily injuries in the Kirov region on June 14. The police investigator refused to open a criminal case following T. Mokhina’s application. The applicant was not notified of the decision, learning about the refusal quite by chance. Moreover, according to T. Mokhina, two testimonies were removed from the file and replaced by new ones, stating that the victim was heavily intoxicated, although no medical examination had been made after the crime.

N. Gusak, resident of the city of Tuymazy (Bashkortostan Republic), has been fighting against the administration of Tuymazykhimmash joint stock company to restore his labor rights since 1996. He views his dismissal as illegal because he believes it was a retaliatory measure after he had filed a claim with the administration, refusing to work due to wages arrears. His repeated complaints to the prosecutor’s office have not yielded any result. Consequently, the claimant appealed his case to the higher level authorities and finally obtained a ruling of the Supreme Court of the Russian Federation, which decided in his favor. Nevertheless, the management of Tuymazykhimmash joint stock company ignored the court’s decision. N. Gusak filed three appeals with the Prosecutor General’s Office, but all three of them were sent back to Bashkortostan, despite the fact the last two complaints appeal against the action and inaction of the republic’s prosecutor’s office and the prosecutor’s office of the city of Tuymazy. In this respect, it should be noted that Part 5, Article 10 of Federal Law “On the Prosecutor Office of the Russian Federation” specifically prohibits forwarding complaints to the body or official whose decision or action is being appealed against.

Even decisions not to open criminal investigation are often taken at police stations with gross procedural violations of designated time limits. According to the report on the Astrakhan region, for example, during the period of January through April 2001, 43% of such decisions were taken at the Limansky town district police department in violation of procedural time limits. The report on the Chivash Republic characterized the activities of the local law enforcement bodies in a similar manner.

Missing the deadline in responding to complaints is also an established practice in the Marii El Republic. The official reply to the letter filed by the Human Rights Center of the Marii El Republic with the Marii El Prosecutor’s Office on November 2001 was signed by the head of the legal oversight department, T. Grigoryeva and mailed out only on De-
December 5, 2001 (while under the excising requirements a reply should be sent to the claimant within 15 days).

Many regional reports bring up instances of police officers applying pressure on claimants, threatening to open a criminal investigation against them should the latter refuse to recall their statement. For example, in the city of Kursk, an adolescent S. turned to the police station #2 claiming that unknown persons had beaten him. The operatives, who followed him to the scene of crime, found there another beaten minor. The boy was highly intoxicated. On bringing the two youngsters back to the station, the police officers warned S. that unless he “got lost” with his statement, they would have to charge him with beating the other youth.

Prosecutor’s offices also resort to threats and pressure. For example, a juvenile correctional officer working at the Zhistrinsky town district police department, Askytochkin, beat up 15-year-old Yuri Lagutin, who ended up in hospital. Yu. Lagutin appealed to the prosecutor of the town of Zhisdra, but received no reply. Later, he appealed to the prosecutor of the region, but his letter was sent back to the city prosecutor’s office. Finally, a staffer of the prosecutor officer of the town of Zhisdra called Yu. Lagutin up and told him that unless he stopped writing appeals, he would be put “behind bars.”

Facts testifying to the inaction of the law enforcement bodies in response to the petitions about crimes allegedly committed by police officers deserve special attention.

For example, the prosecutor office of the Vasilyeostovsky district of St. Petersburg did not take any action on the statement of B. Beketov, deputy head of the Sosnovskoye municipality, who claimed that he had been beaten by officers of the police station #30. The prosecutor office of the Central district of St. Petersburg would not take any action for a long time following the statement by Svetlana D., who claimed that she had been beaten and raped by several officers of the police station #44. The delay allowed the perpetrators to remove evidence.

The case of Lieutenant-Colonel Leonid Romanov from the town of Yelets (Lipetsk reion) has been widely covered by the national media in 2001. On March 28, 2001, L. Romanov’s son, Alexei, was killed in a traffic accident caused by a drunk driver, who turned out to be a police officer. Fighting for a fair investigation, L. Romanov found evidence of another twelve traffic accidents, in which the guilty party went unpunished. In nine out of the twelve cases, the guilty party was a police officer.

The situation in the Chechen Republic is obviously an extreme example of the complete absence of non-judicial redress. As of May 2001, only one out of 302 criminal cases opened by the republic’s prosecutor office has taken to court. Out of the total number, 213 cases have been suspended because “the perpetrator was not identified.” It is noteworthy that a great
number of these cases were opened following “detainment by unknown parties in camouflage uniform” with subsequent disappearance of the detainees, as well as murder, looting and theft committed again by “unidentified persons in camouflage uniform.” Out of the remaining cases, 21 cases are under investigation and 67 have been submitted to the military prosecutor office, but are not being acted upon.

Nevertheless, in some instances, individual citizens have managed to implement their right to non-judicial redress with the help of human rights activists.

On June 12, 2001, an underage youth, Ivan Sverchkov, was beaten by unidentified persons on the territory of the Khilovo health resort in the Porkhovsk district of the Pskov region. A local district operative made a report about the offence that same day. The next day, August 13, the mother of the assaulted, L. Sverchkova, came to the police station in person and left a written statement. Nothing is known about subsequent actions undertaken by the police, but on October 6, the Sverckovs’ family was notified by the Porkhovsk town district police department that they had decided to not open a criminal case in accordance with Part 2 of Article 5, Article 113 and Article 195 of the Criminal Procedure Code of the RSFSR because the identity of the perpetrators could not be established.

The Pskov regional human rights movement “Veche” addressed the regional police department on October 22, 2001, asking it to urge the Porkhovsk town district police department to perform its official duty, as the justification of the denial to open a criminal investigation was unlawful. Following the second letter sent by the “Veche” organization on December 21 to the same body, the regional police department finally replied. In their answer of January 26, 2002 (by that time, six months had passed since the date of the offence), they stated that a criminal investigation into the case of inflicting bodily harm to Ivan Sverchkov (Article 115 of the RF Criminal Code) had been opened and that the relevant officers of the Porkhovsk town district police department had been disciplined for their non-action.

People’s right to non-judicial redress is often neglected when they have to deal with other government agencies.

The case of Asylbayev brought up in the report on the human rights situation in the Bashkortostan Republic represents a vivid example of this kind of neglect. Asylbayev appealed in writing to the administration of the city of Tuymazy and Tuymazy district on September 11, 2001. In his letter, he asked to be given access to a copy of the decision of the City Council on the tariffs for public utility services. Asylbayev re-

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105 A notice issued by the Porkhovsky police department in the name of L. Sverchkova bearing neither the registration number nor date.

106 Part 2, Article 5 of the Criminal Procedure Code of the RSFSR provides for dismissing the case due to the absence of guilt, which is hardly applicable to what happened to Ivan Sverchkov. Article 113 of the Code contains provisions on opening a criminal investigation but does not give any grounds for dismissing a case. Article 195, Part 3 of the Code clarifies the procedure for halting a preliminary inquiry but does not say anything about dismissing a criminal case.
ceived neither a reply from the City Council, nor the requested document. Initially, they did not want to accept his letter and later refused to register it, claiming that the registration ledger was missing.

We shall cite two more similar examples taken from the report on the Irkutsk region (materials were provided by the public reception office of V. Ostanin, member of the State Duma). The administration of the Irkutsk region refused for a long time to consider an appeal filed by L. Filippova, head of a gardening collective “Veteran of the Revolution,” against the unlawful distribution of land plots to unauthorized parties (individuals who are not members of the collective had received disproportionately large plots of land). To date, no reply has been received. No reply to a similar appeal made by L. Filippova to the Irkutsk region prosecutor’s office has been received either. In another case, the pension administration refused to consider a request filed by M. Dymova, now retired, who had a long working history, including in the northern areas. She asked the pension administration to provide a printout of her pension calculated by the two existing methods (based on the “old” legislation and using the individual coefficient of calculation) backed by reference to the articles of the corresponding statutes. The requested information was provided to her only after she sent a complaint to the head of the Irkutsk regional pension fund. Nevertheless, her extra World War II veteran allowance was not included into the calculation.
UNWARRANTED INVASION OF PRIVACY
AND SURVEILLANCE OF CORRESPONDENCE

The constitutional right to inviolability of private life, domicile and correspondence (Articles 23–25 of the RF Constitution) most frequently becomes subject to violations during investigative activities of the special services. Existing law-making trends in keeping with the RF Information Security Concept adopted in 2000, and are aimed at stronger control over information flows. The bills that are being developed now, as well as those that have been rejected, point to the readiness of some lawmakers to introduce procedures that would require permission to use the Internet and would exercise controls over the use of the Internet.\(^{107}\)

Despite the fact that Part 2 of Article 23 prohibits the use of technology not authorized by a court decision in the obtainment and the use of private information, special services justify their activity by citing regulatory acts that limit control over compliance by FSB and other agencies with the said provisions of the RF Constitution to an even greater extent.

On the basis of Order #130 of the RF Ministry of Communications “On the Procedure for Introducing Technical Systems to Support Investigative Measures within Telephone, Cellular, and Wireless Communications Networks and General-Use Paging Systems,” dated July 25, 2000, law enforcement officials suggest that commercial providers should install systems that would function independently of the provider. The technical description of the system suggests that law enforcement personnel will be given all access keys, a dedicated channel and a mobile control panel.\(^{108}\) They can obtain free and uncontrolled access to communications nets. At the same time, Articles 5 and 9 of Federal Law “On Investigative Activities” order the issuance of court approval for initiators of investigative activities. However, external companies providing telephone, electronic and other communication services are barred from getting information about the existence of a court permit for inspection of correspondences. Therefore, invasion of privacy actually increases, because there are no mechanisms to control the activities of governmental agencies engaged in investigative work.\(^{109}\)

\(^{107}\) The bill “On Introducing Amendments into Federal Law “On the Participation in International Information Exchange,” which envisages the introduction of legal entities authorized by the government for obtaining access to information, which may contradict Russian legislation, was submitted to the State Duma. On the same day, the draft law of 1997 “On the Right of People to Information” was rejected.

\(^{108}\) Introduction of SORM-1 system, with subscribers telephone communications bugging capability, was not accompanied by any notable discussion in the press. Since state monopoly rules out any competition in the market of automated telephone services, law enforcement agencies had no problem introducing SORM-1 at enterprises that are in fact owned by the state.

\(^{109}\) It should also be stressed that under Article 15 of the RF Constitution, a regulatory act affecting human rights must be published in order to become law. Order #130 of the Ministry of Communications was not made public and is actually an internal ministerial instruction that functions as a legislative act. For more information, see: Yu. Vdovin, “Telephone Right For the Sake of Man” on the web-site of the Perm Regional Human Rights Center — www.prpc.ru/newspaper.html#33.
Uncontrolled telephone communications monitoring became the subject of at least three court cases between 1995 and 2000 (suits brought by P. Netupsky, L. Balakina, I. Chernova).\textsuperscript{110} Though such monitoring was found illegal for different reasons in all three cases,\textsuperscript{111} the same SORM-1 and SORM-2 systems continue to be introduced almost without alteration.

We should recognize that the rather rare attempts on the part of Internet providers to resist introduction of SORM-2, had for all practical purposes stopped by 2001.\textsuperscript{112} Commercial providers must be licensed, and this makes them vulnerable. Licensing terms and conditions, among other things, specify that providers installing SORM system must give assistance to law enforcement agencies. The Ministry of Communications and its regional structures do not take into account the ambiguous nature of SORM’s legality and threaten to withdraw the provider’s license if the latter disobeys. Court proceedings on the illegal nature of such actions may last many months or even years, which cannot but ruin a business, even if the final result of the litigation happens to be favorable for the provider.\textsuperscript{113}

Additionally, there is no broad-based public resistance to the implementation of SORM-1 and SORM-2. Monitoring of the press and Internet sites indicates a reduction of articles on the topic, and no new court cases have been initiated. Meanwhile, the activities of governmental bodies entrusted with supervisory and control functions continue to expand in the same direction: groundless restriction of people’s freedoms and invasion of privacy. This includes the work of the Federal Agency on Legal Protection of Results of Intellectual Activities of Defense, Special and Dual Purpose (FAPRID), established in the fall of 1998 and subordinated to the Ministry of Justice. Moreover, the limited public interest in this issue results in a situation where the activities of relevant state structures are brought to open discussion only after such questionable activities have become routine.

FAPRID exercises control over information sent abroad with the aim of preventing the export of information of national importance. To this effect, FAPRID issued Order #31 “On the Legal Examination of Commodities for the Purpose of Identifying Results of Intellectual Activities of Defense, Special and Dual Purpose, the Rights to which Belong to the Russian Federation” dated August 21, 2000. Order #31 as such does not contradict the RF Constitution since it excludes from examination “material carriers, hardware and software which belong to individuals and which

\textsuperscript{110} See the corresponding chapter in the Collections of Reports \textit{Human Rights in Russian Regions} for the years 1998–2000.

\textsuperscript{111} On September 25, 2000, the Supreme Court satisfied the claim of journalist P. Netupsky who protested against Order #130 of the Ministry of Communications of the Russian Federation. The court ruled that the procedure of monitoring personal telephone talks without presented court decision proving that such monitoring is indispensable, was illegal.

\textsuperscript{112} Company providers are offered the SORM-2 introduction plan, which envisages their own financial participation in purchasing and installation of appropriate equipment (it is underscored that installation must be done secretly), and in follow up maintenance of the system. Thus subjects of operative-detective activities have the opportunity to save money by using unrestricted access to the Internet.

\textsuperscript{113} Pressure was brought to bear upon the Volgograd-based Bayard-Slaviya-Communications company and on a number of private Internet provider companies in Nizhnii Tagil, Krasnodar territory and Irkutsk.
are taken abroad for personal use” (Annex 1). However, the management of the St. Petersburg Customs issued Letter #24-05/3840, dated March 26, 2001, allegedly adding on to Order #31 but actually introducing total control over audio, video and electronic information sent abroad by individuals; all information carriers are subjected to mandatory examination. Audio and video cassettes and CDs are accepted at city post offices for delivery only “in a packing sealed by the personal seal of an inspector of the Information and Technical Department of the Customs Department.” What is more, there is a charge for this service.\textsuperscript{114}

Nevertheless, we must make note of some positive trends in the new Russian legislation. In 2001, the European Convention for the Protection of a Person in Connection with Automated Processing of Personal Data was ratified, which implies registration and substantiation of the necessity of existing data bases for personal data collection in Russia. Such data bases include information that is subjected to automated processing collected in the passport issuing departments, taxation inspections, traffic inspection agencies, military commissariats and various law enforcement agencies.\textsuperscript{115} Under the Convention, the regulation of access to and use of personal information contained in the data bases of state agencies must be founded on the principles of respecting fundamental human rights. The Convention is aimed at protecting the right to inviolability of privacy. (Issues of collecting, storing and transmitting personal data are considered therein.\textsuperscript{116}) The priority of international law, stipulated by the Constitution of the Russian Federation, obligates the Russian government to legalize appropriate rules in keeping with the relevant international standards. Given the above, we may assume that the overall situation, including the use of SORM, at least in a reduction in the level of secrecy and an increase in control over the process of introduction and operation of the system, may change. Today, however, SORM installation remains top secret and closed to public scrutiny.

Unauthorized invasion of domicile is another violation of the constitutional norm of the right to inviolability of privacy. Normally occurrences of invasion into living quarters are related to professional activities of law enforcement personnel. In carrying out orders based on federal laws and instructions from their superiors, law enforcement officials violate constitutional norms. Law enforcement personnel consider their conduct justified, though their actions may be a glaring violation of the RF Constitution and the RF Criminal Code. To give just one example, in February of 2001, in the Chechen Republic, MVD officers, acting on orders, for the second time broke into R. Kutaev’s apartment while he was out. When he returned, the apartment was a mess and some belongings, including money and decorations, disappeared.\textsuperscript{117}

\textsuperscript{114}V. Kostyukovsky, “Everybody Is Suspected And Everybody Pays.” Novyye Izvestia (May 18, 2001, #82).
\textsuperscript{115} Article 2 of the European Convention on the Protection of a Person in Connection with Automated Processing of Personal Data.
\textsuperscript{116} See the European Convention on the Protection of a Person in Connection with Automated Processing of Personal Data.
\textsuperscript{117} “In Chechnya Police Robbed the House of a Human Rights Activist.” Prima (February, 20, 2001, #198).
Violations of medical secrecy, when of a medical case containing private information is made public. Are also frequent. It is difficult to register such cases because people are reluctant to turn to the courts for protection, but regional monitors sometimes come across such situations. For instance, the director of the Kirov House of Veterans (Kirov region) decided to collect medical information about one of the veterans and publicized it in the media. Likewise, in violation of medical secrecy and current legislation, employees of the outpatient clinic #3 of the city of Kirov, at the request of a judge of the Leninsky district court, handed over the medical file of a plaintiff to a third party.

Lack of proper control over the compliance with departmental instructions by postal service employees leads to frequent opening and damaging of letters and parcels. Reports were coming from many regions of the Russian Federation (Kirov, Novosibirsk, Orenburg, Kurgan, Khakassia, Krasnodar, Sverdlovsk and Ivanovo) in 2001 about the receipt of correspondence stamped “received damaged.” This stamp removes grounds for formal complaints regarding violations of privacy of correspondence, but nevertheless gives reasons to assume that the inspection of correspondence still exists, especially since some of the opened letters were not marked with the “received damaged” stamps. In the Kurgan region, for instance, only one damaged letter received by the Kurgan regional branch of the public movement “For Fair Elections” bore this stamp.

It is often regional practice to interpret federal laws very broadly, including Federal Law “On Protection of State Secrets.” Many regulatory documents were adopted on such a basis. In the Saratov region, the department of state service and personnel of the local government adopted Statute “On Procedures of Keeping Personal Files on People Occupying State Positions in the State Service of the Saratov Region,” with an annex included. This annex is a form consisting of a long list of questions covering not only the respondent himself/herself, but also personal information on family members, and even on previous families. The desire to faithfully follow the regional law resulted in the personnel department of the regional hospital carrying out the questionnaire-based survey of its doctors, who are not civil servants. Since the nature of the survey was mandatory, the doctors could not refuse to fill out the forms. As a result, confidential information was received from the respondents whose consent or opposition was not taken into account.

118 It must be noted in this connection that Federal Law “On Protection of State Secrets” envisages checks on state servants for their compliance with the requirements for state servants. But nevertheless, no questionnaire-based surveys are needed under this law.
SECTION 2

OBSERVANCE OF FUNDAMENTAL CIVIL LIBERTIES
FREEDOM OF SPEECH AND ACCESS TO INFORMATION

Assessment of the situation with media freedom in 2001 shows a significant deterioration, if compared to the assessment for the year 2000. The events that took place at the NTV television channel, the change of the proprietor and top management of the company, as well as the cancellation of the TV-6 channel are some key features reflective of the current situation.

The process of transferring ownership of media sources (NTV and others), which had been part of the Media-Most holding controlled by the Gazprom company (37% of whose shares belong to the state), was completed in 2001. The non-economic nature of the “argument between the two managers,” the political confrontation between V. Gusinsky, Chairman of the Board of Directors of the holding, and federal power, became apparent upon publication of the so-called Secret Protocol #6. M. Lesin, Russian Federation Minister of Press, had signed this protocol, among others. According to the protocol, Gazprom had promised to ensure closure of a criminal case initiated against V. Gusinsky in exchange for ownership of shares in the Media-Most holding. Indeed, the criminal case soon was dropped on the grounds of a “lack of corpus delicti.” When V. Gusinsky, already living abroad, refused to finalize the deal and made Protocol #6 public, the Prosecutor General’s Office initiated a new criminal case against him. However, the Spanish court, and later Interpol, stated that the prosecution of V. Gusinsky was political, thus allowing Gusinsky to avoid extradition.

In early 2001, the Moscow Arbitration Court, in support of the agreements previously reached between Gazprom-Media and Media-Most and in an attempt to settle their financial disputes, ruled that 19% of NTV shares be seized. On January 25, the High Bailiff’s Office arrested the shares, forbidding their sale and transfer, and deprived holders of voting privileges. Of note is the fact that the implementation of the court ruling took place at a time when Media-Most’s representatives were negotiating with foreign investors. The seizure of these shares reduced the number of shares in free circulation and thus negatively affected the possibility for Media-Most to sell a portion of shares to foreign investors. In addition, this same fact limited the ability of Media-Most to influence any decisions made by shareholders at an April 3 shareholders’ meeting where new management of the company was elected. Former NTV managers and journalists disagreed with the decisions of the shareholders’ meeting on the basis that the process of decision-making was not transparent.

120 The Gazprom company was a large shareholder and at the same time creditor of the holding and its member-companies. Inability to pay off a multimillion debt served as legal grounds for claiming the controlling interest and the right to manage the holding’s mass media.
121 Interpol officially declared that it viewed demands of the Russian party politically motivated and refused to apprehend him. See New Summary of the Center of Extreme Journalism at www.cjes.ru; www.ntv.ru (October 24, 2001).
sion-making, in their view, had been violated due to a lack of a quorum.123

Keeping these details in mind, it is worth mentioning some peculiarities of the court decisions regarding legal actions taken by both parties. Court decisions made in favor of NTV, as a rule, were either successfully protested by representatives of the Gazprom-Media or reversed by decisions of other courts. A case in point was the ruling regarding the legality of the shareholders’ meetings. The decision of the Preobrazhensky district court of Moscow, which banned the NTV shareholders’ meeting of April 3, 2001, was overruled by the same court on the day of the planned meeting. Simultaneously, the Cheryomushkinsky district court ruled on April 2 in favor of a lawsuit filed by a Gazprom-Media daughter-company, which occurred on the same day the “old” NTV Board of Directors met, approved the charter of NTV as an electronic mass medium and decided on the proper order for election of the editor-in-chief. The court ruling declared that the April 2 meeting of NTV shareholders, held by the team of journalists led by E. Kiselyov, Director of NTV, was illegal.

On April 14, the new management of the company, accompanied by its own security service, occupied the corporate offices, justifying their actions by the fact that decisions made at the shareholder’s meeting had entered into force. Some of the NTV employees who did not want to cooperate with the new director general and editor-in-chief joined other television channels: TNT and TV-6. April 14 can be seen as the day when de-facto control over NTV was taken away from Media-Most and given to Gazprom-Media.

On November 27, 2001, Gazprom-Media’s right of ownership of former Media-Most assets was legally implemented.124 Official representatives of Gazprom announced their intention to sell shares of media companies, including those of NTV, as they viewed them as non-profile assets.125 However, despite the fact that during 2001, representatives of Gazprom-Media conducted negotiations with potential foreign investors on selling shares of the television company, to date Gazprom-Media retains ownership of the Media-Most shares, including those of NTV.

Soon after control of NTV was transferred to Gazprom, an “argument of managers” emerged over the last private Moscow television channel broadcasting in meter frequency range, TV-6 Moscow (ZAO Moscow Independent Broadcasting Corporation (MNVK)). Seventy-five percent of MNVK shares are controlled by B. Berezovsky, who has been in opposition to President V. Putin since the summer of 2000. In 2000, B. Berezovsky, claiming he was pressured by the state, gave 49% of shares

of the main Russian television channel, Russian Public Television (ORT), to the state.\textsuperscript{126}

The following coincidence is interesting. The conflict between MNVK shareholders was initiated by the private pension fund, Lukoil-Garant, which owns 15% of the shares of the television company, soon after the majority of former NTV journalists led by the former Chairman of the board and editor-in-chief, E. Kiselyov, had joined TV-6.

President V. Putin expressed his attitude towards B. Berezovsky and freedom of speech clearly enough when he said that:

\begin{quote}
It often happens that a man who has drunk too much vodka and smashed in his neighbor’s face gets five years in prison for hooliganism... Those, however, who have stolen or illegally come into fortunes of dozens and hundreds of millions of dollars are viewed as political figures. These people have nothing to do with democracy. By exerting their control over the media, they do not protect freedom of speech, but protect their own commercial interests... \[it is imperative that\] journalists should be able to fulfill their professional duties in a totally independent fashion.\textsuperscript{127}
\end{quote}

It was by owning a controlling interest that B. Berezovsky was able to actively influence editorial policies of the channel, using it as an informational and political resource to achieve his own political aim, of which he spoke openly in an interview given to the “Echo of Moscow” Radio.\textsuperscript{128} The replacement of the so called oligarchs, who used the media to realize their personal political and commercial aspirations with large corporations controlled by, or simply loyal to, the federal power is a dubious means of protecting freedom of speech in the media.

Representatives of the Lukoil-Garant pension fund, the company that initiated the conflict between shareholders, justified their effort to liquidate the television channel by quoting the Russian Federation Civil Code (Clause 4, Article 99) and Federal Law “On Joint-Stock Companies” (Clause 4, Clause 5, Article 35). These laws allow for liquidation of a joint-stock company if its liquid assets remain smaller than capital assets for two years in a row. On September 27, 2001, the Moscow Arbitration Court ruled in favor of Lukoil-Garant, calling for the liquidation of ZAO MNVK. This decision was appealed by TV-6, but on November 26, the appeal was declined. The Federal Arbitration Court of the Moscow district ruled on December 29, 2001, in favor of TV-6, thus overruling the two previous decisions of the Moscow Arbitration Court. However, on January 4, 2002, the decision of the district arbitration court was appealed by E. Renov, deputy chairman of the Supreme Arbitration Court. As a result, on January 11, the Presidium of the Supreme Arbitration Court ruled that TV-6 was to be liquidated. On January 22, TV-6 stopped broadcasting by order of the Russian Federation Ministry of Press.

\textsuperscript{126} See the chapter “Freedom of Speech and Access to Information” in the Collection of Reports Human Rights in Russian Regions — 2000.

\textsuperscript{127} Putin Let the TV-6 Situation Take Its Course,” Lenta.Ru (January 15, 2002).

\textsuperscript{128} Interview of B. Berezovsky to the “Echo of Moscow” Radio. Federal News Service (January 11, 2002).
Court procedures pertaining to consideration of such lawsuits is almost non-existent. There are only two such precedents: suits against the Media-Most holding and ZAO MNVK. At the same time, Article 35 of Federal Law “On Joint-Stock Companies” is absent in the new version of the said law, which comes into force in 2002, allowing one to consider this article as inactive. In general, application of the above-mentioned law does not look legally faultless, since Federal Law “On Mass Media,” the application of which should have been a priority, was never taken into account. Existing controversies in the legal norms allowed courts to examine the case by relying exclusively on the Civil Code and Federal Law “On Joint-Stock Companies.” They ignored the specific fact that the MNVK joint-stock company was a source of mass information. Specifically applicable is Clause 1 of Article 16 of Federal Law “On Mass Media,” which states that the right to initiate lawsuits targeted at termination of broadcasting rests only with the registration authority and the Russian Federation Ministry of Press.

The TV-6 television company, consisting of a team of journalists led by E. Kiselyov, was officially registered on January 24, 2002. It has submitted its application to participate in a competition, scheduled for March 27, 2002, for the right to broadcast on the frequency of the former TV-6. At present, there are no private federal channels broadcasting in the meter frequency range except for NTV, which is controlled by Gazprom, which is in turn controlled by the state.

Thus, political activity of the executive power in the sphere of mass media has been focused on media holdings. While private media structures were disintegrating, a state media holding composed of a large number of regional and federal companies broadcasting television and radio signals, including those operating in the private media sector, was being consolidated with the active participation of President Putin and the Russian Federation Government. It took over a year to develop a project targeted at the establishment of a state holding uniting all television and radio stations under one joint-stock company, with the state owning the controlling interest. On August 13, 2001, the President signed a decree “On the Establishment of a Single Federal Russian Television and Radio Broadcasting Network” (RTRS), which was composed of the Chief Center of Television and Radio Broadcasting (GTsRT), the Chief Center of Management of Radio Broadcasting Network and Arterial Radio Communication (GTsURS), and the All-Russian Television and Radio Company (VGTRK). Initially, the project implied establishment of a public corporation, but this aspect was not implemented. According to the unitary form mandated by the presidential decree, the state is to be the sole proprietor of the newly consolidated 88 regional broadcasting centers. The right of managerial appointment of the new media structure rests with the President. It can be assumed that the state-owned holding, controlling an enormous portion of informational infrastructure of the country, has been established to promote presidential politics and support

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129 As it has been noted before, by late January 2002 the plans to sell shares of the television company announced by representatives of the Gazprom-Media remained unexecuted.

established to promote presidential politics and support the 2004 presidential election campaign.

At the same time, during the past year, the State Duma initiated the discussion of a number of draft laws whose potential adoption may limit the freedom of speech and rights of the media. The desire to meet the requirements put forth in the Concept of Informational Security, adopted in 2000, is the basis for action for some of the legislators, and from time to time this Concept assumes the form of urgent legislation. Provisions of the new Concept are frequently understood to mandate a limit on exchange of information and require stricter control over information flows. For example, amendments to Federal Law “On Mass Media” that pertain to foreign participation in company’s stock, forbidding foreign nationals and individuals with dual citizenship to own 50% or more of a company’s shares, were quickly adopted in April of 2001. Adoption of these amendments coincided with the battle against the Media-Most holding whose main shareholder was V. Gusinsky, an individual with dual citizenship. The impression is that the hasty adoption of these amendments was the capping of the political war waged at changing the proprietor of NTV.

Legislation regulating the informational field has undergone a number of changes. State officials have repeatedly expressed their dissatisfaction with the fact that central Russian newspapers publish interviews with representatives of the opposing side in the Chechen conflict.131 Moreover, after Nezavisimaya Gazeta had published an interview with A. Maskhadov, presidential aid S. Yastrzhembsky pointed to the existing imperfection in Russian legislation related to the regulation of freedom of speech and suggested that the State Duma “should pay attention to that.”132 The State Duma adopted amendments to Federal Law “On Mass Media” that prohibit the advocacy and justification of terrorism, which may be viewed positively. But at the same time, the law forbids the dissemination “via media or otherwise… statements of terrorists, extremists, and other individuals impeding the conduct of anti-terrorist operations in any form.”133 This innovation may, in fact, result in the media’s inability to report on Chechen troop activities without fear of punishment.

131 On January 31, P. Kovalenko, member of the RF State Duma Committee on Informational Politics, declared that providing Chechen troops and their leaders with opportunities to express their views in Russian newspapers was inexcusable and identified it with “those targeted at support of the Chechen troops.” What caused some Deputies to apply to the Minister of Press, M. Lesin, was an interview with A. Maskhadov published by Kommersant daily and Internet-based Grani.ru. In late February, Nezavisimaya Gazeta also published an interview with A. Maskhadov which caused the negative reaction of presidential aid, S. Yastrzhembsky and on March 2 the RF Ministry of Press gave an official warning to the newspaper. On August 31, S. Yastrzhembsky made a presentation in which suggested that amendments be made to the existing legislation which would prevent mass media from disseminating information originating from Chechen troops. This was caused by another interview with A. Maskhadov published by Kommersant daily. On October 31, he made a more concrete statement implying “self-limitation from informational pantophagy” and raising the issue of boundaries of the freedom of speech in the circumstances of the anti-terrorist operation. For more information, see “Monitoring of Violation of Rights of Journalists and the Press and Conflicts Associated with Coverage of Events on the Territory of the Chechen Republic.” Center of Extreme Journalism — www.cjes.ru (2001).

132 For more information, see “Monitoring of Violation of Rights of Journalists and the Press and Conflicts Associated with Coverage of Events on the Territory of the Chechen Republic.” Center of Extreme Journalism — www.cjes.ru (2001).

publicize the viewpoint of the opposition, but also to cover events in Chechnya more or less analytically. A broad interpretation of these amendments may possibly lead to abuses on the part of controlling structures. At the same time, introduction of the above-mentioned limitations corresponds to the current political state of affairs. One possible result may be a limiting of pluralism in opinions about the situation in Chechnya, pushing public discussion of this problem further into the background and increasingly distracting the public’s attention from military operations.

The federal government has undertaken a number of measures targeted at increasing possibilities to regulate the media and strengthen control over independent publications. Alterations in tax legislation, in particular, introduction of a 10% VAT on mass media,134 is in fact a fiscal instrument that serves to regulate the number of media outlets and volume of circulation. Introduction of the tax may lead to liquidation of a number of publications, especially at the regional and local levels, and as a result, a general reduction in the number of publications. Politico-analytical publications will be the first to face difficulties once prices go up, as they tend to be less in profitable. The demand for books and periodicals will also decrease in response to higher prices. But the most important aspect affecting freedom of speech is that by abolishing state support for mass media (prolongation of benefits), regional powers acquire additional opportunities to subsidize local publications selectively. And ultimately, the replacement of media supported by the state by beneficial taxation and subsidies will result in the growth of local press’ dependence on regional powers.

Russian legislation regulating issues related to professional activities of journalists in the Chechen Republic is undergoing significant changes, resulting in a strengthening of control over reporters. In addition, due to the Russian Federation Presidential Aid Department, journalists are required to register with the press-center of the United Group of Forces (OVG). The rules governing accreditation procedures with the Russian Federation Presidential Aid Department of S. Yastrzhembsky135 do not directly refer to a mandatory registration with the United Group of Forces press-center, although Paragraph 12 does require journalists to “observe the United Group of Forces internal house rules” during their stay “in the zone of military operation or inside troops’ quarters.” The order regulating journalists’ work established by the United Group of Forces, an internal circular whose text has never been made available to media editorial boards,136 allows preventing a journalist from conducting professional activities on the territory of Chechnya should this journalist not be registered. At the very least, this order gives federal troops the right to create obstacles for journalists who

134 Initially, it was presumed that all tax benefits for mass media would be abolished and a 20% VAT tax would be introduced just like with all other commercial entities. Therefore, the 10% VAT tax is viewed as a tax benefit. But in fact, what we have been dealing with since January 2002 is not a beneficial 10% instead of a 20% VAT tax rate, but rather introduction of taxation for mass media.


136 The RF Union of Journalists states that the text of rules established by the military command “…has never been supplied to any of the newspapers which send their employees to the North Caucasus. See: “Explanation of Colleagues: Game without Rules” at www.ntvru.com.
have been actively working in the conflict zone without registration, including the right to apprehend journalists for as long as it takes to go through all formalities.

Anna Politkovskaya, a journalist of *Novaya Gazeta*, was apprehended on February 20, 2001. This was possible because she had not complied with the United Group of Forces press-center registration rules, although she had properly registered with the Russian Federation Presidential Aid Department. Additionally, one of the OVG rules specifies that journalists may travel within the republic only under escort of the military, a rule A. Politkovskaya ignored. A. Politkovskaya, a well-known journalist, has dedicated her professional life to informing the public on issues regarding the civilian population of Chechnya and to securing assistance to those who have suffered during the military operation. This trip to Chechnya was her nineteenth and she never before had encountered such resistance. The journalist was kept inside the quarters of a marine regiment for three days, with no opportunity to move about independently. Journalists’ non-compliance with the regulations established by the High Command cannot be grounds for the military to exert psychological pressure and harassment on those who criticize the actions of the federal troops in Chechnya. Officials attempting to deny the apprehension explained the three-day stay of A. Politkovskaya in military quarters as simply the inability to provide the journalist with an opportunity to fly to Khankala, where the primary press-center was located, because of “bad weather conditions.”

Journalists’ opportunities for independent work in the Chechen Republic are also limited by new travel regulations, adopted on July 26, which imply that a press-service officer must accompany each journalist when outside of the Khankala military base. In a territory where distribution of information is, in fact, forbidden, each new regulation increasingly impedes access to and dissemination of information. Coverage of events occurring during anti-terrorist operations is allowed only within the limits established by the military command and federal authorities.

In 2001, one of the main tasks of the Russian Federation government was to organize the informational network of Chechnya. This implied restoring television and radio broadcasting in the territory of the Republic and making arrangements for the publication of local periodicals. The population of Chechnya has access to a limited number of sources of information. These are confined to informal, state, and a small number of private media outlets that constantly experience difficulties. In February and March, residents of a part of the republic’s territory began

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to receive transmissions of the official federal television channels, RTR and ORT, as well as Radio of Russia, “Free Chechnya” Radio, and some municipal and district newspapers. In light of this, Radio Liberty decided to start broadcasting its programs in a number of languages of North Caucasus peoples, including the Chechen language, in order to provide an alternative source of information to residents of the republic. The reaction of the federal authorities was visibly negative, based on the conviction that the station’s editorial politics, with respect to actions of the federal troops in Chechnya, was “partial and biased.” Director of Promotion of Russian Federation FSB Programs, A. Zdanovich, expressed the fear that the radio station might aid in “intensifying the ideological war against Russia.” This overtly expressed dissatisfaction with the radio station’s decision to start broadcasting in the Chechen language supports the characterization of Chechen informational space as being closed and strictly controlled by the authorities.

Legislative activities of representative and executive authorities in the regions often contradict federal legislation and limit or directly violate the freedom of the media. In many ways, the legislative activity of regional and local authorities aimed at tightening control over the media is associated with limiting access to and attempting to interfere with the process of gathering information.

In the Voronezh region and the Republic of North Osetia-Alania, the administrations have created structures authorized to control informational contents. Justifying its actions by citing the existence of “threats to regional informational space,” the administration of the Voronezh region has formed a “Council for the Protection of Information.” The President and government of Osetia, showing care for the moral well-being of minors, are striving to establish public councils that are to implement “measures to clean up the informational field” and constructively facilitate the formation of a system of moral values. Moreover, the legality of these measures is based solely on their popularity with the public. The very establishment of public councils is not something that directly violates norms of Federal Law “On Mass Media,” but the troubling fact is that the legislative innovation preceded an election campaign, in which the role of the media is vitally important.

The accreditation procedure is becoming more convoluted in regional regulations. For instance, the Nizhny Novgorod tax authority has developed a law establishing the order of priority for accrediting journalists and for regulating the number of journalists and photographers. Depending on the level of priority, a maximum number of journalists and photographers who have the right to apply for accreditation must be identified. The highest priority is granted to publications of the regional level, whereas federal and district media may accredit only one journalist, correspondent, or photographer each. In addition, the newly adopted “Provision on Accreditation of Representatives of Mass Med-

140 Ibid.
142 Ibid. (January 2001).
All-Russian Report — 2001. Section 2 117

...of a personal nature. Adoption of this provision limits access to information for a range of media sources and forms a privileged group of regional publications and television companies.

Limitations of access to information through accreditation mechanisms also exist in the Republic of Kalmykia. The decree of the republican government of March 26, 2001, states that a journalist can be deprived of accreditation through a court of law, should he or she distort the activities of the republican government. There are reasons to assume that any assessment made by a journalist with respect to activities of the republican government, which he or she is entitled to do in accordance with Federal Law “On Mass Media,” can be classified as distorting the truth. Media representatives find themselves in a situation where it is easier to avoid lawsuits by disseminating the official, governmental point of view. Moreover, this decree contains a provision that allows a press secretary of the government to review materials prior to their being published or aired, which can be regarded as imposing an element of censorship. Currently, this decree is being examined in a court of law in connection with a civil lawsuit dealing with rights of journalists inside the republic.

The government of the Saratov region limited access to information for local journalists through a simple decision: sessions of the Presidium of the regional government have become private, regardless of the subject under discussion. This was put into effect by a notice signed by the Minister of Press of the Saratov region, Yu. Sanberg, and distributed in advance by e-mail to media sources, not by governmental decree. In addition to violating the legislation on mass media, the legality of the above-mentioned document is doubtful, since on January 4, 2002, the actions of Yu. Sanberg were judged illegal in a court of law.

Amendments to the “Provision on Accreditation of Journalists,” developed by the City Council of Achinsk (Krasnoyarsk territory), introduced a number of limitations on gathering of information. In particular, the amendments specified mandatory topics to be covered by the local press and set forth specifications according to which journalists are now required to assess activities of the City Council in an unbiased and multifaceted manner. In this case, the legal right of journalists to freely select topics and freely assess events is ignored and directly violated. The impression is that municipal authorities are trying to economize...
mize on publications of the City Council, whose duty it is to timely cover and appraise decisions and actions of the Council.

In some regions, accreditation requirements are not based on any relevant federal law. For example, the accreditation procedure at the Legislative Assembly of the Vladimir region is made more difficult by requiring three years of prior experience in journalism. Additionally, an accredited journalist must not have participated in any capacity in court cases initiated by the Legislative Assembly that had to do with protection of honor, dignity or business reputation. Not only does the regional provision on accreditation contradict federal legislation, which is devoid of any requirements of prior professional experience, but it also reflects an erroneous understanding of civil law. In fact, lawsuits about protection of honor and dignity pertain only to violations with respect to physical entities, not to a legislative assembly, which is a legal entity.148

The frequently convoluted accreditation procedures, which are also in violation of federal legislation, may result in the formation of a privileged group for which access to information is not impeded. Based on the opinion of V. Dorkin, Dzerzhinsk city head, the private publication Nash Listok was denied the right to obtain information about the activities of the City Council. Dorkin, in his conversation with a correspondent of Nash Listok, informed the journalist that he was not allowed access to sessions of the City Council because he violated not only constitutional and federal laws, but also the City Charter.149 Local officials denied Nasha Zvezda access to information based on the fact that the municipal administration was working with a different publication.150

Results of monitoring conducted by the Glasnost Defense Foundation indicate that there is a tendency to form “black” and “white” lists of journalists representing various publications. Officials of the Omsk regional administration have legitimized “lists of individuals and publications eligible to attend official events,” which can be regarded as a direct violation of Federal Law “On Mass Media.”151 According to the central newspaper Moskovsky Komsomolets, an analogous system is in place in the Russian Federation State Duma. The only difference is that while in Omsk “blacklisted” journalists are not allowed to enter the administration building, journalists “disagreeable” to the State Duma are allowed to gather information and enter the Duma building if escorted by the aid of the parliamentarian whom the journalist has come to interview. A Moskovsky Komsomolets journalist, Ekaterina Deyeva, found herself subjected to the above constraints after having published a series of articles negatively depicting certain State Duma Deputies.152

148 Rossiyskaya Gazeta (July 12, 2001).
149 The conversation between the correspondent and the city head and administration officials was confined to the following: “We will not let you in here, please do not attempt to get into the building!” — quoting V. Vorobyov, “Code Red.” Nash Listok — www.nps.monnet.ru (2001).
152 Moskovsky Komsomolets (June 30, 2001).
Passing measures forbidding certain activities often coincides with election campaign periods. For example, the Kirov Regional Duma forbade filming videotapes, a violation of the principle of freedom in gathering of information. According to the press secretary of the Kirov Regional Duma, the ban was necessary in order to prevent the dissemination among voters of “non-constructive presentations of deputies,” many of whom were running in local elections. In addition to violating federal legislation regarding media, citizens’ electoral rights to obtain direct information on legislative activities of a candidate were also violated. Open discussion regarding the budget was also forbidden, although previously was openly discussed. To maintain their popularity, deputies who initiated the prohibition abused their authority by thus impeding the formation of voters’ electoral decisions.

Journalists of some central publications were denied the right to cover the inauguration ceremony of the re-elected Governor of the Irkutsk region, Б. Govorin, because they had supported other candidates during the election campaign.

On the whole, the ability of the media to form and maintain public opinion renders them a very effective instrument in the rotation of the political elite. Therefore, during election campaigns relations between the power elite and media become more antagonistic. During all phases of an election campaign, both those in power and those running for office make every effort to check the smallest criticism capable of discrediting their actions. During monitoring conducted by the Glasnost Defense Foundation and the Center of Extreme Journalism, a number of infringements on the media’s freedom were registered. As a rule, those who actively participated in the political process at the local, regional, and federal levels were pressured. General social and economic dissatisfaction within the country served only to enhance the status of the media, as it tended to criticize political decisions and actions of the ruling bodies.

For example, events unfolding around the private television company TVK in Lipetsk initially began outside of a legal framework. On the eve of regional elections, interest in TVK increased because the channel was one of the most popular in the city and thus potentially an effective instrument of influence during the election campaign. The disputing parties were shareholders in the company. Some of them were affiliated with the regional administration and others, with the Novolipetsk Metallurgic Factory. AO Energy, owners of 35% of shares of the company, conducted a meeting and approved new management, with the support for the election campaign. The old management, supported by a team of journalists, disputes the legality of the new Director General’s election.

154 Based on materials of RTR (September 7, 2001).
The Kuntsevsky municipal court of Moscow and the Sovetsky district court of Lipetsk banned a shareholders’ meeting called by AO Energy. But despite the court rulings, the meeting was held and a new Director General was elected. In implementing this decision, the new management occupied the offices of the television company and hired new security guards. Access to the building where the company’s offices were located was denied to journalists and, in fact, a forced seizure of the company took place. The journalist team protested against the decisions of the new management and on August 31, the Sovetsky district court of Lipetsk ruled that the newly-elected Director General was forbidden to either manage the company or impede the professional activities of journalists and former head of the company. But on the same day, when the high bailiffs presented the new management with the verdict and the new security guards allowed the journalists into the building, the chief bailiff withdrew the writ without explanation. As a result, the journalists barricaded themselves inside the company’s offices, while the security firm that had been hired by the newly-appointed management made another attempt to seize the company’s offices. The Russian Federation Ministry of Press disconnected the transmitter of the Lipetsk telecommunications company, “to ensure that the dispute be handled in the legal arena,” and subsequently suspended its broadcasting license, on the basis of complaints filed by journalists who had not acknowledged the new management.

The trial of the Belgorod journalist, O. Kitova, falls within this same category of political conflict. The regional prosecutor’s office accused O. Kitova of five counts of criminal behavior: “insulting” (Article 130 of the RF Criminal Code); “slander” (Article 129 of the RF Criminal Code); “impeding the administering justice and conduction of a preliminary investigation” (Article 294 of the RF Criminal Code); “use of violence against a representative of the authorities” (Clause 1, Article 318, of the RF Criminal Code); and “insulting a representative of authorities” (Article 319 of the RF Criminal Code). As a result, O. Kitova was given a two and a half years suspended sentence, 20 000 roubles in fines, and was deprived of the right to be elected for a three-year period.

As a deputy of the City Council and head of a profile committee of the Belgorod Regional Duma, O. Kitova had direct access to city financial and commercial information. Conducting successful independent investigations, O. Kitova exposed and prevented large, legally-dubious financial deals involving the regional government. O. Kitova publicized the results of her investigations in Belgorodskaya Pravda, the most popular regional newspaper, of which she was a permanent author. Exposure of facts demonstrating corruption within the local power structures on the eve of reelection of the governor and other officials. It is not incidental that the regional prosecutor’s office ignored Regional Law “On the Immunity Status of the Deputy of the Belgorod Regional Duma,” which provides for broader guarantees of

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156 Ibid.
158 “Court Instances Preoccupied with Search of “TVK” Owner” Center of Extreme Journalism — www.cjes.ru (November 5, 2001).
immunity for a deputy if a lawsuit is filed against him or her. In particular, the Regional Duma is obliged to consent to the arrest of a deputy against whom a lawsuit is filed charging him or her with a crime against a person. This is not accounted for by federal legislation.

Many Russian and foreign observers assess judicial events involving journalists and political figures as expressing a political bias rather than strictly legal values. Additionally, these observers speak of unprecedented physical and psychological pressure being exerted against journalists. These observations are based on many examples of legal aberrations. Examples include unfounded accusations, faulty investigation methods, including subpoenas accompanied by inadequate application of force, investigators turning a blind eye to local legislation about deputy status, which forbids interrogation of a deputy without consent of the Regional Duma, and the denial of timely provision of medical care.

The lawsuits against journalist and deputy O. Kitova is based on Federal Law “On the General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of the Russian Federation,” which guarantees immunity for deputies, but also places limits on their immunity. In cases where a deputy’s actions are associated with a crime against a human being, instigation of criminal proceedings against this deputy, as well as his or her arrest, becomes legitimate without the consent of the legislative assembly. The criminal case against O. Kitova on the count of slander was the first of the five to be instigated on the basis of a complaint filed with the prosecutor’s office by the mother of a young man, who claimed he was the victim of a gang rape. Having conducted an independent investigation, O. Kitova managed to prove that those under investigation had been framed and the case had been concocted. She described her findings in a series of articles published in Belgorodskaya Pravda and Obschaya Gazeta. The mother of the victim did not agree with results of the investigation and filed a complaint with the regional prosecutor’s office. In the course of their investigation, O. Kitova was forcefully brought to the prosecutor’s office twice and was subsequently arrested several times, which contradicts the regional legislation on guarantees of deputy immunity, which, as previously mentioned, provides more protection than the Federal legislation.

To see yet another example, the real reason Elvira Mazhennaya, editor-in-chief of the television company City Channel (Yaroslavl region), was accused of slander was that she was just doing her job. E. Mazhennaya prepared some material on the establishment of federal districts in Russia. In support of the possible effectiveness of this measure, she used an example of mutual settlement of accounts between the Governor of the

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200 Two criminal cases were supplemented with the previous three and deal with “exerting violence against police representatives.” Note, that “the suggestion to come over and provide explanations” to the prosecutor was made by a group force of 10 police officers.” See: I. Naidyovov, “To Beat the Journalist — To Love the Motherland.” Obschaya Gazeta (March 29, 2001, #13).
region, A. Lisitsyn, and head of the Financial Control Department (KRU) of the Yaroslavl region, N. Ryzhkov. In her television report, E. Mazhennaya mentioned the destruction of the regional administration’s financial audit documentation in exchange for establishment of a Chief Controller’s fund. Head of the department, N. Ryzhkov, and her associates used this fund to extract bonuses.

When the police were investigating the allegation of slander, a number of violations were committed. In particular, a federal search warrant was issued against E. Mazhennaya; however, she did not show up for interrogations because she was away on vacation. In addition, inappropriate investigation methods were used, including the illegal seizure of property, which indicates that pressure was exerted against the journalist. Ultimately, at the end of the court proceedings, E. Mazhennaya was acquitted based on the lack of corpus delicti. However, this ruling was made possible not because journalists of the television channel and E. Mazhennaya presented the court with documentation proving their conclusions, but because it is legally inadmissible to consider a case of protection of honor and dignity of an organization (Financial Control Department of the Yaroslavl region in this case). At the same time, the court did acknowledge that a portion of the material had affected the honor and dignity of the regional Governor and director of the Financial Control Department. Although the court had acquitted the journalist, a formality was found to deny a criminal case, apparently in order to avoid harming the reputation of regional officials and the Governor.

On the whole, criminal cases dealing with protection of honor, dignity and business reputation remain one of the basic methods of exerting pressure and influence upon media by representatives of regional and local power. The Civil and Criminal Codes provide for fines and monetary compensation for moral damages, in addition to official refutation in relevant media. Frequently, amounts claimed by victims may lead to bankruptcy of the media source. Courts, understanding this consequence, often reduce awarded claims by a substantial amount.

The Mayor of Kuznetsk (Penza region) filed a lawsuit against the publisher of Lyubimaya Gazeta, O. Kochkin, citing damage to his honor and dignity. However, while demanding compensation for moral damages allegedly inflicted upon him, he did not provide the slightest proof. The legally unsubstantiated claim, containing no description of the very event when slander was committed, was accepted and subsequently upheld by the court. The defendant was sentenced to pay one million roubles in fines for compensation of moral damages inflicted upon the plaintiff. Initially, the plaintiff, Mayor of the city, estimated the amount of compensation to equal three million roubles.

As it has been noted before, claims on protection of honor and dignity can be filed against a physical, not a legal entity. Physical entities can only be accused of damaging someone’s business reputation.

162 Novaya Gazeta (September 25, 2001, #69).
Head of the city administration of Donetsk (Rostov region), Yu. Tarasenkov, filed a lawsuit against the local newspaper Nashe Zerkalo for having assaulted his “honor and dignity.” He accused the publication of defaming him, and of publishing untrue information that discredited him. He estimated the amount of compensation for moral damages to equal 150 thousand roubles. For a local newspaper, this amount is enormous. It is necessary to note that the content and meaning of Clause 2, Article 129 of the RF Criminal Code was interpreted in a legally illiterate manner. Thus, in the claim filed by the Donetsk Mayor, the newspaper is accused of using “metaphoric expressions,” “probable judgements,” “euphemisms,” “polysemantic notions,” “hints,” etc., that create a negative image in the minds of voters. But Clause 2, Article 129 of the RF Criminal Code implies that the law can address only disseminated information and facts, not assessments, metaphors, and assumptions.

An analogous situation occurred in the Kemerovo region when the title of an article, which appeared in the newspaper Moskovskie Novosti, became subject of an investigation conducted by the Mezhdurechensk city court. The claim was filed against the title and subtitle of the article “Privatization of Power. This is What Happens Behind the Broad Back of a Patriot and Father of Kemerovo Residents, Aman Tuleyev.” This title, not the facts of corruption among regional top officials, allegedly stung the honor and dignity of the Kemerovo Governor, A. Tuleyev. The favorable decision of the court refuted not the facts presented in the article, but the interpretation of the title. The court arrived at the following conclusion: “Literal interpretation of the title implies that the power in Kuzbass is being sold to private entities and the unlawfulness that is reigning is akin to that of the Stalin’s rule.” The Mezhdurechensk city court (Kemerovo region) considered the case initiated against Moskovskie Novosti on the basis of Tuleyev’s claim because one of the local newspapers reprinted the article. Presumably, any other court that was not controlled by the local governor simply would not have accepted such an absurd case.

In addition to questioning journalists’ pronouncements and opinions in court, erroneous understanding of law is also widespread. As it has been noted before, claims on protection of honor and dignity can be filed against a physical, but not a legal entity. Physical entities can only be accused of damaging someone’s business reputation.

Monitoring conducted by the Center of Extreme Journalism has registered cases when local power exerted pressure against private media with the purpose of gaining subsequent control over them. As a rule, such pressure is exerted by indirect administrative methods. For example, an independent television company, Shans, which had been founded by a team of

165 See: RF Criminal Code, Article 152, Clause 1: “A citizen has the right to demand in a court of law that any information damaging to his or her honor, dignity or business reputation be refuted should the one who has disseminated such information fail to prove that it is true.” Quoting: RF Criminal Code — Part 1 (Moscow: 1995).
167 Ibid.
journalists on the basis of the former television company, Mir, that belonged to the local administration and the joint-stock company Rostovugol, was disconnected from electric power supply on the basis of company’s “lack of documents necessary for television broadcasting.” The new Mayor of Shakhty, Yu. Zagorulko, questioned the legal propriety of rental agreements signed by the previous administration and the Shans television company. As a result, the city head ruled that the company was to vacate its office, which was located inside a municipal building. On the whole, manipulations related to rental contracts remain one of the most effective methods of exerting pressure against media that are not loyal to those in power.

Violations in Connection with Information Distribution

During election periods, those currently in power who run for re-election, attempt to minimize opportunities of their opponents to publicize their election campaigns in, for example, the most widely read newspapers. Thus, the Chestnoye Slovo newspaper was denied distribution, without explanations and in violation of an agreement with the publisher. Publication of Dalnevostochnye Vedomosti (Primorsky territory) was halted because of a complaint filed with the regional election commission by a candidate running for the Territorial Duma, G. Lazarev. Representatives of local law enforcement authorities justified these actions based on the “provision of a future court decision,” but this may not be used as justification. Thus, it is possible that justified attempts to comply with election legislation that aim to guarantee “equal electoral rights” lead to violations in the sphere of freedom of the press, thereby depriving voters of the right to information.

The editorial board of Kazanskoye Vremya, a weekly newspaper which is disloyal to the administration of the republic and publishes various materials compromising the current power, was subjected to illegal actions of law enforcement authorities of the republic. The newspaper’s issues containing material on elections of the President of Tatarstan, designated for distribution in the republican province, were seized for violations of the Administrative Code in absence of a court certification. Apparently, violation of the rights of the media in the sphere of dissemination of information, in particular preventing circulation, is one of the methods of pressure used, especially when considering that Kazanskoye Vremya weekly is in opposition to the President of Tatarstan.

Attempts to stop distribution of publications capable of turning public opinion against those currently in power occur in the Russian regions. On the order of the head of the Lipetsk regional postal service department, N. Pisarev, circulation of one of the issues of the Lipetsk newspaper, Metallurg, was not delivered to the Dobrovsky district. This issue contained an

article criticizing actions of the head of the district administration, A. Glazunov.

Nezavisimaya Gazeta, a central publication, conducted an independent investigation into the administration of the Smolensk region’s links to criminal milieu. Results of the investigation were printed in the article “Battle for Smolensk,” in one of the newspaper’s issues. Every issue on sale at newsstands in Smolensk was bought up. Information directly related to residents of Smolensk became available only to subscribers of this newspaper. The natural result of such illegal actions, which violated the constitutional right to information, was the citywide distribution of photocopies of this article.

Access to Information

Transparency in the “Administration of Justice” (Article 9), guaranteed by the Civil Procedure Code, is limited in a number of Russian Federation subjects. The Leninsky court of the Tomsk region has developed a Circular “On the Order of Admission into the Court Building” that limits access of mass media to court hearings. According to this circular, a representative of the media is obliged to inform the chairman of the court of his or her arrival and then proceed according to instructions of the judge. The Verkh-Isetsky court of Ekaterinburg (Sverdlovsk region) also decided to limit journalists’ access as of January 1, 2002. A representative of the media is allowed to attend a court hearing only if he or she can show a “memorandum signed by the chairman of the court.” Introduction of court passes directly contradicts current legislation and limits access to information for media representatives, as it also does for any other citizen.

A correspondent and a photographer of the newspaper Toliattinskoye Obozreniye, who happened to be in the building of the Avtozavodsky District Court (Samara region) waiting for the beginning of a hearing, were apprehended by courtroom security and detained for three hours on the basis of “not having been authorized by the court to conduct videofilming in the corridors of the building.” Apprehension of the journalists was illegal as a judge’s authorization is necessary only for videofilming in the courtroom during a hearing. Because of the apprehension, the planned material for the new item was not collected, since by the time the journalists were released the court procedures had been completed. The accusation against the journalists was absurd, and the actions of police officers that abused their power and thus prevented them from conducting their professional activities contradict Clause 2 of Article 144 of the RF Criminal Code.

173 V. Svinin, “Lenin’s, but Not The People’s” Nezavisimaya Gazeta (July 10, 2001, #123).
175 Toliattinskoye Obozreniye (September 27, 2001).
176 Clause 2, Article 144 of the RF Criminal Code: “Prevention of journalists from performing their professional duties by an individual abusing his or her authority implies a punishment up to three

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Journalists of the NTV television company working in the Primorsky territory also encountered difficulties while attempting to gather information. Generally, the situation in the Primorsky territory cannot be characterized as complying with the norms of the federal mass media legislation or with the principles of freedom of speech. On the contrary, in 2001, a number of objective circumstances, first and foremost the energy crisis, negatively affected the development of the freedom of the media. Commenting on the local radio about the coverage of the energy crisis in the region by journalists of the central channels, Vladivostok Mayor, Yu. Kopylov, took the liberty to directly threaten media representatives and to blame them for all regional problems and lack of objectivity. 177

Local authorities make every effort to protect themselves from the press. Methods exercised by the Primorsky territory authorities vary from banning attendance of official events to assault and battery by security guards. For example, on June 7, 2001, several NTV journalists, awaiting arrival of the former Governor E. Nazdratenko at the airport of Vladivostok, were physically assaulted by a security guard of the Vladivostok Mayor and suffered public humiliation combined with obscene invectives coming from Yu. Kopylov himself. Although this incident was aired by numerous central channels, Yu. Kopylov did not apologize to the journalists, and the criminal charge of hooliganism against him was never satisfied due to lack of corpus delicti. 178

During the Mayor of Vladivostok’s meeting with striking laborers, Yu. Kopylov demanded that all videofilming be stopped and NTV journalists be thrown out of the building, without giving any explanation for his demands. 179

Information Production

According to the Fund “Public Opinion,” the percentage of Russian citizens who positively view the introduction of censorship has grown to 57%, 180 as compared to 49% in 2000. There is a lot of information coming from numerous regions regarding attempts of the local population to establish institutions performing censoring functions. The “public councils” established in the Voronezh region and North Osetia that were mentioned before are one such example. Based on television monitoring, family-territorial councils in the city of Omsk concluded that it was necessary “to clear from the television all violence, brutality, and sex.” These statements were backed by the numerous signatures of citizens that they had collected. 181 The fact that the initiative group addressed their petition to the power structure indicates that Omsk resi-
They expect to be granted legal authorization to perform censorship functions. The solution to this problem within the framework of a civil society and cooperation between the media and citizens’ groups might have been more effective and at least would not have contradicted current legislation.

Another striking example is a petition by the legislators of the Oryol region to President V. Putin, the Russian Federation Government, and the Russian Federation Federal Assembly, which was made in reaction to multiple complaints by “representatives of ordinary people” to the Oryol Governor, E. Stroyev. In this petition, the deputies insisted that “mandatory ethical and aesthetical censorship of mass media” be instituted. It is possible that certain media do abuse certain information, but appealing to authorities requesting that censorship be re-instituted may not be the most effective way to find an optimal solution.

Local authorities striving to control information contents use their resources in conducting legislative activities to financially support the media. The Kommunar newspaper (Ussuriysk, Primorsky territory) disagreed with a draft agreement prepared by the regional administration and Town Council of Ussuriysk, which requires the preliminary screening of articles published by the newspaper describing activities of the regional and local authorities. The newspaper petitioned the regional department of the Russian Federation Ministry of the Press requesting that the draft agreement undergo a legal review. The above-mentioned clause of the agreement was found to contradict Federal Law “On Mass Media.” Local authorities then decided not to publish their official materials in this newspaper, which can be regarded as a refusal to financially support this periodical. Utilization of administrative resources in the development of legislative acts and the subsequent pressure exerted on the newspaper can be viewed as an interference with the professional activities of journalists.

In acting within legal bounds, law enforcement agencies dealing with high-technology (P-departments) and economic crimes have unlimited possibilities to exert pressure against media and to interfere with editorial boards. Being authorized to control observation of the copyright law, employees of law enforcement agencies verify computers of media editorial boards to see if they use any counterfeit computer software and databases. It is practically impossible to prove or disprove whether a software application is counterfeit or not. Therefore, when law enforcement officers conclude that a counterfeit software application has been used, they requisition computer’s hard-drive. Such inspections often result in preventing certain media outlets from conducting their professional activities. The Kovroye Vestи newspaper had published an article containing material compromising to local authorities, which in turn demanded that their honor and dignity be protected in a court of law. On July 3, the editorial

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182 “Responding to Numerous Requests of Television Viewers Censorship Can Be Resurrected on the Local Television.” Glasnost Defense Foundation Digest (June 13, 2001, #43).
board of the newspaper underwent a four-hour long inspection searching for counterfeit software applications installed on their computers. The prosecutor authorized this inspection. As a result, eight computers were taken for further examination.184

Another lingering problem that still pervades Russian media is the disappearances and murders of journalists because of their professional activities. In 2001, three journalists disappeared and twelve were killed.185 The majority of criminal cases involving disappearance and murder remain uncovered by the press. Among such cases are the disappearance of the editor-in-chief of the Kurganskiye Vesti newspaper, V. Kirsanov (Kurgan region); the disappearance of the editor-in-chief of the Moskovsky Komsomolets — Smolensk newspaper, S. Kalinovsky (Smolensk); murder of the editor-in-chief of the Novy Reft newspaper, E. Markevich (Reftinsky settlement, Sverdlovsk region); murder of the journalist of Pskovskaya Pravda, A. Pivovarov (Pskov region). According to observers of the Glasnost Defense Foundation, these cases have political implications186 due to the fact that the professional activities of the disappeared and murdered journalists brought numerous facts compromising certain representatives of the power into the spotlight.

The Reporters Sans Frontieres (international NGO) has assessed the situation regarding freedom of speech in Russia as deteriorating. The growing number of journalists who disappeared or were assaulted or murdered supports this conclusion. Therefore, the Reporters Sans Frontieres have decided to establish a permanent press center in Russia in order to join their efforts with the Glasnost Defense Foundation in protecting rights of journalists and freedom of the media.187

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187 “Reporteurs Sans Frontieres Will Take Care of Russia” Prima (June 16, 2001, #276).
FREEDOM OF BELIEF, CONSCIENCE AND RELIGION

The situation with the freedom of opinion, conscience and religion remained rather complex and ambiguous in 2001.

Some experts held that during 1997–2000 the principal threat to the freedom of religion in Russia stemmed from a revised version of Federal Law “On Freedom of Conscience and Religious Associations,” which emphasized the special role of the Russian Orthodox Church (RPTz) in Russia and called for “respecting” Buddhism, Judaism and Islam. A number of important rights (securing the status of a legal entity, obtaining tax breaks, establishing new religious schools and educational facilities) was made conditional on the fulfillment of a requirement stating that a given religious community must have been active in the Russian Federation during the last 15 years. As a result, a number of religious associations, including those whose pursuits had been banned during Soviet times, found themselves (unlike RPTz and a few other confessions) heavily discriminated against: the new law made it difficult for them to secure registration. An array of regional religious associations (Catholics, Lutherans, Jehovah’s Witnesses) were denied the legally required registration because they had not been previously registered for 15 years.

In 2001, the problem of registration had been largely abolished as a result of the rulings passed by the Constitutional Court in 1999 and 2000. Because of those decisions, the 15-year requirement can no longer be applied to religious associations that had either secured registration before the updated Federal Law “On Freedom of Conscience” was passed or to those affiliated with organizations registered on the federal level. Notably, nearly all of the religious confessions that had been active in Russia by the time the new version of Federal Law “On Freedom of Conscience” was passed did have previous government registrations (including federal level registrations). Hence, the legal basis for discrimination against religious associations through official registration procedures has, in fact, ceased to exist.

Despite this positive turn of events, many regionally registered religious associations continue to be pressured and discriminated against (on the other hand, no federal-level violations against the freedom of conscience have been documented). Federal legislation, although not fully in compliance with international human rights standards, is not used to justify these discriminatory practices. Regional and local authorities either take advantage of covert administrative tools or base their actions on existing regional laws.

According to the Deputy Minister of Justice, E. Sidorenko, out of nearly 50 regulatory acts governing the activities of religious associations passed by 33 subjects of the Russian Federation, as many as 35 statutes contradict the RF Constitution. Registered violations involved the following legal provisions: Article 71 (“Coming under the purview of the

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In particular, according to O. Mironov, Ombudsman of the Russian Federation.
Russian Federation are the tasks of regulating and defending the human rights and civil liberties”); Article 14 (“Religious associations shall be separated from the State and be equal before the law’’); Article 62 (“Foreign nationals and non-citizens in the Russian Federation shall enjoy the rights and honor responsibilities at par with Russian citizens”). Clearly, violations of Articles 14 and 62 infringe upon freedom of conscience. As of May 29, 2001, the relevant laws in the Arkhangelsk, Lipetsk, Oryol, Ryazan, Tula regions and Udmurt Republic had been repealed and similar statutes in Bashkortostan, North Ossetia-Alania, Tyumen and Perm regions had been revised. Unfortunately, 22 subjects of the Russian Federation maintain laws whose provisions contradict those of the RF Constitution.

Notably, unconstitutional laws continued to be passed in a number of subjects of the Russian Federation in 2001. To provide an example, on March 1, 2001, the Belgorod Regional Duma passed Regional Law “On Missionary Activities within the Belgorod Region,” initiated by Governor E. Savchenko. The law, in fact, is aimed at limiting the activity of non-Orthodox-Christian religious associations. Under the legislation, minors are required to provide written consents of both parents when exposed to new religious teachings. This provision justifies the banning of religious rallies in public places, including open-air gatherings at city squares. The official justification for such bans is that authorities would be unable to ensure that all minors, potentially targets of religious sermons or appeals, carry written consents from their parents.

For instance, in April 2001, the Pentecostal Church “Word of Life” notified the Belgorod Mayor, G. Golikov, of an intended series of preaching sessions. The Mayor’s Office banned the planned activity, reasoning that, “It is not easy to find within the city limits an open-air ground where all requirements of the law on missionary pursuits could be satisfied. Such activities would inevitably attract numerous teenagers who would be unlikely to carry written consents from their parents.”

The Russian Orthodox Church, on the other hand, did not have to submit to any legal constraints on staging a series of Easter public worship services.

On February 16, 2001, pastors from nine larger Protestant denominations in the region sent a number of letters to the state authorities, including the Administration of the President of the Russian Federation, and to human rights organizations. This campaign was in protest this regional law that clearly contradicted the Russian Constitution and failed to meet international standards in the area of human rights.

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191 Ibid.
Similar cases (ranging from general statements of circumstances to descriptions of specific administrative rulings) have been reported in other Russian regions.

The Krasnoyarsk administration’s public relations’ office conducted a series of discussions with members of local public education, cultural and health-care communities. The main topic was “Spiritual Aggression by Religious Sects.” The Jehovah’s Witnesses were put into spotlight as a classic example in this respect.193

In February 2001, Saransk (Mordovia Republic) hosted a conference “Mordovia at the Turn of New Millennium: Problem of Totalitarian Sects.” The local RPTz, with assistance from the Council for Cooperation with Religious Organizations (established by the Office of the President of Mordovia Republic), Mordovia State Pedagogical Institute and Saransk Theological School organized this conference. The conference focused on strategies to counter efforts of the Jehovah’s Witnesses, Baptists, Evangelists and Pentecostals.194

The Nizhny Novgorod administration distributed a list of religious organizations cooperation with whom were not recommended to municipal, educational and cultural establishments. The Jehovah’s Witnesses and congregations of the “truly-orthodox” believers were included in this list.195

The Yoshkar-Ola administration (Marii El Republic) turned down an application from the Christian Center196 to hold a religious festivity in the city center, stating that the city center had already been reserved for other activities “for many weeks ahead.”197

The Evangelic Christian Church “Word of Life” bought an unfinished building in order to turn it into a prayer house. The Kaluga Regional Committee for Management of Government Properties that had spent nearly four years trying to sell the building, suddenly (after finding out about the intended function of the now-completed building) started to work towards having the sale ruled as illegal. However, on June 26, 2001, the Kaluga district court did eventually rule in favor of the church.

In 2001, the prefecture of the Southwestern administrative district in Moscow rejected a request by the Evangelic Christian Church “Emmanuel” to build a spiritual-cultural center and prayer house. The “Emmanuel” Church had acquired a plot of land in 1996 for this purpose. The local authorities had been stalling to authorize the construction project, providing varied and numerous

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194 “Will the Evangelic Christians in Mordovia be Persecuted?” Keston News Service (February 27, 2001).
196 The given religious association was established in the summer of 1993 by a US-origin Evangelic missionary. The Association (along with other 50 charismatic congregations) makes part of the Christian Association for Global Strategies.
pretexts. Finally, during a closed-door session of the district assembly, the “Emmanuel” application was rejected. It was said that many residents of the neighborhood had come out against the center. However, the religious organization’s representatives had been careful enough to conduct a survey of local public organizations (Society of Large Families, Society of the Disabled, Veterans Council) and collect the signatures of six thousand local residents stating that they had no objections to having a prayer house in their neighborhood. In addition, the prefecture officials refused to disclose either the minutes of the district assembly’s session or the official public survey findings that had allegedly motivated the session’s decision. Eventually, a prefecture official admitted that FSB was against the plan. When asked about the matter, an FSB spokesman responded by saying, “they had never addressed the question of building that church.”

Following the prefecture’s refusal to authorize the building, a local newspaper published a material stating that “members of the “Emmanuel” Church attempt to apply psychological pressure on the prefecture counselors” and “resort to twisting facts and deceiving local residents as to their real intentions.”

In March 2001, another Moscow-based Pentecostal congregation was evicted from their premises, which had been properly leased since 1999. The decision to discontinue the leasing arrangement followed a television program portraying the congregation as “a sect seeking to spread an alien culture.” Clearly, the Pentecostals have been “feeling pressures not only in Moscow but also in Perm, Nizhnii Tagil and Lipetsk,” according to Pastor S. Riakhovskiy. For example, the Nizhnii Tagil Pentecostal congregation, evicted by the city administration from their properly leased and newly renovated building, were left with no other choice but to conduct services in the open air for a while.

In February 2001, Yu. Semenov, head of the Penza Regional Department of Penalty Implementation (UIN), banned the distribution of religious literature from the Pentecostal Church “Living Faith” on the grounds of penal-labor colonies within the confines of the Penza region. This ban was put into effect despite an agreement of cooperation between the Chief Department of Penalty Implementation (GUIN) and the Russian Association of the Union of Evangelic Christians (ROSKhVE). In particular, Yu. Semenov stated that “he had been directed by some officials close to (Penza) Governor Bochkarev to put an end to any collaborative links with the “Living Faith” followers.” The year 2000 saw a number of efforts undertaken by the regional administration to suppress the congregation’s activities. To provide one example to that effect, V. Popkov, head of the Department for Religious Confessions, “personally undertook to counter the distribution of the Living Faith newspaper and urged the local police officers to detain those who distribute the paper.” What is more, the administration of Salute Hotel, on whose premises the congregation had been holding its worship sessions, was eventually compelled by the local

authorities to terminate their lease arrangement.\[201\] After the “Living Faith” Church had launched an effort to stand up for its interests (State Duma Deputy P. Shchelishch wrote some letters of protest in their support), their organization has been subjected to a series of inspections and audits by the Regional Department of Justice and Tax Inspection. No violations were found.\[202\]

Because of sustained pressure by the Sayanogorsk (Krasnoyarsk territory) authorities, the “Glorification” Church has been denied any opportunity to hold services in any of the town-based buildings. Notably, the police detained Pastor S. Ivashchenko four times, during worship services conducted outside. Under present circumstance, the congregation is now forced to hold its religious sessions out of doors, two kilometers outside of town limits.\[203\]

At the close of the year 2000, the Chekhov-based (Moscow region) Steering Committee of the Christian Evangelic Churches for Celebration of Christmas made agreements with local cultural organizations to lease some of the local movie-houses in order to show the feature film “Jesus.” Soon after, the managers of those cultural facilities began reimbursing the rental fees to the lessees and prematurely terminating contracts. They explained their decisions by referring to the verbal directive from the district administration head, G. Nedoseka, to cancel the contracts because “that movie about Jesus Christ propagates an alien and unorthodox belief.” When approached for an explanation on November 4, 2001, by members of the Steering Committee, the deputy head of the district administration, A. Chibeskov, produced a written order suspending all large functions due to hazardous epidemiological conditions persisting in the area. Interestingly enough, all New Year-related gatherings and festivities had been allowed to proceed as planned.\[204\]

Members of the Chekhov-based Protestant congregations became victims of local violence. There is reason to believe that the local authorities had urged the entire unsavory effort.\[205\] On April 17, 2001, the building where the Chekhov-based “Grace of Christ” Church held its services was destroyed by fire. The local police inspector and public enquirer “found a few bottles containing flammable remains and half-burnt wicks,” according to members of the Slavic Legal Center. Despite this evidence, according to unidentified sources, “police insisted it was a spontaneous fire.”\[206\] In spite of the fact that the evidence was all there to prove that the building had been destroyed deliberately, no legal action was initiated, pointed out the local Protestant pastors that dis-

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201 "Officials from the Penza region Continue to Obstruct Activities Pursued by the “Living Faith” Church." Radio-Church Infocenter (February 20, 2001).
203 “The Krasnoyarsk Territory: the “Glorification” Church in Sayanogorsk Continues to be Persecuted by the Mayor’s Office.” Radio-Church Infocenter (May 2, 2001).
204 “A Feature Film about Christ Banned in Chekhov.” NTV News Service (January 11, 2001).
205 Here is an excerpt from a statement made by the leaders of three Chekhov-based Protestant congregations addressed to the President of the Russian Federation: “A veritable war has long since been prosecuted against the Protestant Christians in Chekhov. They get terrorized by local criminal gangs with the authorities and law enforcement bodies turning a blind eye to the developments.” “Pastors Turn to the President for Protection.” Slavic Legal Center (November 12, 2001).
patched a collective appeal to President Putin. On April 9, 2001, Pastor P. Barankevich received a telephone call saying, “should the Pastor fail to discontinue his activity, he would be sorry.” The congregation had also been denied the right to lease the town theater, which had been used for several years to hold assemblies of the “Grace of Christ” Church.

On April 28, 2001, the Pastor of the Chekhov-based Pentecostals, K. Tossa, received a savage beating and had to stay in an intensive care hospital unit for several days. On October 16, 2001, he was attacked again. To add insult to injury, on the night of November 3–4, 2001, the yet-to-be-completed Chekhov-based Presbyterian Church building was set afire.

The torching of a religious building in the town of Chekhov has in no way been an exceptional case of violence aimed at the Russian-based Protestant congregations. In March–April of 2001, a Lipetsk-based Protestant church building was shot at and a pastor in Ivanovo was killed.

On July 22, 2001, a group of local Cossacks (headed by Ataman (chief) Koloborodov) and Orthodox Christian believers (headed by Father Alexy) numbering 300 men tore down an Evangelical vending stand put up by the Evangelical International Mission operating in the Azov and Rostov regions. When called for help and to restore order, the local police just observed the unfolding violence. The damage was valued at $10 000, according to the victims. The Cossack Ataman, appearing on local television, confirmed that he would not rule out a repeat of such actions.

Judging from the collected monitoring materials, it seems that the Jehovah’s Witnesses have been particularly hard hit across Russia. Even Rossiyskaya Gazeta (official newspaper of the Russian Federation Government) calls the Jehovah’s Witnesses Church (that has over 300 formally registered congregations and a government-acknowledged centralized structure in Russia) “one of the semi-legal confessions or sects.”

On April 16, 2001, Chairperson of the Chelyabinsk Regional Human Rights Commission, E. Gorina, with the assistance of the local police, stopped a worship service of the Chelyabinsk-based Jehovah’s Witnesses deaf and mute congregation. Nobody was able to produce either a proper lease or a document from the All-Russian Jehovah’s Witnesses Management Center, which actually holds the lease to the premises in question since the Chelyabinsk-based congregation has not been able to acquire regional registration. E. Gorina demanded that those in attendance should produce their IDs for her to see if there were under-age worshippers in the

207 “Pastors Turning to Russian President for Protection against Persecution.” Slavic Legal Center (November 12, 2001).
209 “Pastors Turning to Russian President for Protection against Persecution.” Slavic Legal Center (November 12, 2001).
assembly, particularly those, whose parents had come out against the Jehovah’s Witnesses. After this incident, the landlord quickly terminated the lease. Although the Jehovah’s Witnesses lodged a complaint with the local prosecutor’s office to protest against E. Gorina’s action, the judicial authorities somehow failed to see any legal infractions there. On January 25, 2001, the Chelyabinsk-based Sovetsky district court also left the given congregation’s complaint unsatisfied. The civil section of the Chelyabinsk Regional Court (June 28, 2001) upheld this ruling.213

On August 20, 2001, a “group of Cossacks” in Volgograd interrupted an assembly of worshipers conducted by the local Jehovah’s Witnesses congregation. The religious activity was stopped, and P. Bogdanov (head of the Cossack team) “addressed the assembled worshipers with words of insult and ignominy.” The other Cossacks proceeded to destroy all of the available religious literature. What is more, later in the day, P. Bogdanov physically attacked the congregation’s leader, D. Kalinin. On March 28, 2001, the Volgograd-based Krasnooktiabrsky district court found Bogdanov guilty of “obstructing an expression of the freedom of conscience” (Article 148 of the RF Criminal Code) as well as of “inflicting bodily injuries” (Article 116 of the RF Criminal Code). However, other Cossack attackers have never been brought to justice. The victimized party’s defense attorneys also maintain that the court of law “in considering Bogdanov’s testimony and the evidence provided by witnesses” should have concluded that “the defendant sought to incite to religious hostility” (Part 2, Article 282 of the RF Criminal Code). They maintain that the case should have been “additionally investigated.” However, it turned out that on June 5, 2001, the Volgograd Regional Court confirmed the original court ruling. Members of the local Jehovah’s Witnesses congregation intend to appeal against this decision.214

On May 10, 2001, the Prokhladny district court (Kabardino-Balkarian Republic) considered a case submitted by the local prosecutor’s office and ruled to outlaw the local Jehovah Witnesses congregation, which had been active since 1994. The prosecutors insisted that the congregation registered in the Republic of Kabardino-Balkaria would not be able to maintain links with the co-believers in the neighboring Republic of North Ossetia. However, the civil section of the Kabardino-Balkarian Supreme Court then overruled the decision, with the congregation being allowed to carry on its activity. During the court hearings, a spokesman for the local prosecutor’s office stated that “demands to have the congregation outlawed had been motivated by the desire to stand up for the interests of the state.” In the past, the Prokhladny-based and two other Kabardino-Balkaria-based Jehovah’s Witnesses congregations had been reregistered following authorization from the Nalchik town court.215 The Republican Justice Department refused to renew registrations of the three Jehovah’s Witnesses congregations despite the specific ruling of the Nalchik town court that

214 “Regional Court Declines to Honor Appeal from “Jehovah’s Witnesses.” Prima (June 6, 2001).
supported the appeals launched by those religious organizations against the Republican Justice Department.

On February 23, 2001, Judge E. Prokhorycheva of the Moscow Golovinsky municipal court refused to uphold a claim lodged by the Moscow-based Northern administrative district prosecutor’s office attempting to outlaw the Moscow Jehovah’s Witnesses congregation. The court proceedings had been ongoing since 1998, only to be suspended in 1999 for reviews and inspections. Notwithstanding, the prosecutor’s office sent an appeal to the Moscow City Court, who passed a decision on May 30, 2001, to have the case reviewed. A new trial on the matter was opened on October 30, 2001.

Muslims in Russian regions have also been discriminated against. The Kolomna-based Muslim community (Moscow region), totaling 2,000 believers, out of the town’s population of 163,000 residents, had its request for a plot of land to build a mosque denied by the local authorities. When approached by local Muslims seeking to clarify the matter, the officials just responded by saying that Metropolitan Yuvenaly of Krutitsy and Kolomna (Poyarkov) “called for the issue to be publicly debated in the local media.” The Muslims maintain that this comment is tantamount to a rejection of the request since public opinion is known to be largely against erecting a new mosque in the area.216

In 1999, the Vologda-based Muslim community reached an agreement with local authorities on acquisition of a plot of land holding an unfinished structure, with the idea of building a mosque. However, in the months that followed, the authorities began to stall in providing authorization to erect a Muslim shrine on the site. Concurrently, a campaign was launched in the local media against the building of a mosque “in Russian Orthodox Vologda.” Despite the circumstance, a mosque was eventually built (the sponsor’s committed resources having to be appropriated as promised) in the absence of the requisite authorization (the pertinent papers are still under consideration). Just as the construction project was completed, the authorities refused to grant authorization for the mosque to be dedicated and went to court, requesting that the shrine be eliminated. However, the city court chose to support the Muslim community. But then, local prosecutors appealed to the Moscow Arbitration Court, in support of the interests of the Vologda regional administration, the Vologda city administration and the State Directorate for Safety, Restoration and Utilization of Historical and Cultural Monuments of the Vologda Region. Defendants were the Spiritual Authority of Muslims in the European Part of Russia (DUMER), owner of the aforementioned plot of land and completed structure in Vologda, and the Vologda-based Muslim community acting by proxy on behalf of DUMER. Notably, the Moscow Arbitration Court also stood in support of the Vologda Muslims. Eventually, on December 19, 2001, the Federal Arbitration Court reviewed the claim from the Vologda officials and ruled to uphold the decision of the Moscow

216 “No Mosque is Wanted by Colomna.” NG-Religii (May 16, 2001).
Arbitration Court, turning down the appeal of the Vologda regional deputy prosecutor.217

And finally, the highest-profile case of a religious association being suppressed by the authorities in 2001 occurred in Moscow. Local authorities attempted to close the Moscow chapter of the Salvation Army. In August 1999, the Ministry of Justice Department for Moscow turned down the organization’s application for re-registration. Apart from raising a number of rather perfunctory points relating to the organization’s charter, Moscow authorities accused the Salvation Army of being a “militarized organization.” The reason for such a label comes from the fact that the organization’s members wear military-style uniforms, maintain working relationships reminiscent of a chain of command in a military unit and seem to communicate with the use of many military-sounding terms. Following the rejection of the application for re-registration, the Moscow Department for Social Services terminated the agreement that authorized the Salvation Army to conduct charity activities within Moscow (giving free meals to the homeless, etc.). As a consequence, all Salvation Army operations in Moscow were discontinued.218 Furthermore, the owner of the premises leased by the Salvation Army’s Moscow chapter refused to renew the leasing agreement through 2001.219

The Salvation Army appealed the decision of Moscow authorities in a court of law. However, the Moscow inter-municipal and city courts issued rulings in favor of the Justice Department, as these courts have also concluded that the organization is rather “militaristic” in its ways. Those rulings were passed after the Ministry of Justice had re-registered the centralized Salvation Army organization on January 21, 2001. However, local Salvation Army chapters have been effectively registered and cleared for operations in Russian cities, including Volgograd, Saint-Petersburg and Rostov-on-Don. Interestingly enough, the Ministry’s panel of experts declined all accusations of the organization being “militarized.”220 On September 12, 2001, the Moscow-based Tagansky inter-municipal court ruled to have the Moscow Salvation Army chapter outlawed for failing to secure registration.

In the meantime, before the decision to ban the Salvation Army was passed, Moscow authorities had stated that they were not against the activities of the Moscow-based Salvation Army, in principle. According to A. Muzykantsky, Moscow Minister for Information Policies and Public Relations, as soon as the organization brought its charter provisions in line with the Ministry of Justice’s requirements, it could easily

217 See the report on the human rights situation in Vologda region for 2001 (available in Russian only at www.hro.org).
218 An excerpt: “Over the past seven years of its operations in Moscow as many as 893 local organizations have received humanitarian aid from the Salvation Army, with three refugee camps set up in the Republic of Ingushetia for Chechen refugees.” K. Kutz, “Warriors of Christ.” Vecherniaya Moskva (January 18, 2001).
have its Moscow-based chapter appropriately registered as a unit of the
Army’s centralized structure.221

Many instances of religious associations effectively defending their
interests in courts are indicative of some positive trends noted during
the year 2001. Even where court proceedings are yet to be completed
(because of either prosecutors or judicial authorities launching counter-
suits), interim decisions have often been passed in favor of the religious
organizations in question. At the same time, certainly, there have also
been numerous other examples akin to those seen in the Jehovah’s Wit-
nesses court proceedings.

In May 2001, the Kostroma Regional Department of Justice declined to
re-register two local Protestant congregations, because the pastors alleg-
edly used “some elements of psychic influence during worship services.”
Following a trial in court that resulted in a ruling in favor of the defen-
dants, the religious organizations renewed their registrations just two days
prior to the date of expiration of their previous registrations.222

Similarly, on July 13, 2001, the Kirov Regional Department of Justice re-
ceived a court order to renew the registration of the Volga-Viatka Christian
Center, of the Pentecostal congregation.223

The Baptist congregation in the township of Vanino (Khabarovsk terri-
tory) had initially been denied re-registration under a rather minor pre-
text (the religious organization’s mailing address coincided with that of
Pastor D. Pollard, a U. S. national who had a private home). In the end,
the congregation won the case. The Regional Department of Justice,
however, appealed the court ruling.

On July 17, 2001, the Supreme Court of the Russian Federation made a
renewed effort to have the case of the Kazan-based “New Life” Evan-
gelic Christians congregation sent to the Supreme Court of the Republic
of Tatarstan for review. This religious organization had been de-
registered and, in effect, banned, following its violation of the Kazan
Mayor’s directive issued to prevent all religious organizations from
holding unauthorized functions and gatherings on premises owned by
municipal structures and establishments. The elimination procedures,
including the court proceedings, featured numerous formal irregulari-
ties.224

The cases mentioned above, which have occurred in various Russian re-
gions, were largely the result of a lack on the part of the central authorities
of a set of clear-cut federal policies in the area of religious activities. Nota-
bly, the late 1990s and the year 2000 marked a pronounced trend in the

222 M. Edelshtein, “Kostroma Pentecostals Re-registered at Long Last.” Keston News
Service.
223 “Legal Footdragging — No Cause for Banning,” Slavic Legal Center (July 16, 2001).
224 In particular, the congregation had not been notified either of the date of the relevant
court hearing or of the court ruling passed with the given religious organization’s repre-
sentatives failing to be in attendance. The Kazan-based Protestants are seeking to restore
justice.” NTV Information Service. (July 20, 2001). Also, see the relevant chapter in the
loss of non-Orthodox and non-Christian religious associations of their ability to exercise their freedom of conscience. A primary reason has been the practice of dividing active religious organizations into the so-called "traditional" and "non-traditional" (with the former allegedly deserving more rights than the latter). This type of thinking has been increasingly influencing regional and local authorities inclined to believe that new foreign-origin religions tend to threaten national security interests.

The year 2001 saw a series of efforts undertaken in order to formulate a state policy in the area of religious activities. In June and August 2001, the Russian Academy of Civil Service (RAGS), on the one hand, and the Ministry of Justice’s Department for Moscow (operating together with the Institute for State-Confessional Relations (IGKO)), on the other, submitted two different draft concepts for state policies in the area of relations between governmental agencies and religious associations.

In general, both documents aim to provide for an active role of the state in society’s religious engagements, diminish missionary activities of foreign religious groups within the confines of the Russian Federation, and suggest that a set of special relations should be established between the state and “traditional” religions. However, the documents do differ in certain respects. The concept proposed by IGKO and the Ministry of Justice’s Department for Moscow runs counter to the relevant provisions of the RF Constitution, according to A. Sebentsov, Chairman of the Government Commission for Religious Associations. This draft directly calls both for the Russian Orthodox Church to be given a special status and for codification of the following categories of religious associations: “traditional religious organizations of the Russian Federation” (with the category apparently including Russian Orthodoxy, Islam and probably Buddhism) and “traditional religious organizations of ethnic communities in the Russian Federation” (this category obviously including Judaism and other comparable religions). Importantly, this concept rather straightforwardly provides for “priority” cooperation between state agencies and traditional religious organizations, as well as suggests areas for cooperation that may include charity activities, liberal arts engagements, and a broad range of patriotic educational programs. Clearly, all these provisions contradict the basic principles of managing a secular state and the guidelines for equality of religious associations.

The draft concept offered by the Civil Service Academy (RAGS) appears to be much more moderate. Notably, it has no mention of the Russian Orthodox Church. What is more, the document criticizes religious officials trying to interfere in the affairs of the government and public schools. Overall, this draft supports the principles of a secular state and generally makes no provisions for the government to build cooperative links with the active religious associations. However, RAGS’ concept also contains the idea that the “traditional” religions should have a codified special status; suggesting that those religious associations should enjoy

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225 The criteria for granting the given status are supposed to be finalized separately. For example, the requirements for securing a legal entity status are expected to be made more affordable.
special perks and receive “government support in pursuing socially relevant activities.”

To sum up, adopting any of the suggested concepts would surely place serious constraints on the freedom of conscience in the Russian Federation and leave a large segment (at least one third) of the active religious associations discriminated against. While the Moscow Justice Department-IGKO draft seeks to legalize the offensive and discriminatory religious policies pursued in some of the Russian provinces, the RAGS document appears to be an attempt to have the aforementioned unsavory trends brought in line with the pertinent provisions of the RF Constitution. Given that the current RF Constitution holds quite explicit provisions on freedom of conscience and equality of religious associations, even the most subtle wordings of the newly-suggested legal requirements and rules are unlikely to legitimize inequality without brazenly violating the constitutional rights and freedoms of people.

As we proceed to address the suggestions to introduce a special legal status for “traditional” religions (primarily RPTz), we should look to see what role is played by RPTz in current government policies. Data gathered during 2001 (supporting trends seen in previous years) provided sufficient grounds for the aforementioned task to be effectively carried out.

Drafters of a number of regional reports (Amur, Kirov, Kurgan, Lipetsk, Novosibirsk, Oryol and Chelyabinsk regions; Khabarovsk territory; Marii El Republic; Nenetsky autonomous district and some other subjects of the Russian Federation) have provided evidence directly indicative of a privileged position enjoyed by RPTz. Apart from RPTz, only Russian Muslims and, very rarely, Catholics have received any financial aid from the government. The Kurgan Governor is known to have steered the effort to have regional industries and businesses make financial contributions to support Russian Orthodox activities. The government funding effort to support RPTz parishes has been maintained as a budget line-item “assisting public organizations.” One such organization is the Church of St. George-the-Victor-for-Warriors.

Government officials at any and all levels in the Russian Federation would now and again turn to RPTz for an expert opinion when confronted with a task to formulate a policy on religions. For example, the book *Introduction into Sectology* by A. Dvorkin (known to be heading the St. Irene of Lyon Center for Information and Consultative Services—one of the highly visible Russian Orthodox organizations seeking to place constraints on the spread of “non-traditional” religions in Russia) has been recommended by the Prosecutor General’s Office as a guide-

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226 This wording provides an example of a major disparity between the two documents. The relevant language in the concept advanced by the Ministry of Justice Department for Moscow together with the IGKO runs as follows: “…the State promotes development of socially useful activities by religious associations.” This wording is clearly reflective of the closer links between the state and religious associations (the circumstance actually working against the secular state principle). Any detailed description of the areas for cooperative efforts would be increasingly reminiscent of defining the boundaries within which the given religious associations (traditional ones, of course) could claim to exert any influence on the public.
book for regional prosecutors. Following a set of focused urgings from A. Dvorkin, an effort was launched to persecute the Chelyabinsk-based Jehovah’s Witnesses congregation. What is more, the decision to suspend construction of a shrine for the “Emmanuel” Church was also taken following the local prefecture’s office receiving a letter from the same A. Dvorkin, who requested that “the religious association’s activities should be most thoroughly investigated” (see above).

The May 29, 2001 Session of the Presidential Council on Religious Organizations, convened to address the problem of regional religious legislation contradicting the RF Constitution and federal laws, had none other than an RPTz hierarch appearing in support of the unconstitutional legal provisions maintained in many of the Russian regions. Metropolitan Yuvenaly (Poyarkov) of Krutitsy and Kolomna, member of the Council, explained, “Inasmuch as those laws have been passed, you ought to bear in mind that they have been passed for a purpose. One should try and see the root causes underlying those laws.” He proceeded to suggest that representatives from regional authorities should be invited to attend the next gathering of the Council to be asked to explain why the relevant subjects of the Russian Federation had passed those laws in the first place, and how they planned to carry on “with those legal provisions repealed.”

Some high-standing RPTz members have publicly appeared against implementation of the principle of the state’s secular nature codified in the RF Constitution. As he addressed the State Duma Deputies at the hearings “The Issue of Legislative Support for the State-Church Relations in the Light of the RPTz Social Concept,” Metropolitan Kirill (Gundyaev) of Smolensk and Kaliningrad, Chairman of RPTz Department for External Relations, stated, “The principle of separating the State from the Church has increasingly been growing into a principle of segregation, which is nothing short of a downsized apartheid with regard to the Church.” To substantiate his observation, the RPTz hierarch referred to the educational sector as he looked at members of the clergy, “You just cannot appear on public school premises because public schools are separated from the Church.”

However, the recent reports on the growing cooperation between governmental agencies and officials, on the one hand, and RPT, on the other, make one wary of the trend vectored in the opposite direction.

In October 2000, the Commissions on Orthodox Education and Orthodox Initiation of the Young People were established with the presidential representative’s office in the Central federal district of the Russian Federation. In early 2001, a conference on spiritual and moral education of the younger generation was conducted by the aforementioned

office. The only religious representatives invited to participate in the gathering were those of RPTz.

Importantly, RPTz has an even stronger presence in the RF Ministry of Education. The Ministry of Education and RPTz have established a joint council structured to include a committee for the affairs of the younger generation. What is more, the Ministry of Education has concluded an agreement with RPTz under which the latter shall be involved in reviewing “spiritual-educational programs, projects and training aids.” The Minister of Education, V. Filippov, explains that these reviews would be conducted in order to “have the state educational standards, training programs, textbooks and aids liberated from manifestations of militant atheism.” On February 17, 2000, the Ministry of Education confirmed the theology standards drafted by the RPTz, with theology being introduced as a training discipline in some of the higher schools of learning. In May 2001, the Minister of Education appeared before an RPTz-arranged congress of young Orthodox believers with the talk “Educating Younger People is the Business of State, Society and Church.” The title of the presentation, incidentally, seems to fully reflect the Minister’s point of view. The final goal of this rapprochement is to have the basics of Orthodox education (or “the basics of Orthodox culture” in the more “secular version”) integrated within the system of public education in the Russian Federation. This discipline has already been taught in a number of public schools across Russia. So, apart from increasingly exercising its influence on the government, RPTz obviously seeks to take advantage of the country’s educational system in order to energize its missionary efforts.

However, one should be careful not to confuse the Ministry of Education’s stance with that of the Federal Government as a whole.

In July 2001, the Ministry of Justice passed a negative “verdict” following a review of the draft educational standard for theology. To be specific, the knowledgeable opinion statement in one paragraph reads as follows:

"Introduction of the suggested standard, designed to provide for the training of theologians equipped to teach theology at state and municipal educational establishments (of all levels), runs counter to Article 14 of the Constitution of the Russian Federation, under which the Russian Federation is a secular state and no religion can claim to be regarded as either a state or compulsory confession."

The concluding expert opinion document also states that the proposed draft standard is out of line with the constitutional principle of religious associations being separated from the state and remaining equal before the law.

In September 2001, M. Meyer, an official from the Presidential Administration, and A. Sebentsov, Chairman of the Commission on Religious

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233 Ibid.
235 P. Korobov, “Welcome, the Young and Orthodox Ones.” Kommersant (May 14, 2001).
Associations (established with the RF Government), quite independently suggested that a special agency (a committee or even a ministry) should be set up to handle the matters of cooperative links between the state and religious associations. Clearly, emergence of such a governmental agency would allow federal authorities to interfere in the affairs of religious associations. However, one could hardly rule out the possibility for that kind of agency turning either into a sort of an appellate structure for religious associations or an authority powerful enough to counter the risk of arbitrary rule on the part of regional administrations.

Notwithstanding, the federal policies with regard to religious associations continue to be rather uncertain. What is more, a specialized governmental agency of the kind mentioned above is yet to be established, while violations of freedom of conscience in many Russian regions persist.

The Right to Alternative Civil Service

The absence of the institution of alternative civil service remains a reason for widespread infringement on the constitutional rights of the Russian Federation citizens. Although, judging by the active work in connection with preparation of a federal law addressing this issue (see below), the problem of alternative civil service should be solved in the near future. The year 2001, like the seven preceding years, brought continued confrontation between the military and the young people fighting for the recognition of their constitutional right to do alternative civil service instead of serving in the army (Article 59 of the RF Constitution).

According to the the military authorities, in 2000, about 2,000 people applied for alternative civil service. The official statistics for 2001 are likely to be similar. The actual number of those who seek alternative service is unknown. Many young people prefer to dodge the draft because official submission of an application entails protracted lawsuits. However, it would be erroneous to think that all draft dodgers (their number in the whole country is approximately 20,000) are potentially those who would seek alternative service.

A characteristic feature of the year 2001 was the experimental organization of alternative civil service in the regions, carried out not only in the form of a public initiative but also with active participation of the local authorities.

In early 2001, despite opposition of the City Duma, Yury Lebedev, Mayor of Nizhny Novgorod, signed a resolution on the introduction of alternative civil service within city limits. By then, trials examining the cases of conscripts who seek realization of their constitutional right to alternative civil service had already become a permanent feature in the city: in 2000, there were twenty-five such trials; in 2001 — sixteen. The Nizhny Novgorod Peacekeeping Group developed the mechanism of

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alternative civil service. In late 2001, the very first municipal unit was formed, which consisted of 11 conscripts whose application for alternative civil service had already been satisfied by the military commissariat (draft board).239

The military leadership stated, however, that the Mayor’s decision was unlawful and the “alternative” servicemen would be regarded as draft dodgers.240 At the same time, the Mayor of Vladimir adopted a decision similar to that of the Nizhny Novgorod Mayor.241

A model of alternative service is also being experimented with in Perm, where the conscripts who successfully defended their right to alternative service in court will work in the volunteers’ corps service of the Perm “Memorial” Society.242

Public initiative is exemplified by an experiment launched by the Bryansk Human Rights Association. Under this experiment, four volunteers worked at Bryansk’s mental hospital merely for a “food ration” for the duration of one year. For the participants in the experiment this work will not be counted as alternative service even if a corresponding law is adopted. The only purpose of this act is to promote the quickest adoption of an alternative service law.243

In 2001, judicial confrontations between the conscripts who applied for alternative service and the draft boards continued. Judicial practice remains uncertain, continuing to reflect trends seen in previous years. Conscripts more often prevail in criminal cases based on Part 1, Article 328 (“draft dodging”) but lose civil suits against draft boards denying their requests to exercise their constitutional right to alternative service. Courts recognize the right to alternative service based on religious beliefs more often than requests based on pacifist convictions.

In the Kursk region, where seven conscripts appealed the refusal of draft boards to allow them to do alternative service, courts denied all these appeals.

On June 5, 2001, the Verkhny Isetsky district court of Ekaterinburg (Sverdlovsk region) rejected the complaint of A. Yarulov, member the Ekaterinburg Anti-Violence Movement, against the actions of the draft board that had decided to call him up for military service in spite of his application for alternative service.244

244 “The Ekaterinburg Court Rejects Pacifist’s Complaint.” Prima (June 6, 2001).
On April 2, 2001, the Timiryazevsky inter-municipal court of the city of Moscow fined Ivan Samarkin in the amount of 200 minimum monthly wages (20,000 roubles), under Part 1, Article 328 of the RF Criminal Code, for his failure to report to the conscript reception point on June 29, 2001. However, it was at that time that the same Timiryazevsky inter-municipal court was considering I. Samarkin’s complaint against the actions of the military commissariat. The Moscow City Court reversed the decision of the inter-municipal court and ruled that the case be sent back for re-examination.

In late 2001, a court in Murmansk refused to recognize the right of a local pacifist, Nikita Upakov, to alternative service.

In some cases, conscripts succeed in winning appeals against negative court decisions. On March 12, 2001, the Novocheboksarsk city court (Republic of Chuvashia) found A. Volkov, a Pentecostal who applied for alternative civil service, guilty of evading military service. Volkov was sentenced to six months in prison. The Supreme Court of the Republic reversed the sentence, set A. Volkov free and sent the case back for re-examination. However, the Novocheboksarsk city court refused to comply with this ruling, “in light of the need to question members of the religious organization and request certain documents because an incomplete investigation had been carried out,” and decided that the case should be sent to the city prosecutor’s office for additional investigation.

On April 11, 2001, the Presidium of the Sverdlovsk Regional Court reversed a sentence (a fine of 3,000 roubles for draft dodging) passed on conscientious objector Oleg Smirnov, a Pentecostal from Sukhoi Log (Sverdlovsk region). The case was dismissed because of the absence of corpus delicti.

It is not rare to have a favorable decisions handed down by courts of first instance. Thus, according to the information of regional human rights organizations, in 2001 twelve conscripts successfully defended the right to carry out alternative civil service through courts in the Republic of Khakasia; 27 persons won the right to do alternative service in the Leningrad region during the autumn draft. In all these cases, service in the army was contrary to the religious beliefs of the young people.

On June 1, 2001, the Bobrovsky district court of the Voronezh region ruled in favor of the plaintiffs, Oleg Mikhel and Temuri Mechedlidze Pentecostals,

245 “Pacifist’s Case Sent to Court Again.” Prima (May 29, 2001).
246 “Court Denies Conscript’s Right to ACS.” Kolokol.Ru (December 20, 2001).
248 “Sentences of Conscientious Objectors Reversed.” Slavic Legal Center (June 5, 2001).
against the local draft board that had refused the young people the right to do alternative civil service.\textsuperscript{249}

On November 30, 2001, the Nagatinsky district court of Moscow ruled that Dmitry Shitikov, a member of the Church of Seventh-Day Adventists, be exempt from conscription pending adoption of the alternative service law.\textsuperscript{250}

On March 28, 2001, the Dzerzhinsky district court of Perm supported an appeal against the decision of the draft board filed by Roman Maranov, legal council of the Perm “Memorial” Society. R. Maranov has successfully defended the right to alternative service at local courts for at least twenty conscripts over the last five years.\textsuperscript{251}

In the Pskov region, a district court in the town of Strugi Krasnyeruled that Vyacheslav Kislyuk, a member of the local Jehovah’s Witnesses community, had the right to do alternative service.\textsuperscript{252}

In the Republic of Marii El, the Medvedevsky district court recognized the right of S. Sidorov, a member of the Church of Seventh-Day Adventists, to do alternative service. This was a first, for this particular court.

However, it should be emphasized again that while religious objectors generally stand good chances, pacifist objectors tend to receive negative decisions from the courts and draft boards, which do not recognize such convictions as a basis for alternative service.

Also, special notice must be taken of cases of lawlessness on the part of the military towards conscripts who have applied for alternative service. In addition to violating the rights of a conscript by refusing to recognize his right to do alternative service or receive deferment pending adoption of a corresponding law, his rights are infringed upon in other ways. In fact, the military ignores the very right of a person to raise this question at the military commissariat. A typical example is what happened to Conscript D. from the Kurgan region. Conscript D. asked the chairman of the draft board to give him a copy of the draft board's decision so that he could appeal it, but his request was denied by the Kurgan administration. Then, the young man tried to obtain the military commissariat’s decision through a court. However, even though the court granted this request, the draft board officials gave the conscript an unsigned and uncertified excerpt from the decision and explained that the document could not be properly prepared because of shortage of time. This document states that D. came to the draft board on October 10, 2001, although D. was at his place of work on that day (i.e., the decision to call him up for military service was taken in his absence). The excerpt does not mention that D. applied for alternative service and that his applica-

\textsuperscript{249} Ibid.

\textsuperscript{250} “Conscientious Objector's Rights of a Muscovite Were Defended.” \textit{Slavic Legal Center} (November 30, 2001).


\textsuperscript{252} “Draft Deferment for Prayer.” \textit{Rossiiskaya Gazeta} (November 16, 2001).
tion was denied: it spoke only about conscription. Nevertheless, Judge Sharypova demanded that D. submit proof of his beliefs and dismissed his complaint about the draft board.

In 1997, Sergei Kovyazin from Lipetsk, who belongs to the Baptists-Iniciativniks, applied for alternative civil service. Despite the military's request, the prosecutor's office refused to initiate a criminal case against S. Kovyazin. However, S. Kovyazin continued to receive summons from the draft board. Each time he would come and re-confirm his refusal to do military service. Finally, on November 12, 2001, when he came to the draft board once again, he was illegally detained there and forcibly sent to an induction center. On November 14, S. Kovyazin freely left the military unit to which he had been brought and went home, from where he submitted a complaint to the prosecutor's office against the military's actions.254

After district court and then the city court of Lipetsk refused to support Denis Smirnov in his attempts to secure alternative service for himself, he was re-summoned to the draft board. D. Smirnov intended to continue to insist on his right to alternative service, but instead, on the instruction of the head of the draft board, Military Commissar Lieutenant-Colonel Chernyak, he was brought to an induction center under escort. D. Smirnov left the induction center believing his conscription unlawful. There was a similar case in the town of Asbest (Sverdlovsk region), where Pavel Vykhodtsev was taken away from the induction center by his parents.255

Even a positive court decision cannot protect citizens from unlawful actions of the military. As far back as 1995, the Zavolzhsky district court of Yaroslavl ruled that Denis Sosnovkin had the right to do alternative service. At the end of 2000, a policeman and an official of the draft board took D. Sosnovkin from his home, disregarding the court decision, which was shown to them. It should be noted that the head of the military commissariat disregarded the court decision intentionally. In his opinion, “It was a long time ago that the court decision was made, and because the mechanism of alternative service has not yet been developed, I believe it possible and necessary to draft this person.”256

In 2001, a law on alternative service, which would have put an end to the lawlessness of the military and contradictory and anti-constitutional judicial practice, had not been adopted. As in the previous year, various options for organizing alternative service continued to be discussed. The most liberal draft law on alternative service was submitted to the State Duma by Deputy V. Semenov. This law was, in fact, the only one that fully took into account the non-military nature of alternative civil service and the constitutional right of Russian citizens to hold beliefs incompatible with military service (Clause 3, Article 29 of the RF Constitution). According to this bill, a decision to allow a citizen to do alternative ser-

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253 Communities-members of this protestant movement refuse on principle to register officially as a religious association.
254 Christian Inter-Confessional Forum (November 21, 2001).
256 E. Batueva, “You Shouldn't Have Gone, Denis...” Tribuna (February 15, 2001).
vice is to be adopted by “the territorial body of state power in charge of alternative service” on the basis of an application.

At the same time, a group of State Duma members (E. Vorobjev, Yu. Rybakov and others) submitted their own draft law, on which they had worked since 2000. Apparently, this draft law attempts to take into account the position of the government and that of the military. However, as a result of this, draft boards, i.e., military structures, become involved in sending conscripts to alternative service and some elements of proving requirements are introduced in the procedure for allowing a conscript to do alternative service. The latter draft also provides for harsher conditions of alternative service than V. Semenov’s draft civil, such as a 36-month term of service as compared with a 30-month term in V. Semenov’s draft and the 24-month term of military service. Under both draft laws, alternative service is to be done at the place of abode, with other options being possible only with the conscript’s consent.

Lastly, the military, too, formulated their position in a draft law submitted by General A. Nikolaev and a group of State Duma members on behalf of the Defense Committee of the State Duma. This draft law requires proof to be presented when a decision on alternative service is to be taken and does not specify how one may appeal the decision of a draft board to refuse him his demand to do alternative service. The draft law establishes the term of alternative service as 48 months — twice as long as that of military service and introduces an extraterritorial principle in performance of alternative service.

In view of the fact that for seven years the military has been able to impede adoption of a law on alternative service, it is likely that the opinion of the military will be very important to the legislators. It should be, therefore, noted that although possible adoption of the draft law proposed by the military will enable several thousand Russian citizens to exercise their constitutional right to alternative civil service, the infringement of their constitutional rights will continue, because any requirement of justification for exercising the right to alternative civil

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257 Under Clause 2, Article 6 of this draft law, a person applying for alternative service must indicate in his application the grounds on which his choice is based and, additionally, “set forth” the reasons why he applied for replacement of military service with alternative service.” In addition to this, “the application for alternative service shall be accompanied by a curriculum vitae, a testimonial from the place of study and/or work of the applicant and, optionally, other documents supporting the application, including recommendations and testimonials issued by public and religious organizations.” In other words, the applicant has to substantiate — prove — his wish to do alternative service. Moreover, under Clause 2, Article 7, “Subject to a decision of the draft board or a request of the citizen whose application for alternative service is being considered, experts, representatives of public and religious organizations and other citizens may be invited to the meeting of the draft board to express opinions or give explanations on the substance of this application.” For comparison, the corresponding article in V. Semenov’s draft law reads as follows: “A citizen subject to military conscription shall personally submit an application for replacement of military service with alternative civil service…” (Clause 1, Article 7).
service is in direct contradiction to the RF Constitution (Clause 3, Article 29).\textsuperscript{258}

\textsuperscript{258} As far back as 1996, the Constitutional Court adopted a decision on this matter. See Decision of the Constitutional Court of the Russian Federation of May 22, 1996, “On the Refusal to Accept for Consideration the Inquiry of the Belovsk City People’s Court of the Kemerovo Region as Failing to Meet the Requirements of Federal Constitutional Law “On the Constitutional Court of the Russian Federation.”
The right to peacefully assemble and associations has been generally upheld in keeping with the applicable laws of the Russian Federation, according to findings of the monitoring effort carried out in the Russian regions. Nonetheless, actions to protect the right to peaceful assembly have at times been effectively countered. This circumstance is clearly reflective of the politicization of constraining measures. Behind the scene, decisions to ban scheduled public actions, violations of the timeframe of notification procedures and the use of technical catches to outlaw an activity are some of the more frequently practiced strategies used by Russian authorities to prevent political events in the country, according to the data gathered by monitors. Government officials seeking to operate within the law, on the one hand, and wanting to be effective in preventing unwelcome public events, on the other hand, were frequently found searching for technical (often farfetched and sometimes even contrary to federal legislation) grounds to achieve their ends.

To illustrate the above, the Presnya district authorities refused to endorse a rally planned for July 13, 2001, at the International Trade Center in Moscow. This rally was in protest of Beijing being offered to host the 2008 Olympic Games despite the gross and persistent human right violations in China. In this particular case, the local authorities violated the established time period for issuing a denial. The negative ruling was received two (rather than three, as required by the law) days before the scheduled event. In addition, the denial was justified by “the specified grounds being too close to flammable and explosive sites,” this circumstance allegedly making it “impossible for the scheduled rally to be conducted.”

Nearly the same farfetched reasons had been given in connection with the ban of a public rally in support of Chechnya’s independence arranged by a group of political activists from the Revolutionary Contact Association, Democratic Russia and Russian Movement for Chechen Independence. The picket line was barred because the Moscow authorities allegedly lacked the resources to assure security of the participants. Clearly, that denial was wholly groundless, particularly given that the numerous similar protest events already held in Moscow against the ongoing military operations in Chechnya had never been accompanied by any sort of public disorder. What is more, in Moscow, there has not been a single event where the authorities failed to provide for security of participants.

The reason underlying the decision to forbid yet another anti-war event — a rally by the activists of the Anti-Militarist Radical Association and

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259 Notably, a Presnya district authority confirmed in his conversation with one of the action participants that the denial decision came from a technicality. Also, he referred to a directive from the parent authority. The Moscow-based special police moved in to detain the protesters against the 2008 Beijing Olympiad. See: Prima (July 13, 2001, #297).

260 Ibid.

261 Participants of the rally in support of Chechen independence were detained by the police. See: Kolokol.Ru (December 25, 2001) The local district authority’s banning orders notwithstanding, the public event was held on September 6, 2001, in Moscow in the area of the Kitai-Gorod neighborhood. The police detained participants because slogans were too provocative.
Radical Party against the War in Chechnya, planned for May 25, 2001, in front of the building of the Podolsk-district military registration office — was the official knowledge that some of the participants would allegedly be residents of Klimovsk (incidentally, located within the Podolsk district) rather than Podolsk. The desire to ban any anti-war public events that might be against the country’s official domestic policy is known to have made local government officials come up with any and all “adequate solutions” (which happened to be absurd in this case) to prevent the targeted activity from taking place.

There are also good reasons to believe that the Moscow–Grozny Peace March was aborted simply because the government wanted to restrict undesirable political events.

On August 1, 2001, participants of a hunger strike (launched on July 14) in the tent-camp near Sleptsovskaya (Ingush Republic) and human rights activists (who had joined the strikers) led by A. Liuboslavsky and V. Shaklein began the Peace March. They had walked less than 100 meters when the local law enforcers stopped them. While operating within the law, the police started to check identification papers of the participants of the march. Several persons were detained for lack of required registration markings in their passports. Those detained included A. Liuboslavsky and V. Shaklein, who later received an official warning from a local court of law, even though it was in contradiction with procedural rules. Though the Russian human rights organizations did properly notify government officials of the event and asked them to provide the requisite support services along the Peace March route, as of July 31, 2001, they had not received any response from the relevant agencies. Thus, the authorities stopped the Peace March without even taking care of officially prohibiting it in advance.

Farfetched reasons are used to terminate open-air public protest events that have already received authorization. The law enforcement officers assigned to maintain law and order often use any technical glitch to cut short an ongoing public action. To provide an example of this effect, on July 12, 2001, Greenpeace held a public rally protesting spent nuclear fuels being brought into Russia from other countries. The protest took place on the Red Square, after dark. While participants stood quietly holding burning candles, the police did not interfere. However, as soon

265 The court proceedings had been conducted with an incomplete body of the requisite participants, without a secretary, with no records being taken, with no judgment being made public. See more in A. Liuboslavsky’s “Official Moscow Wanted No Peace March on August 1, 2001. It Hated to Hear of it.” Defense of Human Rights and Freedoms: All-Russian Magazine of Regional Human Rights Organizations (August–September 2001, #16).
as the protesters attempted to create a symbolic river out of the burning candles, law enforcement officers quickly moved in to disrupt the action.

Sometimes, an effort to stage an open-air event that had already been permitted by authorities can be undermined by local officials, who resort to indirect measures designed to belittle the event’s social relevance or interfere with the end result. For example, many St. Petersburg residents seeking to attend a pro-NTV television network rally last year could not reach the specified location time because the nearby metro station Gorkovskaya was closed. Neither the city administration nor the metro management were prepared to explain why that particular metro station had its doors shut for the given period with out prior notice.

Local procedural rules for processing applications for public rallies sometimes can result in the scheduled open-air functions never taking place. The Chita city administration, for example, in handling open-air public event notification matters, uses a local procedure under which any application filed after 16:00 hours is registered as an application filed the following day. This technical trap has resulted in some public organizations being unable to stage their events.

Sometimes, already authorized political events can be denied for no apparent reason, right in the middle of the given activity. For example, on November 12, 2001, members of the Novoaltaisk town police department (Altai territory) interfered with a picket line that was staged with the proper authorization near the town hall. V. Bychkov, deputy of the local town assembly and one of the organizers of the event, was detained. The goal of the picketers was to incorporate a provision into the town’s charter that would reduce the mayor’s powers and enhance the legislative assembly members’ responsibilities. V. Bychkov spent about an hour in detention, during which time “the town police officials demanded that clarifications of some of the statements made at the open-air rally be given.” To emphasize, the local police blatantly violated the principle of immunity of members of representative power bodies.

The 2001 human rights monitoring effort did not record any major violations of the right to create public associations. One exception to this has been the constraints placed on the rights of some religious organizations, specifically the denial of the Moscow-based chapter of the Salvation Army’s application for re-registration (as is described in detail in the Chapter “Freedom of Belief…”).

Although most of the public organizations seeking to secure a legal status eventually obtain appropriate registration, it needs to be emphasized that the very process of registration often becomes excessively protracted. This often occurs because officials are reluctant to help interested parties fill out the needed documentation. Often, officials exert pressure on the applicants to make them amend certain points in their charters. Apparently, the registration procedure has been intentionally kept cumbersome because certain regional-level government agencies want to decrease the number of public organizations, especially those
Members of local advocacy groups have repeatedly told the various NGO in the Chita region that the regional justice department official who deals with registration of public organizations has been rather harsh with applicants. They report that instead of responding to queries about public organization charter requirements, this official would rather direct visitors to the nearest law firm. In denying registrations, he usually referred to one particular technicality. When the application would be resubmitted with the relevant technical error corrected, he would point out another minor technicality, etc. Thus, the applicants often had to resubmit their charter documents many times, with the waiting period (fixed by law) for the application to be reconsidered each time being one whole month.

Similar reports of difficulties related to registering public organizations have been coming from the Lipetsk and Sverdlovsk regions.

The July 2001 Federal Law “On Political Parties” has made the process of creation, registration and operation of political parties in Russia even more difficult. Under the said law, a public organization can call itself a political party only if it includes no fewer than 10,000 members (Sub-Clause 2, Clause 2, Article 3), maintains regional chapters in more than one-half of the subjects of the Russian Federation (Sub-Clause 1, Clause 2, Article 3), and has regional chapters of no fewer than 100 members (Sub-Clause 2, Clause 2, Article 3). In addition, one subject of the Russian Federation can only have one regional chapter (Sub-Clause 1, Clause 2, Article 3), and members of any given regional chapter shall not hold membership in the relevant political party chapter located in another Russian region (Clause B, Article 23). Any newly created political party is required to provide the pertinent governmental agencies the information related to its members (Clause 6, Article 19; Clause 16, Article 27). Political parties already in existence that did not take part in the 1999 parliamentary elections are required to re-register. And for that, they need to meet the newly established rules as to the total number and size of regional chapters (Sub-Clauses 3d and 3e, Article 41). The documentation should be submitted to the registration authority within six months (Clause 3, Article 15). Though regional chapters are registered only after a given political party has been registered nationally, the lack of a single document (like the minutes of a general meeting of a regional chapter where membership is appropriately indicated) can be sufficient grounds for a registration application to be turned down.

Clearly, the establishment of membership quotas serves to limit participation in the country’s political system to parties that can maintain a federal level of organization. Political parties created to push political
and legal interests on the regional or local levels can easily lose the status of a political party. Their only alternative option is to convert their status into a public organization. Importantly, the legal requirement for a newly registered political party to keep the registration authorized by public organizations in the provinces, it should be pointed out that the area of government authorities informed of the party’s membership can significantly complicate the effort pursued by some regional party chapters to recruit new members. On the other hand, the goal of having political parties larger in size and better equipped for effective growth would be achieved, and this could be beneficial for society. But the smaller and low profile political parties will be affected particularly negatively by the new legal constraints.

To come back to the issue of regulating open-air public events arranged by public organizations in the provinces, it should be pointed out that regional lawmakers have passed ambiguous statutes containing provisions that could be used to either ban or severely constrain political events by specifying authorized locations for public activities. On October 17, 2001, deputy head of the Krasnodar city administration issued Directive #803R “On New Measures to Bolster Public Order Within the City of Krasnodar.” The document ruled to “ban through January 1, 2002, any and all pickets, rallies or marches in the area of government or local administration buildings within Krasnodar.” Karachaevo-Cherkessia had a presidential decree issued on April 17, 2001, to impose a moratorium on holding large functions arranged by either public or political organizations. The decision was motivated by the need to appropriately pursue the “Vikhr-Anti-Terror” operation, with local lawmakers of all levels turning to the President of Karachaevo-Cherkessia with a request to temporarily veto all meetings, rallies and pickets, except for public gatherings on national and religious holidays.

There have been a number of cases when the local courts of law ruled in support of individual appeals against regulatory acts designed to constrain the freedom of peaceful assembly. For example, the head of the Khabarovsky territorial administration issued a directive on October 29, 1998, to confirm the regulations for social and cultural activities to be conducted on the city’s Lenin Square that had just been completely renovated. Sub-Clause 2.2 of these regulations, for one, bans any political (in fact, any public) functions on the Lenin Square. The October 12, 2001, ruling of the Supreme Court of the Russian Federation retrospectively invalidated this restrictive document.
OBSERVANCE OF THE RIGHTS OF REFUGEES AND FORCED MIGRANTS

The lack of a clearly defined legal mechanism to secure the status of refugee or forced migrant, along with the convoluted procedure for receiving Russian citizenship, remains a major concern for the Russian Federation. Changes made in 2001 regarding these problems were clearly reflective of a toughening of the procedures to secure legal status for persons staying within the Russian Federation “illegally” but through no fault of their own, as well as by those who plan to reside in Russia permanently (primarily, Russian-speakers from other CIS countries).

In early 2001, a decision was passed to revoke the provision of Federal Law “On Citizenship,” which allowed the possibility to secure Russian citizenship through a simplified sequence. Following the repeal of that provision, refugees from former Soviet republics, who had fled from ethnic conflicts of more than a decade ago, came to be viewed as foreigners “temporarily residing” in the Russian Federation. The notion of the “near-abroad” ceased to provide any legal basis for preferential treatment of certain refugees. Those from the “near-abroad” are now required to obtain new passports either by going to the consulate representing the former Soviet republics from which they fled or by returning to their original homeland to receive a domestic passport. As a result of the revocation of the former Federal Law “On Citizenship,” the number of illegal migrants has grown rapidly. The new Federal Law “On Citizenship,” whose draft, as of February 20, 2002, has been through two readings, has yet to enter into force.

The absence of Federal Law “On Migration Policies of the Russian Federation,” which would regulate the continuing influx of immigrants, has not been replaced by any regulatory act, according to O. Mironov, Human Rights Ombudsman of the Russian Federation. This circumstance only

267 See interview N. Coussidis, deputy regional officer of the UN High Commissioner for Refugees, with E. Chubarov, staff correspondent of Izvestia newspaper: “We are Not Locals.” Izvestia (February 19, 2001, #29). Providing relevant legal status to all Russia-based migrants appears to be a sound strategy to tackle numerous social and economic problems, both for the refugees and involuntary migrants, as well as questions of migration supervision, according to T. Ivanova, sociologist from the Migration Laboratory, Institute for the National Economy Forecasting, Russian Academy of Sciences. Understandably, legal status comes to be the requisite condition for migrants to secure the relevant registration and become settled otherwise. See G. Sokolova, “We Produce Illegals.” Moskovskaya Pravda (February 12, 2001, #6); A. Korobov, “Receiving Russian Citizenship Gets More Difficult.” Vremya-MN (August 11, 2001, #141).

268 One can hardly receive any official documents without bribing the right officials in the first place, according to Tatiana Kotlyar, head of an Obninsk-based regional human rights group.
serves to create conditions that exacerbate illegal immigration into Russia.

President Putin (during his visits to Rostov-on-Don, Novosibirsk and Kazakhstan) and top officials from the Russian legislative and executive branches of government have repeatedly stated that Russia’s policy is to attract ethnic Russians from other CIS countries. Russia’s willingness to receive large numbers of ethnic Russians from the former Soviet republics simply reflects the need to achieve an effective solution to the pressing problem of the country’s aging and diminishing population, as well as a desire to prevent a possible economic decline resulting from a decreased workforce.

Out of the three options available to resolve Russia’s demographic problem-increasing birth rates, reducing death rates, or attracting migrants the latter appears to be the most realistic since it can be implemented readily (given the low budgetary commitments), efficiently and rapidly. Legalizing a simplified mechanism to secure Russian citizenship or to receive the status of refugee or involuntary migrant and assurance of a measure of financial support for new Russian citizens would be the most sensible way for the government to implement its demographic policies.

However, visible efforts on the part of the government to provide needed legal and financial support for migration-management activities hardly allow one to conclude that these presidential goals are about to be achieved. The refusal to release funding for the 2001–2004 Federal Migration Program seems to indicate that Russian authorities attach little significance to these issues. An official migration policy program, which had been drafted a while ago, failed to be passed in 2001 by the RF legislature in spite of the fact that on July 19, 2001, the government of the Russian Federation approved the policy. Although that document did not have any formal status, it did provide an impetus for structural reform of the executive body of government.

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270 As he appeared before the forum of representatives from migrant organizations, A. Blokhin, former head of the Ministry for Federation Affairs (now eliminated), had this to say about the thrust of the country’s migration policy laid down by the President: “We want to ask our compatriots to return to Russia. However, we would primarily welcome those who come equipped to settle unassisted. Of course, we will help them to get land, move personal effects and secure employment.” See: “Shall be Viewed as Aliens.” Obshchaya Gazeta (May 31, 2001, #22). Also, V. Nikitin, Chairman of the State Duma Committee for the Affairs of Ethnic Communities, released an article in the Vremya MN newspaper saying that there are some options for assuring regulation of the migration flows and defusing tensions produced by excessive numbers of migrants in some Russian regions. V. Nikitin suggests: “We intend to push the relevant legislation to assure settlement of migrants in certain regions of the Russian Federation where the local migration management services would be authorized to resolve all migration-related matters within a short order.” V. Nikitin “Where Shall the Migrant Run?” Vremya MN (October 26, 2001, #195).
271 By way of example, the decision to strike the federal migration program from the list of the government-funded programs and activities stands to mean that as many as 200,000 involuntary migrants have lost their housing guarantees, with 40,000 families being denied the relevant home building loans. See: by V. Kadzhaya, “Accidental People.” Nezavisimaya Gazeta (July 4, 2001, #19).
The November 14, 2001 decision to eliminate the Ministry for Federation Affairs, Ethnic Community and Migration Policies (Minfederatsii), a highly ineffective government agency that had suffered from ten years of continual restructuring, is an example of the above stated reform. The functions of this agency were redistributed among three other federal ministries, with long-term effects of this restructuring yet to be fully measured. One can only suspect the likelihood of insufficient coordination between the three government bodies as they proceed to handle the questions of domestic and cross-border migrations without the availability of either sufficient prior experience or trained personnel. Specifically, the responsibilities of the disbanded Ministry for Federation Affairs have been given over to the Ministry of Foreign Affairs (MID), the Ministry of Internal Affairs (MVD) and the Ministry for Economic Development. The idea behind this fragmentation was to facilitate achievement of the federal goal of rationalizing economic development of the country. The aim is to employ migrants and optimize the territorial distribution of the population by filtering migration flows to select employable persons who are motivated to fill government-defined jobs in specified regions of the Russian Federation.

The nation’s migration policy broadly stated by the President and defined by the executive branch was confirmed by members of the State Duma. On October 24, 2001, Ruling “On Measures to Counter Illegal Migration and Streamline Migration Trends” was passed. It recommends tightening the rules for non-visa entries into Russia by nationals of other CIS countries, expediting ratification of the 1998 CIS-wide agreement on cooperative efforts in preventing illegal migrations, and drawing up a set of legislative provisions for willing migrants to be settled in Russian regions specified by the authorities.

The closure of the Ministry for Federation Affairs and transfer of part of its migration-related responsibilities to the Ministry of Internal Affairs was motivated by the government’s concern over the risk of terrorists.

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272 Before it was disbanded in October 2001, the Ministry, established in 1991–1992, had gone through 11 complex and uneasy structural and personnel reshuffles. In 1991–1992, a decision was passed to set up the State Committee for the Affairs of Nationalities that came to be headed by V. Tishkov, director of the Institute of Ethnology, Russian Academy of Sciences. In December 1992, the State Committee began to be headed by G. Shakhray who led the agency through its first major reshuffle in 1994 when the State Committee was renamed to pose as Ministry for the Affairs of Nationalities and Regional Policies. Following its first large-scale restructuring, the Ministry was headed by N. Egorov, former Governor of the Krasnodar territory. It was already in 1995 that coming to lead the Ministry was V. Mikhailov, former Deputy Minister in the same agency. In 1996, the Ministry was renamed to be known as Ministry for the Affairs of Nationalities and Federative Relations. In May 1998, coming to head the Ministry was E. Sapiro, former speaker of the Perm regional parliament. In September 1998, following yet another structural reshuffle, the Ministry for Nationalities was broken into the following two government agencies: the Ministry for Ethnic Policies headed by R. Abdulatipov and Ministry for Regional Policies headed by V. Kirpichnikov. However, in 1999, the two agencies came to be brought together again to form the Ministry for Regional and Ethnic Policies headed by V. Mikhailov. In January 2000, V. Mikhailov was replaced by A. Blokhin. In July 2000, the Federal Migration Service was made part of the Ministry for Regional and Ethnic Policies that was quickly renamed to operate as Ministry for Federation Affairs, Ethnic Community and Migration Policies. (See: N. Gorodetskaya, “Abandoned Ethnic Challenges.” Vremya Novostey (October 18, 2001, #192).

entering Russia under the guise of refugees or migrants, according to D. Gorke, deputy regional officer for Russia, Office of the UN High Commissioner for Refugees.274 In discussing the relevance of this issue in the light of the ongoing struggle against international terrorism, V. Rushailo, head of the RF Security Council, emphasized the lack of effective supervision over the continuous flow of immigration. He emphasized the pressing problem inherent in the availability of large numbers of unlawful migrants who might be recruited for terrorist gangs.275 At the end of the October 24, 2001 session of the RF Security Council, V. Rushailo explicitly stated that “an effort to battle against illegal immigrants should be made part of the ongoing anti-terrorist campaign.”276

There is reason to believe that the transfer of responsibility for immigration policies (primarily supervisory) to the Ministry of Internal Affairs may result in a situation where the agency’s priority would be to perform supervisory functions in order to decrease unlawful immigration into the Russian Federation. Before the Ministry for Federation Affairs was disbanded, the Ministry of Internal Affairs of the Russian Federation handled issues related to unlawful migrants, and the decision to again share immigration-related responsibilities to a certain extent confirmed the actual state of affairs. However, providing social support for involuntary migrants and refugees has become a rather unconventional job for the police. Additionally, given that the Ministry of Internal Affairs has always been an overburdened governmental agency, the chances for the structure to become an efficient performer in this line of activity are rather slim. There is one critical question that remains to be answered. Will the former Federal Migration Service (disbanded in 2000), which was responsible for providing social guarantees to involuntary migrants and refugees, become autonomous and self-contained within the Ministry or will it become just another bureaucratic office?

The effort to screen immigrants is likely to favor ethnic Russians, particularly given that the authorities have emphasized this objective as a top-priority goal. Importantly, a simplified procedure for receiving Russian citizenship (contained in the draft of federal law “On Citizenship of the Russian Federation”) can create conditions especially favorable for Russian-speaking migrants.277 Notably, as was already indicated, the decision to provide no funding for the Federal Migration Program and the lack of

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277 Under the provisions of Article 30 of the draft of federal law “On Citizenship of the Russian Federation,” the authority to handle the matters related to a simplified procedure for granting Russian citizenship is expected to be turned over to the Ministry of Internal Affairs, with the right to invoke that provision primarily being enjoyed by the persons “that were born within the Russian Federation or held the USSR citizenship in the past,” as well as “those who have or had at least one parent holding citizenship of the Russian Federation.” If the given person used to hold the USSR citizenship but was not born within the Russian Federation, he/she shall not be eligible to invoke the expected simplified citizenship granting procedure. See the text of draft law at: www.akdi.ru/gf/proekt/086205GD.SHTM.
functional federal migration policies are not likely to contribute to achievement of the aforementioned goals.\textsuperscript{278}

Although a good policy to attract Russian-speaking migrants is important and the state needs to effectively tackle this question, the government’s commitment to support forced migrants and refugees already living in the Russian Federation ought to take first priority. This is particularly important for the state because many of these persons are fully employable solvent resources.

The three principal categories of forced migrants and refugees\textsuperscript{279} in the Russian Federation are the following: foreign nationals seeking asylum in Russia; citizens of the former Soviet republics compelled to leave their communities because of the ethnic conflicts of the late 1980s — early 1990s; domestic migrants compelled to flee from their areas of permanent residence, primarily from Chechnya, which became a theater for military operations.

Pursuant to the Geneva Convention on the Status of Refugees, ratified by Russia, and Federal Law “On Refugees,” the government of the Russian Federation passed Ruling “On Granting Interim Asylum within the Russian Federation.” The said ruling provides a framework for the relevant government agency (the disbanded Ministry for Federation Affairs was originally responsible for these matters) to tackle questions of interim asylum when considering individual applications. As a reminder, registration, deportation and storage of information on the persons granted interim asylum by the Russian government were previously handled by the Ministry for Federation Affairs and then given to the Ministry of Internal Affairs for implementation. Inasmuch as all of the migration-related responsibilities have now been transferred to the Ministry of Internal Affairs, it is most likely that MVD will decide on asylum requests, extensions of authorizations, and deportations.

Numerous foreign nationals (mostly from African countries and Afghanistan) seeking to secure either refugee status or Russian citizenship continue to remain in the Russian Federation illegally, primarily because of their inability to receive any legal status at all. Notably, out of nearly 700 000 refugees only 595 succeeded in obtaining refugee status since 1993.\textsuperscript{280}

In addition, this limbo suffered by many migrants from the former Soviet republics is compounded by a lack of appropriate registration, which largely depends on the availability of either provisional or permanent housing. These people usually are the victims of regulatory policies pursued by the local authorities. For example, immigrants from Kyrgyzstan who for some years now have been living on the grounds of a former children’s summer camp in the Istra district, Moscow re-

\textsuperscript{278} This stands to mean that the federal budget would no longer contain a separate line-item holding all allocations authorized to handle a whole array of the pressing migration-related matters.

\textsuperscript{279} Including the persons that continue to be illegal and still seek to secure the relevant status.

\textsuperscript{280} “Getting Refugee Status in Russia is Mission Impossible.” Prima (March 14, 2001, #213).
region, cannot secure the housing registration because the camp premises which they occupy were not intended to be housing facilities. These temporary dwellers do, however, pay utility costs. Inasmuch as the lack of either provisional or permanent housing is often one of the more pressing problems confronting Russia-based refugees and involuntary migrants, many are unable to secure required registration. Given this unwelcome state of affairs, these people have little chance of properly settling in Russia.

Granting requested housing, providing funds for this purpose, and making available home-building loans are part of the obligations of the state to refugees or forced migrants holding proper status documents. However, the housing issue is yet to be properly resolved. In the early 1990s, when there was a large influx of refugees, Russian authorities put people into hotels and rest homes across the Russian Federation. For example, many Baku refugees that fled from Azerbaijan following the local ethnic conflicts in the early 1990s continue to live in hotel rooms. In 2001, the situation became progressively worse because new owners of those hotels do not want their properties used as provisional housing.

On June 29, 2001, a decision was made (no court ruling or statement from local authorities is available) to have S. Mkrtumian and four of her children evicted from the Zarya Hotel with the help of local police (Marfino district, Moscow). Her personal belongings were confiscated. This was done despite the fact that the government had not fulfilled its commitments to provide alternative housing for refugees and the Mayor’s Department for External Relations had paid Mkrtumian’s hotel expenses through November 1, 2001.282

Similar action (documentation authorizing the action was again unavailable) to evict the Androsenko family (Vladimir region) from their provisional housing and to confiscate their personal belongings was undertaken by the local bailiff. This family of refugees had come to Russia in 1992 and was waiting for housing promised by the Dudovsky farming enterprise.283 The Androsenko family proceeded to challenge the legality of the local bailiff’s actions.

Regional reports contain many accounts of problems related to securing appropriate legal status, the unavailability of which underlies many of the problems experienced by migrants. There have also been numerous testimonies on the hardships related to receiving requested housing and otherwise getting settled.

The actual living conditions of involuntary migrants and refugees continue to be rather poor. The situation of the Chechen forced migrants, who left their communities during the start of the second military campaign and settled in

283 E. Korotkova, “Embraced by the Cold.” Literaturnaya Gazeta (October 24, 2001, #43).
makehift camps, temporary settlements, and private homes in the contiguous subjects of the Russian Federation, has been rapidly changing for the worse.

In 1999, the regional offices of the old Ministry for Federation Affairs ceased to grant registrations to newly arrived migrants from Chechnya. Certificates under Form #7, which is needed to receive social benefits, have not been issued since April 13, 2001.284 This lack of documented confirmation of a desperate situation gives the authorities a legal basis to deny financial aid to people who are essentially refugees. But since the state has labeled these people “persons who involuntarily left their communities in the Chechen Republic,” it is obliged to provide compensation and needed supplies. However, the refugees that fled to Ingushetia in 2001 have not been able to secure even the documents needed to receive free meals or food supplies.285

Given the absence of an ongoing government effort to provide for minimal support of refugees and migrants in makeshift camps286 and the persisting federal debt of about 100 million roubles287 owed to the migration-management authorities and the Ministry for Emergencies of Ingushetia, one can hardly expect Russian government to seek to improve the lot of Chechen refugees. As it continues to refrain from granting forced migrant status to current Chechen migrants, the federal government cannot claim to be effective in this area of its activity. Admittedly, international humanitarian operations and charity organizations have been compensated in part for the insufficient and irregular federal funding. In addition, the state’s current policy can also be explained by the fact that the repatriation strategy has been perceived as the only feasible solution to the outstanding refugee problem.

The effort to launch a process of incremental repatriation of migrants in Ingushetia-based camps back to Chechnya and then to urge other persons (who had left the Chechen Republic for different Russian regions in the previous years) to return to their original communities was viewed as a top-priority political task for the federal government and the Chechen administration. However, the measures drafted by the central government to achieve this goal (providing social guarantees and compensations for


285 With the start of the anti-terrorist operation in Chechnya, all forced migrants arriving in Ingushetia have been documented through the use of Form #7. Availability of the certificate allowed the holder to be registered for temporary residence, as well as provided with free meals or food supplies, free provisional shelter and medications. Basically, that ID paper was merely of local applicability. Should the certificate be lost, it would not be restored. All certificates issued so far continue to be valid ID papers. Importantly, this type of certificate has not been issued since the start of 2000, according to A. Cherkasov from the “Memorial” Human Rights Center.

286 “On March 23, the “Bart” refugee camp at Karabulak had its hot meal deliveries discontinued, and on March 31 all bread deliveries were halted. On April 2, the town of Nazran stopped its bread supplies to the local refugee camps. What is more, that very day also marked the termination of bread deliveries to refugee camps near the town of Sleptsovskaya, with hot meal deliveries there halted a week before that. On March 21, the Yandar-based refugee camp (Nazranovsky district) had its hot meal deliveries terminated, and on April 3 the refugees stopped getting their bread supplies. There are reports of the same sort of things transpiring at the refugee camps near Malgobek, Ali-Yurt, Nesterovskaya and Voznesenskaya.” See: “Chechen Refugees in Ingushetia Get No More Bread.” Prima (April 24, 2001, #228).

lost housing or property) became secondary to the requirement for assuring safety of their lives. The latter has been the principal demand made by the refugees and the only precondition for their return to their homeland.\textsuperscript{286} The federal authorities and the Chechen administration have given a variety of reasons for the desired elimination of the makeshift camps. Some of the stronger arguments that have been put forth are the following: many of the Chechen refugees\textquotesingle s homes are allegedly intact and ready for occupancy; the refugees are only interested in living off the humanitarian handouts;\textsuperscript{289} there is the likelihood that the camps could be used for political purposes by the adversarial side in the Chechen conflict.\textsuperscript{290}

There have been reports that the Chechen administration and the federal authorities had been implementing a series of dubious and ultimatum-type measures designed to coerce the Chechen refugees back to their communities. An armored vehicle in the town of Urus-Martan tore down the Gazuyev family\textquotesingle s house. One week before that event, the Gazuyevs had received a coercive suggestion to return home or face the consequences.\textsuperscript{291}

In order to speed up the repatriation of Chechen refugees from the Ingushetia-based camps, the federal government has undertaken a number of measures aimed at promoting the return home and phasing out opportunities for the refugees to stay in the camps. The following measures have been implemented: the responsibility for financing the Chechen refugees based in Ingushetia has been transferred to the Chechen government;\textsuperscript{292} the Chechen administration has started to make social payments exclusively on the territory of Chechnya as of December 1, 2001; all relevant humanitarian aid activities have begun to take place only within the confines of the Chechen Republic;\textsuperscript{293} the single-family home owners and legal entities that provided shelter for Chechen refugees have ceased to be eligible for exemptions or breaks on the payment of utilities or rent.\textsuperscript{294} Despite the get-tough policy, during 2001, out of nearly 30,000 refugees known to be living in makeshift camps in Ingushetia, only 168 persons returned to Chechnya.\textsuperscript{295}

\begin{footnotesize}
\begin{itemize}
\item[292] “Refugees Continue to be Pushed Out into Chechnya.” Agency for Social News (June 20, 2001).
\item[294] “Chechen Refugees Denied Registration on Verbal Orders from Government.” Prima (October 15, 2001, #343).
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Not all of the refugees from the first military campaign in Chechnya managed to settle successfully outside Chechnya. Many of them continue to live in provisional lodgings: hotels, rest homes, etc. Understandably, they have been pressured to leave the premises. Some Chechen families living at the Elbrus rest home in Kabarino-Balkaria are supposed to vacate their premises on the orders from the local management. Given the rouble devaluation in Russia, the government compensation packages have become inadequate for the refugees to acquire any housing.296

In a recent example of the consequences of the stricter registration policy, the head of the Nalchik city public education department issued a directive barring the children of undocumented refugees from attending local schools. As a result, about 100 children were not allowed to attend classes at the school #8 in the city of Nalchik. Though the deputy head of the city public education department denied that such an order had been issued, the shameful experience had not been the only one in that city.297

The revocation of one part of the April 30, 1997 Government Ruling (#510) “On the Procedures for Compensations Payable to the Citizens Who Lost their Housing and/or Properties in the Campaign to Resolve the Crisis in the Chechen Republic and Who Left Chechnya Permanently” by the Review Panel of the Supreme Court of the Russian Federation is an example of one positive accomplishment secured by a number of human rights organizations (primarily the “Civil Assistance” Committee) in 2001. In the original wording of the ruling, the payment of compensations was made conditional on the dates when a person was registered and compelled to leave his/her community. As a consequence, many of the refugees from the first Chechen military campaign fell outside of the said ruling and were denied the right to compensation.298 This segment of the ruling was judged as unlawful by the Review Panel of the Supreme Court of the Russian Federation and was repealed.

296 V. Rechalov, “Faces from the Caucasus.” Obshchaya Gazeta (September 27, 2001, #39).
297 Ibid.
SECTION 3

FUNDAMENTAL POLITICAL RIGHTS FREEDOMS
THE RIGHT TO FAIR ELECTIONS

The electoral process in Russia has a continuous and complex character. Apart from federal elections, representative and executive bodies of power are elected in the subjects of the Russian Federation. In addition, election campaigns in different regions do not take place simultaneously. Therefore, the electoral process is a permanent element of the country’s internal political life. For example, elections of 15 regional heads and 30 regional legislatures were held in 2001.

On the whole, Russian citizens have an opportunity to implement their electoral rights, but a number of factors result in violations due to which implementation of the right to periodical change of power through elections is in fact seriously limited. Illegal interference of authorities of various levels in the electoral process results in a significant number of cases where elections in Russia assume a quasi-competitive character and voters are offered to choose from among candidates one of whom is in fact “destined” to win the elections. Frequently, such a situation may lead to remonstrative electoral behavior of voters. For example, during gubernatorial elections in the Primorsky territory, 33.7% of the voters voted “against all candidates” in the second round of the elections.

The aim of Federal Law “On Basic Guarantees of Electoral Rights and the Right of Citizens of the Russian Federation to Participate in a Referendum” is to guarantee electoral rights, both active (the right to be elected in the bodies of power) and passive (the right to vote). Sometimes, the desire to conduct elections within a certain period of time leads to violations of active electoral rights. An indicative example was seen in the second round of gubernatorial elections in the Tula region. The candidate who ranked second in the first round of elections refused to participate in the second round and withdrew his candidacy. But the other candidate who was supposed to run in the second round also refused to participate further in the elections. Nevertheless, against his will, the latter was included on the ballot by the regional election commission, which wanted to avoid a non-alternative election and thus directly violated the active electoral right of the candidate. The Tula Regional Court that considered the complaint submitted by this candidate was unable to independently solve the problem and forwarded the case to the RF Constitutional Court. It appears that the situation of a non-alternative election could have been resolved within the framework of existing legislation by appointing the date for registration of new candidates to conduct repeat elections.

Exertion of administrative pressure against candidates may indirectly lead to violations of the active electoral right. An staff-member of a law enforcement agency who had announced his intention to take part in gubernatorial elections in the Penza region received a contract-termination notice from his employer despite the fact that his labor agreement had been concluded for a period ending in May 2004.

There are cases when indirect pressure exerted against a candidate running for a public office is accompanied by criminal actions with respect to his or her authorized representatives and members of election headquarters. The leader of election headquarters of one of the candidates running for governor of the Penza region was assaulted in his own apartment. An authorized representative of one of the candidates running for the Samara Regional Duma experienced pressure constantly exerted by criminal structures, which included illegal solicitation of information about her family members.

The influence of bodies of power can be tentatively divided into two principal constituents: interference of the federal center during the course of a regional election campaign and active utilization of “administrative resource” by the acting regional authorities whose representatives participate in elections.

The fact that the federal center is interested in a certain outcome of regional elections is politically legitimate and does not represent a violation of electoral legislation in itself. But non-observance of campaigning rules, as well as promotion of certain candidates during the election campaign violate the legal principle of equality of candidates. Gubernatorial elections in the Primorsky territory, one of whose participants was G. Apanasenko, deputy representative of the RF President in the region, may serve as an example of interference on the part of the federal center. Third in the first round of elections, G. Apanasenko was to quit the race but the removal of V. Cherepkov for violation of campaigning rules, as he had illegally obtained free air time on TV, automatically enabled G. Apanasenko to take part in the second round of elections. At the same time, S. Darkin, who completed the first round with the best result and was granted free air time on the same grounds with V. Cherepkov, had no claims brought against him that could result in his removal from the race. This example allows one to assume that there is a double-standard used with respect to candidates, which in this case was applied to ensure G. Apanasenko’s participation in the second round of elections.

Most likely it is the financial attractiveness of the Sakha Republic (Yakutia) that made the federal center pay such close attention to presidential elections in this region. This republic is one of the few Russian regions whose economic situation is secure, which in this case is based on tax payments made by a large Yakutian company, Alrosa, dealing in extraction and processing of diamonds. V. Shtyrov, president of Alrosa prior to elections, was the only real candidate on the list of those who ran for the presidency of Yakutia. Apparently, he agreed to reorganize the diamond extraction company and turn it from regional into a federal one, which means that the majority of its taxes is to be paid to the federal budget instead of the regional.

301 Campaigning of the RF President’s Representative in favor of G. Apanasenko does not allow one to speak of the federal center’s simply being interested in the outcome of gubernatorial elections in the Primorsky territory.

The political process, within the framework of which neither of the principal candidates (then-President of the republic, M. Nikolayev, Deputy Prosecutor General of the RF, V. Kolmogorov, and V. Shtyrov) could obtain the conclusive majority, was developing alongside the election process. As a result, the voting ballot was undergoing constant alterations. Court examinations with respect to two of the three principal candidates — M. Nikolayev and V. Shtyrov — and the federal center’s change of priorities with respect to candidates running for presidency (at the initial stage of elections, it was V. Kolmogorov who had the support of the federal center, which is proved by direct campaigning on his behalf by P. Borodin, Secretary of State of the Russia-Belarus allied state) resulted in the fact that the early voting on December 8 was conducted with ballots that included the names of V. Kolmogorov and V. Nikolayev, who withdrew their candidacies at the end of the election campaign.

M. Nikolayev, who had counted on an opportunity to be re-elected for the third consecutive term, used his possibilities to influence the republican judicial authorities. The Parliament of Yakutia did not want M. Nikolayev to be re-elected and, therefore, refused to void from the Constitution of Yakutia the provisions that prevented President of Yakutia from serving longer than two terms in office. This led to a contradiction between the regional legislation and the amendment to Federal Law “On General Principles of Organization of Bodies of Executive and Legislative Power of RF Subjects” passed by the State Duma in 2000. The amendment allowed regional heads who had been elected prior to October 1999 to be re-elected for the third consecutive term. M. Nikolayev pressured the Supreme Court of Yakutia, forcing it to satisfy his request to ignore the Parliament and the voters’ complaints against his illegal registration.

Upon the whole, the election campaign in Yakutia was accompanied by tough and not always legal measures undertaken as a rule by the election headquarters of V. Kolmogorov toward competitors and representatives of their election headquarters. Apprehension and subsequent incarceration of members of election headquarters of other candidates without an indictment, maximal utilization of resources of the republican prosecutor’s office to fight competitors, etc. were among the tactics encountered. Essentially the campaign could not be characterized as a competition for electors’ votes. It is the utilization of administrative resources in this campaign that prevents one from speaking of observation of democratic mechanisms of power rotation by means of effective campaigning.

As a rule, participation of acting regional heads in gubernatorial election campaigns is associated with the practice of accumulating various possibilities to use state organizations and structures — the above-mentioned “administrative resource” — for election campaign purposes. In 2001, this problem was one of the issues actively discussed by representatives of the Central Election Commission (CEC) and one of the reasons why CEC

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came forth with a project to establish “Free Elections” Fund.\(^{304}\) It was the issue of equal participation of candidates in the election process and observation of electoral legislation (during the election for head of the Irkutsk region) to which the RF Ombudsman, O. Mironov, dedicated his address. This address was based on the petitions submitted to O. Mironov by deputies of the legislative assembly of the Irkutsk region. O. Mironov discussed instances when power structures were used to exert pressure against citizens supporting candidates in opposition to the then-Governor, as well as against citizens who provided financial assistance to the opposition.\(^{305}\) “The excesses and extremes to which the then-Governor went in utilizing administrative resource” was the primary characteristics of the assessment of the pre-election situation in the Irkutsk region made by A. Veshniakov, CEC Chairman.\(^{306}\) At the same time, the civil case that had to do with the refusal of the Irkutsk Regional Court to satisfy a collective petition of four candidates to disfranchise the current Governor for violation of campaign rules was removed from the agenda of the RF Supreme Court.\(^{307}\)

Violating campaign regulations by campaigning in favor of a certain candidate on the part of a public servant is one of the most widespread violations. This violation rarely brings about cancellation or revision of election results. Many regional reports contain information about campaigning conducted by regional heads in favor of certain candidates. For example, the Governor of the Kirov region campaigned in favor of a specific candidate running for Kirov’s mayoral office as he met with voters. The regional election commission only pointed out to the Governor that it was necessary to strictly abide by the election legislation. During the election for the Astrakhan Regional Duma, representatives of precinct election commissions, who by law were to supervise over the course of the election campaign, acted against certain candidates. Publication and dissemination of illegal campaign materials in the form of newspapers and fliers with information on the publisher either omitted of faked is a general feature of elections at all levels of power.

As has been noted before, participation of a current regional head in an election campaign is often accompanied by his taking advantage of his official position. On the voting day of gubernatorial elections in the Irkutsk region, a newspaper containing materials in favor of the candidacy of the then-Governor, B. Govorin, was disseminated in the city of Irkutsk. Although law enforcement authorities were informed of the election law violation, no sanctions followed. Moreover, facts were registered indicating that public officials pressured their subordinates, coercing them to vote for B. Govorin and threatening to deprive them of bonuses should they vote otherwise.

The current legislation presents potential candidates with two possibilities to become registered and take part in an election campaign: they must

\(^{307}\) “Supreme Court Has No Claims to Govorin.” Nezavisimaya Gazeta (September 12, 2001, #169).
either collect a certain number of signatures of voters supporting them or make a monetary deposit.\textsuperscript{308} The majority of candidates resort to the first method not only due to financial considerations but also due to the fact that collection of signatures in fact contains elements of campaigning, as information about the candidate is presented to those whose signatures are solicited. Forgery of signatures, and solicitation of signatures by deceit or coercion are the most widespread violations encountered at this stage of the election campaign. Sometimes, voters are offered bribes in exchange for their signatures in support of a certain candidate.

The election commission of the Nizhny Novgorod region refused to register a candidate running for governor in light of the fact that the signatures he provided had been collected by heads of municipal enterprises among their subordinates, using coercion. The decision of the regional election commission was based on explanatory notes of employees of municipal enterprises obtained during the course of an inspection conducted by the Chief Police Directorate (GUVD) of the region. Although the election commission was not presented with evidence proving that coercion had indeed taken place, the candidate was nevertheless denied registration. Taking into account the fact that the candidate who was denied registration was the acting Mayor of the regional center and might have presented a real challenge to the Governor who was running for re-election, it is legitimate to assume that the actions of regional election commission were motivated by political considerations, rather than by an unbiased examination of the signature lists.\textsuperscript{309}

It appears that the regional power has opportunities to influence decisions and actions of regional election commissions regardless of whether or not the current head of the region participates in elections. For example, the Central Election Commission of the Komi Republic did not thoroughly examine a grievance regarding violations of election legislation committed by the election headquarters of the acting Governor during solicitation of signatures. The commission limited its response to summoning members of the headquarters and hearing their assurances that they had acted legally. Documented evidence of signature solicitation among municipal employees in their workplace did not result in an alteration of the commission’s decision in favor of the Governor’s election headquarters.\textsuperscript{310}

Instructions of the Central Election Commission of the Adyg Republic containing hard-to-fulfill requirements with respect to documentation necessary for registration eventually led to derangement of the signature solicitation campaign. For example, according to these instructions, a candidate is to submit two 6x9 cm photographs, a format that does not correspond to the standards generally available at photography studios. Should a candidate fail to provide such photographs, his or her registration documents would not be accepted.

\textsuperscript{308} Monetary deposit as a means of registration of a candidate was introduced at the elections to the State Duma in 1999.

\textsuperscript{309} E. Alekseyeva, “Nizhny Novgorod Mayor Will Not Become Governor.” \textit{Kommersant} (May 31, 2001, #93); S. Anisimov, “Nizhny Novgorod Mayor Barred From Elections.” \textit{Nezavisimaya Gazeta} (June 2, 2001, #98).

\textsuperscript{310} S. Sorokin, “Komi Republican Election Commission Gives Place to Woman.” \textit{Kommersant} (November 9, 2001, #205).
Another widely encountered violation of the election law is campaigning that starts prior to the candidate’s receipt of registration certificate. During the elections to the Moscow City Duma in 2001, instances were registered in several precincts indicating that campaigning was directly or obliquely underway while solicitation of signatures was still in process. For example, in the election precinct #14 the principal competitors began their campaigning in district newspapers prior to the beginning of the official campaign period. Many of the candidates who were at the time deputies of the previous convocation disseminated illustrated reports about their accomplishments during their respective terms, which can be viewed as indirect campaigning and abuse of power, as other candidates did not have such opportunities.

Political parties actively joined the election campaign to the Moscow City Duma having nominated their candidates in all of the Moscow’s 35 election precincts. Given the tremendous influence of Yu. Luzhkov, Moscow Mayor, on the capital’s political processes, as well as given the merger of the “Fatherland — All Russia” ("Otechestvo — Vsya Rossiya") political movement (one of whose leaders Yu. Luzhkov also was) and the pro-presidential “Unity” ("Edinstvo") party, which won the 1999 parliamentary elections, the ability of other parties to have their nominees elected was limited, to say the least. To overcome this situation, an agreement was reached between the “Fatherland” and “Unity,” on one side, and the political parties “Yabloko” and SPS, on the other, to nominate mutually agreed-upon candidates from the four political parties simultaneously in all the election precincts of Moscow. Thus, in practically all precincts, the elections to the Moscow City Duma were made into a formal attribute implementing political decisions made on the parity basis. Creation of an electoral situation in which political differences between the parties were reduced to nothing accounted for a low turnout of voters since the primary participants of the elections failed to take their political preferences into account.311

Many of the violations registered during the campaign period had to do with the pressure exerted against mass media and organizations selling advertisement facilities. These actions lead to the inability of opposition candidates to conduct an effective election campaign targeted at a broad range of voters. Vladivostok TV, regional branch of the State TV and Radio Broadcasting Company (GVTRK) in the Primorsky territory, whose broadcasting covers the entire region, forwarded a petition addressed to A. Veshniakov, Chair of the RF Central Election Commission, S. Knyazev, Chair of the Primorsky Regional Election Commission, O. Dobrodeyev, Chair of the State TV and Radio Broadcasting Company (GVTRK), M. Lesin, Minister of Press, and K. Pulikovsky, Representative of the RF President in the region, in which they accused G. Apanasenko, candidate for governor, of exerting an unprecedented amount of pressure against the company, forcing it to limit the airing of

candidates’ campaign materials exclusively to his personal videos and “anonymous” programs from his election headquarters. Staff of the television company expressed their concern with respect to the possibility of their being charged with violation of the election law since practically the entire campaign air time was filled with materials of G. Apanasenko’s election headquarters, which contradicts the rules regulating the conduct of an election campaign.312

During presidential elections in the Republic of Tatarstan, observers noticed an absence of any political advertisement of candidates running for presidency against the acting President, M. Shaimiyev. Observers also noticed that candidates could not address the electorate and have their video materials aired on local television. Formally, presidential elections in Tatarstan on the whole can be considered to have been in compliance with the democratic procedure. But in reality, the very institution of the electoral process was discredited by the absence of any real competition in the campaign, as well as by the nominal nature of voting. During voting, observers from the oppositionary candidates’ election headquarters registered cases of vote coercion under the threat of sanctions and in violation of the secret ballot principle. For example, laborers of the “Elekon” and “Tatenergo” enterprises under the threat of dismissal were forced by their supervisors of having voted in favor of the acting President of the republic. Also, directors of state farms actually voted instead of farm workers. According to the election headquarters of the Communist Party of the Russian Federation (KPRF) candidate, inadequately sealed bulletin boxes, and boxes that were not sealed at all represented the most widespread violations in this election.313

Among other violations practiced by candidates is bribery of voters. For example, an inspection group was formed to verify the allegations provided by residents of the Surinday settlement (Evenkia). This group consisted of representatives of law enforcement agencies, the regional election commission, and the prosecutor’s office. They identified facts indicating that settlement voters had been bribed by members of the group supporting a candidate for governor of the Evenk autonomous district who was running against a candidate that represented the interests of a large oil company. Each settlement resident received an assortment of groceries, while the local school and public club each received a set of expensive equipment. Based on the information confirmed by the inspection team, the regional election commission canceled the candidate’s registration.314

Sometimes, violations of election law that occur in connection with vote counting and results publication become objects for legal action taken by prosecutors. The prosecutor’s office of the Samara region, which received a complaint of one of the candidates claiming that voting results had been falsified, initiated an investigation. All the voters whose data were provided in the election registration documents of the precinct in question were individually questioned. During the course of the examination, facts

312 A. Chernyshov, “Journalists Revolt Against Candidate for Governor.” Kommersant (May 17, 2001, #83).
313 E. Tregubova, “Tatars — They Are So Persistent …” Kommersant (March 26, 2001, #52/P).
of violations were identified and legal action was taken. Later, the prosecutor’s office initiated another criminal case based on facts of falsification of voting results in the Zheleznodorozhny election precinct of Samara.315

Analogous violations were registered during vote counting and publication of election results for the City Duma of Armavir (Krasnodar territory). One of the candidates initiated verification of voting results. As a result, the court and the passport and registration service identified facts of falsification of general results at one of the election precincts. The final reports were found to contain non-existent voters, which resulted in an inflated voter turnout and alteration of general voting results. The precinct election commission was also found to have been formed in violation of the law, because its members were all employees of one organization presided over by the organization’s boss.316

The Adygeisk city court (Adyg Republic) found that the vote count conducted by one of the election commissions of the city had been illegal. At the same time, violations committed by the precinct election commission (election precinct #39) in the election of deputies to the Perm regional Legislature Assembly were the reason why the court found the election results invalid.

In addition to falsification of voting results, cases of direct and indirect bribery of voters right at polling stations have been registered, as well as cases of violations of the secret ballot principle. Elections for the Leningrad regional legislature were rendered invalid in one of the election precincts because of confirmed information indicating massive bribery of voters, also involving children through whom attempts had been made to influence their parents. Facts of voter bribery were registered during the early election to the Tula regional legislature when each of the voters who voted early was presented with 20 roubles in cash and a bag of flour.

The regional law of the Stavropol territory on election that does not account for issuance of absentee certificates (necessary to vote outside one’s election precinct). This in itself can be regarded as a limitation of the passive electoral right. This results in the fact that hospitalized citizens, out-of-town students, individuals in pretrial detention facilities, as well as civil and military personnel who find themselves traveling on voting day, are deprived of the right to vote.

Violations of the legally prescribed procedure that regulates voting outside polling stations may lead to subsequent falsification of general voting results for an election precinct. During the elections for the Khabarovsk regional legislature, voting violations were registered on the territory of a military unit, which was provided with ballots based on the request that contained a list of voters who were temporarily hospitalized. An inspection verified that only 10% of the hospital patients had the right to vote in the district in question. The rest of them did not

belong to the unit at this location and were in this district only temporarily to receive treatment. Therefore, they should have been voting for deputies from other election precincts. Given that no preliminary verification of lists of voters who were to vote outside their polling stations was conducted as prescribed by the law, one of the candidates, whose winning the election largely depended on voting results from this precinct, filed a complaint. The court that examined the case did not uphold the grievance.

Sometimes, poorly thought-through actions of election commissions lead to violations of the passive and active electoral right. Registration of one of the candidates at municipal elections in the Rostov region was canceled but later, on the very day of the voting, reinstated again. Nevertheless, the election was conducted using ballots that omitted the name of the reinstated candidate. The municipal election commission of Zverevo (Rostov region) declared all ballots invalid and thus indirectly made amends to the candidate for the violation, however, the voting of four thousand voters who had come to participate in the municipal elections was annulled.

In some cases, violations committed by members of election commissions lead to their disbandment and reinstatement of the winner-candidate based on the re-count of votes. For example, falsifications committed by the city election commission during elections to the city legislature of Voronezh during vote counting in the election precinct #10 were confirmed by decisions of the district and regional courts. Initially, the city election commission declared that most of votes had been cast “against all candidates,” but a re-count showed that the majority of the ballots cast “against all candidates” were invalid. The district court ruled that one of the candidates had been elected deputy. This ruling was upheld by the decision of the regional court when it reviewed an appeal submitted by the city election commission. Later, based on the decision of the regional court, the city election commission was disbanded.

Rights of observers, who theoretically are to prevent violations during the course of voting and vote counting, are frequently violated. For example, during gubernatorial elections, as well as elections for representative bodies of power and heads of district administrations in the Tyumen region, the vote count procedure was closed to observers. Analogous violations were identified during elections in the Adyg Republic, in the Irkutsk region, etc.

Confrontation between regional and municipal powers (Governor versus Mayor) is typical for certain subjects of the Russian Federation. It can influence the election process and the conduct of elections. Indicative is the conflict between the territorial and regional election commissions that occurred in the second round of municipal elections in Balakovo (Saratov region). The Balakovo city court canceled registration of one of the mayoral candidates because he gave incorrect information regarding ownership of property. This caused a protest of local residents that wished to see on the ballot the name of this candidate, who at that moment was acting Mayor and in opposition to the Governor. The city election commission ignored the court decision, having included the candidate’s name in the second round ballot and having thus
exceeded its authority. As a result, voting was conducted using two different kinds of ballots. One of them was prepared by the city election commission and contained the name of the aforementioned candidate. The other was prepared by the regional election commission and did not contain this candidate’s name. The regional election commission did not take any adequate measures with respect to the actions of the city election commission, which fell under Article 315 of the RF Criminal Code (failure to execute court decision), and created a situation in which voters in fact were unable to implement their electoral rights. It appears that operative intervention of the regional election commission targeted at liquidation of ballots issued by the city election commission would have allowed voters to express their electoral preferences in a more intelligible fashion, as they at least might have resorted to the “against all candidates” option. As a result, the elections were rendered invalid and the Mayor was appointed by the City Council on the initiative of the Governor. This was done on the basis of a new City Charter precipitously adopted by the City Council, which is a violation of the federal law provision pertaining to direct mayoral election. In addition, having thus altered the City Charter, the deputies disregarded the opinion of citizens who in the city referendum of 1996 voted for selection of a mayor by election.317

As it has been noted in our previous reports on the human rights situation in the Russian Federation, no local elections are conducted in the Republic of Bashkortostan. This issue was examined by the courts of Bashkortostan and the RF Supreme Court. The plaintiff, deputy of the Beloretsk City Council (Bashkortostan) I. Isyangulov, demanded in his suit that provisions of the Constitution of Bashkortostan be brought in compliance with the RF Constitution, including the provisions that have to do with appointment of heads of local administrations by election. The courts of Bashkortostan refused to uphold the suit, as did the RF Supreme Court, having referred to the federal agreement on separation of authorities between federal and republican powers. Having exhausted all venues available to protect his rights, the plaintiff submitted a petition to the European Court of Human Rights.318

Election legislation of the Republic of Tatarstan not only allows the President to appoint heads of local administrations, but it also permits working for the executive bodies and serving legislative authorities simultaneously. For example, among deputies of the Tatarstan State Council there are the following republican officials: Chairman of the Central Bank, Prime Minister, Chief of the Presidential Administration, and appointed heads of municipalities (a total of 56 individuals).319 This grossly violates the principle of separation and independence of the three branches of power and contradicts the RF Constitution (Article 10). On January 23, 2001, the RF Su-

318 M. Khairullin, A. Rakhimov, “To Be Held Liable in European Court?” Novye Izvestia (February 12, 2001, #24).
preme Court ruled that the election legislation of the republic was not applicable regarding a deputy holding an executive office. This, however, did not result in any measures being undertaken by the Tatarstan Central Election Commission to rectify the aberrant situation. The process of cancellation of registration of the deputies-state officials elected on December 19, 1999, should have been initiated and repeat elections should have been called in the relevant districts. Inaction of the Tatarstan Central Election Commission was unsuccessfully challenged in the Tatarstan Supreme Court and later in the RF Supreme Court, which decided not to review the appeal.320

The Ban on Propaganda of War and the Instigation of Discrimination and Violence

Propaganda of War

The activities of informal youth neo-nazi movements (skinheads, etc.) that had been latent before April 2001 rose to qualitatively new levels after two pogroms that took place in the city of Moscow. Until then, the haphazard and infrequent incidents of street violence motivated by racial or ethnic hostility had been essentially of a non-organized nature.  

The first massive organized action of extremist neo-nazi groups, pogrom of a street market near Yasenevo metro station, was staged on April 21, 2001 (Adolph Hitler’s birthday) by a gang of 150 people. The timing is in itself an indirect indication of the fact that neo-nazi groups profess the same ideas as those promoted by political fascism. A. Semiletnikov, deputy editor-in-chief of the nationalist magazine Russki Khозяин, was indicted on charges of organizing mass-scale street riots and involving under-age youth in criminal activities. Four under-age youths were charged with participation in street riots and hooliganism. The formal charges conceal the apparent xenophobic nature of the skinheads’ organized attack against members of ethnic minorities that resulted in the destruction of a portion of the street kiosks.

The pogrom of a street market near Tsaritsino metro station, followed by mass-scale attacks against ethnic minorities near Kashirskaya metro station and in the vicinity of the Sevastopol Hotel (Kakhovskaya and Sevastopolskaya metro stations), was the second mass-scale action of skinheads. This was an organized and coordinated effort. About 300 rioters, all of them residents of Moscow and Moscow region, gathered at a previously agreed upon hour in a forested area near the upper Tsaritsino ponds, adjacent to the street market, and received metal rods from their leaders. As a result, two people were killed and one more, Karam Dzhanmamedov, died in the hospital, not to mention over 20 persons that were wounded. The law enforcement agencies failed to prevent the tragic deaths of three people because they were largely unprepared for an attack of this nature and lacked experience in dealing with street riots staged by under-age youths. According to the opinion of V. Shansev, Moscow Dep-
The fact that the Tsaritsino pogrom was not prevented, and incidents of ethnically motivated violence and killings are continuing to occur in the city of Moscow.

The majority of those taking part in the Tsaritsino pogrom evaded the police and took refuge in the metro, where they went on beating people of “non-Russian” appearance. Skinheads attacked several Azeris in the passageway at Kashirskaya metro station. Large groups of pogrom participants gradually converged at the Sevastopol Hotel, frequented by members of the Moscow Afghan community, and staged a pogrom near the Kakhovskaya metro station, in the vicinity of the hotel. As a result one person, a Hindu national, was killed. A seven-year old girl received a cerebral concussion.

The events that took place after the street market pogrom at Tsaritsino metro station showed that the police do not have any contingency plans for preventing this sort of neo-nazi attacks, and that their actions are sporadic, ill-coordinated and largely ineffective. The fact that the rioters’ actions were labeled as hooliganism indicates that law enforcement agencies are reluctant to properly assess the situation, which might be explained by the prevalence of significant intolerance towards specific ethnic minorities among police officers.

The police confirmed that many of the suspects in the Tsaritsino case belonged to one pro-fascist group of skinheads. Representatives of law enforcement agencies make a point of emphasizing the informal nature of such pro-fascist youth associations. On the other hand, lack of registration of youth movements professing racist and chauvinistic views and promoting violence reduces the ability of law enforcement structures to exercise control over their activities. The underestimation of skinheads’ level of organization has a direct impact on the effectiveness of police counter efforts.

Out of the 25 pogrom participants arrested by the police, all were released some time after, with the exception of two suspects in the actual killings. Two of the pogrom participants, S. Polyakov and V. Trubin, have been charged with murder. All others arrested in connection with the pogrom in the southern area of Moscow have been charged with hooliganism. The inefficiency (to put it very mildly) of the Moscow police is reflected by the fact that the Tsaritsino pogrom was not prevented, and incidents of ethnically motivated violence and killings are continuing to occur in the city of Moscow.

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325 M. Telegin, “Police is trying to make a deal with the Caucuses Diaspora.” Nezavisimaya Gazeta (November 2, 2001, #206).
326 The prosecutor of the Southern administrative district of Moscow, A. Shtukaturov, stated, that the pogroms were organized by “various informal chauvinistic youth organizations.” See: S. Topol, Y. Senatorov, “Pogrom Organized by Fascists.” Kommersant (November 2, 2001, #202).
327 One of the officers of the Ministry of Internal Affairs stated in an interview given to the correspondent of the Itogi magazine, S. Krivoshein: “If we admit the presence of nazi groups in the city, we will have to admit that they are well organized. That would mean that half of our bosses have to be fired because we have an organized crime group in Moscow that has
The events that have occurred to date have had a pre-planned character and their participants were apparently well informed about the nature and goals of the attacks. The riot participants displayed a certain level of ideological preparedness for action. But, in addition to the pre-planned and organized events, there have also been registered incidents of haphazard violence, characterized by a high degree of unmotivated and unprovoked brutality. In late November of 2001, three teenagers aged 15, 16 and 17, calling themselves “skinheads” and “keepers of the city,” beat to death a homeless acquaintance of theirs. Once arrested, the teenagers could not explain why they had committed this crime.

On August 23, 2001, a group of skinheads beat up a 34-year old Angolan, Paul Massa Mayoni, near the UN Refugee Center. Three weeks later, he died in a hospital due to the head injuries he received during that attack. According to law enforcement agencies, the culprit is a 16-year-old Moscow college student, who identifies himself with the skinhead movement. The investigation into the death of the Angolan citizen was given a new impetus after the tragic events in Tsaritsino, which brought to light the activities of skinheads and increased public awareness of this issue.

Growing public awareness of the threat coming from skinheads and the feeling of defenselessness against fascist young men represented the most likely reason for the death of L. Milyavskaya. She and her son were in the yard of her house when they were approached by a group of skinheads who threatened to kill her son. The woman collapsed from fear.

Incidents of sudden and unprovoked violence against various socially-unprotected groups in Russian society have been largely the result of a sense of impunity for this type of behavior, as well as the growth of social and ethnic xenophobia.

It should be noted that the ongoing war in the Chechen Republic, accompanied by violence on both sides, can only contribute to the growth of the aforementioned trends within Russian society. The number of violent incidents is growing from year to year.

never been mentioned in operational or annual reports. On the other hand, we cannot deal with the skinheads as a political force, because the police are not involved in politics. Thus, we have to treat them as hooligans.” Quoted from S. Alexandrov, “Nazis in the City.” Profile (November 1, 2001, #42).

330 A. Bogomolov, “Tsaritsino Pogrom Was Not the Last One.” Novye Izvestia. (November 13, 2002, #205). In answering the correspondent’s questions, the leader of a large skinheads’ group, who initiated the interview but chose to remain anonymous, spoke about the organized character of the Tsaritsino’s pogrom and its anticipated consequences. He stressed that the participation in the action was strictly voluntary.

331 “Skinheads Took Care of a Homeless.” Vechernaya Moskva (November 22, 2001, #229).

332 Ibid.


334 “Racism and Xenophobia are Thriving in Russia.” Inostranets (November 20, 2002, #43).
The following racially motivated offences committed by skinheads have been registered in Moscow in spring and summer of 2001.335 Two Mongolian citizens were beaten in January at Prospect Mira metro station. Second Secretary of the Japanese Embassy, Esi Yamadu, was beaten in January. On March 11, a large-scale fight was staged near the Armenian school, with one of the students being eventually hospitalized. When the police arrived at the scene, they simply dispersed the crowd without making any arrests.336 On March 17, an Iranian citizen was beaten at Akademicheskaya metro station. On March 24, at the Kiyevskaya metro station, a citizen of Nepal was beaten and subsequently hospitalized. On April 21, as a result of the aforementioned pogrom of the street market in the area of Yasenevo, dozens of people were beaten and 29 kiosks were destroyed. On April 22, on Manezh Square in downtown Moscow, an 18-year-old Chechen was killed by skinheads in a fight. On May 15, at Sokolniki metro station, a Zimbabwean citizen was beaten. On May 27, three Tadjiks were severely beaten and had to be hospitalized. On May 29, an elderly Moscow resident of Syrian descent was beaten in the metro. On June 11, a Senegalese citizen was beaten in the metro between the Kitay-Gorod and Tret’yanovskaya metro stations. On June 15, a Chinese citizen took a beating in the metro. On July 8, a Cameroonian citizen was beaten in the metro between Dobryninskaya and Paveletskaya metro stations. On June 22, a Dagestani resident was beaten in the town of Zelenograd (Moscow region). On August 23, a refugee from Angola was beaten and later died in the hospital (as described above).

The growing number of acts of unprovoked violence committed by young people over the last several years is clearly reflective of a high level of asocial behavior. This seems to be one of the results of the degradation family’s social functions and ineffectiveness of other social institutions meant to integrate young people into society. Otherwise, the negative impact of xenophobic views and social background in general would not have been so influential on the attitudes of this segment of youths.

The events near Tsaritsino metro station have been adequately assessed and resolutely condemned by many politicians. At the same time, the programs and measures being developed to prevent large-scale incidents of racism and xenophobia are, in fact, primarily aimed not at prevention of such attitudes in society and educating the youth, but at the enforcement of more stringent regulations of staying in Moscow. The head of the Moscow Chief Police Directorate, Major-General Pronin, publicly called for giving Moscow a special status and quickly introducing special rules for entry and registration of incoming migrants.337 The government is trying to find a comprehensive answer to the growing xenophobic attitudes within society by driving incoming people and ethnic minorities into a kind of a social “ghetto.” The available information indicates that the proposed policies emphasize the introduction of more stringent registration controls, while

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335 It should be noted that crimes against foreigners, especially those who work for foreign embassies in Moscow, are reported more frequently than any other attacks by skinheads.
absolutely no attention is given to propagating tolerance as part of the programs.

Activities of Neo-Nazi Groups in the Regions and Territories of Russia

The activities of neo-nazi youth groups are on the rise throughout the regions of the Russian Federation. Foreign students of institutions of higher education and people from of the southern parts of Russia and the CIS are usual targets of beatings and other forms of violence.

At the beginning of this year, African Unity (civic organization of Africans in St. Petersburg) appealed to the human rights organizations and the city administration asking for protection, but their letter did not lead to any practical measures in connection with providing security to foreign students. In early October of 2001, a gang of skinheads attacked several students of the St. Petersburg State Technological University, nationals of China, Zimbabwe and Cote D’Ivoire, near their dormitories. In the presence of a continuous threat of skinheads terrorizing foreign students and after almost complete inaction on the part of law enforcement agencies and government officials, the foreign students organized themselves into self-defense groups. In order to prevent demonstrations by Africans and large-scale clashes with skinheads, the police increased patrols in the corresponding areas of the city.338 It is apparent that the measures taken by law enforcement agencies are insufficient, and that there is a need for the implementation of comprehensive citywide measures to put an end to racist activities.

Ongoing violent actions of skinheads against Chinese students studying in higher education institutions of Voronezh compelled the students and college administrations to take their own security measures. On April 21, the local skinheads staged up a symbolic incineration of a cross in front of a dormitory occupied predominantly by foreign students. Incidents of attacks and beatings became even more aggravating following this event. A group of 70 students, together with their tutor, were relaxing in the city park, when they were attacked by skinheads. As a result, two girls had to be hospitalized.339 The local law enforcement agencies maintained that the attacks against the Chinese did not have any nationalist or racial underpinning. Only after a meeting organized by the regional administration at the request of the Voronezh University Dean, the law enforcement agencies agreed to enhance patrols of the streets and the area where the foreign students are concentrated and permit the organization of student self-defense groups. Similar to the situation in St. Petersburg, cooperation between the police and student self-defense groups is the only way of countering the skinhead threat. Following the heightening of racist sentiments in Voronezh, an attempt was made to set up an anti-fascist center that would coordinate the activities of law enforcement agencies, administrations of colleges and representatives of foreign students.340

338 N. Donskoi, “Division “Shaven Head.” Novaya Gazeta (October 18, 2001, #76).
In the city of Oryol (Oryol region), Chinese students have also become the major targets for skinheads, members of the Russian National Unity and their sympathizers. Following several instances of violence (on July 30, a Chinese student had his head broken by a stone near his dormitory; on July 31, a Chinese female-student was attacked in a city park; on August 7, two students were whipped with belts), the Chinese students now move around the city only accompanied by police officers. The police do not have any other means of ensuring the students’ safety. Stringent post controls were introduced in foreign students’ dormitories as an additional safety measure. As a result, many students discontinue their studies and return home, which has a negative impact on the city revenues. It is doubtful that the above measures, which effectively have resulted in a wall between the Chinese and the local community, are the most efficient solution for preventing racist attacks from violent youth.

Regular attacks against foreign students at the Tver State Technological University and Tver Medical Academy, including beatings, killings and the pogrom of the students’ dormitory by local high school students on the night of May 9, forced the Vietnamese, Hindu, and African students to address an open petition to the regional and local authorities. College administrators attribute the inability of local law enforcement agencies to ensure the safety of foreign students to the fact that police forces are largely understaffed. Many colleges and universities do not have enough funds to hire their own security personnel that would be more capable of effectively dealing with racist issues. Following the attacks against foreign students in Tver, 25 criminal cases were opened, a special working group was set up to coordinate the investigations and study case materials, the Mayor of the city pledged to keep an eye on the investigation, and plain-clothed policemen started patrolling the area near the dormitory. The police view all offences against foreigners as mere hooliganism, which predetermines the direction such investigations take. The law enforcers do search for the actual perpetrators and attempt to ensure the safety of students in the area of their dormitory, but no preventive measures against racially motivated violence are being taken.

Given the increase in 2001 of the number of incidents when foreign dark-skinned students were beaten but not with the purpose of robbery, the administration of the Kursk State Medical University chose to appeal to the city special task police unit to ensure the safety of their students.

The activities of skinheads against migrants from the Caucasus sometimes bring about spontaneous protests by relatives of the victims. On

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341 A. Naibov, “Russian and Chinese are Brothers Forever.” Tribuna (September 20, 2001, #69).
342 L. Mukhamedyarova, “They Attack in Packs.” Obshchaya Gazeta (September 6, 2001, #36).
345 I. Mandrik, “Descendents of Afanasi Nikitin Give Beatings to Guests from India.” Novye Izvestia (January 19, 2001, #8).
346 “The Dark-Skinned in Need of OMON Special Police Task Force.” Versty (September 4, 2001, #100).
February 10, 2001, in St. Petersburg, three Azeris were heavily beaten by skinheads and one of them had to be hospitalized in severe condition. After this incident, the relatives and friends of the victims (around 200 people) staged a protest against the inactivity of the law enforcement agencies, who failed to arrive at the site of the crime in time. It was only owing to the efforts of Gudsi Osmanov, Honorary Consul of Azerbaijan in St. Petersburg, that the conflict between the Azeris and police was finally settled.\(^{347}\)

In addition to foreign students, another major target of hatred and attacks for skinheads are the Roma. In early August, a group of skinheads (13 to 18 years of age) beat to death two Roma, whom they incidentally met near the Tsaritsa river (Volgograd region). The prosecutor’s office of the Volgograd region opened an investigation in connection with this murder case but could prosecute only part of the gang, because many of the group members are not yet of legal age for criminal prosecution.\(^{348}\)

Political rivals of skinheads, i. e., antifascists, liberals and communists, are also known targets of neo-nazi hatred and violence. A civic antifascist foundation called “School of Peace,” located in the city of Novosibirsk, has become a permanent object for skinheads’ aggression.\(^{349}\) In the course of 2001, teenage skinheads would repeatedly paint swastikas and Anti-Semitic slogans on the walls and fence of the foundation’s building and brake their windows. The local authorities chose to take no notice of these pro-fascist activities. On February 12, a group of skinheads in St. Petersburg savagely beat four Germans, volunteers of the “Memorial” Society, who came to Russia to take care of elderly residents of the city as a way of “atonement for the sins of German nazism against other peoples in the world.” In this particular instance, the police was quick to react and arrested a group of 23 suspects.\(^{350}\)

\(^{350}\) V. Nesvizhski, “Pogrom Weekend in the Northern Capital.” *Segodnya* (February 13, 2001, #33).
\(^{351}\) H. Rubtsova, “Pogrom or Hooliganism.” *Novye Izvestia* (November 24, 2001, #214).
The federal bill “On Countering Political Extremism,” once enacted, might make it more difficult to conceal the nationalistic and political nature of this problem.\textsuperscript{352}

Although this bill has not yet been approved, the absence of adequate legal basis for the fight against extremism should not be taken as a justification of the utter inefficiency of law enforcement and administrative measures. That is especially so, given that while this draft law is being developed, there exists a special Presidential Standing Commission for Countering Political Extremism, headed by the Minister of Justice of the Russian Federation, Yu. Chaika.\textsuperscript{353}

One of the most common types of xenophobia among fascist youth groups is Anti-Semitism, which very often takes the form of desecration of Jewish cemeteries and synagogues. On September 23, the building of the Moscow Choral Synagogue was desecrated.\textsuperscript{354} According to V. Likhachev, working for the Information and Research Center “Panorama,” an outburst of Anti-Semitism was observed at the end of the summer. This conclusion is supported by many incidents of vandalism at Jewish cemeteries (Arsamas in the Nizhni Novgorod region; city of Perm; Velikiye Looki in the Pskov region; city of Krasnoyarsk; city of Saratov) and setting fire to synagogues (cities of Kostroma and Ryazan).\textsuperscript{355}

Publication of Anti-Semitic materials and offensive materials against people of African descent have become an issue in a suit filed by the Jewish civic organization “Shalom XXI Century” against the newspaper Novoye Vremya in the Omsk city court. A linguistic expertise requested by the court did not find any evidence of offensive language towards Jews and people of African descent in the publications under consideration,\textsuperscript{356} resulting in the court’s decision to dismiss the action. We believe that a court tasked to determine whether or not a publication is of a disparaging or slanderous nature in relation to a specific nationality should assess the overall impact of such publications, rather than the literary value of specific words in the text.

Publications of Anti-Semitic and more generally xenophobic spirit are openly sold in many regions of Russia. A presentation of the book Time to Raise the Sword by V. Sosnin, which is in fact a compilation of the well-known Anti-Semitic concoctions like Catechism of the Soviet Jew and Protocols of the Elders of Zion, was held in the city of Saratov. V. Sosnin also took part in a meeting marking the anniversary of the Kulikov Battle, where calls were made to make

\textsuperscript{352} Here, we shall not analyze this draft law and its various draw-backs.

\textsuperscript{353} Speech by the RF President on November 10 (Police Day) underscored the importance of the fight against national extremism by the law enforcement agencies. In his previous comments on the Tsaritsino pogrom, V. Putin characterized the authorities’ actions as ineffective. For excerpts from the speech, see: “Efforts of the Authorities Sometimes Prove to be Ineffective.” Moskovskie Novosti (November 6, 2001, #45).

\textsuperscript{354} Novye Izvestia (September 25, 2001, #172).

\textsuperscript{355} V. Likhachev, “Anti-Semites Are on the Rise.” Fremya MN (September 6, 2001, #159).

\textsuperscript{356} “The Court Liked the Jokes.” Versty (August 30, 2001, #98).
short work of the Jews. A criminal investigation was opened into the instigation of inter-ethnic hatred.\footnote{N. Andreyeva, “When Xenophobia Turns into Internationalism.” Obychayaya Gazeta (November 29, 2001, #48).}

In 2001, a new magazine called \textit{Admiralteistvo} came out in St. Petersburg. Although the magazine positions itself as a periodical targeting a broad audience and offering various materials on national politics, it is in fact just another xenophobic magazine distributed in the region. In early October, legislators of St. Petersburg found in their mailboxes an issue of the \textit{Nashe Obozrenye} newspaper, where Y. Belyayev, notorious in St. Petersburg for his pro-fascist views, calls to “beat the blood-sucking invaders from the Caucasus.” From the point of view of the Northwest department of the Ministry of Press, these calls instigate ethnic hatred and are liable to persecution. Nevertheless, on November 9, the prosecutor’s office of the Central district of the city ruled against pressing charges against Y. Belyayev in “the absence of guilt.”

The Volgograd city court ruled to cancel the license of the \textit{Slavyanin} newspaper, which openly disseminated pro-fascist ideas. In early 2001, journalists of the magazine \textit{Premier} appealed to the prosecutor’s office to indict \textit{Slavyanin}’s editor, V. Popov, on charges of instigation of inter-ethnic hatred. As a result of the investigation initiated by the prosecutor’s office, the charges were fully supported. However, V. Popov escaped prosecution because he was found mentally incompetent. The Ministry of Press also filed a suit against the newspaper, but V. Popov did not agree with the court’s decision and filed an appeal.

The local authorities and law enforcement agencies in the Samara region do not take any steps against mass media outlets that resort to Anti-Semitic invective. No action has been taken against the editors of the \textit{Alex-Inform} regional newspaper, which regularly makes derogatory remarks against Jews. Moreover, this newspaper is sold through the official “Rospechat” (“Russian Press”) distribution network.

Mass media in the Astrakhan region publish articles promoting discrimination against migrants. Migrants are compared to “trashcans that one can find at every corner.” Such publications call for cancellation of temporary residential registration for migrants and immediate deportation of foreigners and refugees from the Caucasus and the Central Asia. They also suggest taking specific measures against migrants. For example, to deny them employment, rent or purchase of houses, to boycott any goods sold by migrants from the Caucasus, to limit entry to the region for migrants from Central Asia, Caucasus and Afghanistan. In the Bryansk region, similar issues are also regularly brought up in the \textit{Bryanski Rabochi} periodical. The newspaper blames migrants for taking control of the markets and imposing higher prices and criticizes the local authorities for non-interference with migration.

Many regional print media carry direct calls for action against ethnic and religious minorities, which in itself constitutes a criminal offence. Never-
The situation is particularly dramatic in the Krasnodar territory, whose residents! Kuban is a multi-ethnic region but the core ethnic group of Kuban is the Russian people. The council to the Mayor of Saratov), although they openly state their claims for more active involvement in legal and political processes. Law enforcement agencies and the prosecutor's office take any practical steps to stop such publications. 358

The situation is particularly dramatic in the Krasnodar territory, whose administrative authorities are deeply involved in regional internal issues related to migration and allow themselves public statements that directly promote discriminatory measures against foreigners. Local media, in particular the Kuban Segodnya newspaper, duly publish such statements made by the Governor and various public officials and politicians. One of the issues of the newspaper carried a statement of the Governor that culminated as follows: “Kuban is for its residents! Kuban is a multi-ethnic region but the core ethnic group of Kuban is the Russian people. Those who come here to settle have to adjust themselves to the dominant ethnic group, its customs and traditions.”

Public activities of various national and patriotic organizations in the regions continued to be of a marginal nature. One of the few noteworthy features of 2001 was the activity of the Saratov branch of the Russian National Unity (RNE), which claimed to have its representatives in the power agencies of the city of Saratov. Members of this organization participate primarily in the work of consultative agencies to the local authorities (Public Council of the Saratov Regional Duma, Public Consultative Council to the Mayor of Saratov), although they openly state their claims for more active involvement in legal and political processes in the future. 359 At the national level, the activities of RNE have been negligible due to the ongoing split within the leadership of the party and active opposition of the Moscow authorities. 360

Litigation over the registration of the National-Bolshevik Party (NBP), initiated by the Moscow regional department of the Ministry of Justice of the Russian Federation had a positive outcome for the party. The Supreme Court ruled that the Ministry of Justice could not deny registration to the party, on the grounds that its leader, Eduard Limonov (Savenko) is confined to a pre-trial detention facility. 361 One can get an impression that the fight against extremism, which has been widely proclaimed by the authorities, is selective in nature and largely ineffective, since the informal neo-nazi organizations, that present a real danger to society, are not actively opposed by law enforcement agencies.

358 V. Nesvizhski, “Everyone to the Fight Against Foreigners.” Segodnya (March 5, 2001, #49).
SECTION 4

THE STATUS OF THE MOST VULNERABLE GROUPS AND VIOLATION OF THEIR RIGHTS
THE SITUATION OF ETHNIC MINORITIES

General

Problems associated with ethnic integration, which became more aggravating when V. Putin assumed the presidency of the Russian Federation, did not disappear during 2001. The rights of most ethnic minorities living in Russia continued to be transgressed, with violations often growing into sustained discrimination. Just as in previous years, particularly alarming reports came out of the areas of small indigenous communities in the north and the Chechens in the south. Notably, the number of ethnic Russians has grown in post-Soviet Russia and Russian culture has been preferentially promulgated. The result is that ethnic minorities are being passively Russified, which is a violation of the principle of “the multinational character of the Russian State,” as stated in the Constitution of the Russian Federation. Though the reform launched by President Putin to restructure the government has meaningfully slowed down in 2001, his goal to build a single vertical structure of power continues to come closer to realization. One of the measures taken to achieve his aim has been the elimination of the Ministry for Federation Affairs, which had been responsible for federation-building, migration and ethnic policies. A single Minister for Ethnic Policies (without portfolio), V. Zorin, who was one of the principal federal government agents in the last Chechen war, replaced the whole governmental agency. In his interview to the Kommersant daily, V. Zorin said that “…elimination of the ministry was part of a new course aimed to give society a new quality, by bolstering vertical power, creating a single legal arena, and increasing federal districts.”

However, though the Administration of the President and presidential representatives in the federal districts had been primarily involved in election campaigns in the Russian ethnic republics, no major devolution of power from the elected regional heads to the appointed presidential agents had ever occurred. Specifically, the scary predictions that Russian nationalism would be on the rise and new hurdles would emerge in the path of Russia-based ethnic republics and communities seeking to pursue unimpeded development did not materialize last year.

The State Duma continued to debate allowing the Russian people to enjoy a special “nation-building” status and having Russia assume primary responsibility for ethnic Russians living in the former Soviet republics. Passage of the draft laws “On the Russian People” and “On the Official Status of the Russian Language” was actively pushed. Those bills held a number of provisions aimed at allowing the Russian people to enjoy a special status within the state. Deputies from the Communist Party of the Russian Federation (KPRF) and Liberal Democratic Party of Russia (LDPR) have repeatedly taken the podium with their sharp nationalistic, xenophobic and Anti-Semitic pronouncements at a number of parliamentary hearings.

362 Kommersant (December 19, 2001, #231).
In the meantime, the State Duma is currently debating the bill “On the Guidelines for Official Ethnic Policies,” which is supported by most of the domestic ethnic regions and backed on a number of points by the liberal Duma members. To be in accordance with the Federal Constitution, the bill defines Russia as a multi-ethnic country, with all of its ethnic communities being “nation-builders.” The official ethnic policy ought to aim to assure “economic, social, political and legal safeguards for Russia’s ethnic minorities,” according to the aforementioned bill. The Government of the Russian Federation submitted to the State Duma the bill “On Introducing Changes and Amendments to Federal Law “On Ethno- Cultural Autonomy.” This bill, if passed into law, would generally improve the living and work opportunities for ethnic communities and specifically define an ethno-cultural autonomy as “a form of ethnic and cultural self-determination, a public association of citizens of the Russian Federation affiliating themselves with a certain ethnic community and posing as an ethnic minority within a given administrative unit.”

To summarize, the involvement of the Council of Federation of the RF Federal Assembly — the federal representative body for Russian regions — in the area of ethnic progress and ethnic relations has been less visible than in the previous years.

The so-called “anti-terrorist operation,” in fact a military campaign, in the Chechen Republic conducted by the Russian government against the fighters for Chechnya’s independence has degenerated into a series of open actions, accompanied by indiscriminate killings, to intimidate the Chechen population. The troops deployed in Chechnya have increasingly viewed the locals as “beasts” worthy of no humane treatment, according to numerous eyewitness and human rights defenders’ reports. Concurrently, the government has been doing its best to conceal the massive grassroots character of the ongoing conflict. What is more, the state-run and private Russian-language media, which under normal conditions seek to carefully avoid excessive mention of the country’s federal makeup, would refer to the troops operating in Chechnya as “federal” rather than “Russian.” As compared to the second Chechen war of 1999–2000, the proportion of news reports on the Russian Orthodox Church activities in the deployed garrisons and Chechnya as a whole, as well as on the hardships of the remaining Russians in the region, has been significantly decreased.363

The Krasnodar territory, the Volgograd region, and many other Russian regions engaged their law enforcement agencies to evict local Roma and carry out a sequence of clearly nationalistic measures against the Chechen diaspora. In addition, in a number of other Russian territories and regions nationalistic Cossack groups receive substantial governmental support. Notably, the Cossacks in southern Russia even took on the role of “safeguarding order.” In the meantime, following a series of pogroms and assaults staged by nationalists, the domestic special services and regional authorities undertook measures aimed at breaking up extremist nationalistic organizations. The Russian National Unity (RNE), a high-profile na-

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A nationalistic organization, has effectively ceased to exist as a national Russia-wide political force, and most of its regional chapters’ activities are now being monitored by special services. Following last year’s pogroms at the capital’s Yasenevo and Tzaritsino marketplaces, the Moscow authorities have for the first time displayed their readiness to counter the more aggressive nationalistic groups. Admittedly, only a few of the active participants of those tragic events have been prosecuted so far.

In nearly all Russian regions, the Russian Orthodox Church — Moscow Patriarchy — holds a dominant position over other confessions, receiving the most financial support from local authorities and having the most influence on official religious (and often cultural and educational) policies, according to the latest findings of regional monitors. A number of the Russian Orthodox Church officials and some Russian Orthodox media continued to push nationalistic and Anti-Semitic propaganda. On the other hand, the RF President and central authorities have repeatedly been outspoken in support of not only the Russian Orthodox Church but also of other Russian “traditional” religions, which served to radically diminishing nationalistic and chauvinistic ferocity of the Russian Orthodox rhetoric.

Russification and Federalism

The year 2001 saw the continuation of the Moscow-launched regional legislation effort aimed at repossessing the local natural resources that provide an economic basis to the sovereignty of ethnic administrative units. The statutory preemptive rights of smaller indigenous ethnic communities to the local natural resources and unmodified habitats have largely been wishful thinking.

However, in government politics, rather than in economics, ethnic relations have obviously come to the forefront. Clearly, though many politicians make use of nationalistic ideas simply to meet their personal power ambitions, members of the Russian and ethnic elites, for the most part, continue to be compelled to stand up for the interests of their relevant groups. In this political struggle, it is important to make best use of available administrative resources in order to either back Russification or oppose it.

The principal argument here could be a hypothetical opportunity to use a given ethnic language on par with Russian when tackling matters of public life and government service.

To provide an example to this effect, in his article “Russia and Russians” A. Sevastyanov, one of the drafters of the State Duma bill “On the Official Status of the Russian Language,” was outraged by the mere possibility of some resident of the Republic of Tyva sending a Russian-language application to a non-Russian-speaking local government official. According to A. Sevastyanov, this would be in violation of the right “to appeal in person or send in either individual or collective petitions to central government agencies or local administrations” guaranteed by Article 33 of the RF Constitution.

364 Nezavisimaya Gazeta (May 25, 2001, #92).
His opponent Kaadyr-oool Bichedey maintained that the knowledge of Russian made a “sufficient,” though not “mandatory,” requirement for candidates seeking a public office within the republic.

The republican-level attempts undertaken in 2001 to legally counter the Russification trend and expand the use of ethnic languages had for the most part ended in failure. Local Russians across the country have been reluctant to learn the ethnic languages. As a consequence, the relevant republican laws had to drop those provisions that indicated that the knowledge of the local language recommended or required for holding a public office. Notably, local laws stipulate that the knowledge of Russian is necessary for the established official functions (like record keeping) to be performed and nearly mandatory for career growth.

The Republic of Mordovia failed to secure passage of Republican Law “On Languages” that was drafted to give incentive to prospective public office holders to study the Mordovan language. In December 2000, when the Republic of Karelia had its draft Constitution debated, local lawmakers dropped the provision requiring that the Kareli an language be adopted as the second official language. However, the Adyg Republic managed to pass the law allowing for the use of the Adyg language, along with the Russian language, to maintain record-keeping tasks starting in 2003, notwithstanding a focused media campaign to the contrary.

The Vakhitovsky district court of Kazan (Republic of Tatarstan) adjudicated a suit filed by a local resident, S. Khapugin, against the Tatarstan Ministry of Education. The republic’s public schools teaching the Tatar language had been challenged in a court of law for the first time. The core issue is that S. Khapugin, father of a third-grader enrolled in the Kazan public school #49, contends that too many hours of classroom time (six hours a week) are being designated for the Tatar language. “Making the Tatar Language and Literature a compulsory subject equal with the Russian Language and Literature at any and all public schools in the republic is a violation of my son’s legitimate rights and interests,” writes the plaintiff in his legal action. Given that the Tatar language is rarely used in the home, in official papers, or in the general or higher schools of learning, the government ruling to teach the Tatar language on a compulsory basis appears to be out of line with “the realities of the day,” according to S. Khapugin. In his application, he asks to nullify the public school curriculum that mandates assigning to the teaching of the Tartar language the same amount of time as to the teaching of the Russian language.

The Vakhitovsky district court ruled against S. Khapugin and in favor of the prosecutor, who argued that the curriculum is based on provisions of the Constitutions of the Republic of Tatarstan and the Russian Federation, as well as on federal and republican laws on education and official languages. However, according to some trial participants, “some of the republic’s residents are not certain they are going to need the Tatar language to perform their everyday tasks. The language has rarely been used in either regional governmental agencies or other organizations despite the
Ethnic Russians living in Bashkortostan have voiced nearly the same degree of outrage and resentment at having their children taught the local languages. The Russian-language public schools with a multi-ethnic mix of students have the “native languages” taught in small groups (Bashkir, Tatar, Chuvash, Marii, etc.) to cater to the students’ interests, according to the curriculum for public schools of the Republic of Bashkortostan (annually printed in the *Teacher of Bashkortostan* journal). The Russian-speaking students are free either to learn Russian in depth or master the Bashkir language. The last regional human rights report on Bashkortostan states that the local Russian-speaking students have, as a matter of fact, been indirectly coerced into studying Bashkir as their native language because they have never been advised of their choice of languages for study. If parents attempt to assure that their children study Russian as their native language, their request is either denied, using various pretexts (lack of Russian teachers, the class hours being already distributed, shortage of training aids, or some other deficiency) or they are threatened that their children will have a difficult time enrolling in any school of higher learning in Bashkortostan unless they have a good command of the Bashkir language.

To illustrate the above, in September 1999, a group of Russian-speaking parents were told that their children would have to study Bashkir as their native language, without being given any information regarding a choice in the matter. Twelve parents of first graders in the Tyumazy-based high school #2 turned to M. Sageev, school principal, with a request to attempt to resolve the issue by taking into account the parents’ preferences. M. Sageev turned down their petition, referring to his being unable to restructure the curriculum in the middle of an academic year. However, he promised that the parents’ wishes would be honored next year. In 2000, M. Sageev refused to accept the parents’ petition, stating that all residents of Bashkortostan have to master the Bashkir language. Following that twist of events, the parents first turned to the city public education department and then appealed to the Ministry of Public Education of the Republic of Bashkortostan, where they were advised that disputes related to curriculum were the competency of the school principal. It is only after they turned to S. Kirienko, presidential representative in the Trans-Volga federal district, that (beginning September 24, 2001) their children, third graders by then, were eventually allowed to learn Russian as their native language. To emphasize, the local Russian-speaking schools have all other subjects taught in the Russian language.

While problems related to the Russian language in ethnic republics have largely been in the domain of public education, the use of ethnic languages, including those of titular ethnic communities, has been problematic in many realms. Usage of the Komi language, for example, has been radically curtailed and even associated with unpleasant consequences, according to the latest regional report for Komi, in the Komi Republic, where the rele-

The situation in the Aginsky Buryatsky autonomous district seems to be no different. There, members of the titular ethnic community are the majority of the local populace, which is a rare phenomenon in the RF autonomous districts. However, public school classes and work force gatherings have been conducted exclusively in Russian, with the Buryat language yet to be implemented. Just as in the case of other ethnic regions of Russia, the more socially active Buryat suggest that the requirement for leaders of those subjects of the Russian Federation to have practical knowledge of the titular ethnic community’s language (passed unconstitutional a few years ago) should be restored.

Another cause for conflicts between the central government and regional republics within the Russian Federation has been the decision for all Russian citizens to receive a new domestic passport. The Soviet-vintage passports, issued by the former union and autonomous republics, regions and districts, had the Russian-language entries partially translated into the local languages. For example, the first few pages of a passport issued by the Checheno-Ingush Autonomous Soviet Socialist Republic (ASSR) contained entries in the Russian, Chechen and Ingush languages, the holder’s ethnic origin making no difference. Following the fragmentation of the USSR, those passports were at first used as ID, to confirm the holder’s “republican citizenship” within the Russian Federation.

To emphasize, the republican authorities and ethnic organizations in Tatarstan, Bashkortostan, Adygea and other ethnic subjects of the Russian Federation insisted that the new Russian domestic passport should feature additional entries in local languages, as well as carry, wherever necessary, a mention of his/her ethnic identity and republican symbols. Detractors of the new ID maintained that some of the ethnic names could not be appro-
lacking the “ethnicity” line-item effectively leaves a Russian citizen devoid of the right to have his/her ethnic identity appropriately registered.

As a matter of fact, the introduction of the new domestic passport for all citizens of the Russian Federation results in the heads of ethnic republics being unable to apply administrative strategies to counter the ongoing Russification drive. Four years after the new passport was introduced and following a change of four federal Cabinets, Tatarstan and Bashkortostan at long last (in 2001) assured that the eligible local residents be issued Russian passports holding special inserts. Specifically, the ethnic republic-origin passports have their page 4 followed by two no-number pages featuring the coat of arms of the given republic and the holder’s data in the local language. The “ethnicity” information is not listed. Though one’s ethnic identity is not in the passport, it can still be entered into the birth certificate when its holder reaches 16 years of age. Importantly, Russians residing in ethnic republics are free to choose to have their passports either with or without the inserted pages.

As it has often been the case, the compromise-approach has failed to please everybody. One major problem is that the new Russian passport appears to have separated Tartars into the following two categories: fully capable Tartars with the right to have their names in their native language and the incapable ones (those residing outside Tatarstan) that have no such right, according to D. Iskhakov, ethnologist and historian, one of the leading ideologists of the Tartar National Center:

> What can one say of the quality of democracy in a country that leaves its citizens unable to have their names recorded properly? It is impossible write many Tartar names with the use of Cyrillic letters without causing heavy distortions. Ethnic rights (the right to have one’s name correctly recorded, certainly being one of those) are violated as a consequence. Other passport-related questions also continue to be hotly debated. For example, is it really proper for a Muslim to carry an ID on which Christian symbols are used? Why should Tartars be compelled to have their patronymics recorded in their passport? This custom is totally alien to Tartars, who use their own conventions. In making us put down our patronymics in the passports, the authorities effectively Russify us against our will.³⁶⁶

Notably, D. Iskhakov’s mentioning the issue of the Tartar language being dependent on the Cyrillic alphabet was in no way accidental. In 1991, Tatarstan passed a law for the Cyrillic alphabet to be replaced by the Latin alphabet within ten years. The Latin alphabet is believed to be adequately reflective of Turkic phonetics and allows Tartars to more closely approximate the languages use by Turks worldwide. Initially, the Tartars had used the Arabic alphabet but after the 1917 October Revolution in Russia they began to use the Latin alphabet. In 1930, the language changed to using the Cyrillic alphabet, as did many other ethnic languages in the former Soviet Union.

³⁶⁶ Zvezda Povolzhya (June 15, 2001).
The federal authorities had been most wary of the preparations launched by Tatarstan in the fall of 2001 to change to the Latin alphabet. The media carried reports of the difficulties encountered by local residents as they came to see unreadable street names in the very center of Kazan. Television reporters would especially seek to capture the street names in Latin letters, with the duplicative names in Cyrillic writing being left out of the picture.

On September 18, 2001, a large group of the pro-government “Unity” (“Edinstvo”) faction in the State Duma, along with numerous members from other factions, submitted a bill prescribing all the RF ethnic republics to exclusively use the Cyrillic alphabet. According to this bill, in particular, the following insertion should be made into Federal Law “On the Languages of Ethnic Communities in the Russian Federation”:

*The official language of the Russian Federation and official languages of republics of the Russian Federation shall use the Cyrillic-based alphabets (letters of the Russian alphabet). Any other guidelines (or coding) for writing the letters (signs or symbols) of the alphabets maintained by ethnic republics in the Russian Federation can be established by relevant federal laws.*

The bill was drafted by K. Bicheldey, deputy head of the State Duma Committee for the Affairs of Ethnic Communities and head of the working group that drafted Federal Law “On the Official Status of the Russian Language.”

The *Eastern Express* newspaper carried additional information on how this bill had been drafted. In his interview, the State Duma Deputy F. Safiullin (from Tatarstan) argued that:

*The bill had been written by the Presidential Administration advisors. The document had been brought to the State Duma by D. Panin, who arranged for the motion to be appropriately backed by a number of Duma members from different ethnic republics... Should the bill pass, the Tartars would see it as a Russian decision to bar the Tartars from tackling this question independently, rather than as a Duma ruling.*

While being troubled by Tatarstan seeking to change to the “new-old” alphabet, the central government chose to put pressure on the authorities of other subjects of the Russian Federation, the latter for the most part confirming that the local Tartar public schools (outside Tatarstan) would not change to the Latin alphabet.

A group of high-profile Tartar-origin personalities dispatched an open letter to the State Council of the Republic of Tatarstan to suggest that the idea of changing to the Latin alphabet should be abandoned. The writers argued that:

*A third change of the Tartar alphabet in the last 70 years is alarming, indeed. As we continue to live and work outside Tatarstan, our youngsters would grow-up estranged from our modern ethnic culture, from current activities pursued by the Tartars living in their homeland, as well as from the print information in our native language. Endangered...*

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367 *Vremya i Dengi* (September 20, 2001).

368 *Eastern Express* (September 28, 2001).
are the literacy and educational standards of the younger generation, access to the national body of fiction and specialized knowledge, and research pursuits.

Academician I. Tagirov, poet R. Valeev and playwright T. Minnullin — members of the State Council of the Republic of Tatarstan — held a press conference to make their assessment of the aforementioned letter public.

Firstly, “the letter is a document drafted by the presidential administration and backed by a handful of hired individuals, not a desperate appeal from intellectuals concerned about the future of the Tartar language,” according to the press conference speakers. They also maintained that:

The letter came to local Tartar communities with the attached list of persons that were supposed to affix their signatures. Many of those individuals that had been picked by Moscow to appear as drafters of the letter refused to sign the document, and some of the signatures turned out to be fake. By way of example, the signature of R. Khamidullin, President of the Council of Elders, was on the appeal, though he had never even read the letter. Secondly, particularly troubling has been the fact that about 80% of those who signed are reported to have either no or very little knowledge of the Tartar language.

As a consequence, the Tatarstan authorities chose to slow down the move to change the alphabet in the hope that the excessive passions over the matter would phase out on their own.

While the language, culture, traditions and customs of the Tartars (Russia’s second-largest ethnic community) continue to be preserved and developed, with the republican authorities being truly concerned about the community’s growth, the situation found in other ethnic republics appear to be much worse.

It would be in order at this juncture to make note of the Finnish reporter M. Pakkonen, whose assessment of the human rights situation in the Marii El Republic was included in the regional human rights report for the year 2001. His article “Marii People Being Cornered” in the Finnish newspaper Helsinki Sanomat was reprinted by the republican daily Dobriye Sosedi. The material contains M. Pakkonen’s impressions of his visit to Marii El:

With L. Markelov from LDPR being elected President of Marii El one year ago, the newly formed administration has been pursuing a policy directed against the indigenous people. Over the past year, the ministry of education’s department responsible for writing Marii-language training programs has been eliminated, and the Marii language (proclaimed by the local constitution to be an official language in the republic) has been downgraded into an optional subject in the public school curriculum. What is more, the Marii El government has ceased any effort to back up the Marii culture and had over 80 ethnic Marii people sacked from republican agencies.

369 Dobriye Sosedy (December 26, 2001).
As they proceed to take advantage of available administrative resources in order to preserve their native languages and cultures, the governments of Russian-based ethnic republics have been exerting heavy pressures on the so-called “third party” ethnic communities. Those communities, like the Tartars in Bashkortostan or Kryashens in Tatarstan, have been concurrently Russified, Bashkirified and Tartarified. For example, in Bashkortostan, where Tartars are nearly one third of the populace, as many 33 print media periodicals are released, with 23 of those coming out in Russian, 9 in Bashkir and just one in Tartar. Notably, the authorities of the Republic of Bashkortostan have refused to grant registration to the ethno-cultural autonomy of Tartars. They justify this refusal by referring to the absence of a legal basis on the republican level, but Federal Law “On Ethno-Cultural Autonomies” requires no supporting republican-level statutes and expressly allows ethno-cultural autonomies across the Russian Federation to be established without constraints.

The authorities of Tatarstan maintain that the local Kryashens have no right to exist as a separate ethnic community, insisting that those people are descendants from baptized Tartars. This circumstance notwithstanding, on October 13, 2001, Tatarstan’s Kryashens held a republican conference of Kryashen ethno-cultural associations. The Conference delegates ruled to convene an international Kryashen congress, scheduled for February–March 2002, and passed a declaration on self-determination of Kryashens. The declaration reads that the Kryashen people are a distinctive Turk ethnic community with its own native language, alphabet, cultural heritage and history. The Kryashens are for the most part Russian Orthodox devotees settling in compact communities in the lands of Bashkortostan, Tatarstan, Udmurtia and the Orenburg region. Out of 320 thousand Russian-based Kryashens, as many as nearly 200 thousand are living in Tatarstan, according to the Kryashen movement leaders.

Hardships experienced by the local Kryashens have been reported by 80 delegates that arrived to the Conference from different administrative units of Tatarstan. To provide an example to this end, over the past decade, nine Kryashen village communities have disappeared from the map of the Elabuzhsky district (Tatarstan) and out of 30 local administration heads only two are ethnic Kryashens. Notably, the Tatarstani history textbooks written in the Tartar language carry slanderous passages on the role of the Kryashens over the past centuries. In particular, the Kryashens are portrayed as Tartars baptized by Ivan the Terrible of Russia. However, during the XVI century, the Kryashens had already been moving from paganism to Christianity, according to current Kryashen researchers. Given the biased official approach to this issue, Kryashen children are reported to have been experiencing a sort of an ethnic inferiority complex, with heightened depression and other problems relating to the persisting self-identity crisis. In addition, this uneasy situation has been compounded by the massive unemployment across nearly all Kryashen rural communities, which leads to higher suicide rates among in particular the younger
Kryashens. Regrettably, this troubling situation is yet to be addressed by the local administrations and republican authorities.\textsuperscript{560}

Not a single rural Kryashen community has an ethnic Kryashen as administration head in the Nizhnekamsky district of Tatarstan. One of the Conference participants revealed that the Bolshiye Aty-based Kryashen community had all of their farming equipment, horses and cows (hogs — to a lesser extent) confiscated by the authorities and transferred to the neighboring Tartar community. This resulted in an increase in Kryashen unemployment and an outflow of the younger people to larger towns and cities.

None of the 20 Kryashen communities in the rural Zainsky district can boast of a single religious shrine. The believers are compelled to hold their religious gatherings on private premises. Conversely, most of the neighboring Tartar communities have newly-built Islamic mosques. The Islamic mosque versus Christian shrine statistical comparison is especially striking. While one mosque accounts for 1,500 Tartar-Muslims, one church is intended to provide religious services to about 50 thousand Orthodox Kryashens. Notably, the Nizhnekamsk city administration just ignored an application by more than 400 local Kryashens for construction of an Orthodox church in the city. The situation in the Nalim-based Kryashen community likewise is problematic. The funds raised by the local Kryashens to rebuild the Intercession Church in the village had been appropriated by the local administration to restore a mosque in the township of Tatarsky Nalim. To provide yet another example, though the Akhmetyevo rural community is equally peopled by Tartars and Kryashens, the former received a mosque, while the latter, nothing. What is more, the local Tartar cemetery has been tidied up at the public’s expense, but the Kryashen burial ground has been left neglected. The overall impression is that a focused policy has been pursued to get rid of the Kryashens. Given that more often than not the Kryashen rural communities have been left without either access roads or new communications links, an effort appears to be under way to augment unemployment among the Kryashens and trigger massive outflows to larger towns and cities. The diminishing villages can then be labeled as “phasing-out” settlements, one example being the village of Maksimovka (Mendeleevsky district, Tatarstan) populated by about 30 retirees.\textsuperscript{371}

A somewhat more tolerable situation seems to have developed in the town of Naberezhniye Chelny, where the town administration head has made an attempt to satisfy the Kryashens’ requests. The Kryashens have been assigned two rooms for their activities, including a Sunday school in the House of People’s Friendship financed from the town budget. Unfortunately, elsewhere in Tatarstan the authorities have shown little interest in the Kryashens’ needs. Also, it has been reported that some regional publications were clearly libelous of the Kryashens. One example can be seen in the provocative remarks of T. Minullin, member of the State Council of Tatarstan. Following the October 13, 2001 Kryashen Conference,


\textsuperscript{371}Ibid.
T. Minullin said that the Kryashens would be seen as traitors and would phase out of existence within the next three decades should they choose to secede from the Tartar community.

**Predicament of Small Indigenous Ethnic Communities in the Russian North, Siberia and Far East**

Russia’s northern reaches, roughly two thirds of the country’s territory, are populated by 11 million residents. Importantly, the nation’s north provides 70% of forest revenues for the government coffers. The indigenous ethnic communities are reported to total about 200 thousand people. Thirty small-sized Russian-based ethnic communities maintain their independence within the confines of autonomous districts. Traditional economic activities pursued by the northern indigenous ethnic communities during Soviet times had been appropriately backed by the central government. Over the past few years, the reindeer population has been radically shrinking, with the fish and fur mining tasks becoming unprofitable. Since 1990, the fertility rates among the local ethnic communities have dropped by one third, with the death rates nearly rising by two times. The averaged life expectancy of the northern indigenous people stands to be 10–12 years lower than for the entire Russian population. Also, for example, while a Russian Eskimo’s life expectancy is on average about 45 years, an Alaskan Eskimo expects to live until he/she is 72 years of age. The local maternal death rates exceed the national Russian indicator by two–three times. Over the past six years, 20 indigenous Russian northern ethnic communities have been growing smaller, with some of those now totaling only a few hundreds of individuals.372 Admittedly, the small indigenous ethnic communities located in the Russian Far East and Siberia, though the economic challenges and weather conditions they have to face obviously appear to be less dramatic, have encountered similar hardships.

While the Trans-Volga and the North Caucasus ethnic communities continue to take advantage of their positions of autonomy to assure their development, many of the small indigenous ethnic communities in the Russian north, Far East and Siberia (that are dwarfed by local non-indigenous communities) merely have to act as poor supplicants seeking favors from administrations of the local autonomous districts named after the relevant indigenous peoples. One of just a few options for local ethnic communities to have access to power in the relevant regions would be for those indigenous peoples to be given certain quotas in local and regional governing bodies of subject of the Russian Federation.

Pursuant to Federal Law “On Safeguards for the Rights of Small Indigenous Peoples of the Russian Federation,” these ethnic communities, indeed, have ample opportunities to take part in the work of law-making bodies of regional governments and local authorities. Article 13 of the aforementioned law reads that for those opportunities to be implemented, regional laws can be passed to establish quotas for the indigenous ethnic communities to be adequately represented in the legislatures of relevant subjects of the Russian Federation. For example, the

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372 Izvestia (April 13, 2001).
However, most of the remaining Russian regions do not have this kind of legislation. In addition, while such quotas may actually be assigned, this arrangement is normally done unofficially through the use of the so-called administrative resource.

To underscore, while being viewed as ethnic minorities, the small groups of indigenous peoples of the Russian Federation enjoy a whole range of rights pursuant to the law. Article 69 of the Constitution of the Russian Federation enables them to live in keeping with universally accepted standards. Article 72 of the RF Constitution stipulates that the local indigenous communities, distributing medications and healthcare products to faraway locations.

Excessively high death rates for the Russia’s northern ethnic minorities are largely the result of a range of social and biological factors. Social factors include sharp reductions in government funding for activities geared towards children, closing down of state-owned (and thus offer-
ing relatively cheap-priced good) stores and supply bases, extreme poverty, and inadequate diet, especially in the spring (many indigenous residents survive on breads baked from flour supplied as humanitarian aid from the West).

Given the fact that Russian northern ethnic minorities have for many centuries been isolated from other communities within the country, they have no genetic “firewall” against numerous contagious diseases, which are much more dangerous to them than to the rest of Russia’s population. Tuberculosis has been particularly lethal to them of late. In addition, the local indigenous residents for the most part are genetically susceptible to alcohol. Death rates from alcohol consumption have been 15–20 times as high as those for the peoples of Russia from the middle or southern latitudes, according to the Siberian division of the Russian Academy of Sciences. Thousands of local residents are killed by vodka, which is very much like an epidemic. However, alcohol dealers operate without any constraints in these territories, according to A. Anisimov, member of the Council of Federation of the Evenk autonomous district. Unless urgent steps are taken, the number of northern indigenous peoples in the Russian northern territories may become three times smaller within the next 15–20 years.

The RF Council of Federation launched a motion to have alcohol sales limited in the areas populated by the small indigenous northern ethnic communities. Russian senators propose that alcohol sales should be banned during the trapping seasons and when reindeer herd transits to winter and summer pastures. During other periods, alcohol sales are to be rigorously regulated. The bill has now been dispatched to 55 subjects of the Russian Federation for approval and suggestions. Thirty seven subjects have already sent in their confirmations; nine regions have requested some further clarifications; the other nine have refused to back the document. Notably, while alcohol resellers continue to intoxicate indigenous residents and rob them in the process, local authorities pay no attention to unconstrained deliveries of liquor to the dying ethnic communities.

The northern indigenous reindeer breeders continue to experience severe hardships. Breeding and tending reindeer herds is the only economic and cultural pursuits, as well as the entire focus of many northern ethnic communities in Russia. Continued interferences by local and regional authorities in the life of indigenous communities have not served to any improvement in the latter’s conditions. For example, in the Republic of Sakha (Yakutia) only the larger reindeer breeding farms receive some financial backing pursuant to the 2001 ruling by the regional government on supporting the agro-industrial complex. The family-sized operations have not been allowed to receive any government funding. Notably, out of 99 million roubles designated for the local reindeer breeders, merely 53 millions were to be allocated as promised, with 46 million of which to be spent on management-related tasks. As a consequence, having lost their traditional commitments, the reindeer breeders largely remain idle, become alcoholics, and die. Out of 2,400 local reindeer breeders, by the year 2001 as many as 248 persons had died (their average life span being 35 years of age) and 266 remain unemployed. The latter can-
not receive unemployment benefits because the relevant legal provisions do not cover them.

With industrial development and assimilation of the Russian northern territories (populated by the indigenous ethnic minorities) continuing unremittingly, reindeer grazing grounds have radically deteriorated and diminished in size. Industrial operations lead to erosion and destruction of the very thin fertile soil layer. Vast areas of sands are exposed in the process, preventing local moss from regenerating. Reindeer are thus deprived of food. Apart from the diminishing natural feeding grounds, available fresh water sources have increasingly become polluted. Large numbers of animals are dying as a consequence.

As the fishing quotas are allocated, the priority right of indigenous communities to enjoy access to their traditional waters has often been breached because locals simply cannot afford to purchase the requisite licenses. While they continue to suffer from the lack of funding, indigenous fishermen continue to fish in violation of environmental security and natural resource preservation laws. As a result, the stocks of muk-sun, Siberian white salmon, Siberian white fish and other rare fresh water species have radically dwindled. In the meantime, visiting resellers continue to acquire the high-value fish from locals at very low costs, flying their helicopters directly to the fisheries to collect fresh catch.

On April 12–13, 2001, Moscow hosted the Fourth Congress of Small Indigenous Peoples of the Russian North, Far East and Siberia (such congresses are held every four years), which attracted representatives of 41 ethnic minorities. Interestingly enough, none of the leaders of the 29 subjects of the Russian Federation containing small groups of indigenous peoples attended, except for M. Nikolaev, President of Yakutia.

At the completion of their deliberations, the delegates of the Congress appealed to the government of the Russian Federation on the following points: to establish a permanent prosecutor oversight ensuring observation of the legal rights of indigenous ethnic minorities; to create an insert stating the holder’s ethnic identity in domestic passports; to draft and assure passage of Federal Law “On the Territories Traditionally Managed by Small Indigenous Peoples of the Russian North, Siberia and Far East”; to maintain local hospitals, maternity facilities and relevant supply bases; to keep public schools servicing these communities functional through high school. Also, the Congress continued to demand that rigid control be introduced to regulate the inflows of alcohol products to the areas densely populated by smaller indigenous ethnic communities.

A measured response to the aforementioned Congress’ appeal was made by Federal Program for Economic and Social Development of Small Indigenous Peoples of the Russian North through the Year 2011, adopted by the Government of the Russian Federation in July 2001. Within the next nine years, the Program is expected receive funding of 2.74 billion roubles. Plans have already been drawn up to expend the
authorized resources to more effectively address the pressing problems of the Russian indigenous northerners.

It is deemed necessary to substantially back reindeer breeding operations, support traditional fishing, trapping and handicraft activities, set up a chain of integrated processing facilities, preserve the environment and increase the wealth of the areas occupied by indigenous ethnic communities. The cost of these efforts is estimated to be 794.79 million roubles.

The reindeer breeding objective requires “administering veterinary services, fighting predators, regulating the populations of wild reindeer herds, improving reindeer fertility rates, improving survivability of the animals and taking advantage of open grazing grounds in order to raise the population of domesticated northern reindeer to the level of 2 million heads.”

The Program’s funding, however, is reported to be disproportionately distributed among the various challenges. For example, the job of restoring a chain of state-owned stores and supply bases to support traditional indigenous economic pursuits would cost around 389.86 million roubles. The Ministry for Federation Affairs insists that indigenous ethnic communities, particularly with nomadic lifestyles, would not be able to do without available supply bases. To point out, as much as 665.54 million roubles is expected to be appropriated to raise the living standards of local ethnic minorities in the Russian northern territories and provide for the requisite level of healthcare services.373

L. Nimaeva, head of the Department for the Development of Small Indigenous Ethnic Communities, within the Ministry for Federation Affairs, stated publicly that “the designated funding level is too small and must be increased.” She commented:

Though the experts from the Ministry for Federation Affairs insisted on other figures, the Ministry of Finance officials argued that level of financing ought to be realistic. Had we failed to go along with the Ministry of Finance’s constraints, the Program would have never been adopted, with all commitments towards the 28 northern subjects of the Russian Federation running the risk of being wrapped up within a very short time.

However, the resources needed for the Program to be executed are yet to be raised. Merely 979.8 million roubles are expected to come from governmental coffers. Governments of the pertinent subjects of the Russian Federation have been committed to raise a total of 1.36 billion roubles for the purpose, with the remaining 400 million roubles expected to be generated through extra-budgetary arrangements. For those goals to be achieved, numerous legislative amendments would have to be introduced to the relevant federal laws. For example, taxes for the mining of natural resources would have to be revisited, and an effort should be launched to begin development of the local natural wealth resources on the basis of production sharing agreements, according to L. Nimaeva. Importantly,

part of the inherent cost should be borne by the companies cleared to operate in the areas populated by the smaller indigenous ethnic communities.

A. Astapovich, head of division from the Bureau of Economic Analysis argued:

"Clearly, executing the Program would just be a waste of money and efforts because it is too limited. There has been much talk over the last few years about abandoning the Program altogether. Any government-funded program may suffice to handle just one problem if the financing is adequate. It appears to be pointless to set about to tackle the problems of the Russian northern territories without adequate financing."

Alas, the federal authorities are not likely to start tackling the pressing problems. At the close of last year, the newly appointed Minister for Ethnic Policies, V. Zorin, defined his approach to funding the indigenous peoples in the Russian northern territories. When asked about who was going to define the ethnic policy if the government fails to adequately support the activities, he pointed out, “Once your company’s interests reach the Russian northern territories occupied by smaller ethnic communities, you should be directly motivated to make sure their living standards are decent.”

Indeed, a very special problem has been created by the private-sector extraction and mining businesses in their relations with the northern indigenous peoples. The ongoing effort to assure passage of local laws to protect the interests of indigenous ethnic communities has been persistently countered by the mining companies operating in those territories. Wherever such laws had been passed, they have rarely been enforced.

To provide an example to this end, the Khanty-Mansiisky autonomous district legislative body passed a law on mining the natural resources under which the relations between the operating oil companies and local indigenous ethnic communities are supposed to be governed pursuant to the relevant provisions whenever industrial activities are maintained within the territories held by the said communities. However, the relevant damages and redress-related claims have been evaluated and completed with tremendous difficulties, and no punitive measures have been applied to the extraction companies that have breached the law. Over the past few years, for one, the Khanty-Mansiisky autonomous district has passed a numbers of laws on the protection of interests of indigenous ethnic communities, including Law “On Takeover and Assignment of Land Properties in the territory of the Khanty-Mansiisky Autonomous District.” Though this statute had been drafted to normalize relationships between the operating oil companies and indigenous ethnic communities, its basic goal had been poorly interfaced with the need to assure the inalienable rights of indigenous peoples that continue to live and work abiding by common law. Pursuant to the said local law, an oil company is merely required to secure the given land property holder’s consent to launch a development project. Should that consent be unavailable, the pertinent authorization could be secured from the regional government. Should that government decision fail to be supported by the family of the local trap-

374 Kommersant (December 19, 2001).
per or fisherman, the latter could file a suit in a court of law. To underscore, the traditional lifestyles of indigenous ethnic communities generally rule out any takeover or removal of land properties from the original holders. Importantly, the Hunty, Mansy and Nents communities living in the Russian northern taiga territories have traditionally been committed to preserve their tribal swathes of land unaltered and unmodified.

A good model for relations between the indigenous ethnic communities and industries could be made by the experience accumulated by the huge “Alrosa” company, according to M. Nikolaev, former President of the Republic of Sakha (Yakutia). Seven years ago, each of the smaller ulus-type administrative units, where “Alrosa” had its industrial operations in progress, received a 1% stake in the company (with 8% of the company’s equity capital being distributed to eight local ulus administrative units). In addition, 2% of the company’s sales revenues have been consistently transferred to the specified local communities. To point out, one quarter of all Yakutia land is currently taken up by the so-called “reserve areas” set aside for future generations, according to M. Nikolaev. Given that M. Nikolaev’s successor as President of Sakha (Yakutia) is V. Shtyrov, head of the “Alrosa” diamond-mining company, it remains to be seen who is going to be first to tap those “reserve areas.”

However, the authorities could easily repossess the territories assigned for the smaller indigenous ethnic communities. V. Loginov, Governor of the Koryak autonomous district, revoked his predecessor’s ruling to establish the “Tkhsanom” nature preserve for the indigenous ethnic communities, thereby effectively robbing the local Itelmenys of the opportunity to fish. (Fish makes up the bulk of their diet.) A few years ago, the status of legal-entity was conferred on a union of indigenous communities who had negotiated for this status with the autonomous district administration. This status enabled the Itelmenys to trap and fish in order to provide for themselves. Notably, this union had been empowered with a veto right over questions of natural resource protection and utilization. The union was also authorized to protect their natural resources, with members of the local indigenous communities being assigned to support the regional-level environmental security services. Then, “all of a sudden,” it was publicly announced that a license had been granted to an outside company seeking to develop a coal deposit within the “Tkhsanom” preserve area, and a promising oil and natural gas deposit had been put on the auction block. To compound it all, the fish stock protection inspectors stated that during the salmon-spawning season they were not able to distinguish between indigenous fishermen and poachers because their passports carry no mention of their ethnic identities.

In the Khabarovsk territory, the local Orochy ethnic community turned to the Regional Court of Arbitration with a request that the OOO “TIS” logging enterprise pay for damage caused by logging operations in the Khutu river valley of the Vaninsky district (a traditional Orochy locality). The community’s representatives insisted that license for the operation had been issued without Orochy’s consent. But most importantly, the entire logging deal received a negative ruling from the regional government’s environmental security inspectors at the very beginning. Regardless of the above, the timber production effort launched in 1999 is
is expected to be carried on through 2004 pursuant to the relevant business agreement. The Orochy complaint reads as follows:

Since the "TiS" company and eight other private businesses started their logging operations in the Khutu-river valley, more than half of the available 700 thousand hectares of hunting and trapping grounds have been destroyed. With the forests shrinking, the wildlife populations (upon which the indigenous communities continue to be heavily dependent) have been radically reduced. In the past, the Orochy would trap 30–40 heads of sable per hunting season — now, trapping 10 sables would be a feat. Without their customary earnings, the local trappers and hunters are doomed to extreme poverty...

The regional court of arbitration did not support the Orochy claim.375

The Murmansk region legislators passed a package of laws to have the Kola Peninsula’s indigenous ethnic communities both “assisted in the implementation of their rights to live and develop their native languages and cultures, traditions and customs” and “supported in their efforts to preserve their long-standing habitats and lifestyles.” Then, pursuant Presidential Decree “On Urgent Steps to Protect the Areas Traditionally Peopled by the Smaller Indigenous Ethnic Communities in the Russian North,” the Murmansk regional lawmakers passed Provisional Regulations for Recreational Fishing Pursuits and Law “On Land Property Tax Rates for Operators of Reindeer Grazing Grounds.”

However, all those laws and regulations have not resulted in any improvements in for the local Saamy people. What is worse, the indigenous people have not only had their special privileges violated but also their civil rights infringed upon.

To illustrate the above, Provisional Regulations for Recreational Fishing in Murmansk Region stipulate that the priority fishing rights go to the local indigenous communities and families and businesses maintained by members of those communities in the specified areas. However, those rights have been for all practical purposes overruled by Rules for Recreational and Sporting Fishing in Closed Waters within Murmansk Region, adopted by the Murmanrybvod authority (regional office of the State Committee for Fishing Operations). The indigenous people and local reindeer breeders are permitted to use specified bodies of water and streams for fishing only in order to provide for themselves, using fixed-size nets. Interestingly enough, a high-value fish catch per day shall not be in excess of 5 kilograms, with a lower-value fish catch limit is 10 kilograms.

The Murmanrybvod authority not only limited the Saamy’s rights established by federal laws but also assigned the priority fishing rights to the local tourist companies that employ the Saamys as manual laborers. Long-term business agreements between tourist companies and local authorities concluded in 1994 unilaterally and unlawfully invalidated all of the earlier three-way arrangements (when enterprises belonging to the indigenous community were equal partners).

375 Tikhookeanskaya Zvezda (January 19, 2002).
Since then the Association of Kola Saamys has repeatedly approached different regional authorities to correct current imbalances. All appeals and applications have been either ignored or turned down. The Murmansk pen-pushers have authorized an American company, Harris Loomis, to exclusive use of the resources of the Ponoy, Varzino, Lumbovka, Kachkovka and Drozdovka rivers and all of their tributaries through the year 2010. The company is reported to be thriving on the natural resources that used to be held by the indigenous inhabitants. The Saamys now rarely catch any fresh water fish.376

Numerous native languages of the ethnic communities in the Russian northern territories are reported to be dying out. “Language researchers state that the current state of affairs regarding less widely used ethnic tongues is extremely alarming,” says Professor D. Nasilov, a leading expert in the area of ethnic minority languages from the Institute of Asian and African Countries, Moscow State University.377 The alarming trend appears to be driven by the following: while the ethnic communities themselves fail to sustain their language, the governing bodies of all levels have largely ignored those smaller. To illustrate the point, the “Russia’s Languages” website carries the following information: while 42% of the Saamys see the Saamy language as their native tongue, 56% of the Saamys regard Russian as their native language; 23% of Nivkhs see the Nivkhy language as their mother tongue, while 76% regard Russian as their native language. The Taimyr-based Nganasanys are the most patriotically-minded indigenous community, with 84% of the community’s members continuing to speak their native language. The generally-accepted policy runs as follows: if you take an interest in a minority language, go ahead and raise the funding needed to achieve your objective. The thriving or dying of smaller ethnic languages now seems to be wholly dependent on how those languages happen to be perceived by the local bureaucracies. For example, the Nanay language had been solidly backed before the Khabarovskyk territory got a new administration. The language was then made an optional rather than a compulsory subject, and speedily lost the status of an active vehicle of person-to-person communication. In Yakutia, the Russian, Yakut and English languages are studied on a compulsory basis. Naturally, it appears to be quite a problem for a public school curriculum to also carry such compulsory disciplines as the Evenky or Yukagiry languages.378

The 1995–2004 period was proclaimed by the UN General Assembly as the International Decade for the World Indigenous Peoples. Notwithstanding the ongoing global effort, the smaller indigenous ethnic communities from the Russian north, Siberia and Far East are unlikely to survive through the coming decades if the current state of affairs remains unchanged.

377 Vremya MN (September 26, 2001).
378 Ibid.
Ethnic Groups and Minorities Discriminated Against in the Russian Federation

Though the current status of the small indigenous ethnic communities in the Russian north, Siberia and Far East is rather poor, their problems have primarily come either from the lack of requisite government support or from their special rights being largely ignored by the local authorities or other residents. Members of many other ethnic groups and minorities in the Russian Federation are reported to have been suffering from a different ill sustained by the Russian government and society. This is the problem of racial and ethnic xenophobia and intolerance. This whole book would be too small for all ethnic discriminatory practices and their effects in Russia to be appropriately described and for all targets of discrimination to be listed. In public life, it is never easy to differentiate between the specific problems of ethnic relations, on the one hand, and the problems pertaining to the so-called “friendly”–“alien” or “local”–“newcomer” relations, on the other hand. What is more, when the right to sustain a traditional habitat is put against the right to choose a place of residence, ethnic discriminatory practices appear to be marginal effects of a more deeply rooted conflict, and they could hardly be eliminated through the use of conventional remedies.

The policy positions espoused by regional authorities and local administrations have time and again been derived from sentiments held by most of the local populace. While regional leaders and governing bodies try to reflect the attitudes prevailing in society, they usually feel compelled to be politically correct when appearing in the public arena. Frequently, when interviewed privately, many officials would share the common negative stereotypes with regard to different ethnic minorities and stand up for the use of certain discriminatory measures to keep things under control. Sometimes, public officials would openly resort to making xenophobic pronouncements, particularly, when seeking to secure extra support from their electorate in an election campaign.

Many examples can be provided to this end, the most graphic ones coming from the Krasnodar territory.

Notably, during the last few years, the international community has been particularly concerned with Russia’s policy over the status of the Meskhetian Turks.

As a reminder, the Meskhetian Turks were evicted from their homeland in the Akhaltsikhsky district (Georgia) for the first time to Central Asia in November 1944 (Georgia is still reluctant to let the Meskhetian Turks be repatriated). In 1989, following a series of bloody pogroms in Fergana (Uzbekistan) and subsequent public disturbances in Tashkent, Syrdarya and Samarkand regions (Uzbekistan), a total of about 90 thousand Meskhetian Turks once again had to flee, selling for next to nothing or just abandoning their homes, vehicles and cattle.

Under a government program, 17 thousand Fergana-origin Meskhetian Turks had been moved to six “non-black-soil” Russian regions. While running for their lives and seeking to save their children, the remaining
70 thousand Meskhetian Turks from other corners of Uzbekistan spontaneously moved to as many as twenty different Russian regions. For the most part, they have managed to buy housing, get residence registrations and enjoy civil and political rights on par with local population. However, the Krasnodar regional authorities have been reluctant to let the migrants settle and have even managed to secure some backing from Moscow on this.

Currently, about 13 thousand undocumented and unregistered Meskhetian Turks are found within the Krasnodar territory. It needs to be underscored that by February 1992, when Federal Law “On Citizenship of the Russian Federation” was adopted, nearly all of the aforementioned migrants had already been living within the Krasnodar territory, while having no place of residence outside Russia. Given the circumstance, they were then and continue to be de-facto Russian citizens, pursuant to the provisions of Part 1, Article 13 of the abovementioned law. In all other Russian regions, the applicants have without major difficulties had their citizenships confirmed, domestic passports updated and registered. In addition to the Krasnodar territory, other exceptions to the general course of events are the Stavropol territory, where about 400 Meskhetian Turks living in the Budenovsky and Sovetsky districts managed to secure their Russian citizenship and get registered only within 1996–1997, and Kabardino-Balkaria, where from 400 to 700 Meskhetian Turk migrants have not received their residence registrations as of yet.

Despite the fact that the Meskhetian Turks in the Krasnodar territory have for over a decade now been living in their own homes and tending their plots of land, they still have no residence registrations, thereby being unable to secure permanent jobs. Whenever they manage to get jobs, their wages or compensation packages would generally be fixed at heavily reduced rates. To emphasize, the Meskhetian Turks receive neither pension benefits nor social allowances, nor adequate healthcare services. They have problems getting their marriages or newly born babies officially registered. As they come of age, the young Meskhetian Turks cannot receive domestic passports or matriculate at higher schools of learning. The Meskhetian Turks enjoy no voting rights. The only official authorities willing to unreservedly pass them as Russian citizens are the local military registration offices seeking to call up the Meskhetian Turks of conscription age into the Russian armed forces. Understandably, all these practices only serve to the growth of corruption, with the law enforcers making their windfall profits on fleecing the local Turks for the last twelve years.

The Kuban authorities have been set on pushing the Meskhetian Turks out of the Krasnodar territory. Notably, the local residents for the most part have been supportive of the official discriminatory policies maintained by the regional administration. The people and the officials appear to be jointly concerned about the “criminal inclinations” of the Meskhetian Turks and are unwilling to co-exist with them. Starting in 1990, when the so-called Cossack revival movement was launched, the Kuban-based Meskhetian Turks have been persistently made targets for threats and violent attacks (with a number of pogroms being officially reported) mounted by the local groups of Cossack national-radicals.
The local print media are reported to have carried a series of articles condemning the Meskhetian Turks, some of those are “Turkish Cow Upsets Russian Boy,” “Turks Kill Us With Chemicals,” “Living Together Is Impossible,” and other pieces in the same vein. One would be fully justified in believing that this blatant hate-speech effort could not have been pursued without concurrence from the regional authorities. As they sought to have the unwelcome guests deported from the region, members of the Krasnodar territory’s legislative assembly joined forces with members of Adygea’s legislature to draft a federal-level law on migrants. The bill of their creation explicitly stipulates that Meskhetian Turks and Kurds should be evicted from the Krasnodar territory and also, along with other groups of migrants, expelled from the Russian Federation all-together. Such measures are presented as necessary because, allegedly, the ethnic communities to which those migrants belong are characterized by prohibitive mentalities, asocial attitudes and excessive criminal proclivities.379

Interestingly enough, the Krasnodar regional authorities have been receiving ethnic Russians and other “Slavic” newcomers seeking permanent residence without limitations. Notably, migrants from the Trans-Caucasus have been settling in the region in exchange for bribes, with the “fee” set by corrupt officials.

Members of the International Society of Meskhetian Turks “Vatan” sent an appeal to the RF President. They highlighted massive violations of the rights of the Meskhetian Turks in the Krasnodar territory, describing the current situation in the following fashion:

_Of late, tensions in the region have been running especially high, with the local ethnic minorities being dangerously pressured by the authorities. Most heavily targeted have been the Meskhetian Turks. Incidents of open intimidation, threats, slander and hatred are increasingly more frequent. There have been reports of assaults by militant gangs (calling themselves Cossacks) and numerous beatings, arrests and insults, both on public and private premises. The impunity of employers and those taking part in these outrages has led to nationalistic leaflets being distributed, rumors being spread and public opinion being manipulated. The risk of a “bloody Fer-gana” is thereby being incrementally fueled. Attempts to create a legal base for another deportation of the Meskhetian Turks from the Krasnodar territory seem to be variously supported by the official mass media outlets._

With N. Kondratenko, former head of the region and notorious fighter against the “global Zionist conspiracy,” being replaced in December 2000 by his protege, A. Tkachev, the regional situation has not changed for the better. What is more, the new Governor started to be even more aggressive towards the local Meskhetian Turks, while seeking to gain maximum popular support.

Since January 1, 2001, the old Soviet-origin passports carried by the Meskhetian Turks are invalid across the Russian Federation, since these documents have not been updated to contain either citizenship entries or

379 _Novye Izvestia_ (March 13, 2001).
MOSCOW HELSINKI GROUP

residence registration markings required. As of February 1, 2001, 13 thousand Meskhetian Turks residing in the Krasnodar territory have had the temporary residence registration markings in their passports expire. (It should be noted, by the way, that those markings had been made in their passports in the fall of last year on the advice from the UN.) Since local authorities declined to provide residence registration extensions, they have effectively turned the Meskhetian Turks into “persons without permanent abode,” or transients. The police since then have been visiting the Meskhetians’ homes, not only collecting fixed “tributes” (5 roubles per capita per day for the right to enjoy the fresh air of Kuban) but also confiscating the Soviet-origin passports that Russia allegedly wanted nothing to do with.

Of course, there may be other explanations for all those practices. The authorities appear to use the Meskhetian Turks as milking cows, particularly given that the Krasnodar regional administration has received hundreds of thousands of US dollars from the Office of the UN High Commissioner for Refugees to help meet the relevant social security tasks. Only a fraction of that aid was appropriated as promised, according to T. Sarvarov, property manager of the International Society of Meskhetian Turks “Vatan.”

The pressing problem of the Meskhetian Turks has become broadly discussed in the West. Importantly, their predicament is also reflective of the actual conditions of the other Russia-based ethnic minorities that continue to receive no governmental protection and that have been turned into some sort of “rogue communities” by certain disingenuous politicians seeking to support only their self-serving interests. The situation that the Meskhetian Turks find themselves in is not quite unique. The Kurd refugees suffer the same hardships within the Krasnodar territory. They have been expelled from Armenia in 1989 and then from the Lachinsk Triangle (Red Kurdistan, as it was known in the 1930s) in Nagorno-Karabakh and other territories seized by the Armenian armed forces during their military operations against Azerbaijan in 1992. Because most of them reached the Krasnodar territory after February 1992, when Federal Law “On Citizenship of the Russian Federation” had already been in effect, the Azerbaijan-origin Kurd refugees, unlike the Meskhetian Turks, cannot invoke the provisions of Part 1, Article 13 of this law.

It would be foolhardy to assess the ethnic policies pursued by the new Krasnodar authorities as a mere replica of the practices maintained under the former regional leader, N. Kondratenko. Apart from the ongoing unlawful drive to confiscate domestic passports (issued during Soviet times and regarded as something that neither the Russian federal nor regional governments allegedly have anything to do with) from the local Meskhetian Turks, the regional administration has launched an effort to restore some of previous strategies used to deal with the pressing ethnic problems.

For example, in 2001, a gypsy camp of over 100 persons was deported from the Krasnodar territory with the use of police forces. This eviction was the first such case in Russia since the collapse of the Soviet Union.
Admittedly, the Roma people have been experiencing a great deal of hardships in Russia. Any attempts on their part to settle on land were met by directives on the part of local authorities to either move on or pay heavy fines for unauthorized construction projects. Regional government officials would even go as far as to write out special ordinances for the Roma to travel on to the places of their official residence registration.

Members of the aforementioned Roma encampment initially managed to temporarily register with the passport and visa division of the Zapadny district police department (with bribes duly paid and fingerprints taken) and be settled near Krasnodar. However, soon their registrations were terminated and the authorities (unhappy that the whole arrangement was too troublesome and unprofitable) resolved to have the Roma deported.380

This is what T. Zhurbenko, staff reporter for the Tribuna newspaper and big supporter of law enforcers, had to say:

Finally, trucks and trailers were made available and a good number of cadets from the local MVD law school were brought in. All of the local district police officials were also in attendance. The Mikhays (supposedly all the gypsies on the spot had the same family name) were verbally informed of the relevant injunction and the loading began. There is no need to tell what followed: cries, moans, whimpers, shouts and what not. It appeared that the gypsies were well aware of human rights and knew some human rights activists. They even threatened to appeal to the State Duma. Anyway, the entire gypsy camp was eventually loaded and trucked to the Voronezh region. The homes left behind were to be protected by the police until eventually broken into manageable segments and shipped to the rightful owners’ new destination. In short, the entire effort was completed without a drop of blood being shed. To emphasize, the recent regional public surveys show that our people have been so heavily brainwashed with all that baloney about human rights that they seem to be prepared to abandon their own rights to peaceful living and working conditions just to appear to be good proponents of human rights...381

Another particularly disturbing example in this regard is seen in the ongoing persecution of the Chechens outside of Chechnya. Pressure exerted on the Chechens has been nearly the same and omnipresent across the Russian provinces, according to the latest regional reports. Importantly, local law enforces have been the principal bullies and oppressors in most of the cases.

Notably, persecutions of the Chechens have generally been supported on the domestic level. Firstly, people largely seem to believe that police harass the Chechens as part of a more comprehensive effort to combat organized crime, drug trafficking, human trafficking, terrorism and other grave crimes. Russian media and press releases of law enforce-
ment agencies have been prone to highlight the ethnic identities of “non-Slavic” detained persons or suspects. It should be noted, though, that during the initial months following the start of first and second Chechen wars respectively, Russian law enforcers, indeed, had been seen putting more pressure on Chechen organized crime gangs, but within a very short time the Chechens from the higher echelons of criminal structures managed to disengage themselves from their fighting compatriots in the North Caucasus and restored their trusting relationships with domestic law enforcement authorities.

Secondly, negative attitudes towards the Chechens primarily come from the anti-Caucasian sentiments that had incrementally grown since the close of the 1970s and eventually culminated in violent pogroms during the 1990s. In a number of Russian regions, not only do the authorities exert pressure on local migrants of Caucasian origin but extremist nationalistic groups also intimidate them. The latter’s actions have been generally either overlooked or supported, with periodic flairs-ups of public violence being explained as unwelcome manifestations provoked by the victims themselves, whose mannerisms and behavior patterns appear either aggressive or too much out of the ordinary. To provide an example, the recent human rights report from the Voronezh region contains the following findings of the Voronezh-based public survey, secured by the “Kvalitas” Public Polling Institute. Asked “is there any ethnic community whose members you particularly dislike,” respondents provided the following picture: the Chechens were hated by 13.9%; migrants from the Caucasus by 10.5%; Jews by 3.2%. Only 56.7% of all respondents indicated they had no such ethnic hate targets. Another 5.8% found it difficult to respond to the query. Interestingly enough, the drafters of the report on the Voronezh region pointed out that the Chechens were the one ethnic community that was most frequently mentioned or referred to in the negative sense by local media. As concerns the infamous pseudo-ethnic term “persons of Caucasian nationality” (or Caucasian migrants), it was mentioned in the negative sense three times as often as in the positive.

Thirdly, the continuing Russian-Chechen war and the inevitable losses and casualties have left law enforcement officers and members of other government structures particularly angered. 200–300 thousand uniformed Russian citizens participated in the first and second Chechen military campaigns on the federal side, according to rather conservative estimates. Many of those people have been poisoned with hatred for the Chechens and are capable of spreading that sentiment. The very fact that the two campaigns in Chechnya have killed thousands of people (including both federal troops and Chechen militants, as well as innocent persons of different ethnic origins that happened to be in the area of military operations) has become a powerful wielder of tensions that now characterize the relationship between the Chechens and the rest of Russia’s populace.

The 1999 terrorist acts in Dagestan, Moscow and Volgodonsk and the second Chechen war unleashed in the fall of that year were accompanied by massive ID checks, detainment of Chechens across the country, beatings and other unlawful violent acts carried out by members of the law enforcement agencies. The overall account of those events was pre-

Discriminatory practices continue to be used by the Ministry of Internal Affairs officers, who arbitrarily detain persons of allegedly Caucasian or Central Asian origins. As they are halted or detained for ID checks, these individuals, whose looks appear to be different from the generalized facial features of the bulk of the Russians, are more often than not be mistreated and humiliated.

Notably, running the checks on the Chechens has now become a never-ending extortion campaign sustained by members of Russian law enforcement agencies. According to the Novye Izvestia daily, Lom-Ali Vatsayev, Malika Vatsayeva and the rest of their immediate family left their ruined home in Chechnya and moved to Moscow to be temporarily hosted by their relatives. Then, the Vatsayevs leased an apartment in the city of Ivanovo, not far away from Moscow and had their residence appropriately registered. It so happened that the registration question somehow triggered a whole chain of troubles for the family. Within two weeks of their moving to the new residence, the Vatsayevs had two police officers (Gargushin and Zhamalov) from the Ivanovo district police department paying them a visit to say that the family should get ready to be evicted. As M. Vatsayeva then found out, those two officials were acting on their own initiative, hoping to make some extra money this way. M. Vatsayeva turned to the Novye Izvestia daily for help and the latter’s editors make a few telephone calls. On the very same day, the head of the Ivanovo district police department, I. Khonsky, got in touch with M. Vatsayeva, extended his apologies to her family and promised that the Chechen refugees would never be bothered again. Nevertheless, the aforementioned corrupt police officers shortly afterwards summoned the head of the family, Lom-Ali Vatsayev, to the police station and enquired “if the Chechens would like to be left in peace. Should that be so, they should not have approached the newspaper with their complaints in the first place. After all, being adults, they should understand that they would not be left alone from now on…”

Members of law enforcement agencies continue the war with Chechnya on their own home turf by running unlawful searches and requisitions. A raid was mounted on May 29, 2001, in the Staritsky district of the Tver region, when a convoy of police cars drove into the main street of a local village and about 150 police officers led by the police investigator Kozlov launched their “special operation”:

It was 07.30 when SWAT-type special police descended on N. Shamastov’s house in the village of Ildeykino. The head of the family was not at home. The police officers moved boorishly, waking up the sleeping women and children (the family also hosted relatives that had fled from the war-torn city of Gudermes in Chechnya). The police dropped expletives, calling the Chechen children jackals and wolves and insulting the women, according to

382 Novye Izvestia (May 17, 2001).
384 Ibid.
N. Shamastov’s wife. One of the policemen pointed his submachine gun at a Chechen boy’s head and affected to press the trigger. N. Shamastov’s younger son was given a severe kick that sent him flat to the floor. His mother for a moment believed that he was killed. As she ventured to come up to the boy, she received such a powerful blow in the head that she was immediately off her feet and nearly passed out. When she sought to approach her son again, the policemen became angrier. They started to beat the Chechen woman and tried to hit her in the head with the butts of their submachine guns.

When the head of the family returned, he was thrown off his feet in the dirt road right outside his house and had a submachine gun pointed at his head. A police officer said, “We were shooting to kill you in Chechnya, and we are going to do it here.” Within a few minutes, N. Shamastov was ordered to rise and step into his house. Then, he looked at the nearby warehouse owned by his brothers and saw their Gazelle-jeep driven out by the police. Shortly afterwards the local witnesses were brought in. Notably, the “official” sequence of searches and questionings proceeded pursuant to the established rules and without any beatings. Overall, the Shamastov family ended up being “lucky”: no bullets or drugs had been planted on them. They “merely” had their relative Nurid beaten up after he had been taken to the local wood 70 kilometers away, not to mention the other family members’ bruises. Also, a few sacks of grains and a pack of indoor tiles were “commandeered.”

After the searches were completed, N. Shamastov’s wife said she would lodge a complaint with the local prosecutor’s office, which only triggered one of the police officers into saying: “If you go complaining, you will get another Chechen war here!”

The story of this outrageous assault became known thanks to A. Dabaev, head of the “Vainakh” Chechen-Ingush diaspora in the Tver region, who managed to talk his compatriots into filing an application with the regional prosecutor’s office to have the whole thing properly investigated.

The investigation revealed that the raid had been authorized by the Staritsky district prosecutor Kadanev at the request from a local resident who claimed that he had his wall clock, roll of masking film, and a sewing machine stolen. Afterwards, the district prosecutor visited that village in person to sort events out himself. Kadanev had nothing to say when N. Shamastov looked at him reproachfully and remonstrated, “Why have you done that? You know me inside and out. I have been living here for over two decades.” As S. Gubanov, security guard in a local store, protested by saying, “Why did they shoot my dog?” Kadanev just said, “You’d better forgive them.”

Overall, the Staritsky district of the Tver region, is populated by 459 ethnic Chechens. Most of those had moved during the 1970s–1980s when the excessive Chechen-based labor force was urged to look for jobs elsewhere. Other local Chechens are recent refugees. To secure a residence registration has been nearly an impossible mission, even for the Chechens whose parents have been living in the Tver region since
Soviet times. The passport bureau staff would usually refer to a certain directive barring them from granting residence registration to “persons of Caucasian nationality,” particularly the ones coming from Chechnya. Interestingly enough, that prohibitive “directive” story was disavowed by the passport registration service of the Tver regional MVD department.

Even a more graphic description of a veritable “mop-up” raid (mounted in the Moscow region) has been provided by M. Khairullin, staff correspondent for the Novye Izvestia daily.

His article appeared right after a “special operation” had been staged to search a dormitory of the Moscow-based “Nakhi” (translated from Chechen as “goodness, happiness, people”) studio-theater of the State University of Culture (located at 236 Bibliotechnaya St., Khimki, the Moscow region). Attending the classes in the studio-theater had been a total of 25 Chechen students aged from 16 through 22. Notably, that special operation happened to be run by the Moscow-based swift reaction composite police unit (just back from Chechnya) jointly with the Khimki district’s division against organized crime.

On the night of March 27–28, 2001, shortly after 05.00 a. m., rushing into a room occupied by Assistant-Professor M. Didigov, head of a special university training program and recipient of the Merited Artist Award of Checheno-Ingushetia and Kabardino-Balkaria, with the commanding shouts of “Get up, you, black asses!” were a few men wearing face masks and wielding submachine guns. M. Didigov was thrown down on the floor, and his hands were swiftly put behind his back and handcuffed.”

Then, the intruders started to beat him with their booted feet and police batons, while screaming assorted insults in the process. M. Didigov’s son Timur, student at a law academy, received the same treatment.

“I merely managed to ask them not to touch my son and was out cold,” said M. Didigov days later.

However, the assaulters in police uniform would not heed the father’s plea. They just repeated the same cruel and violent procedure in the adjoining rooms: doors were broken up and then the undressed boys were dragged from their beds, severely thrashed and variously insulted. The police did not touch the girls, though they broke into their room too.

All that transpired before the eyes of Professor Soltsaev, who was pushed out onto the staircase. Also forcibly driven out of his room were the noted Chechen journalist R. Karayev (assistant of the State Duma Deputy Aslakhanov) and his family members.

The 20-year-old A. Gaitukaev asked the beefy camouflaged policemen to let him get dressed.

“Maybe you, monkey, want a cup of morning tea served?” responded the outraged policeman as he opened the balcony door to let the winter cold in.

This move was immediately replicated, with all balcony doors being thrown wide open to let the freezing wind blow through the premises.

Photographs, videos, personal effects and notebooks were confiscated. Suddenly, the searchers came across a stack of the Derz-
havniye Vedomosti newspaper published by State Duma Deputy A. Aslakhanov.

This produced a surge of fresh anger, as one of the policemen seized a few newspapers and started to hit M. Didigov in the head with those papers rolled into a sort of a club. As he did that, he hollered, “You, bloody militant! Now I see you are here to distribute this filthy anti-Russian paper!” Then, the local witnesses were brought in. At that point in time, the police officer in charge of the raid defiantly took the Walter pistol from under the pillow on T. Didigov’s bed and retrieved a silencer extension from the latter’s coat pocket.

The special operation carried on. As the investigators proceeded to secure material evidence, the operatives from the swift reaction composite police unit chose to lift and pocket whatever caught their fancy. They opened the refrigerators to pick the better oranges for a bite to eat and walked from one room to another looking searchingly left and right. T. Didigov failed to locate his cell phone following that thorough and destructive search. (Also, a pair of socks, some pens and a bottle of M. Didigov’s wife’s perfume would never be found). As he entered the living room, one masked policeman spotted a pair of boxing gloves and without much ado seized and put them in his own plastic bag.

“We need to work out a bit to get in shape,” he explained.

While proceeding about their business, the searchers commented, “We will not let you study here anyway. So, you’d better get lost.”

The students were showered with insults. All Chechens were likened to shepherds that should be forced to stick to their age-old pursuit. What is more, the raiders shouted that the Chechens were to blame for all the problems in Russia.

As they finished expropriating the better-looking items, the policemen went to the kitchen to have a cup of tea or coffee, helping themselves to whatever was available in the refrigerator. Then, they carried on with their search of the premises.

The search and investigative effort came to a close at about 10 o’clock, following which the Chechen students were thrown into police cars and driven away to the local police station. The young Chechens were all thoroughly interrogated and released within a few hours. The interrogators tried to talk Timur Didigov into confessing that he owned the “uncovered” Walter pistol for fear of the latter’s father being jailed.

Assistant-Professor M. Didigov was detained the longest. He was released in the evening with no charges brought against him.

According to the Novaya Gazeta newspaper, that “special operation” was mounted to follow up on a phone call to the police emergency line about the Chechen dormitory allegedly holding a cache of explosives. 385

As is absolutely clear from the account above, the law enforcers did not seem to be particularly focused on creating “convenient” evidence. In the end, the “confiscated” weapon failed to be attributed to

385 Novye Izvestia (April 2, 2001, #56).
anyone, and the special police investigators just ended their adventure by lifting a few personal effects and having a cup of tea at the Chechen students’ expense. Notwithstanding numerous pledges from the relevant prosecutor’s and MVD offices given to State Duma Deputy A. Aslakhanov to have the guilty parties tracked down and appropriately punished, the culprits have never been located.

When interviewed by the Novaya Gazeta newspaper, A. Khadashev, one of the victims of the aforementioned raid and a resident of Grozny, gave this assessment of the whole undertaking:

“We came to realize that they just wanted to vent their anger on somebody. Down there, in Chechnya, they feel in charge of things. Now they are here, and they want to carry on as usual. We are merely providing better targets. To be more serious, I can hardly explain their moves. Why did they take away my family pictures? Why would they need those? Why did they take away a telephone card from one of us? They even scooped up the meager roubles that we normally save to pay for our meals. I noticed that they did not feel secure. When we were escorted out of the dormitory building to the police cars, they would repeatedly bark at us, “Do not look me in the eye! I know you want to capture me in your memory. Just look away!” They seemed to be scared even though they were wearing masks. Do you call that life in your own home?”

A similar description could be given to the “passport regime inspection operation” run by the local police at the Tver State Agricultural Academy. Importantly, there was one distinctive difference: after molesting Chechen students for half an hour, the police started to beat all other students present, ethnic Russians included.

Also, mention should be made of a Moscow-based incident involving veterans of the “counter-terrorist operation in Chechnya.” On July 2, 2001, close to the building overlooking a small park on 2nd Novopodmoskovny Per., two policemen (one being a driver from the central MVD car pool) and two uniformed army men, cruelly beat up a 40-year-old Chechen passer-by that happened to be a refugee from Grozny. The victim was taken to a nearby hospital with severe brain injuries. To emphasize, the assaulters were soon apprehended. The subsequent investigation revealed that the two policemen had been to the war-torn Chechnya and were suffering from the so-called “Chechen syndrome.”

Not only police threaten Chechens across the Russian Federation. In some of the southern Russian regions, local law enforcement authorities have been backed by the disparate Cossack formations that also have been seeking to squeeze out the Chechens. For example, on March 10, 2001, a dangerous face-off developed between dozens of Chechens and Cossacks in the township of Bogoroditskoe (Rostov region). Each side was armed with metal poles, axes, steel pipes and knives. The conflict appeared to have started on March 8 (International Women’s Day and public holiday in Russia) when the Chechens slapped a few girls in the face and beat

387 Novye Izvestia (October 23, 2001, #192).
some of the Cossack boys at a local discotheque. Luckily, the conflict produced no loss of life, though four Cossacks were taken to a hospital, with one in critical condition. The Chechens also suffered some casualties, but none of them asked for either legal or medical help. An emergency meeting of the Cossack chiefs and then a general assembly of the Bogoroditskoe community took place. They demanded that a Cossack replace the head of the local administration (who was seen as a neutral figure during the conflict) and that the Chechens (with 156 recently arrived to Bogoroditskoe from Vedeno in Chechnya) be deported back to where they belonged. The township held 96 permanent Chechen residents that housed dozens of distant relations fleeing from the military operations. The words of the Cossacks had been quickly translated into action, and numerous Chechen cars and homes were ruined. The township looked no different from a frontline settlement, patrolled by special police units and Cossack elements. Eventually, a solution to the conflict was found by V. Vodolatsky, Deputy Governor of the Rostov region and Chief of the Greater Don Cossack Force, members of the regional MVD and FSB departments, investigators from the prosecutor’s office, and representatives from the local district administration. Importantly, the law enforcers had a criminal legal action filed on the case. In addition, the police mounted a passport check and an effort to confiscate illegally acquired fire arms and other weapons. In the end, the head of the local administration, indeed, was fired, and a decision was taken to have the strength of the local Cossack force (committed to patrol the township) meaningfully beefed up.

Another major accident of that sort occurred in a rural district in the Volgograd region. At the close of July 2001, R. Lopatin was killed during a fistfight between local Cossacks and Chechens living in the township of Kletsy. Following his funeral, a huge crowd of mourners held a spontaneous gathering attended by 700–3 000 people. Afterwards, some of the attendees went to “chase the Chechens,” break up their vending stalls and torch a dormitory building where a Chechen family was living (the fire also ruining three sets of rooms occupied by ethnic Russians). A local shoe-mending business held by an Armenian was also destroyed. The community remained turbulent for several days.

Passions ran so high that the regional prosecutor, vice-governor, and senior police officials became personally involved in defusing the conflict.

To underscore, not only Chechens but also members of other ethnic communities have been discriminated against because of their ethnic origin. Until quite recently, numerous Moscow real estate agencies had been distributing their ads with these caveats: “leasing property only to Slavs” or “Caucasians not welcome.” Recently in Moscow, near the metro-station “Universitet,” a club opened, whose doors featured this notice: “To avoid the risk of conflicts, Caucasians are not served.” The security elements had been briefed to turn off all prospective patrons with darker complexions and Caucasian accents. The high-profile “Dolphin” fitness center in Ekaterinburg made it a policy to offer its bath facilities, swim-
As concerns the Moscow city authorities, they have often justified their unlawful actions in this area by their concern for security of the city residents and the need to counter the unwelcome migrants. However, the problem of Moscow diasporas “has mostly been produced by the ethnic policy pursued by the city government,” according to a representative of one of the local Caucasian diaspora communities interviewed by the Moskovsky Komsomolets daily. He also pointed out that “the city government officials seem to be unaware of the fact that the ongoing discrimination on grounds of ethnicity has been affecting not only migrants but also the non-ethnic Russian Muscovites.”

Inter-ethnic hatred also appears to have been fanned by the more popular mass media outlets backed by the Moscow city authorities. Some of the materials carried by those media have been instrumental to the shaping of an “enemy image” in society. It came as an unwelcome surprise to the human rights community when the noted reporter Yu. Kalinina from the Moskovsky Komsomolets daily, who had been positioning herself as a sympathizer of human rights issues, suddenly released a series of articles to have members of different ethnic communities “conveniently” categorized. She maintains that:

Kalmyks are actually Russians, meaning “our own” people. The Chuvash people, the Udmurts and the Mordvins can also pass as Russians. Of all the “friendly” Asians, it is only the Kazakhs that can more or less qualify as Russians, the same can hardly be said of either Tajiks or Uzbeks. The Caucasians most definitely cannot pass as Russians.

Yu. Kalinina particularly draws the reader’s attention to the Caucasians being prolific, holding a risk that “in the not-too-distant future they might overwhelm the capital city and set up their own rules here.” Then, the reporter asks herself the following rhetoric question: “Should the Muscovites continue to be tolerant and watch as the city’s faces and ethnic mix increasingly resemble that of a southern mountain community?” Notably, she particularly emphasizes the ongoing plight of Slavs in the Caucasus, where some of them have been used as slaves.

The Caucasians just hate us and our responsive sentiments are merely poor reflections of those venomous feelings that they have

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390 Novye Izvestia (July 17, 2001).
392 Moskovsky Komsomolets (July 26, 2001).
for us. I am most definitely reluctant to receive people who regard me with aggressive contempt. Even though they try to hide their true feelings, one can always sense where their hearts are... One just cannot but recall with a degree of satisfaction how, following the explosions of apartment buildings in Moscow in 1999, the Caucasian street vendors had their tomato crates overturned and crushed.394

After one has read such observations, one might have no problem with other newspapers carrying materials where one of the local neo-fascist leaders concludes, “We, ordinary Russians, are just fed up with the free-for-all ways that the outlandish migrants seek to maintain. Clearly, the time is ripe to put things right. We have been compelled to counter the influx of the “guests” through the use of nearly military strategies.”395

Finally, as they proceed to limit the rights of ethnic minorities by barring them from taking an active part in the life of society, the authorities appear to be pushing minorities from the arena of normal social links and creating the conditions when loyalty to a given ethnic community becomes more important to them than adhering to the law. As a consequence, Russia’s ethnic minorities fail to integrate into society and various ethnic groups are increasingly alienated. Notably, these conditions also create a favorable environment for police arbitrariness and racketeering.

Anti-Semitism

Anti-Semitism has sprung deep roots in our country. This issue continues to remain in the limelight despite the fact that, to an outside observer, it seems to have taken backstage to problems associated with migrants from the Caucasus or Caucasians in general. In many cases, Anti-Semitism has been preserved as a major element of political ideologies maintained by the domestic nationalistic movements. Anti-Semitic pronouncements could invariably be heard in the statements made by leaders of regional Cossack organizations, heads of Russian nationalistic political parties or ethnic public associations based in the North Caucasus or the Volga-river areas. A surge of Anti-Semitism is currently observed in Chechnya. Anti-Semitic remarks have been made by leaders of Chechen formations, from A. Maskhadov to Sh. Basayev, by some Russian generals, and by the newly appointed leaders of the Chechen Republic. To provide an example to this effect, during his press conference, the head of the pro-Moscow Chechen administration, A. Kadyrov, let the “word” out that the notorious warlord Khattab was actually a Jew, rather than an Arab.

The latest reports of regional human rights organizations indicate that the level of open Anti-Semitism in Russia is not high. Organized Anti-Semitic actions continue to be staged exclusively by the marginal groups such as the Russian National Unity (RNE) and skinheads. One exception are the Novgorod election campaigners that have spread the following leaflets: “Russian Novgorodians! You have a problem to

394 Moskovsky Komsomolets (August 9, 2001).
395 Novye Izvestia (November 13, 2001).
eliminate. How many more years are you going to keep dying out without protesting, while the Zionist-Jewish rulers continue to thrive? Down with the Jews who are to blame for all our ills!"

Though similar leaflets can still be seen infrequently in other Russian cities and regions, blatant Anti-Semitism seems to have ceased to be a real tool in politics; smarter campaigners now avoid using that sort of rhetoric.

On the other hand, if we look broader than political rhetoric, we cannot but see numerous unsettling facts. For instance, recently, the city of Saratov has been the venue for an Anti-Semitic meeting and promotion of the book *Time to Raise the Sword* by V. Sosin, who makes no attempt to conceal his "basic sentiments" and "total Anti-Semitism" with regard to those who "keep the Russian man muzzled."396

On July 9, 2001, in Moscow, a prominent American human rights organization, UCSJ (Union of Council for Jews of the Former Soviet Union), launched the Russian version of their new publication on Anti-Semitism and xenophobia in Russia drafted by N. Butkevich. The book holds an in-depth analysis of manifestations of xenophobia, Anti-Semitism, racism and neo-fascism across 73 subjects of the Russian Federation. Alas, the main conclusion is not very consoling: Russia continues to be afflicted with passive Anti-Semitism, which is state-tolerated and allowed to "permeate the entire society from the unorganized households all the way though the governing structures." UCSJ also points out that the victims of that broad-based attitude could hardly hope to be effectively protected either by police or public prosecutors.

Notably, the book especially emphasizes that all of these things have to be examined against the backdrop of President Putin’s pronouncements of his firm commitment to do away with Anti-Semitism in the country. In the meantime, the UCSJ experts partly attribute the threat of Anti-Semitism in Russia to the fact that former KGB officers now fill many of the senior government posts and that the security services aggressively pursued an Anti-Semitic course under Soviet rule. The book carries concrete examples of the current FSB largely continuing to emulate its predecessors NKVD and KGB. Another major conclusion is that an effort is under way in the Russian Federation to "energize the repressive structures" and "revive the Anti-Semitic traditions in the country’s state security agencies," which is "highly reminiscent of Soviet times."

In the book, it is particularly emphasized that “the failure to build a rule of law state in Russia, along with tremendous hardships created by the law enforcement and other coercive agencies using arbitrary practices and torture, have been conducive to the establishment of a most malign social environment for all Russian citizens."

396 *Novye Izvestia* (November 10, 2001).

397 Please note that this is a backward translation.
THE SITUATION OF PRISONERS

The year 2001 saw the commissioning of dozens of regular penitentiary facilities and 28 high security penal institutions to keep 12000 convicts, as well as three medical treatment and rehabilitation detention centers to accommodate a total of 1 670 TB sufferers and drug addicts.

Notwithstanding, the issue of providing adequate accommodation for convicts and detainees under investigation continues to be rather pressing. Notably, the functional pretrial detention centers (SIZO) have been filled to 165.8% of their designed capacity levels. This situation is particularly desperate in St. Petersburg, Moscow, Nizhny Novgorod, Omsk, Samara, Tver, Tula and Leningrad regions as well as in the Chuvash and Karachaevo-Cherkessian Republics. Pretrial detention centers in 25 other Russian regions have been filled in excess of full-capacity levels by as much as 50%. Sixty percent of the available pretrial detention centers and facilities have fallen into a hazardous state of disrepair. Over 12% of Russia’s pretrial detention institutions are housed in XVII–XIX-century buildings, which had originally been erected to serve other purposes. What is more, 26 temporary detention center and prison buildings are now literally crumbling.

The situation regarding accommodations of convicts at high security prisons has gone from bad to worse. During the past year the total number of prisoners in this category has grown by 36.6% to reach 42 000, with an average monthly increase of 942 convicts.

Also, the sanitary and epidemiological situation in the penitentiary facilities run by the Ministry of Justice of the Russian Federation continues to be alarming. While general hospitals lack 12 000 beds for TB cases, specialized detainment facilities lack more than 14 000 beds. Overall, existing prison hospitals and outpatient clinics have been overloaded with a TB caseload of 15–20%.

As of January 1, 2002, the Penalty Implementation System’s (UIS) institutions had been populated as follows (see Table 1): all types of penal colonies — 747 000 (including 42 700 females, 18 600 minors, and 470 juniors in specialized childcare homes); pretrial detention centers, remand prisons and detainment stations operating as temporary detention facilities — 219 000 detainees.

To underscore, remand prisons have been overloaded to 152.2% of their designed capacity.


399 According to the data released by the Center for Assisting the Effort to Reform Criminal Justice (www.prison.org).
The cost of daily meals per prisoner (covered by the federal budget) now stands at 20.1 roubles, with the same indicator being 15–17 roubles for the year 2001.

### Table 1. Prisoner population dynamics for 2001.

<table>
<thead>
<tr>
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<th>February 1, 2001</th>
<th>September 1, 2001</th>
<th>Early 2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prisoner population total, thousands</td>
<td>934</td>
<td>991</td>
<td>965</td>
</tr>
<tr>
<td>Per hundred thousand of general Russian population</td>
<td>644</td>
<td>684</td>
<td>670</td>
</tr>
<tr>
<td>Total TB cases, thousands*</td>
<td>84.4</td>
<td>86</td>
<td>88</td>
</tr>
<tr>
<td>Total HIV positive, thousands</td>
<td>15.1</td>
<td>21.6</td>
<td>33</td>
</tr>
</tbody>
</table>

*Russian detention facilities account for 140 thousand TB cases, according to S. Sidorova, chief TB specialist, Chief Department of Penalty Implementation (GUIN), Ministry of Justice of the Russian Federation.

These statistics clearly indicate that the hopes of officials from the Chief Department of Penalty Implementation (GUIN) of the Ministry of Justice of the Russian Federation that the total prisoner population might be reduced by 200,000–250,000 following the passage of amendments to the RF Criminal Code and the RSFSR Criminal Procedure Code are unlikely to be met. A reduction in the size of the “special contingent” had been achieved by the close of last year merely through a scheduled amnesty being granted for female and under-aged prisoners. Despite any and all attempts on the part of GUIN personnel, the prisoner population has leveled out and even increased to a certain degree. The increase is a result of steadily rising crime rates in the country on the one hand, and law enforcers stubbornly continuing to be motivated by repressive attitudes on the other hand. The later circumstance only compounds the situation. This is not surprising when judicial reforms are carried out “from the top,” and civil society is left unengaged.

To illustrate Russian law enforcement attitudes, it would suffice to refer to V. Kolmogorov, Deputy Prosecutor General of the Russian Federation, who said, “We believe that foreigners who have committed crimes should be kept behind the bars.” Then, as if he was following up on V. Kolmogorov’s remarks, Yu. Shcherbanenko, head of the department responsible for compliance verification of criminal penalty implementations within the Prosecutor General’s Office of the Russian Federation, argued as follows, “If a foreigner has committed a misdemeanor, he should be taken into custody to avoid the risk of his escaping from the country.” So, as one can see, the principle of feasibility appears to have totally prevailed over the rule of law. Notably, local investigators and judges have rather freely interpreted the law, with the prosecutor’s stance prevailing at all times.

The Constitutional Court of the Russian Federation points out, in particular, that Russian investigative and judicial authorities have been...
arbitrarily interpreting the provisions of Article 97 of the RSFSR Criminal Procedure Code as allowing for detention periods to be repeatedly extended beyond their prescribed time limits whenever a case happens to be filed for additional investigation. This measure is judged as unlawful by the Constitutional Court of the Russian Federation: “Expiration of a detention deadline shall mean that the given detention period shall not be extended and the accused person shall be immediately released, according to Part 3, Article 97 of the RSFSR Criminal Procedure Code.”\footnote{Excerpt from the December 7, 2001 Determination by the Constitutional Court of the Russian Federation (#261-O) on the appeals by G. Arkhipov and I. Shcherbakov against their constitutional rights being breached following application of Part 7, Article 97 of the RSFSR Criminal Procedure Code.}

For example, G. Arkhipov was taken into custody on January 26, 1995, on the charge of committing felonies and very grave crimes and, at least, through the close of 2001 had been detained at a Yekaterinburg-based pretrial detention center (SIZO #1). A. Kozhanov, judge from the Sverdlovsk Regional Court, had the case repeatedly sent down for re-investigation citing numerous formal irregularities committed by the original investigators. Despite the fact that the prescribed deadline for G. Arkhipov’s detention had long since expired, he had never been released either by court or local prosecutor.\footnote{A. Sidorov, “Six Years Make a Legal Lesson Rather than a Prison Sentence.” \textit{Parlamentskaya Gazeta} (2001, #646); O. Mironov, “Facts Confirmed.” \textit{Parlamentskaya Gazeta} (2001, #758).}

A record worthy of the Guinness Book of Records has been set in Moscow. M. Zvarykina, quality as having category 1 disability as a result of gunshot wounds, had been kept in the local pretrial detention center (SIZO #6) from 1994 through early 2002, charged with committing a number of very grave crimes. Numerous attempts by defense attorneys to have the preventive punishment measure alleviated produced no desired change. In the spring of 2002, the defendant had a heart attack during a court hearing and was taken to the Butyrka (SIZO #1) hospital where she is now struggling for her life. Even then, the court would not rule to have the defendant released, because “M. Zvarykina would quickly get herself hospitalized.”

Before the provisions of Article 239.1 of the RSFSR Criminal Procedure Code entered into force on June 14, 2001, mandating six to nine month detention limits for any accused persons whose cases were adjudicated by the courts, large numbers of prisoners had been held in pretrial detention centers for much longer periods.

Understandably, the problem of Russian pretrial detention centers goes beyond intolerable living conditions and overcrowded wards. Arbitrary actions of wardens significantly compound the plight of persons under investigation. This is how A. Grebnev describes his being received by the St. Petersburg-based Kresty remand prison:\footnote{M. Panchenko, “Holidays at Kresty.” \textit{Verstya} (2001, #3).}

\begin{quote}
A few masked individuals welcomed us with a curt phrase, “No Geneva Conventions at Kresty.” Then, they used their batons and kicks to drive us into a “dog kennel.” Obviously, they moved professionally
\end{quote}
and effectively, with each new batch of prisoners apparently given the
same kind of treatment. The “dog kennel” turned out to be a prison
cell featuring a low-voltage electrical bulb and bumpy rough cement
walls. Fixed along the walls were narrow benches, too high for one’s
feet to touch the floor. Though the cell, indeed, was too small, it was
made to hold 10–15 prisoners.

Following a brief stay in the “sitting dog kennel,” a prisoner is taken for
a physical. V. Boikov (former high school principal and recipient of the
title “Russia’s School Principal of the Year”) described this as follows:

_I particularly recall a huge needle, measuring about five millimeters in
diameter, which was used to draw blood for testing. To underscore, it
was not an expendable syringe, and I could only hope that it had been
properly sanitized before use. The blood tests notwithstanding, AIDS
cases could exist in general prison wards. Should you happen to suffer
from a minor ailment, you may ask for basic first aids items, expired an-
tibiotics or yellowish-looking analgesic drugs. Should you have a sud-
den illness or emergency, the in-house paramedic will take an hour or
longer to appear. The prison hospital differs from the regular wards by
providing a slightly improved diet and more space, which actually works
as medication._

Following a body search, a prisoner is normally photographed for the
records. According to A. Grebnev:

_The wardens do their best to search out and take away any valuables or
foodstuffs (possession of which is not necessarily barred by law) that
they want. I personally saw a prisoner who had his sausage provisions
confiscated, the rationale being that sausage was not allowed in a prison
ward. Given that the dispossessed items had never been documented,
one can only guess where all those things have gone._

Then the prisoners, devoid of their personal effects, are taken to the so-
called “sleeping dog kennel” designed with two tiers of bunks to hold
more people. That ward certainly beats even the “sitting dog kennel” in
terms of filth and stuffiness. The accused persons under investigation
are generally compelled to spend up to several days in such intolerable
conditions.

Next comes the bath facility. The Kresty bathhouse is a small room with
shower heads right under the ceiling, with the shower-takers driven in for
just a few minutes. The former Kresty inmates are rather certain that those
showerheads spew heavily over-salted water taken from the local heating
system. Should that be so, it is no wonder that prisoners normally suffer
ulcer, skin irritation and itching. Apart from this bath house facility, the
prison also features the so-called “roasting” bath house — a more or less
decent facility with an anteroom made available for the inmates from the
wards infested with lice and other bugs. With fleas in the wards being
nearly ubiquitous, the “roasting” bath house services are reported to be
often provided on a commercial basis.
In the first half of 2001, the St. Petersburg-based remand prisons saw as many as 30 inmates passing away, with 10 of those dying in July.405

These statistics do not seem to be particularly shocking after you read this official document:

On August 28, 2001, the accused A. Babayan, born in 1958, was recorded by the IZ-99/1 penitentiary facility, run by the Chief Department of Penalty Implementation (GUIN) of the Ministry of Justice of the Russian Federation (generally referred to as SIZO “Butyrka”), with the following ailments: type 2 diabetes mellitus, cardiac decompensation, diabetic vasculitis and polyneuropathia, ischemia, arterosclerotic cardiosclerosis, 2nd-degree hypertension, 2nd-degree visceral obesity, pronounced sleeping apnea syndrome, chronic obstructive bronchitis, pulmonary emphysema and diffused pneumosclerosis.

A. Babayan is reported to be in relatively good condition. He has been cleared to receive the prescribed medications and dietary meals. Following consultation with doctors from the city hospital #20, A. Babayan was denied urgent hospitalization. His blood sugar content is being monitored on a regular basis.

To provide some background information, A. Babayan, a well-to-do person, was charged with the theft of a pair of blazers, an electrical kettle and a pair of second-hand shoes from a private apartment. Needed evidence for a trial was not collected within half a year.406

It should also be added that those held in the Butyrka remand prison had their rights breached on a massive scale last fall, when the security regime was tightened following reception of a new warden and administration after a few daredevil escapes from the facility.

On Wednesday, October 24, 2001, the wards had been thoroughly searched during the second half of the day, with the inmates’ personal effects and medications confiscated. Notably, many of the prisoners had been severely beaten for disciplinary purposes. Any and all attempts made by the accused persons to stand up for their rights had been put in check either through the use of “physical coercion” or by confining some of the more stubborn resisters to the local “cooler” cell. At nightfall, when the inmates fell asleep, special police arrived and “introduced law and order” with their batons.407

Minors held at pretrial detention centers are particularly hard pressed. By law, conditions for minors are supposed to be more liberal than for adult inmates. But teenagers are generally kept in the same conditions as adults, a circumstance most destructive for the physical and mental health of the younger people.

Within the half a year that he spent at the Saratov-based pretrial detention center, D. Kosov contracted hepatitis, TB, and an untreated wound of his

405 R. Linkov, “Pasta for President.” Obshchaya Gazeta (2001, #34).
eventually become gangrenous. D. Kosov was allegedly guilty of stealing a jacket from a school coatroom in order to sell it at the local open-air market.

Marina N. from the Ryazan-based correctional facility wrote:

*Whenever we misbehaved at the correctional facility, the wardens would just let their hands loose. They would start groping or spanking us. I do not know what else to say. Anyway, nobody would understand what we have been through. You just have to experience the whole thing: the attitudes, the food, the awful environment.*

Nastya R. from the same Ryazan correctional colony had this to say:

*We needed to be moved. The prison truck took two hours to take us to the railroad station where we boarded a special rail car to finally reach Yaroslavl after a seemingly endless three days. At the trans-shipment facility, I was taken into a small-sized cell holding only a toilet and a bench. The cement floor was covered with dirt. I spent four days there, in the company of older women who continuously swore and used expletives. We had to take turns to grab a nap. Within those four days I had just three short naps. One old woman infested me with lice. Luckily, shortly afterwards I managed to get rid of them.*  

*Then, I was moved to the Ryazan pretrial detention center, which was really nothing less than a nightmare: I had to sleep on the floor for two months.*

Given this evidence, one can conclude that neither international standards nor Federal Law “On Detaining Persons Suspected or Accused of Committing Crimes” have been fully observed across Russia. Inmates at most of the pretrial detention facilities are unable to exercise proclaimed rights.

One of the reasons that detainees are treated in this way by the remand prison administrations is that Russian pretrial detention centers are part of the Penalty Implementation System (UIS). Thus, those yet to be tried by a court of law are handled as convicts from the very start. Here, we shall not elaborate upon the fact that such kind of treatment is by no means acceptable in relation to convicted prisoners either (that goes without saying), but we shall only emphasize that this sort of practice prevent the presumption of innocence principle from being appropriately introduced and applied throughout the country. The Ministry of Justice of the Russian Federation could change the overall situation by ruling to create a specific division for pretrial detention facilities, which would be responsible for running all domestic pre-trial prisons, including those currently maintained by the Federal Security Service of the Russian Federation.

The latter category of remand prisons deserves a special mention. When she joined the Council of Europe, the Russian Federation committed itself to

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408 Yu. Kholodova, “Kids Behind Bars: It Could not be Worse.” *Parlamentskaya Gazeta* (2001, #109). Excerpts have been taken from a few written accounts by under-aged convicts and made available for a contest run by the Center for Assisting the Reform of Criminal Justice.

meeting all requirements contained in the 1996 Statement #196 passed by the Parliamentary Assembly of the Council of Europe. Russia then vowed to “review Federal Law “On the Federal Security Service of the Russian Federation” within a year, to bring it in line with the guidelines and rules established by the Council of Europe, and to take away the right of the Federal Security Service to run its own pretrial detention facilities” (see Article 10 (xvii)). Alas, that vow is yet to be fulfilled, and the very topic of having FSB remand prisons turned over to some other governmental agency actually appears to be a taboo subject with government officials. Particularly striking has been the reluctance of FSB authorities to live up to official commitments. The Moscow-based Lefortovo FSB remand prison happens to be in the same block of buildings that houses the FSB investigative division. Denying investigators the opportunity to coerce the detainees under investigation has been the principal motivation for the European community to demand that Russian pretrial detention facilities be removed from under the auspices of special services.

Indeed, the living conditions at Lefortovo are much better than those maintained either by the Butyrka or Matrosskaya Tishina prisons. However, this is what V. Trofimov (former head of State Duma Committee for International Affairs who was charged with taking a bribe) has to say about his stay at Lefortovo for a year and a half. He had also been kept for a few months at the Tver pretrial detention center, where conditions are reported to be nearly the worst in the country:

The situation regarding human rights at those facilities is just atrocious. It needs to be pointed out, however, that Lefortovo has its own specific features. Having experienced the coercive techniques applied by the Lefortovo investigators, I would prefer a common ward at a regular prison.

Trofimov got the impression that the Lefortovo investigators were committed to securing the wanted evidence. To achieve that goal, “stool-pigeon” strategy has invariably been used.

Those guys would normally be FSB agents adorned with sophisticated tattoos who introduced themselves as regular felons or repeat criminals. Of course, each of them would have his own tale to tell. At Lefortovo, they have you pressured more closely than elsewhere. To point out, while they kept me there, I participated in the 1999 parliamentary elections and could roughly tell how many inmates were there at the time. In my judgment, the total was somewhere within a hundred, with 30–40 of those apparently playing “stool-pigeons.”

One of my “stool-pigeons” would tell me all about his attempts to commit suicide and about how to do that the easiest possible way. Getting detainees to become despondent appears to be one of the local tactics. But of course, this is impossible to prove. That was just my perception. Judge for yourself: they keep you in a cell for five days. You feel thirsty all the time. You cannot drink the tap water because it is filthy. You just have to wait for your “cup of tea,” with the kettle of boiled water provided in the morning and evening hours. When I stayed in that cell, I was nearly overwhelmed by depression. One day, when I had my wife visiting me, they brought me

my meal into the cell. Being suspicious of prison food, I would not touch it. But on that particular day, it occurred to me to pass the untouched plate over to my neighbor who suffered from lack of food particularly badly. As he voraciously emptied the plate, my neighbor (who used to call himself a member of the Russian Olympic team in freestyle wrestling) all of a sudden collapsed on the floor and just uttered a few words to say that he was choking.411

The effort to soften the regulations for convicts serving sentences for petty misdemeanors, moderately serious crimes or felonies committed through carelessness is one of the principal aims pursued to have the Russian penitentiary system humanized and liberalized. The softer-regime facilities available in the Russian Penalty Implementation system are the so-called settler-colonies. Admittedly, the living conditions there can hardly be regarded as fully humane either.

For example, Viktor S. from the UKh-16/13 facility wrote:

Given my exemplary conduct and good work at my original penitentiary facility, the local warden ruled to have me moved to the nearby settler-colony. Such a colony is generally believed to be an easy-regime prison, exclusively designed for those inmates who have firmly embarked on the path of correcting their ways. Unfortunately, my new abode does not live up to its name of settler-colony because people here are treated like cattle.

During a two-week quarantine, they made us clean up and sanitize the latrines. We were treated like slaves. Following the quarantine, I was assigned to work at the pre-fabricated housing unit facility.

We work 12-hour shifts six days a week. The cost of our daily meals is 35 roubles. This amount is broken into two segments, for us to have meals at 12.00 and 16.00 hours. If you want any extras, just pay with your own roubles. But those roubles are impossible to earn. The prevailing conditions seem to be urging the “settlers” to commit new crimes. Either you suffer from hunger or should be prepared to get a new prison sentence. The choice, of course, is limited, but I have not seen any fellows risking to be thrown back into a prison cell.

The living conditions are just awful. The floors are not painted, and running water is often unavailable. Notably, our hard-earned roubles reportedly go to pay for the utilities.

What is more, it is only in theory that we have the right to visit our friends and family. In practice, we would always have a “heightened-alert” regime on the national days and holidays. Should there be a threat of hostage-taking in Moscow, down here at Omsk we would immediately have a “red-alert” status implemented. To underscore, when President Putin arrived in Novosibirsk for a brief visit, we had “increased-readiness” conditions introduced. Should some unstable “settler” lose his equilibrium because of all that hypersensitivity and just try to escape, we would each time get a new alert. Admittedly, there have been many who tried to escape, but they would inevitably be caught and thrown into a penalty box

where they would be savagely beaten with feet and wooden hammers.

Recently, I (just like many of my friends) received notification from the colony administration demanding that I should repay my debt of 1,600 roubles. But I had no such debt a short while ago. That insolent letter outraged my relatives. Then, the debt was somewhat reduced. However, I still owe them 1,000 roubles, and I do not know where to obtain that much money.

Because of this debt, I am not allowed to see my family. Is that the way the law should be applied? Though we are allowed to have television sets and music players, we keep none of those. The colony guards would even take away our water heaters and iron spoons. We do not have any personal possessions. The ongoing tensions, fault-finding inspections and penalty-box scares just drive me crazy. People here are all on edge, and they forgot how to smile.

It is absolutely pointless to appeal to the Omsk-based supervisory prosecutor. Should someone send out an appeal, he would be immediately locked up in the penalty box and brutally punished. Sometimes, it occurs to me that the Omsk prosecutor might be corrupted by the local wardens. After all, one can hardly believe that such preposterous and appalling things can transpire at our colony without the supervisory prosecutor being aware of them.

I am writing this letter to the Prosecutor General of the Russian Federation to request a review of these facts. Many are afraid of the colony authorities and just keep silent. However, there will be other prisoners who will be brave enough to confirm and develop the evidence presented here.412

Last year’s major event, which served to radically impinge on prisoners’ rights, was an official drive launched to defame and eventually do away with the Presidential Amnesty Commission that included high-profile members of the Russian intellectual milieu receiving no compensation for their services. One of the elements of that drive was the October 20, 2000 Directive (#8909-YuK) “On Compiling Amnesty Materials” (distributed to the regional penalty implementation authorities) by the Deputy Minister of Justice Yu. Kalinin. There, penitentiary facility’s administrations were effectively denied the right to request parent authorities that convicts who served less than half their prison sentences for committing grave crimes (just as the convicts who served less that two thirds of their sentences for committing very grave crimes) be amnestied. On January 13, 2001, a circular letter designed to warn the regional penalty implementation division heads of “personal accountability for their performance” backed the aforesaid directive. It required that they should assure personal compliance verification and radically bring down the numbers of prison warden requests for selected convicts to be amnestied.”

The provisions of these two documents are radically at odds with Part 3, Article 50 of the RF Constitution, which is intended to enable any and all convicts to request their sentences to be either abrogated or commuted, irrespective of the gravity of the crime and time already served. What is more, these documents contradict Clause “v,” Article 89 of the RF Consti-

tution, which give exclusive rights to the President of the Russian Federa-
tion to authorize amnesty or pardons of selected convicts.
THE SITUATION OF ENLISTED SERVICEMEN

In 2001, the situation regarding the observance of the rights of conscripts continued to deteriorate. Numerous appeals on the part of public representatives concerning the necessity to radically change the situation in the RF Armed Forces have so far fallen on deaf ears. The open opposition to reform by the General Staff could explain hesitations on the part of authorities. According to expert analysis of the National Security Doctrine, the Program of Reforming the Armed Forces, Re-equipping the Armed Forces, and Reforming the Defense Industry only mimic changes of the state defense structure. The only step in the direction of reform that the RF President managed to take last year was the appointment as Defense Minister of a person from outside of the corporate defense community. This appointment, by the way, had very little effect on the activities of the Ministry of Defense.

As a response to criticism by the media and non-governmental organizations, the military accuses journalists and human rights activists of discrediting the RF Armed Forces and undermining the defense capabilities of the country. Even statistics on the number of criminal cases related to abuse of power and code of behavior in the Armed Forces became classified, which was reported by the prosecutor’s office of the Moscow military district. At the same time, at the parliamentary hearings on crimes in the military, held on September 21, 2001, the Chairman of the Military Board of the Supreme Court of the Russian Federation, General N. Petukhov, publicized statistics about crimes committed by servicemen during a six month period in 2001. He reported that the number of crimes in the military increased with every year. The scope of “common” crimes is becoming broader (theft of weaponry, property theft, inflicting injuries, military service evasion etc.), and “new” crimes (drug sales and drug use, mass killings of guard shifts, homosexual rapes and the likes) are becoming more frequent.

But even civilian officials of the Ministry of Defense reject the idea of total civilian control over the Armed Forces. Such is the position of L. Kudelina, Deputy Minister of Defense on Finances and Economic Activities, who explicitly stated, “There are authorities in Russia who can supervise the Armed Forces, which are regularly inspected by the Accounting Chamber, Prosecutor General’s Office, and the courts. Besides, the Armed Forces have their own inspection authorities. What do we need some other inspectors for? Inspectors are numerous, but the situation is not getting any better.”

As always, military bureaucrats refer primarily to the “low quality of recruits” as a key reason for the poor situation in the Armed Forces and

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414 Outgoing number 35/6-127 dated February 9, 2001.
suggest that this situation be improved by calling up students who have deferred their service until the completion of their university studies. The General Staff submitted to the State Duma amendments to Federal Law “On Military Duty and Military Service.” One amendment allows deferment only for the students studying for the professions listed in a “state order.”

The General Staff is opposed to the contract-based manning of the Armed Forces. According to the Yezenedelny Zhurnal magazine, military economists do all they can to exaggerate cost estimates for the contract scenario in order to prove that there is not enough money now, nor can there ever be, to implement a contract-based military.\textsuperscript{418} This line of argument is the primary one used by the military to paralyze the government in opposing the reform. But calculations by independent economists from “Yabloko” and SPS factions in the State Duma, for instance, unambiguously show that the financial situation in the country is not an obstacle to modernizing at least the recruiting system, given of course, minimization of losses to the defense budget due to theft, which are becoming more aggravating from year to year. \textsuperscript{419} In 2000 alone, losses from economic crimes in the Armed Forces were as large as 3.2 billion roubles — 16 times as high as in 1999.\textsuperscript{419} According to the Accounting Chamber, the military districts suffering most from theft are the North Caucasus, Siberian and Far-Eastern. In Chechnya and the adjoining areas, more than 34.1 million roubles worth of goods have “gotten lost” during the past two years; in Siberia — 16.1 million; in Primorsky territory — 11.5 million roubles. In the Transcaucasian area, officers of the single large unit of the Russian forces located there, Lieutenant-Colonel A. Aivazyan and Captain S. Krukov, stole more than 19 million roubles worth of foodstuff.\textsuperscript{420} As of the spring of 2001, the defense budget lost 14 219 995 000 roubles.\textsuperscript{421} The military prosecutor’s office reported that, “the situation is aggravated by the fact that the military officials whose duty is to secure materials became thieves.”\textsuperscript{422}

The leadership of the country has tried to take some steps to rectify the situation. Eighty criminal cases were initiated. Court proceedings that began on March 12, 2002, promise to have great public repercussions, having to do with alleged infliction of material damage to the state in the amount of 327 million U. S. dollars. The defendant is former head of the Main Military Budget and Defense Ministry Finance Directorate, Colonel-General G. Oleinik. L. Kudelina, Ministry of Finance, has since taken over from him.

The defense budget becomes less transparent with each year. Information about how money is spent is well hidden from taxpayers. In 2001, information ceased to be published about levels of fulfillment of defense orders by the military-industrial complex.\textsuperscript{423}

\textsuperscript{418} A. Goltz, “Your General Staff Has Gotten Loose.” Yezenedelny Zhurnal (2002, #6).
\textsuperscript{419} A. Shchelokov, “Under Armed Escort or Voluntarily?” Nesavisimoye Voennoye Obzrenie (2001, #12).
\textsuperscript{420} V. Sivkova, “Who Feeds the Armed Forces with Garbage?” Argumenty i Fakty (2001, #27).
\textsuperscript{422} V. Sivkova, “Who Feeds the Armed Forces with Garbage?” Argumenty i Fakty (2001, #27).
There is only one conclusion to be drawn from this: the professional military (primarily senior officers and generals) are not prepared to accept a professional army. They fear it in the same way they fear civic control.

The year 2001 brought a number of scandals related to massive abandonment of military units by servicemen. According to the Union of Soldiers’ Mothers’ Committees, annually up to 40 000 men escape from their units. In 2001, the escape of 74 soldiers from one unit of the guards regiment located in the Roshinsky settlement not far from Samara made front page news. These soldiers protested against humiliating treatment they received from servicemen from the North Caucasus. It should be noted that among those who escaped there were no fresh conscripts — all the soldiers had served between 8 to 18 months. The unit commander had ignored their complaints, and they decided to go to the army headquarters located in Samara, hoping to find help there. They left their unit without permission. This caused such a commotion that on September 4, 2001, Chief of the General Staff, A. Kvashnin, had to go there personally and in December, the unit was visited by S. Ivanov, Minister of Defence. Thirteen servicemen were convicted “for violating regulations that stipulate behavior between servicemen in the Armed Forces.” And though Colonel A. Nurgaliev acting prosecutor of the Samara military garrison, denies the nationalistic nature of this situation, the growth of tensions between different ethnic groups is obvious, especially secondary to the events in the North Caucasus. Commonly, servicemen of Caucasian extraction mistreat soldiers of other ethnic background, and nationalistic hatred sometimes culminates in soldiers from the Caucasus being lynched.

In the Far Eastern military district alone, which is supervised by the prosecutor’s office of the Bikinsky garrison (Khabarovsk territory) three murders were committed. Ten soldiers acted together in killing Private Vychedov. This Dagestani man was tied to a tree and beaten to death. In the 5th Belogorod garrison, five ethnic Russian servicemen organized a public execution of Private Akhilgov, an Avar by nationality. Using the opportunity that one of them was on duty, they opened the rifle storage room, took two automatic rifles with ammunition, grabbed the victim and shot him. The heavily wounded Avar was then finished off with an axe. In the third case, 18 Russian soldiers armed with sticks and chains organized a cruel “farewell party” for a Dagestani soldier. During a fight at the train station the Dagestani man was killed.

All those involved in the killings have been detained and sentences to various prison terms, from 3 to 10 years. But there is little hope that incidents such as these will not be repeated.425

Another unprecedented escape from a military unit occurred in May of 2001. Private Sergei Strochikhin, who served in the Vyborg boarder

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guard detachment of the North-West Administration of the Federal Border Guard Service of the Russian Federation, left his sector of responsibility during the night of May 24–25 and crossed into Finland on a cargo train. He was armed with a Kalashnikov assault rifle and two magazines of ammunition. He managed to hijack a car. Having driven 30 kilometers, he lost control of the car and landed in a ditch. He then abandoned the car and rushed into the woods. Finnish policemen and border guards began a chase, which turned into an exchange of fire, and ended with Sergei Strochikhin killing himself. In the breast pocket of his jacket, a letter was found, which he had written before his escape. It became clear that this “green” soldier decided to commit suicide because he was tormented by “old hands” whom he specifically named in his letter. Finnish policemen explained his escape to Finland by his desire to reliably convey the truth about what was happening in the unit. After Russian officials received the letter, the soldiers who had tormented Sergei Strochikhin were arrested.426

During the first seven months of 2001, more than 700 soldiers turned to the Union of Soldiers’ Mothers’ Committee after they had illegally left their units. The most common reason for leaving their units is extortion practices on the part of “older” soldiers and sergeants, who force newly drafted conscripts to get money for them. They fix a deadline and then switch on “a counter”: the soldier’s debt grows with each passing day. The initial amount demanded in provincial areas may be about 100 to 200 roubles, but in Moscow and the Moscow region it can be as high as 2 000 roubles.427 That is how “old hands” make “green” soldiers beg.

You can see begging soldiers near the Begovaya metro station, very close to the military prosecutor’s office of the Moscow military district. One soldier said:

*In our company, several “old hands” are about to be demobilized. Each of them has one or several “ghosts” — younger soldiers. The “ghost” must put a hundred roubles under the pillow of his ‘old man’ every day — a kind of a “demob” gift.”* How and where you get the money is your own headache. If you fail to bring the money you may be beaten up and sent out to beg at night. They won’t let you sleep unless you bring in the required amount.428

One of the toughest locations for soldiers is the town of Sputnik, not far from Vladikavkaz, where officers and praporshiks (warrant officers), despite numerous complaints from human rights activists, continue in quite a matter-of-fact way to sell their soldiers to the local population as slaves. Soldiers are seen begging everywhere, even coming directly to people’s homes asking for money, apparently for “older” soldiers. Servicemen who fought in Chechnya have to wait about six months to get their “combat”

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pay, if they promise a bribe of 3 000–5 000 roubles to the financial department people. Otherwise they may wait for a year. Often, the lucky ones who have received their money run into racketeers at the gates of their unit and are immediately robbed of the money.429

According to the Chief Military Prosecutor of the Russian Federation, M. Kislitsin, during the first six months of 2001 alone, “dedovshchina” (mis-treatment of younger servicemen by “old hands”) in the North Caucasian military district doubled in comparison to the same period of the previous year. On the whole, the number of occurrences of improper behavior, violating military regulations increased in the RF Armed Forces by 29%.

Another typical story involved Private Rychkov who escaped from unit 66431 based in the Sputnik settlement. He was drafted from the Perm region in the fall of 2000. His mother and elder brother decided to visit the unit after they had stopped receiving letters from him. When they arrived to the unit, it took them a while to find out that neither the battalion nor the company commander knew how and where Private Rychkov had disappeared. They learned during the course of their search that he had spent some time in hospital with a broken jaw. After two days of useless attempts to find him in nearby villages, the Rychkovs had to go home. And then, an Izvestia newspaper journalist found Private Rychkov.

The events developed as follows. On March 19, 2001, two weeks prior to the visit of his relatives, Rychkov and another soldier was taken by a lieutenant-colonel in a “UAZ” jeep to the village of Oktyabryskoye. The colonel was building a house there, so he needed free labor. Some days later, Rychkov escaped to Vladikavkaz. He spent over a month in workers’ hostel. Everybody in the vicinity knew about the escaped soldier, but it did not occur to anyone to report him.

There are scores of soldiers and even three officers currently at large, after they escaped from the unit #66431430.

The escape history of the RF Armed Forces was complemented by an incident, the likes of which had not occurred since 1917. On May 2, 2001, two deserters, 20-year old K. Terekhov and 18-year old P. Mozgunov, lethally injured Senior Lieutenant Belov and then killed Major-General Baev, Commander of the district training center of the Siberian military district #212. The criminals were arrested on the same day in the city of Chita, at their female friend’s place. Despite the fact that investigators did not detect any connection between the desertion and “dedovshchina,” the episode deserves special attention. The current situation, where commanders fail to control improper behavior among conscripts and even promote dedovshchina, humiliate and degrade their subordinates physically and morally, and where access to arms is easy, puts their own lives, those of their subordinates and even those of outsiders at great risk. The past summer alone saw seven shootings, resulting in more than twenty people dead.431

430 Ibid.
But the Command of the RF Armed Forces has drawn amazing conclusions from the tragic events in the Siberian military district. At the news conference of September 14, Chief of the Main Directorate of Educational Work in the Russian Armed Forces, Colonel-General Azarov, first made routine references to manageability and combat readiness of the Armed Forces. He then discussed a forthcoming experiment to “legalize ‘informal leaders’ among soldiers, with the help of whom we will be able to improve the dedovshchina-dominated situation.” But these informal leaders could only be the same notorious “old men” who become leaders not with their brains but with their fists. To rely on informal leaders actually means to legalize “dedovshchina.” So, having recognized the impossibility of eradicating this negative phenomenon, the military leadership is trying to channel it into some positive direction. But the way we see it, the attempt is doomed to failure because dominance of dedovshchina indicates that professional servicemen themselves are morally and psychologically degrading, including the immediate commanders of soldiers and sailors. All too often, they perceive conscription servicemen simply as free labor.

Soldiers are used in this way over the whole territory of the Russian Federation. Only the most scandalous cases become publicly known. For instance, a commander of one airforce unit in the Ivanovo region sent four soldiers to work at his summer cottage. One of the walls of the house suddenly collapsed, seriously injuring one of the soldiers. Also, in the Khabarovsk garrison, conscripts were actually sold to a local businessman by their unit commander. They worked for four months without pay at a ravioli producing shop. But, according to official records, they spent this time-period in hospital.433

We cannot but conclude by saying that the information that becomes public is only the very tip of the iceberg. However, even this little data is quite sufficient for prospective draftees to perceive military service as a punishment and do their utmost to avoid it, resorting to all available legal and illegal means. This avoidance in itself is, in a sense, Russian conscripts’ vote for a professional army, or at least in support of a radical change of the system, which is almost completely closed to civilian scrutiny. No amount of “patriotic education” could influence this perception, regardless of how strongly Russian military leaders would like it might.

Every year, it becomes more difficult for the military to meet their recruiting targets. That is why they have openly resorted to force, stepping over legal boundaries. The Ministers of Defense and Internal Affairs signed Order #118/218, dated March 4, 2000, which endorsed Interdepartmental Instruction “On Organizational Cooperation of Military Commissariats and Internal Affairs Bodies in the Work of Ensuring Fulfillment by Citizens of Their Military Duty.” Remaining basically within the limits of legality, this document, nevertheless, instigated a hunt for potential draftees. Namely, police may detain all people of conscription age and bring them to military commissariats where they are closely “examined.” Some of them (very few) may be released, others (the majority) undergo prompt medical examination.

and are immediately dispatched to an assembly point, and then on to a military unit. The glaring unlawfulness of such measures is not only a demonstration of the organizers’ confidence in their impunity but also their own recognition of their helplessness in the face of the growing reluctance of young people to fulfill their constitutional duty. In big cities, evasion of the military draft is massive. And it is the populations of Moscow and St. Petersburg that experience the most aggressive hunts for draftees.

During each recruiting campaign, Moscow authorities admit to a problem and promise to resolve it. But each year, this topic becomes more aggravating for human rights defenders. The fall of 2001 witnessed the most scandalous recruiting campaign ever. Many people attribute it to the appointment of Colonel Krasnogorsky as Moscow Military Commissar as well as to the increase in the recruiting target from 5 500–6 000 to 6 700 in Moscow. In spite of numerous facts provided by the Union of Soldiers’ Mothers’ Committees, the newly appointed Commissar assured the public that there were no special “hunting” operations in Moscow aimed at catching draftees to meet recruiting targets for the fall. He critiqued the data provided by the Soldiers’ Mothers as “full of ill will and packed with lies.”

It was only after A. Barannikov, State Duma Deputy from the SPS fraction spent four hours at the Kuntzevo military commissariat on December 20, 2001, and saw first-hand what was happening there, that the Moscow authorities voiced their position on the matter. A. Barannikov witnessed at least 50 young men being brought to the military commissariat by police. They were given call-up papers without any medical examination and told to come back to the commissariat with their belongings ready to leave for a military unit. The Chairperson of the Moscow Drafting Commission, L. Shevtsova, at a specially convened press conference on December 25, expressed “extreme dissatisfaction with the unauthorized hunt for young people of conscription age.”

However, on December 28, armed OMON (Special Task Police Unit) staff showed up at the hostel of the Russian University of Chemical Technology of Mendeleev. When students opened their doors after a false fire alarm, the police took their IDs, put them in buses and, without explaining anything, brought them to the Tushino military commissariat. There they got their passports back in exchange for call-up notices. Among those detained were there full-time day students and postgraduate students who legally enjoy deferment from military service.

To summarize, the observance of the rights of conscripts is impossible unless human rights in general become a priority issue in the state’s domestic policy.

435 www.svoboda.org/archive/hr/1201/ll.121301-1.asp.
THE SITUATION OF PSYCHIATRIC PATIENTS

Recently, the conditions seen in Russian mental hospitals have somewhat improved. Patients are no longer hungry and have better provisions of medicine; some hospitals can even procure new-generation drugs. However, the daily allotment per patient (30–40 roubles for food; 50–60 roubles for medication) is still about 50% lower than established standards.

In some regions, funding for patients in hospitals remains meager. For example, in the Vologda region in 2001, a patient’s daily allotment for food was 7 roubles, and for medicine — 1.5 roubles; in the Kurgan region — 11 and 13 roubles respectively; and in the Penza region — 12 and 18 roubles respectively. Procurement of new generation drugs was not even an issue under such circumstances. The lack of funding for the medication has the most severe impact on outpatients. In Tula region, for example, free drugs have not been available for outpatients since 1994, in spite of the fact that an average pension is only approximately 600 roubles a month. Often, such patients face the dilemma of whether to buy expensive drugs with their own money or apply for in-patient treatment. The latter constitutes an infringement on their rights for provision of medical care under the least constraining circumstances.

Some mental hospitals are crammed into unsuitable quarters, and most mental hospitals are still lacking funds for repair. The Domodedovo mental hospital in the Moscow region, for example, is located on the premises of a former military barracks, with up to 60 patients crowded into each ward. Most of the buildings of the mental hospital in the Penza region are totally unsuitable due to their dilapidated state. The out-of-town branch of the hospital is housing patients in barracks lacking basic sanitation requirements, with potable water being brought to the premises in water tanks. Some of the rooms of the Khabarovsk territory mental hospital are located in wooden barracks, which give no protection against draughts in winter. Water supplies are delivered twice a week.

The lack of funding for major construction only adds to overcrowding in Russia’s mental hospitals. The standard requirement of floor space is 7.5 m² per person. Mental hospitals in the Leningrad region provide each patient with only 2.5 sq. meters of floor space; the Chernyakhovsky specialized mental hospital (Kaliningrad region) with intensive treatment provides 2.8 m²; the mental hospital of the city of Yakutsk — 3.5 m²; the Penza regional mental hospital — 4.0 m². Such overcrowded conditions promote an atmosphere of constant tension and often result in conflicts between patients and staff. Most mental hospitals do not offer their patients the use of a public phone. As a result, people are deprived of their right to communicate with their relatives and friends without limitations. In some cases, lack of warm clothing seriously impairs the likelihood for organized daily exercise out of doors.

Whenever possible, patients are treated with new generation drugs, which have no harmful side effects. However, these drugs are not read-
ily available everywhere, and doctors often have to use “heavy” neuroleptics, which produce a tormenting effect on some patients (especially when the necessary counter-drugs are not on hand). In a number of registered cases, unwarranted restraint or excessive doses of drugs were applied for the sake of “staff convenience.” Complaints of this kind often come from young people living in psycho-neurological homes, where they are sent from orphanages until they come of age, as well as from children’s wards of mental hospitals. In some children’s hospitals, discipline is enforced by establishing prison-like regime. Such is the case in the children’s ward of the mental hospital of the Antipikha village in the Chita region, where bathroom visits are limited. Going to the bathroom at an off-limit time is prohibited and those who dare to violate this rule are punished with a blow of a pipe.

Many mental hospitals are still experiencing serious understaffing problems. Low pay, dire working conditions and the lack of insurance force doctors and medical personnel to leave government-funded psychiatric institutions for other branches of medicine or for businesses unrelated to the medical profession. Six districts of the Tula region, for example, do not have a single psychiatrist. Patients are left to the care of trained nurses. In the Kurgan region, the staffing levels of doctors’ positions in mental hospitals are at 52% of capacity, and medium and low-level medical personnel positions are filled to 65–70% of capacity. These statistics are characteristic for many other Russian regions as well.

All of the difficulties mentioned above, combined with the lack of civic control over the operation of psychiatric institutions, result in the fact that infringement on human rights in psychiatry remains one of the most acute themes in modern Russia. Polls conducted among patients and their relatives show that patients in mental hospitals find themselves totally unprotected and dependent on the doctors and medical staff. According to the Chief Psychiatrist of the Ministry of Health of the Russian Federation, B. Kazakovtsev, 16 out of every 49 complaints (i.e., over 30%) about violations of patients’ rights at mental hospitals reviewed by the Special Commission of the Ministry of Health in 2001 were found to be well-grounded. This finding represents a very high percentage, especially given that the reviewing officials at the Ministry of Health have always been mindful of the image of medical profession.

The year 2001 saw the continuation of the trend to use institutionalization to resolve housing and other property disputes among family members. This was especially true regarding elderly people, whose desire to live in their own homes and independently dispose of their savings and property would often result in family conflicts and unwarranted applications for psychiatrist assistance. The careless attitude taken by professional psychiatrists in such cases, often leads to unreasonable and forced hospitalizations in mental clinics. Once in the reception ward of a hospital, the would-be patient is subjected to enormous pressure (in the form of direct threats and/or plain deception), aimed at turning a forced hospitalization into a seemingly voluntary one. This deprives the person of the opportunity to resolve the issue in court immediately after his/her hospitalization, and significantly impairs his or her chances of filing a complaint with the court in the future.
There are also cases of forced hospitalization in mental clinics instigated by neighbors. Cat and dog lovers and champions of animal rights are under a constant threat of ending up in an involuntary meeting with psychiatrists. Such meetings can often have serious consequences. For example, a visit to a psycho-neurological dispensary resulted for G. F. in forced hospitalization in a Moscow mental clinic. She was referred by the psycho-neurological dispensary #5 to the mental hospital #1. Likewise, examination by a general hospital’s psychiatrist resulted in forced hospitalization of V. Cherenkevich (referred by a general hospital’s psychiatrist to the mental hospital #5). Both women were released a few days later, but no one has been taken to account for the moral damages inflicted upon them.

Courts are bound to exercise some oversight over the procedures leading to forced hospitalization in mental hospitals, but this role is conducted superficially. Judges rarely go into the details of a case, normally granting the request of a hospital for forced hospitalization and treatment. Court hearings are often held in the absence of the patient, with a hospital official acting as the patient’s official representative. Such a representative, and an official from the prosecutor’s office, are required to validate the court proceedings. The appeals of patients contesting the need for being placed in a mental hospital to allow their relatives, friends, public organizations’ representatives, and sometimes even lawyers to be present at the hearing are usually denied. Thus, their attempts are often futile, as they have no opportunity to communicate with the outside world. Sometimes, doctors or medical personnel roughly suppress a patient’s attempt to seek protection of his or her rights. According to A. F., his letter addressed to the Independent Psychiatrists’ Association of Russia, which he planned to give to a visiting friend, was destroyed by a nurse of the Moscow mental hospital #15.

While staying in mental hospital, patients are practically denied the right of appealing to the representative and administrative authorities, prosecutor’s office, courts, lawyers or public organizations, although this right is formally theirs, according to Federal Law “On Psychiatric Treatment and Citizens’ Rights in Receiving Such Treatment.” So far, there has been no governmental agency or service responsible for protecting the rights of mental hospital patients or for receiving their complaints. The Independent Psychiatrists’ Association of Russia came out with an initiative to trial-run a non-governmental service of this kind at one of the city’s hospitals, but this initiative was rejected as “premature” by the Moscow City Health Committee. What a response to get ten years after the enactment of the law on psychiatric treatment, which proclaimed the creation of such service!

Psychiatric “repression” often targets those, who attempt to protect their rights by appealing to courts or higher-level medical administrative bodies. Such was the case when M. C., Assistant Professor at the Orenburg State University, attempted to contest a medical decision in court. A public hearing of the matter did not suit the psychiatrists, who would have to justify their decision and actions to the court. Instead, an impressive group of psychiatrists (head of psychiatry department of the Orenburg State Medical Academy, B. Budza, chief physician of the regional psychiatrist clinic, G. Pruss, Chief Psychiatrist of Orenburg, N. Belov and others) ad-
addressed the Chief Psychiatrist of the Department of Health, A. Yegorchenko, with a letter arguing for the need to conduct a forced psychiatric examination of M. C. In their letter, the authors maintained that “the activities of M. C. over the last several years, coupled with numerous appeals to the courts, are a vivid sign of the exacerbation of his chronic, progressing endogenous disease, which causes moral and material damage to those psychiatrists, who had been involved in treating his mental conditions in the past.” Meanwhile, M. C. enjoys a good reputation at the Orenburg State University, and is socially adaptive. The letter does not carry any convincing evidence to justify the claim of his “chronic endogenous disease.”

The intensity of the Orenburg psychiatrists’ concern about the fate of M. C., their claim that “without psychiatrist treatment his disease might progress further and result in an unpredictable delirious behavior with ensuing consequences” (which does not correlate with the orderly behavior of M. C. himself), as well as an unusual haste to implement the ruling of the Promyshleny district court of Orenburg requesting a forced psychiatrist examination of M. C. (Chief Psychiatrist of the region set up a special commission for the sole purpose of conducting one examination; an officer of justice was approached with a request to bring M. C. for the examination, etc.) might have seemed dubious to the court. Therefore, the presiding judge, Khloponina, withdrew her ruling. Nevertheless, M. C. cannot feel safe while the psychiatrists “are still concerned” about his health.

A similar case of a campaign against whistle-blowers unfolded in Izhevsk. C. Mokhnatkin, being at odds with the Ministry of Health of the Udmurt Republic, dared to demand the resignation of the Minister of Health. Immediately after that, a letter (04–14/2076 of December 22, 2000), signed by the Deputy Minister of Health, Y. Blokhin, was sent to the chief psychiatrist of the Udmurt Republic mental clinic, A. Suntsov, claiming that C. Mokhnatkin “has been behaving incorrectly towards the senior officials of the health ministry.” Although no evidence was brought to justify the need for a forced psychiatrist examination, it ended with the following phrase, “The Ministry of Health is seeking your assistance in forcibly hospitalizing C. E. Mokhnatkin.” L. Yakovleva, a psychiatrist at the Udmurt Republic mental clinic, promptly appealed to the court asking for permission to subject C. Mokhnatkin to a forceful examination. Nevertheless, the court ruled that “the appeal was totally ungrounded.”

There is a growing number of complaints related to the withdrawal of legal capacity. The cases in question rely on both ungrounded decisions on legal capacity, passed by the courts on the basis of unscrupulous expert testimonies, and to insufficient control over the activities of guardians. Expert institutions sometimes pass unfounded decisions to the effect that a person “cannot understand the meaning of his actions and, therefore, cannot be in charge of them.” Such rulings are often based primarily on the information received from relatives, rather than on the actual condition of the person under examination (especially when the examination is conducted on an elderly person). The person on whose conditions the experts have passed their decision is normally not invited to attend the court hearings, is recognized as legally incapable by the court and thus loses every opportunity to exercise his or her own rights. Boards of trustees usually appoint an immediate relative as
guardian without inquiring about underlying motives or asking consent of the ward. As a rule, the victim ends up in a psycho-neurological home, when in fact he or she could have stayed in his or her own home with appropriate care. A typical example of this kind was the case of A. Kochurina, described in the Collection of Reports Human Rights in Russian Regions — 2000. The story continued to unfold in 2001 and finally resulted in full restoration of the elderly woman’s legal capacity.

Antonina Kochurina was born in 1917. For the last couple of years, after her son’s marriage, a conflict started to unfold, leading to an openly hostile relationship with her daughter-in-law. A. Kochurina placed an advertisement for an apartment exchange in the papers. Soon afterwards, her son called a local psychiatrist, claiming that his 83-year-old mother presented a danger for those living with her (she had allegedly splashed boiling water at her daughter-in-law). The local psychiatrist spoke only with the daughter-in-law and the son, did not go into details and promptly sent A. Kochurina to the mental hospital #1 as someone “representing acute and present danger to oneself and others.” She spent about a month and a half at the mental hospital. It is noteworthy that her hospitalization was recorded as a “voluntary” (as it turned out, later her consent was obtained by making her sign a “receipt for her clothes”). Immediately after the hospitalization, her son filed an appeal with the Chertanovo intermunicipal court asking that A. Kochurina be ruled legally incapable. Following psychiatric examinations held at the mental hospital #1, on September 25, 2000, and later on October 10, 2000, she was ruled by the court as legally incapable. According to the testimony of A. Kochurina and one of her relatives, the medical treatment she received at the hospital had a negative impact on her: “her permanently salivating mouth was skewed, she could hardly move by herself, could talk only with great difficulty and sometimes even failed to recognize her relatives.” In this condition, she was presented for medical examination, which concluded that A. Kochurina was “incapable of understanding the meaning of her actions and be in charge of them.” Neither A. Kochurina, nor a representative of the psycho-neurological dispensary was present at the court hearings. In spite of the hostile relationship with A. Kochurina, her son was assigned guardianship over his mother. Immediately after the court ruling, the son filed papers for her admission to a psycho-neurological home. Her grandchildren took A. Kochurina from the mental hospital, and it was only several months later that she learned about her legal incapacitation. For many months, she had to depend on her relatives and friends because her pension was sent and received by her guardian. Her relatives repeatedly appealed to the board of trustees of the psycho-neurological home #13 asking to change the guardian but their request was denied. Following a protest made by the local prosecutor’s office, the court reviewed A. Kochurina’ case. The court noted the fact that the conclusions derived from the psychiatric examination at the mental hospital #1 were not sufficiently justified (the conclusions were made against the background of the patient’s somatic and psychological conditions that were dramatically impaired as a result of her stay at the mental hospital). The court further noted the results of repeated examinations conducted by the Independent Psychiatrists’ Association, which testified to her good mental health. But most importantly of all, the court had an opportunity to form its own opin-
ion of A. Kochurina’s condition, as she was present in the court room and could demonstrate to the court that she was in full control of her actions and words. As a result of the hearings, the court ruled to restore A. Kochurina’s legal capacity in full.

It should be noted that the story of A. Kochurina is quite exceptional. Such cases tend to go on for years, causing serious moral and even physical damage to the people affected.

It is especially difficult to defend one’s own rights when living in psychoneurological homes. Administrations of these institutions are not concerned with the social and working rehabilitation of their inmates. Moreover, they often try to create all kinds of obstacles for the patients to come to terms with their lives. The struggle to allow Alexander Travin from the Klimovsk psycho-neurological home and Michael Semenychev from the Korobovsk psycho-neurological home, both mentioned in the Collection of Reports Human Rights in Russian Regions — 2000, to lead an independent life is still on-going. The only result of the appeals filed by non-governmental organizations to the Moscow regional prosecutor’s office against illegal seizure of the two young men’s identification papers was an investigation of the regional organization of the disabled and the “Lybutka” rehabilitation center, which are responsible for A. Travin’s and M. Semenychev’s rehabilitation.

All of the psychiatrist institutions in the country still deny people access to their health records, although this right is guaranteed by the current health care legislation (Articles 31 and 61). A. P., resident of Sochi (Krasnodar region), for example, voluntarily underwent a medical examination at the Moscow Psychiatry Research Institute. The findings of the examination were that he did not have any mental illness, and it was recommended that the local psychiatrist dispensary remove him from their registry. In 2001, A. P. was involved as a victim in a criminal investigation and had to provide evidence of his mental conditions. But all his attempts to obtain the necessary papers from the medical authorities, including his personal visit to the aforementioned institute, ended in failure. Doctors keep such information “a medical secret,” even from the patients themselves. Sometimes, doctors even refuse to provide this kind of information to professional psychiatrists’ organizations, following a personal request of the person involved. Such was the case with T. Rakevich, who turned to the public reception office of the Independent Psychiatrists’ Association with a complaint against her unfounded forced placement into the mental hospital #26 of the city of Yekateringurg. T. Rakevich’s case was taken up by the European Court of Human Rights. Nevertheless, medical officials guarding their collective interests replied to the official request of the Independent Psychiatrists’ Association (accompanied by T. Rakevich’s letter) that “based on the literal meaning of Article 46 of Federal Law “On Psychiatric Treatment...” they are not entitled to give out exerts from T. Rakevich medical case history.”

Also, there have been cases when physicians in general hospitals would exceed their rights and divulge privileged medical information. In July 2001, for example, A. C. was undergoing a paid course of treatment at the Neurologic Research Institute. An importune patient, he would grill
the doctor as to the methods of his treatment and inquire about the procedures applied. As a result of his behavior, he was discharged prematurely from the clinic with the following note in his record: “diagnosis — schizophrenia? Examination by psychiatrist recommended.” An official letter from the Independent Psychiatrists’ Association to the head of the Neurologic Research Institute was enough in this case to have the unacceptable entry stricken from his medical records. But for some time afterwards, A. C. could not bring himself to turn to other doctors, and he suffered severe moral harm.

There is also a growing number of cases related to the violation of property rights of people suffering from mental illnesses. Moreover, such violations tend to be rougher in nature. Mentally ill people who are not in charge of their actions are made to sign papers to dispose of their property (deeds of gift, barter deeds, sale, rent with permanent alimony, etc.), only to be thrown out into the street afterwards. Instead of standing guard over the interests of their patients, some psychiatrists become accomplices of those who make the deception of mentally ill people their business. In April 2001, for example, the Independent Psychiatrists’ Association conducted a legal psychiatric inquiry into the case of Б. I., a mentally ill person who had sold his apartment to his relative. The expert commission was unanimous in deciding that at the moment of signing the deal Б. I. was not capable of judging his actions adequately. This ran contrary to the claim of Stangarov, chief physician of the Moscow psycho-neurological dispensary #2, where Б. I. had been treated for a long time. The claim maintained that Б. I. was in perfect health and fully capable of disposing of his property. Half a year later, nevertheless, Б. I. was recognized legally incapable.

The year 2001 saw continued discriminations of people with different mental illnesses in the field of labor and education. Practically all higher and medium level education institutions require applicants to provide a mental health certificate, although in most cases the professions they teach are not included on the list of professions with limitations regarding mental health conditions, as approved by the Ministry of Health of the Russian Federation. Also, anyone who has had any contact with a psychiatric treatment is the first one to go during staff reductions. Municipal services and law enforcement bodies rudely violate the rights of mentally ill people as well. Their complaints are not accepted or followed-up on, and no measures are taken to protect them against their neighbors, relatives or third parties.

The following must be stated in conclusion. The situation with funding of psychiatrist institutions in 2001 has somewhat improved over the previous period. Some of the regions, for example the Leningrad region, have secured funding to launch municipal programs that have promptly and significantly improved the level of psychiatrist services available to people. Many hospitals conduct research on developing new psychiatric methods. Services of professional psychologists, lawyers and social workers have become more readily available. As a result of the initiative of a number of non-governmental organizations and, especially, relatives of mentally ill patients, a number of rehabilitation programs and social assistance centers for the mentally ill people have
been launched with the support provided by foreign charity foundations. However, on the whole, the number of human rights violations of the mentally ill is not declining. Of special concern is that the year 2001 was marked by new attempts to curtail the activities of non-governmental professional and non-professional organizations set on defending human rights in the area of psychiatry.

A Federal Law “On State Legal Expert Activities in the Russian Federation,” which was enacted in May of 2001, seemingly allows expert examinations outside the framework of governmental institutions. But at the same time, the Ministry of Health endorsed an executive order on licensing medical activities. The appendix of the order lists medical work, services subject to licensing and, for the first time, includes legal psychiatric examination. It is widely believed that it would be extremely difficult or practically impossible to obtain such a license for a civic organization, which does not have in its charter lawful and psychiatrist examination listed as its prime activity and which provides such services free of charge. Thus, the Independent Psychiatrists’ Association of Russia now has limited capabilities to present parallel expert opinions in court. Given the rapid deterioration of the quality of legal and psychiatric examinations in the recent years, increased abuses of human rights with psychiatry being used as a tool may be seen. Meanwhile, in November 2001, the Independent Psychiatrists’ Association of Russia received a notice from the RF Ministry of Justice, which stated that the Independent Psychiatrists’ Association is conducting its expert activities contrary to the Russian legislation. Since no grounds were given to support this claim, the Independent Psychiatrists’ Association appealed the notice of the Ministry of Justice to the Tagansky intermunicipal court, which will hear the case in the near future.
Before we examine the situation regarding human rights of sexual minorities in the Russian Federation in 2001, it is essential to look at the legal framework applicable to homosexual persons world-wide (primarily in Europe). Today the term “sexual orientation” is found in two international legal documents, both of which concern the European Union: the 1997 Amsterdam Treaty and the 2000 Charter of Fundamental Rights of the European Union. The Amsterdam Treaty legally codifies the ability of the European Union to undertake necessary actions to fight discrimination based on “sexual orientation” (Article 13), and the Charter of Fundamental Rights prohibits “any discrimination on any ground” including on the basis of sexual orientation (Article 21).

At the same time, it is the legally binding documents of Council of Europe (first and foremost the European Convention for the Protection of Human Rights and Fundamental Freedoms with attached protocols) and the jurisprudence of the European Court of Human Rights that are directly applicable to Russia, who is a member-state of the Council of Europe. Also, directly applicable are recommendations of the Committee of Ministers and the Parliamentary Assembly of the Council of Europe, etc. It should be noted, nevertheless, that all those standards at times lack consistency.

No direct mention of sexual minorities is made in the European Convention, but the convention does regulate their legal position by means of judicial decisions setting precedents in specific cases. The very first cases relating to violations of sexual minorities’ rights were initiated in the second half of the 1950s. At that time, however, the Human Rights Commission upheld a restrictive approach to sexual minorities’ rights; in particular it allowed for the possibility of criminal prosecution of homosexuality within member-states of the Council of Europe. 1981 saw the first case

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438 Decision of the European Court on Human Rights (before 1998 — Human Rights Commission) on specific cases related to issues of compliance with the European Convention are binding for all member-states of the Council of Europe.
won by a homosexual (Jeffry Dudgeon vs. the UK), when it was ruled that
criminalization of voluntary homosexual relations between persons 21
years of age is a violation of Article 8 of the European Convention (right
to private life). As of today, the European Court (European Human Rights
Commission) has heard many case on the rights of sexual minorities. This
supreme judicial authority of the Council of Europe considers inadmissi-
able criminal prosecution of voluntary homosexual relations between per-
sons of minimal age of consent. The European court deems it necessary to
standardize the age of consent irrespective of sexual orientation, and it
prohibits discrimination of people on the basis of sexual orientation (with
certain restrictions). We should stress again that the above-mentioned
requirements are mandatory for all member-states of the Council of
Europe. But these requirements are the only firm standards of the Council
of Europe related to legislation concerning sexual minorities. Even today,
the European Court does not recognize the rights of homosexuals to a
family life and related issues.

Recommendations of the Parliamentary Assembly of the Council of
Europe are characterized by a large degree of recognition of the rights of
homosexuals, having more than once addressed this issue (in 1981, 1983,
1993, 2000). In 2000, the Parliamentary Assembly of the Council of
Europe adopted two basic recommendations: “The Situation of Gays,
Lesbians and Their Partners With Regard To Shelter and Immigration in
the Council of Europe Member-States” (Recommendation #1470) and
“The Situation of Lesbians and Gays in the Council of Europe Member-
States” (Recommendation #1474). These position papers were prepared
on the basis of reports of the Committee on Migration, Refugees and De-
mography and the Committee on Legal Issues and Human Rights. The
first document expresses concern of the Parliamentary Assembly regard-
ing discriminatory immigration policy against homosexuals by the Coun-
cil of Europe member-states and confirms that the Council of Europe up-
holds the opinion that homosexuals who have solid reasons to fear prose-
cution in connection with their sexual orientation fall under the definition
of refugees, in accordance with the Geneva Conventions as members of a
certain social group. They thus have the right to shelter, and immigration
rules must not be differently applied towards them. The second rec-
ommendation contains several points. De-criminalization of voluntary homo-
sexual relations between adults is confirmed as a precondition for Council
of Europe membership. It also recommends that the Committee of Minis-
ters add the term “sexual orientation” into the list of prohibited grounds
for discrimination in national legislation. It also recommends the cancella-
tion of any provisions that criminalize mutually agreed homosexual rela-
tions between adults and the introduction of a standard minimal age of
consent for sexual relations, regardless of sexual orientation. It also rec-
ommends taking measures to suppress homophobia and intolerance in
education, armed forces, law enforcement, judicial and advocacy struc-
tures, ensure equal treatment of homosexuals in the work place, adopt
legislation on registered homosexual partnerships and recognize homo-
sexual prosecution as a ground for granting asylum. Issues of adoption
and access to artificial conception technologies were not included in the
final version of the recommendation because of great disagreements on
these issues.
In 2001, the Committee of Ministers of the Council of Europe responded to the Parliamentary Assembly Recommendation #1474. The Committee supported the concern of the Assembly regarding discrimination and violations of rights of homosexuals; it stressed reassessment of all forms of discriminatory regulation, within the Council of Europe, underscoring the significance of Protocol 12 to the European Convention. The Committee rejected the proposal to include the term “sexual orientation” into Protocol 12 and Article 14 of the European Convention, stressing that homosexuals are under the protection of the Convention in accordance with the legal positions of the European Court of Human Rights, and underscored the necessity of taking measures to counter homophobia in education and vocational training.

Within Europe, national legislation differs greatly in terms of recognition of rights of homosexuals.\textsuperscript{439} Criminal sanctions, for instance, for discrimination on the basis of sexual orientation, as well as for making hate-propaganda and insulting people in connection with sexual preferences, have been introduced in Denmark, the Netherlands, Sweden, Finland, Iceland, Luxembourg and several other countries (with varying restrictions and applications). In Finland and in the Netherlands, discrimination of sexual minorities is prohibited constitutionally as well. A ban on discrimination in the workplace on the basis of sexual orientation is contained in the labor legislation of Denmark, Finland, France, Luxembourg, Ireland, Slovenia, Sweden and Switzerland (specific forms differ from country to country). Differences in legislation are especially great in the area of family and civil law — the most controversial legislation area in respect of sexual minorities’ rights. The Netherlands is the only country in the world whose legislation provides for a marriage for homosexual couples. Another matter are registered homosexual partnerships. They exist in Denmark, the Netherlands (along with civil marriage), France, Iceland, Norway, Sweden, Finland, Germany and Hungary. The right of joint adoption of children by homosexual couples is codified only in Dutch legislation (and in three provinces of Canada). Granting immigration rights to foreign homosexual partners is provided for in the Netherlands, Denmark, Germany, Iceland, Sweden, Norway, and — with significant restrictions — in Belgium, Finland, UK and France.

Elsewhere around the globe there is much greater variability in laws regarding sexual minorities — ranging from criminal prosecution and absolute rejection (as in many African and Asian countries) to acceptance on par with the most liberal European countries (as in Canada). It should be noted that legislation addressing recognition of homosexual’s rights started to rapidly develop in recent years. However, this trend lacks uniformity. It is difficult, therefore, to assess the observance of the rights, since there are no clear-cut legal standards. Whenever such standards have not yet been determined, we proceed from the principle of complete equality with regard to sexual minorities.

The year 2001 failed to bring about any changes in the position of sexual minorities in Russia — either positive or negative. Such a situation may be assessed as ambiguous.

Russian legal framework as a whole does not contain elements that could be seen as directly discriminatory against gays and lesbians. At the same time, the law makes no mention of the rights of sexual minorities, which in itself must be regarded as indirect discrimination of this group. This discrimination stems from a lack of legal regulations (primarily in the area of family and civil law), rather than from a presence of discriminatory legislation.440

The absence of any legal mechanism for protection of sexual minorities from discrimination is yet another serious problem.441 In conjunction with a rather high level of intolerance towards gays and lesbians in the Russian society, this combination of factors results in their rights’ violations and abuse in the area of law enforcement.

Key features of Russian legislation regarding sexual minorities had taken shape by 1998.442 Since then — and the year 2001 has been no exception — legislators and other power bodies have taken no measures whatsoever to enhance the effectiveness of legal protection of the rights of gays and lesbians.443

The Constitution of the Russian Federation recognizes that “Man, his rights and freedoms have supreme value” and that “Recognition, observance and protection of rights and freedoms of Man and Citizen — is the obligation of the State” (Article 2). Also, the rights and freedoms stated in international law are guaranteed by the RF Constitution (Article 17).

The state also guarantees equality of rights and freedoms in the face of a number of factors, the list of which is not exhaustive (Part 2, Article 19). Sexual orientation is not mentioned directly, but falls under the definition of “other circumstances.” In 1992, the Constitutional Court of the Russian Federation in commenting on the open list for prohibited discrimination grounds noted that “discrimination of persons is illegal not only in connection with attributes directly mentioned in the RF Constitution, but also in connection with other factors.” “The RF Constitution does not limit the list in accordance with which discrimination is ruled out, but on the contrary,

441 Ibid.
442 In 1993, President Yeltsin eliminated Article 121.1, which punished for voluntary homosexual relations, from the then effective Criminal Code of the RSFSR. In 1996, the new RF Criminal Code was adopted. It became effective on January 1, 1997, and is still in force (with amendments and additions).
443 During 2001, modifications and additions were introduced into the Criminal Code, the Criminal Procedure Code, and the Civil Code. Also, a new Labor Code and Part 3 of the Civil Code were adopted. This is not an exhaustive list of legislative innovations of 2001, but none of those law-making efforts did in any way change the position of sexual minorities.

The RF Criminal Code does not criminalize private, mutually consensual homosexual relations with a person who has reached the age of consent. Only forcible homosexual actions (like forcible heterosexual actions) are subject to criminal prosecution\footnote{445 Notions “homosexual rape” and “lesbianism” refer only to forcible sexual actions.} (Article 132, 133). The age of consent for sexual relations is 14 years, the same for all, regardless of sexual orientation (Article 134).

Article 136 of the RF Criminal Code punishes violations of equality of rights and freedoms according to a number of indicators, sexual orientation not being one of them. Consequently, sexual minorities are not directly protected against discrimination. It should be added that lawyers note\footnote{446 N. Alexeev, \textit{Legal Regulation of the Position of Sexual Minorities: Russia in the Light of International Organizations Practice and National Legislation of the Countries of the World} (Moscow: Publishing House BEK, 2002, p. 207).} a contradiction in the text of this article; an action may be regarded as a crime if the violation of equality of rights and freedoms is associated with an infraction against the rights and legitimate interests of a citizen of the Russian Federation. Neither promotion of hatred nor propaganda accusing persons of being inferior because of their sexual preferences is punishable. The RF Criminal Code does not punish for promoting hatred and defamation based on sexual orientation.

The RF Constitution guarantees all people the right to “work in conditions which meet safety and hygiene standards, to receive pay without discrimination and no lower than the minimal wage set by the federal law, and to be protected against unemployment” (Part 3, Article 37). Prohibitive grounds for discrimination are listed in Part 2, Article 19 of the RF Constitution. This list does not include sexual orientation but, as was mentioned above, the latter does fall into the category of “other circumstances.”

The RF Labor Code prohibits unjustified refusal to hire and discrimination in granting of rights or introduction of privileges in connection with, because of a number of criteria not related to the professional qualities of the person seeking a job (Article 16). Sexual orientation is not one of the defined criteria, but falls into the category of “other circumstances.”

In summary, labor legislation does not contain provisions that are discriminatory against sexual minorities, but it lacks clauses protecting sexual minorities against discrimination in professional advancement and against being fired from a job. It must be noted that Russian judicial practice to date has not included cases related to discrimination on the basis of sexual orientation in the area of labor relations. This does not imply that no such discrimination exists, but that discrimination in the workplace is very hard to prove, given the low legal awareness of Russians (including...
gays and lesbians), their lack of confidence in the effectiveness of protective mechanisms, and a frequent reluctance to reveal homosexuality.447

According to Federal Law “On Police,” “police protect rights and freedoms of citizens regardless of sex, race, nationality, language, origin, ownership of property, status, residence, religion, convictions, memberships in public organizations, and other circumstances” (Article 5). Sexual orientation, therefore, again falls under “other circumstances,” although not directly mentioned. The law, however, does not directly ban discrimination during law enforcement activities. This may lead to discrimination against sexual minorities in refusals to help as well as to degrading treatment and abuse, resulting in reluctance on the part of homosexuals to turn to law enforcement agencies for help.

Due to lack of proper legislation regarding family and civil life, gays and lesbians most frequently suffer indirect discrimination in this realm.448

The only legal family union in Russia is marriage, defined as “a union between a male and female” (Part 3, Article 1 of the RF Family Code).

The fact that Russian legislation fails to recognize relations between homosexual partners results in a great number of violations of equality in the sphere of the civil law.449 According to some lawyers,450 a homosexual partner is not recognized as a legitimate heir, and can inherit property only if designated in a will. The rights of homosexual partners are infringed upon when it comes to paying taxes on inherited property. The only privilege homosexual partners can enjoy is the right to inherit a dwelling without paying taxes if they have lived there together on the day of opening the heritage (Clause 13 of the Instruction of the State Taxation Service of the Russian Federation, May 30, 1995, #32). If property is gifted, taxation for homosexual partners is also discriminatory.

If partners cease living together, their personal and co-owned property rights are not regulated by legislation. In order to bridge this gap, some lawyers451 propose an alternative to the institution of marriage or homosexual partnership, e. g., the establishment of a civil simple companionship, under Article 1041 of the Civil Code of the Russian Federation. This article states that “under an agreement of simple companionship (an agreement on joint activities) two or several individuals (companions) undertake to pool their contributions and operate jointly, without

449 Non-recognition of homosexual partners relations in their own country makes some homosexuals become citizens of those countries where the situation differs from that of Russia, and use new legal opportunities (see, for instance a report on a “wedding” of two Russians who became Germany citizens). Numerous “staged weddings” demonstrate discriminatory nature of the relevant provisions of the Russian legislation.
the formation of a legal entity whose purpose would be to generate a
profit or otherwise contradict the law.” It should be noted that today “the area of ownership of property is the only sphere in which homosexual partners may get some degree of recognition.”

In respect of homosexual unions’ legal non-recognition in Russia, it should be also noted that, accordingly, Russian legislation does not extend any privileges in granting multiple visas, residence permits, or citizenship for foreign homosexual partners of Russian citizens.

Joint adoption of children by homosexual partners is out of the question, though legislation does permit one of the partners to adopt (Article 127 of the RF Family Code). Homosexuality de jure is not an obstacle for adoption of children. But in reality, because a legal guardian decides upon the selection of adoptive parents, taking into account moral and other qualities of the applicants, the chances of giving a child to a homosexual are purely hypothetical.

Also, while chances of adopting for open gays and lesbians are virtually non-existent, access to artificial insemination in Russia is not legally defined.

Furthermore, the non-recognition of homosexual partners as being close relations leads to discrimination of sexual minorities in connection testimonies in court and in visitation rights between partners in correctional institutions and medical facilities. The range of issues where non-recognition of homosexual relations leads to discrimination is hard to specifically determine.

Since 1999, when the Ministry of Health approved a new classification of diseases, Russian psychiatry no longer regards homosexuality as a disease.

In accordance with Article 1 of Federal Law “On Donating Blood and Its Components” dated June 9, 1993 (#5142-1), “any capable person within the age of 18–60 can be... a blood donor after a medical examination.” A person wishing to become a donor “is obligated to report everything he knows about his/her past diseases and about previous use of narcotics” (Article 12). That means that individuals of homosexual orientation cannot be deprived of the right to donate blood or blood components if they meet other eligibility factors of age and health.

However, under Clause 4.1.1 of Instruction “On Medical Examination of Donors of Blood, Plasma, Blood Cells,” dated November 16, 1998, an absolute ban on donations from members of risk groups (homosexuals, drug addicts, prostitutes) was envisaged. This regulatory act was in

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453 Under Article 51 of the RF Constitution “nobody is obliged to testify against himself, spouse and next of kin, whose range is identified by the federal law.” At present, there is no such law and the Criminal Code in its Article 308 repeats the above-mentioned clause of the Constitution. Therefore non-recognition of homosexual partners as spouses (and relatives) forces them testify against each other in court unless they want to face a criminal penalty.
direct violation of the rights of gays and lesbians to be blood donors guaranteed by law. In late 2001, the November 16, 1998 Instruction was revoked, but given the absence of any new similar document, this Instruction continues to be applied. A new legal document of the Ministry of Health on blood donations is undergoing the registration process in the Ministry of Justice.454

Violations of the rights of homosexuals are most often covert. Stigmatization of sexual minorities explains their fear of publicity. A low legal awareness and no confidence in the effectiveness of legal protection (typical of Russians as a whole) results in victims of sexual discrimination abandoning attempts to rectify violated rights and protect themselves against discrimination (when possible). Russian gays and lesbians are not inclined to report violations of their rights to human rights organizations (including even those specifically established to protect the rights of gays and lesbians).455 Serious and unbiased mass media coverage of this problem is to date a rare event.456 The result of the above is that the genuine scale of discrimination and sexual minorities’ rights violation is hidden from view.

In 2000, Russia saw a rather high level of intolerance towards sexual minorities, as reflected in the stigmatization of this group. Nevertheless, there is no reason to question the favorable trend of greater tolerance towards homosexuals that has recently taken shape. In this respect, we see a considerable gap between major cities, especially between Moscow and St. Petersburg, on the one hand, and other towns and villages on the other. This holds true not only for Russia. Relatively young people and older generations also display drastically different levels of tolerance.457


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455 From this point of view, the following characteristic given in the Chita regional report is significant: “We are unaware of any instances of representatives of this category turning to human rights organizations, governmental bodies and mass media with complaints against their rights’ violations; they are afraid of any publicity…”
456 “Initial wave of information hysteria and indignation aimed against homosexuals with time ebbed away. At present Russian mass media try to display a more balanced approach to this topic coverage. Though degrading and insulting articles, materials and manner of covering relevant events are still far from being a rare occasion.” (N. Alexeev, Legal Regulation of the Position of Sexual Minorities: Russia in the Light of International Organizations Practice and National Legislation of the Countries of the World. (Moscow: Publishing House BEK, 2002, p. 233)).
457 No regular public opinion polls whose results could be compared are conducted in Russia on issues related to sexual minorities. A prominent sexologist Igor Kon offers the following data: 36% of Russians consider homosexuality an “immoral habit,” 31% — a “mental disorder.” Unfortunately, the material lacks details, which decreases its scientific value. Unfortunately we do not have precise information on the 2001 situation, though extrapolation of earlier trends is quite acceptable here. See: I. Kon, Moon Light At Dawn (Moscow: 1998, p. 319 and further on); I. Kon, Introduction to Sexology (Moscow: 1999, pp. 207–208); N. Alexeev, Legal Regulation of the Position of Sexual Minorities: Russia in the Light of International Organizations Practice and National Legislation of the Countries of the World. (Moscow: Publishing House BEK, 2002, pp. 228–229); L. Nicole, “Russia Stays in the XIX Century On Issues of Information About Sex.” Les Temps (March 2, 2001).
Russian Society (2001–2005) was adopted.” The goal of the Program is to “form a tolerant mind-set, which determines stable conduct of individuals and groups in society, as a basis of civil accord in a democratic state.” According to the drafters of the Program, if we are to meet this goal, we need to accomplish three tasks:

- the development and implementation of a set of effective measures aimed at forming tolerable behavior…;
- the development and practical introduction of such methods such as monitoring, diagnosis and forecast of the social and political situation in the country…;
- the development and implementation of a system of measures promoting tolerant conduct, opposing extremism in all its forms, including: development of training programs for all levels and forms of education, and development of efficient socio-cultural technologies of propagating tolerant behavior patterns…

The Program does not specify tolerance towards sexual minorities, therefore, we can only guess if any attempts to stimulate tolerance in this area will be made. However, in evaluating government activities in this area in 2001 and before, Russian famous sexologist Igor Kon stated, “the passive attitude of the authorities result in no steps being taken to support sexual education in school or for teaching basic principles and promoting tolerance towards sexual minorities and alternative life styles.”

Organizations of gays and lesbians fail to influence the authorities by their lobbying efforts for bills that could improve the situation of Russian homosexuals. Also, any efforts to objectively inform the public on problems associated with sexual minorities and enhance the public’s level of tolerance are of a very limited nature.

Drawbacks of Russian legislation, law enforcement abuses, a low legal awareness and a general intolerance towards sexual minorities create favorable conditions for discrimination and multiple violations of their rights. The covert nature of this problem was mentioned earlier. Nevertheless, some instances did become known to human rights organizations and the mass media.

Moscow authorities banned the so-called Love-Parade organized by an initiative group composed of non-governmental organizations, businessmen and artistic community, specifically, producers’ company Prokos, Odin Art Trad-

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460 The estimate voiced by I. Kon in 1998 holds good for 2001 as well — “political influence of gays’ organizations… is negligible.” (See: I. Kon, Moon Light At Dawn (Moscow: 1998, p. 329.) Also, according to N. Alexeev, “existing organizations of gays and Lesbians… do not play a significant role in promoting rights of sexual minorities and do very little research and education work.” (See: N. Alexeev, Legal Regulation of the Position of Sexual Minorities: Russia in the Light of International Organizations Practice and National Legislation of the Countries of the World (Moscow: Publishing House BEK, 2002, p. 231).)
ing, BG Records, Manner Und AIDS German charity foundation, Radical Party, and others. This initiative group submitted multiple petitions to the Moscow Mayor. The last request was for the parade to be conducted as part of the Day of the City celebrations. As was stated in the press-release issued on July 23, 2001, “the city government will not allow this march to take place either on the City Day, or on any other day” because the Mayor is of the opinion that “such actions cause the indignation of most of Moscow’s residents by promoting loose morals and by attempting to impose unacceptable norms of behavior, which run counter to the traditional moral values of the majority of Russians as well as to the canons of the main religions practiced in Moscow.” The Vice-Premier of the Moscow government explained later that the parade “does not correspond to the spirit of the festivities occurring in Moscow, nor to the traditions of the city.” “Muscovites cannot accept the ideology and form of the march,” which actively call for participation by young people with non-traditional sexual orientations and promote freedom of sexual relations.

According to the organizers and in keeping with the ideology of similar events (Love Parade has been held in Berlin since 1989 and more recently in other cities around the world), Moscow Love Parade was to be an international youth festival of modern electronic music in the open air. Homosexuals, no doubt, actively participate in such shows, along with other people, without hiding their sexual preferences. It was also planned to have a separate group of gays and lesbians participate in the street march. But the organizers did not intend this event to be a gay-parade or a march of homosexuals carrying slogans defending their rights. We can only conclude that the Moscow government mistook one event for another.

Article 31 of the RF Constitution guarantees the right to peaceful assemblies. These guarantees are also provided in Article 69 of the Charter of Moscow. To organize a peaceful assembly, it suffices to notify the authorities. So, apart from violating the constitutional rights of the organizers of Love Parade, the Moscow government demonstrates social phobia and prejudice, insulting to sexual minorities. The prohibition of Love Parade by the Moscow Mayor’s Office (and on the grounds not fitting the occasion), accompanied with pronouncements that could be regarded as homophobic, is rather typical of the current situation that Russian sexual minorities find themselves. Typically, the organizers of the event decided against going to court, and the only politician who condemned the decision of the Moscow authorities was Vladimir Zhirinovsky.

Improper references to public morals may cover up illegal refusal to register public organizations of gays and lesbians. The Vershy newspaper reports the
plight of the Omsk organization “Sail” established in 1995 to fight AIDS.\footnote{65} On April 28, 2000, the regional Department of Justice refused to register this organization on the grounds that its activities “do not correspond to moral and ethical norms of society, and will be taken by many citizens and organizations to be an insult to society as a whole and as violation of moral and ethic sensibilities.”\footnote{66} The leaders of the organization turned to the Central district court of the city of Omsk, and then filed a complaint against its negative verdict with the Omsk Regional Court. The latter, however, upheld the decision of the lower instance court, with the motivations presented being very much the same. The “Sail” representatives brought a complaint against the decision of the Omsk Regional Court to the Supreme Court of the Russian Federation. If the decision will again be negative, the association’s leaders plan to take their claim to the European Court of Human Rights.

As was mentioned above, homosexuals are also discriminated against in the area of law enforcement.\footnote{67} During the night of June 29–30, three Moscow gay and lesbian night clubs (“Central Station,” “Three Apes,” and “Barracks”) were subjected to the so-called “planned inspection of recreation areas” by the personnel of the Moscow Drug Trafficking Administration under the Ministry of Internal Affairs. In the Barracks club, clients experienced degrading treatment, unjustified use of force, and insults based on sexual orientation by law enforcement officers. In the “Central Station” club, raided without any search warrant, in violation of the RF Constitution and Federal Law “On Police,” one client was beaten by the officers from the Moscow Drug Trafficking Administration.\footnote{68} It should be noted that in principle such inspections are legal, but in this particular case the inspections were carried out with gross procedural violations and homosexuals were discriminated against (insulted because of their sexual preferences).
THE HUMAN RIGHTS SITUATION
IN THE CHECHEN REPUBLIC
1. INTRODUCTORY SECTIONS

The author thanks A. Cherkassov of the “Memorial” Human Rights Center for his assistance in drafting this chapter.

1.1. BRIEF DESCRIPTION OF THE REGION

The Chechen Republic (Chechen Republic (CR) is the name of the RF subject; whereas, Chechen Republic of Ichkeria, CRI, is the name of Chechnya as an independent political entity) is situated in the eastern part of the North Caucasus and borders on the following RF subjects: the Republic of Dagestan (to the east), the Stavropol territory (to the north), the Republic of Ingushetia (to the west). It also borders with Georgia (to the south). The total area of the Chechen Republic is 17.3 thousand square kilometers.

During Soviet rule, the Checheno-Ingushskaya Autonomous Soviet Socialist Republic (ASSR) was probably the poorest region of the Russian Soviet Federative Socialist Republic (RSFSR). During the years of de facto independence (1991–1994 and 1996–1999), the situation did not improve. But most importantly, as a result of large-scale military operations in 1994–1996 and 1999–2000 the economy, the cultural sphere, the social infrastructure, as well as towns and settlements of the region underwent partial or complete destruction. Notably, what has been destroyed has not been restored.

The scale of military actions, human suffering and casualties, and consequent migratory flows in Chechnya are unprecedented in Russian history of the last half-century. Currently, there are no reliable or at least commonly accepted data on the losses and migration of the population in the military conflict zone in the North Caucasus. The population of the Chechen Republic is currently estimated at 600 thousand people. At the outset of the “second Chechen war,” in fall of 1999 the population numbered at least 750 thousand people. During the two wars, 50 to 70 thousand non-combatants died, and up to 400 thousand people have abandoned the Chechen Republic over the past decade, taking refuge in various regions of the Russian federation and other countries.

According to the Danish Refugee Council, at the start of 2002, the population of the Chechen Republic, high mountain areas excluded, numbered 674 thousand persons. This estimation, however, seems somewhat exaggerated. Officially publicized numbers of losses and migration of the population reflect political biases and are not directly related to reality. Their primary goal is to facilitate solution of political and propaganda problems or to modify financial allocations by distorting information. As long as such an attitude towards statistics exists, we will not be able to get an objective picture of the population and migration in the region. For more details see: A. Cherkasov, “Book of Numbers” (Report at the Conference “Distribution, Cultural Mosaic, Geopolitics and Security of Mountainous Countries,” Stavropol, September 2001).

Currently, there are two adversarial systems of state power and government on the territory of the Chechen Republic, as well as two adversarial systems of military command.

The top legislative body of the Chechen Republic of Ichkeria (CRI) is the Parliament, elected in January of 1997. Head of the executive power of the Chechen Republic of Ichkeria is President A. Maskhadov, who was also then elected for a five-year term. While the military conflict is ongoing no election is possible, therefore presidential and parliamentary authorities are automatically renewed. The top judicial body of the Chechen Republic of Ichkeria is the Supreme Court of Shariat. However, because of the military conflict, which has been underway for three years and has turned into a guerrilla war, the normal functioning of the legislative and executive bodies as political institutions is simply impossible.

The top governmental body of the “military period” in the CRI — The State Defense Committee — is presided by A. Maskhadov. During the conflict, documents signed by the Supreme Court of Shariat have repeatedly emerged.

All these authorities function in underground conditions. However, they are strong enough to continue organized resistance to the significantly much more numerous United Group of Forces (federal troops) in the North Caucasus for a third year in a row.471 If we take into account the relevant norms of international humanitarian law, we cannot but agree that Russian and international human rights organizations are correct in saying that the armed conflict in the North Caucasus still continues. They are also correct in saying that A. Maskhadov is the legitimate leader of the opposing side of the conflict and correct in their demand that Russian authorities begin a dialogue with him to reach a political solution.472

At the same time, A. Maskhadov is responsible for violations of human rights by the forces opposing the federal party to the same extent to which he is acknowledged the legitimate head of the republic.473

Since 1999, when federal troops entered the Chechen Republic, the federal government has been establishing its own executive structures. For example, in 2000 in accordance with the Decree of President V. Putin “On Organizing Temporary Bodies of Executive Power in the Chechen Republic,” the power agencies that had been elected in the CRI previously were rendered illegitimate and an executive body of the Chechen Republic (Administration) was established. Akhmad-Khadzhi Kadyrov was appointed Head of the Administration. In January 2001, the Government of the Chechen Republic, headed by Stanislav Ilyasov, was established. Initially, the

471 The advantage of the CRI authorities is that functioning underground they can easily not fulfill other governmental functions — social, economic, combating terrorism, etc., which RF authorities are trying to haphazardly carry out. Although, in 1996–1999 the socio-economic activities of CRI authorities were also practically non-existent...

472 Resolution of the All-Russian Emergency Human Rights Congress on the Situation in Chechnya passed in January 2001 (Moscow); Resolution of the Parliamentary Assembly of the Council of Europe passed in January 2002 (Strasbourg).

473 It is worth mentioning, however, that various structures that are illegitimate and uncontrolled by A. Maskhadov acted during the military conflict in 1997–1999 and are active today.
Government, as well as the Administration, were located in the city of Gudermes, but later they both were re-located to the city of Grozny.\footnote{The city of Grozny was temporarily deprived of city status because during the military actions in the winter of 1999–2000 60–80% of it was destroyed. In addition, the city was not quite controlled by the federal power structures. But the transfer of federal administrative structures to Grozny was accomplished in a crafty political move. A specially guarded area for the federal structures was created at the beginning of the Staropromyslovskoye highway, akin to Beijing’s “forbidden city,” whereas the rest of Grozny was not under control even in 2001.}

Courts began to operate in the Chechen Republic in January 2001 (with many reservations, as is described in the respective section bellow).

There is no legislative authority in the governmental system that has been created by the federal power (which is also described in the respective section bellow).

However, the real role of civil structures regarding observation of human rights remained insignificant throughout 2001. A state of emergency (martial law), although never officially declared, is in force on the territory of the Chechen Republic (“in the military operation zone”). The Military Commandant is Lieutenant General Ivan Babichev. His office is also located in Grozny. But the Commandant’s Office does not control the actions of the military and special services that report to headquarters of the United Group of Forces, located at a military base in the suburb of Grozny, Khankala, the de-facto capital of Chechnya. General Moltenskoy commanded the United Group of Forces for one year. To coordinate activities of law enforcement authorities during the course of the “anti-terrorist operation,” “operative headquarters” have been established at the federal level, as well as in the North Caucasus (Regional Operative Headquarters). General coordination has been executed by the Federal Security Service (FSB), which was vested with the responsibility to conduct the “anti-terrorist operation” in January 2001.

\subsection*{1.2. General Human Rights Situation}

Just as in the previous year, the human rights situation on the territory of the Chechen Republic in 2001 can be characterized as disastrous.

By early 2001, the period of large-scale military actions in Chechnya came to an end\footnote{Large-scale combat, which began in September of 1999 and was mostly completed in March of 2000, was accompanied by massive violations of the norms of war conduct, international humanitarian law, military crimes, and crimes against humanity. Massive and indiscriminate bombardment and shelling, attacks on civilian targets, deliberate massive murder of civilians, tortures, kidnapping, robberies, etc., were common. Human rights were violated by both sides. However, the overwhelming majority of these actions were committed by representatives of power structures of the RF — an internationally recognized state, a participant of Geneva Conventions and other international human rights treaties.\footnote{This is supported by data of non-government organizations, “Chronicles of Violence” (maintained by the “Memorial” Human Rights Center since July 2000), far from being ex-} and the military conflict on the territory of the republic continued in the form of a guerilla war. Although accompanied by much less intensive shelling and fewer casualties among the civilian population, violations of human rights remain massive.\footnote{This is supported by data of non-government organizations, “Chronicles of Violence” (maintained by the “Memorial” Human Rights Center since July 2000), far from being ex-}
In 2001, the most massive and grave violations of human rights were associated with forced and involuntary disappearances of people, kidnapping committed by representatives of law enforcement authorities in exchange for ransom, torture and other cruel, inhumane and humiliating treatments, and punishments in confinement facilities, arbitrary apprehensions, robbery combined with “cleanings,” “filtration,” and the activities of “death squads.”

Lack of effective legal protection mechanisms and direct collusion on the part of the state result in the complete impunity of the overwhelming majority of individuals who have committed these crimes.

It should be noted that even in a document that has been criticized for the moderateness of its formulations, the human rights situation in Chechnya was reported as being “bordering on genocide.”

haustive, provides information on 1,049 civilians murdered in 20 months (up to March 2002). Another organization, Human Rights Watch, reports approximately 1,300 residents murdered during the first nine months of the conflict, from September 1999 through May 2000. Extrapolation of this sample to the entire population of Chechnya results in an estimated 6.5–10.4 thousand people murdered in Chechnya during this period.

Resolution of the All-Russian Emergency Human Rights Congress on the Situation in Chechnya passed in January 2001 (Moscow).
2. BASIC PROBLEMS IN THE LEGAL SITUATION
AND LAW ENFORCEMENT PRACTICE IN THE REGION

A unique legal situation regarding human rights exists in the Chechen Republic as compared to other subjects of the Russian Federation. It is the only region where:

✓ one has to rely on the documents of international humanitarian law, even though this is an armed conflict of a non-international nature;
✓ the federal power is having difficulties maintaining state sovereignty, yet the operation itself is called “anti-terrorist,” but really targeted at the restoration of sovereignty;
✓ significant limitations of human rights have been introduced de facto, and these limitations have been introduced in violation of the procedures of international norms;
✓ these limitations have been introduced even in violation of the procedures accounted for by the domestic law;
✓ military troops and other law enforcement authorities have been widely used without legal justification;
✓ Federal Law “On Combating Terrorism” has been used as justification for significant limitations of human rights;
✓ within the artificially created power-vacuum, administrative documents issued by law enforcement authorities have taken on a significance higher than normal.

All this requires a thorough and detailed analysis. Therefore, the review of the human rights situation in the Chechen Republic provided in this report is preceded by a review of the legal situation from the viewpoints of the domestic and international law.

Legal problems in the military conflict zone in Chechnya are complex and diverse. In an attempt to consider issues directly relating to violations of human rights during the conflict per se, committed by both federal law enforcement authorities and CRI armed formations, one may identify at least four general topics:

1. What is the general legal definition of the conflict in Chechnya — is it an armed conflict (of domestic or international nature) or a police (“anti-terrorist”) operation? What are the goals of the federal government — to fight against terrorism or to restore sovereignty? Is the application of force permissible?

2. What are the possible legal grounds for employing armed forces and utilizing other law enforcement authorities and for putting limitations on human rights in the conflict zone?
2.2. EVENTS IN CHECHNYA: ARMED CONFLICT OR?.. 
THE SITUATION IN THE CHECHEN REPUBLIC FROM THE VIEWPOINT OF INTERNATIONAL HUMANITARIAN LAW

Even though the hostility in the Chechen Republic is an armed conflict of a domestic nature, in 2001 the Chechen Republic was the only RF region in which the legal situation was assessed in light of international humanitarian law and human rights treaties.

In defining what is happening in the North Caucasus, supporters of the CRI speak of “aggression and occupation” by the Russian Federation, i.e., of an international armed conflict. Representatives of federal structures, in turn, avoid the very phrase “armed conflict,” preferring the term “anti-terrorist operation.” What is implied by the latter will be considered further. At this point, it is more important to define is what it does not imply. Namely, it does not imply that there is a conflict and, therefore, continuous large-scale actions are presented as police operations. Firstly, by doing so, the federal center takes the ongoing events in Chechnya out of the framework of international humanitarian law and human rights treaties. Secondly, lack of a conflict means lack of sides in the conflict and removes a political settlement from the agenda: negotiations with bandits and terrorists are impossible (see above). Thus, by speaking different languages the conflict sides appeal to different legal systems.

The fact that what is happening is indeed an armed conflict appears apparent, at least judging by its scale (territory — dozens of thousands of square kilometers; duration — over two and a half years; size of the United Group of Forces — more than 80 thousand people; casualties it has suffered thus

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478 The phrase “disarmament of illegal bandit formations” was used during the “first Chechen war” in 1994–1996.
far — over 3 thousand dead and more than 10 thousand wounded, etc). This undoubtedly goes beyond the framework of “disorders, discrete and sporadic acts of violence and other acts of an analogous nature.” But the argument has to do with the formal aspect: is it an armed conflict that is taking place — i.e., is there a second side to take into account? The international humanitarian law provides that non-governmental armed groups can be considered a “side” of a conflict if “being under responsible command” they “control such a portion of territory that it allows them to conduct continuous and coordinated military actions and apply the present Protocol.” This condition apparently applies to the case under consideration, despite the efforts of the federal propaganda to prove the opposite. These efforts have been focused not as much on the factual side of the problem (the scale of the military operation, casualties, etc.) as on the formal: “dissidence among field commanders” versus “responsible command;” the talks about “a thousand and a half separate fighters in the mountains” that have been going on for a third year in a row versus “control of the territory” and “continuous and coordinated military actions;” crimes, hostage-taking, and mercenaries versus the demand to observe norms of the humanitarian law. The same applied to the name of the opposing side: the term “terrorists” (or “bandits,” as in the “first Chechen war”) is used to take its representatives out of the context of international humanitarian law, having turned them into objects of a regular police operation.

By defining events in the Chechen Republic as an “armed conflict” we, first of all, place them within the context of humanitarian law, first and foremost — the Geneva Conventions of August 12, 1949, and Optional Protocols thereto. Human rights may be limited during an armed conflict by officially declared emergency or martial law, but the core human rights, a complex of inalienable rights, must be observed under any circumstances. It is this goal that humanitarian law strives to achieve as it is used to confine military actions to a civilized framework.

The most important principles constituting the foundation of humanitarian law as a whole can be summed up by the following: the right to choose the means and methods for conducting war is not unlimited; it is forbidden

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479 “...since such are not considered armed conflicts.” See: Optional Protocol II to Geneva Conventions of August 12, 1949, in connection with protection of victims of armed conflicts of domestic nature, adopted on June 8, 1977, Article 1 (further on referred to as Second Optional Protocol).

480 This term was used for the first time in a humanitarian law document (The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict) in 1954 and pertains to any situation regardless of its legal classification in which two or more sides oppose each other using arms.


482 Norms of international law designed to mollify consequences of war, limit means and methods of conducting military actions, and protect individuals who do not participate or have stopped participating in military actions, as well as objects that do not directly serve as military targets.

483 International law prohibits conducting wars except for the right of states to protect themselves from assault, but the existence of humanitarian law does not contradict the principle of prohibiting war per se: it simply is applied when an armed conflict begins regardless of whether or not application of armed force is justified.

484 UN Resolution #2444, adopted unanimously by the 1968 by General Assembly, pertains to all armed conflicts both international and domestic.
to attack the civilian population; it is required that combatants and representatives of an armed conflict be distinguished from others at all times.

The norms protecting a human being from abuse of power in an armed conflict are accounted for in the four Geneva Conventions\(^{485}\) that have become an integral part of the humanitarian law, which although primarily dedicated to issues related to international conflicts do contain the common Article 3 that is dedicated to domestic conflicts. It protects individuals who do not participate in military actions including soldiers who have surrendered or have been taken prisoner, the ill and wounded, and the entire civilian population. It forbids the infringement upon their life, human dignity, and personal integrity. It forbids cruel treatment and torture. It prohibits the taking of hostages, condemnation and punishment without a court decision. Two Optional Protocols to the Geneva Conventions dedicated to protection of victims of international and domestic armed conflicts respectively were adopted in 1977. Although states, as a rule, do not want to experience international interference or control of internal armed conflicts, when the Geneva Conventions and the Second Optional Protocol thereto were adopted, the issue of observation of norms of the humanitarian law in an internal armed conflict was no longer considered a state’s internal affair.

It is within this framework that intergovernmental organizations are taken into account. For example, the UN “...abides by provisions of... the Geneva Conventions... in particular their common Article 3 and Optional Protocol II... as well as other international humanitarian law treaties... reminding as well that the Russian Federation is a participant of the Geneva Conventions... and Optional Protocol II thereto.”\(^{486}\) Also, the Parliamentary Assembly of the Council of Europe (PACE), having condemned “violations of international humanitarian law by the Chechen fighters,”\(^{487}\) not only positions what is happening within a relevant context, but also recognizes the latter as “a side of the conflict.”\(^{488}\)

Thus, authorities of the Russian Federation, unwilling to have international interference or control in the armed conflict zone in the Chechen Republic, have been consistently and deliberately taken the situation out of the limits and norms of international humanitarian law, hoping to

\(^{485}\) Adopted on August 12, 1949; the “Nuremberg law” found its evolution in them. The sentence of the 1946 International Military Tribunal stated that norms of humanitarian law accounted for in a number of conventions are to be considered part of the international law which is obligatory to all countries regardless of whether or not they have joined these conventions. The UN General Assembly at its first session on December 11, 1946, unilaterally decreed that the “Nuremberg law” was to be an inalienable part of international law.


\(^{488}\) Some argue that this conflict should be considered within the context of the First Optional Protocol, Article 1, which defines what falls within its competence: “armed conflicts in which peoples fight against colonial domination, foreign occupation, and racist regimes to implement their right for self-determination accounted for by the UN Charter and Declaration of Principles of International Law that pertain to friendly relations and cooperation between the states in compliance with the UN Charter” — in that case, the assessment of actions of both sides of the conflict would be tougher while remaining the same in essence.
present the events as “an internal affair of the state” but violating its international obligations by doing so.

2.3. LEGITIMATENESS OF APPLICATION OF FORCE AND GOALS OF THE SIDES OF THE CONFLICT — STRUGGLE AGAINST TERRORISM OR RESTORATION OF SOVEREIGNTY?

In 2001, the Chechen Republic was the only RF region in which the federal power had significant difficulties implementing state sovereignty. In fact, although the operation in Chechnya is called “anti-terrorist,” sovereignty is the goal of the RF and the subject of the conflict, and opponents are separatists.

Two systems of state power and government exist de facto on the territory of the Chechen Republic, each of them claiming to be the only legitimate one. Two corresponding legal systems — legal in the sense of “legislation systems,” which does not automatically mean that these laws are legal in nature — also exist simultaneously.

On the one hand, according to Article 67 of the RF Constitution, the Chechen Republic is an inalienable part, a “subject of the Federation.” On the other hand, the Preamble of the Constitution of the Chechen Republic of Ichkeria defines CRI as an “independent sovereign state” that enjoys “equal rights in the system of the world community of nations.” The sovereignty of the Chechen Republic was unilaterally declared on November 1, 1991, by decree of President Dzhokhar Dudayev; the international community did not recognize this republic, however. At the same time, neither international law, nor Russian legislation offered venues and mechanisms to solve this problem: the RF Constitution does not provide for the right of autonomous republics to secede from the Federation.

Thus, ten years ago there emerged a crisis, a contradiction between the right of peoples for self-determination pronounced by a number of international documents and the commonly recognized principle of inviolability of state borders.

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489 Although, it is only the opposing party that speaks of this openly.
491 “The Chechen Republic of Ichkeria is an independent sovereign democratic republic created as a result of self-determination of the Chechen people. It has the supreme right concerning the territory and national riches; independently determines external and internal policy; adopts the Constitution and laws having leadership in its territory. The state sovereignty of the Chechen Republic is indivisible and does not pertain to the authorities of bodies of the state power.” See: Article 1 of the CRI Constitution.
492 This is true with regard to both the Constitution of the RSFSR and the RF Constitution adopted in 1993.
493 For more detail on Russian-Chechen relations prior to 1994 (before the “first war”), see article by V. Kogan-Yasny, “Political Aspect of Relations between Federal Bodies of Power of the Russian Federation and the Chechen Republic in 1990–1994” and “Chronicles of events” in the book Russia-Chechnya: Series of Mistakes and Crimes compiled by O. Orlov and A. Cherkasov, Human Rights Center “Memorial” — (Moscow: Zvenya
The attempt undertaken by the federal center in 1994 to forcibly solve the Chechen problem led to a bloody armed conflict which took away dozens of thousands of lives and made hundreds of thousands of people abandon their homes. In the 20 months after the beginning of military operations, in August of 1996, federal forces were defeated in the city of Grozny. On August 31, 1996, the sides signed cease-fire agreements in the town of Khasavyurt, which provided that the status of Chechnya would be determined through negotiations within a five-year period— the principle of “deferred status” was adopted. By 1997, federal troops were completely taken out of Chechnya. On May 12, 1997, in the Kremlin, President B. Yeltsin and President A. Maskhadov signed The Agreement on Peace and Principles of Relations between the Russian Federation and the Chechen Republic of Ichkeria,” Articles 1 and 2 of which accounted for obligations of both sides to “give up forever application and threat of application of force in solution to any arguable issues” and “develop relations in compliance with universally recognized principles and norms of international law.”

Thus, in debating the issue of the status of Chechnya in the period that followed, arguments of the sides both in favor of the independence of the Chechen Republic and in favor of the sovereignty of the Russian Federation were weak. The Russian Federation also could not resort to force because being a member of the OSCE it was bound by the obligation to solve such problems by using political means.

In the mean time, neither the completion of military operations, nor the conclusion of bilateral agreements meant that the conflict was settled — the situation in the Chechen Republic steadily deteriorated. Kidnappings reached epidemic proportions. The exodus of the Russian-speaking population, who had become the first victim of the bandits,
continued. In trying “to avoid a civil war” A. Maskhadov took his time with applying force and exerting power against the military formations that he did not control, as well as against kidnappers and religious extremists. The federal center, that had not exercised any consistent policy with respect to Chechnya since 1996 ("perhaps, it will somehow dissolve by itself"), started preparing for a compulsory solution to the problem in February 1999. In the meantime, leaders of the Chechen extremists, not controlled by A. Maskhadov, were already preparing the invasion of Dagestan. In the summer of 1999, the armed conflict was already unavoidable, especially considering that there were powerful forces on both sides interested in exacerbation of the situation.

Upon invasion of the Republic of Dagestan by the troops of Shamil Basayev and “emir” Khattab in August of 1999, the federal power not only could have but also should have applied force to protect its citizens and rebuff the bandits and terrorists. However, the issue of the status of the Chechen Republic was not to be resolved by force. In the meantime, the federal power not only ignored the suggestions of A. Maskhadov to join their efforts to fight the extremists but, actually identified A. Maskhadov with the extremists, thus excluding the very possibility of a dialogue with him. Federal authorities believed that the status of Chechnya had already been resolved in their favor. At the same time, the 1996–1997 agreements were neither renounced by the RF authorities nor rendered invalid by the RF Constitutional Court. Thus, one must admit that the Russian side broke these agreements.

This fact accounts for the demand to initiate political regulation of the conflict in the Chechen Republic and to negotiate with representatives of the CRI President legitimately elected in January of 1997, and the CRI Parliament. Russian human rights organizations constantly and openly demanded that this should be done; intergovernmental organizations also demanded political regulation (PACE in more definite terms; UN Commission on Human Rights — more reservedly).

497 It happened after the kidnapping of General G. Shpigun in Grozny. The Russian-Chechen negotiations that were underway at the same time were frustrated after the arrest of Atgireyev in May of 1999.
498 In Russia, it was the power striving to ensure the “continuity” of the “Successor” project; in Chechnya, on the contrary, it was the “opposition” that needed exacerbation of the situation for its political survival.
499 In this aspect what is noteworthy is the identification, and in essence, the substitution of the notions of “terrorist” and “separatist” in the official propaganda texts. However, the former is found outside the confines of the law, whereas the latter is quite in the position to act by using non-violence methods.
500 For more details see: “The Position of the “Memorial” Society with Respect to the Armed Conflict in Chechnya” (December 1999): “The Human Rights Center “Memorial” views the methods applied as continuation of the yet-to-e-overcome Soviet tradition to apply indiscriminate violence (mass terror) to achieve political goals.” (www.memo.ru).
501 See for example, Resolution of the All-Russian Emergency Human Rights Congress on the Situation in Chechnya passed in January 2001 (Moscow): “We ... demand that RF President, V. Putin, start negotiations with no preliminary conditions with the President of the Chechen Republic of Ichkeria, A. Maskhadov whose legitimateness had been recognized by the international community and the RF government itself.”
502 “The Assembly reiterates its conviction that the Russian Federation does not act in compliance with principles and norms of the CE (Council of Europe) by conducting a military campaign in the Chechen Republic. Consequently, the Assembly is of the opinion that many of the requirements it has set forth before Russia with respect to the conflict are valid and must be fulfilled. Since 1999 the Russian government has not undertaken any efforts to estab-
Thus, in the course of the armed conflict in the Chechen Republic, authorities of the Russian Federation deliberately and consistently identified (in essence — substituted) the fight against terrorism and the struggle with separatism, liquidation of bandits and restoration of sovereignty, refusing to settle the crisis politically and violating its international obligations by doing so.

2.4. LIMITATIONS OF HUMAN RIGHTS IN THE CHECHEN REPUBLIC IN LIGHT OF INTERNATIONAL LAW

In 2001, the Chechen Republic was also the only RF region where consideration of the legal situation within the confines of human rights treaties was to be undertaken not only within the context of human rights observation but also in light of possible reasons for their limitation.

Considering violations of human rights in the course of the armed conflict in the Chechen Republic within the context of international human rights treaties, it is necessary, first of all, to resort to the International Covenant on Civil and Political Rights,\(^{503}\) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment\(^{504}\) (see the relevant section below), and the European Convention for the Protection of Human Rights and Fundamental Freedoms\(^{505}\).

The International Covenant on Civil and Political Rights allows to limit or suspend implementation of a number of rights but only for the period of an officially declared state of emergency and only "to such an extent, which is required by the acuteness of the situation." The state is to notify the UN of such measures, but certain rights may not be violated or suspended in any circumstances. These include the right to life (including an absolute prohibition of capital punishments without trial), the freedom from slavery, the right to protection from imprisonment for non-payment of debt, the freedom from ex post-facto criminal legislation, the freedom of opinion, and the freedom of conscience and religion. Torture, types of punishment and treatment that are cruel and degrading to human dignity, as well as discrimination on the basis of race, establishment of a dialogue with the purpose of settling the conflict politically with the elected representatives of power in the Chechen Republic...\(^{16}\) Also: "16. The Assembly emphasizes that without a political decision that would be acceptable for the majority of Chechnya’s residents no stability can be viable in the CR regardless of the amount of funds allotted for this goal." See: Resolution of the Parliamentary Assembly of the Council of Europe of January 25, 2001.

In its Resolution E/CN.4/2001/L.24 of April 20, 2001, the UN Commission on Human Rights appeals to all sides of the conflicts indicating the necessity to urgently undertake measures to stop the on-going military operations of indiscriminate application of force and immediately start searching for a political decision “with the purpose of achieving a peaceful settlement of the crisis while fully observing the sovereignty and territorial integrity of the Russian Federation.”

\(^{503}\) The International Covenant on Civil and Political Rights, adopted by the UN General Assembly on December 16, 1966, entered into force on January 3, 1976.

\(^{504}\) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the UN General Assembly on December 10, 1984, entered into force on June 26, 1987.

\(^{505}\) The Convention was ratified on March 30, 1998, and entered into force in Russia on May 5, 1998.
skin color, language, religion, and national or social origin all remain forbidden.

The European Convention for the Protection of Human Rights and Fundamental Freedoms also allows the limiting or suspension of a number of rights for the period of an officially declared state of emergency provided that the state necessarily notifies the Council of Europe (CE) of this derogation.\textsuperscript{506} Similarly, the implementation of certain rights may not be suspended or limited.

Meanwhile, the significant limitation of human rights in the Chechen Republic by federal structures was not accompanied either by a declaration of the state of emergency (see below) or by a corresponding notification of the UN structures (as is required by the International Covenant on Civil and Political Rights). Neither was the “derogation” procedure (as is required by the European Convention) implemented, nor was advance notification given to the CE structures. Moreover, massive violations of human rights that may not be abrogated under any conditions did take place.

Thus, authorities of the Russian Federation, limiting human rights in the armed conflict zone in the Chechen Republic and not willing to experience international interference or control, consistently and deliberately violated international human rights treaties, hoping to present the events as “an internal affair of state.”

2.5. LIMITATIONS OF HUMAN RIGHTS IN THE CHECHEN REPUBLIC IN LIGHT OF DOMESTIC LAW OF THE RUSSIAN FEDERATION

In 2001, the Chechen Republic was the only RF region in which human rights were limited throughout a large territory and for a long period of time. According to RF legislation, the state of emergency or martial law may be legitimate grounds for limitation of human rights. The same is provided for by international human rights treaties (see above).

According to Article 88 of the RF Constitution, under circumstances when the security of citizens or the constitutional system face a real threat whose elimination is impossible without undertaking special measures, the President shall issue a decree imposing a state of emergency on the

\textsuperscript{506} Article 15 (derogation in time of emergency).

1. In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

2. No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4.1 and 7 shall be made under this provision.

3. Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefore. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.
entire territory of the country or in certain regions thereof and immediately notify the Federation Council and the State Duma. The presidential decree is then to be approved by the Federation Council.

The formulation of this constitutional norm does not clarify whether the imposition of the state of emergency is a right of the President, implemented at his own discretion, or his duty. At the outset of the armed conflict in the Chechen Republic, Federal Law “On the State of Emergency” (#1253-1) that had been adopted on May 17, 1991, was in place. But it was never applied (just as during the “first Chechen war”), although it was Clause “a” of Article 4 of this law that the federal power referred to when justifying the operation and finding grounds for imposing the state of emergency regime.507 It appears that the law was not applied due to three pragmatic considerations.

First, the law does not account for participation of the army in the settlement of the disturbance, (participation is allowed only for the Ministry of Internal Affairs (MVD) troops).508

Second, there was no guarantee of an automatic approval of the decree on imposition of the state of emergency by the Federation Council in the conditions of yet-to-be-built “vertical of power:” it could mean a political trade-off among the branches of power or at least parliamentary control over the executive power.

Third, Articles 8, 17, 18 and some other articles of the 1991 Federal Law “On the State of Emergency” provide clearly and consistently for a legal regime of the state of emergency with a requirement that the respective decree provide for the following: precise indication of state bodies to be responsible for implementation of relevant activities, a list of emergency measures to be taken and their degrees, a comprehensive list of temporary limitations of rights and freedoms of citizens, and established guarantees of citizens’ rights and a mechanism for their protection.509 This undoubtedly tied the hands of federal law enforcement authorities and significantly limited the “degree of discretion,” i.e., arbitrariness.510

507 “...attempts of forced alteration of the constitutional system, massive disorders accompanied by violence, inter-ethnic conflicts, blockade of certain areas, threat to lives and security of people or normal operation of state institutions.”

508 Utilization of the Armed Forces was allowed only under exclusive circumstances, when conducting rescue operations to liquidate consequences of natural and man-caused catastrophes, etc.

509 Article 27 provides that the state of emergency “may not serve as grounds for application of torture, or treatment that is cruel, inhuman or degrading of dignity”; Articles 28, 33 — that the order of applying force and fire arms is regulated by law and is not subject to change in the conditions of the state of emergency and that illegitimate application of force by representatives of law enforcement agencies and military troops as well as power abuse, including violation of human rights results in liability, etc. For more detail, see legal expertise of representative of the “Memorial” Human Rights Center, M. Petrosian, “Certain Legal Aspects of Conducting a Military Operation in Chechnya” (www.memo.ru).

510 It explains why the draft legislation on the state of emergency was the first, as it seems, of those suggested by human rights activists to the USSR government in summer of 1988. In 1999, before the beginning of the armed conflict, the federal power refused to apply Federal Law “On the State of Emergency” to limit — within confines of the law — the rights and free-
Federal Constitutional Law “On the State of Emergency,” adopted on May 30, 2001, significantly broadened the authorities of law enforcement authorities and narrowed the possibilities to exercise control over utilisation of these authorities. However, this law is not applied to bring the situation in the Chechen Republic within a legal framework either.

Another way to legally limit citizens’ rights on a large territory and for a long period of time is to impose martial law in compliance with Article 19 of Federal Law “On Defense,” which is defined as a special legal regime of operations for state bodies and bodies of local self-government accounting for limitation of rights and freedoms. It is true though that, firstly, this is possible only provided that an external aggression has taken place. Secondly, according to the RF Constitution, the martial law regime must be regulated by federal constitutional law, which so far has not yet been adopted. No martial law was imposed in the armed conflict zone in the Chechen Republic presumably not due to lack of aggression as a cause or the lack of the legislation as a regulating document. Martial law was most likely not imposed because of the following. In compliance with Article 87 of the RF Constitution, martial law is officially imposed by the President with immediate notification of the Federation Council and the State Duma, and the respective decree must be approved by the Federation Council. Meanwhile (as in the case with the state of emergency — see above), the executive power strove to avoid parliamentary control.

Thus, authorities of the Russian Federation limiting human rights in the zone of the armed conflict in the Chechen Republic but choosing to avoid parliamentary or any other control would consistently and deliberately take the legal situation in the region out of the confines of domestic law.

2.6. REGIME OF THE “ANTI-TERRORIST OPERATION” AS GROUNDS TO USE ARMED FORCES IN THE CHECHEN REPUBLIC

In 2001, the Chechen Republic was the only RF region in where the Armed Forces and other troops were widely used, which is impossible without a legal justification.

Designation of the Armed Forces and boundaries within which they can be used are regulated by Federal Law “On Defense” of May 13, 1996 (#61-FZ). According to this law (Article 10.2 and 10.3):

511. "During the period of martial law the Armed Forces of the Russian Federation, other troops, military formations, and authorities may conduct military operations to ward off aggression regardless of whether or not the state of war has been declared."
The Armed Forces of the RF are designed to ward off aggression targeted at the RF, to protect with arms the integrity and immunity of the RF territory, as well as to carry out missions in compliance with international treaties of the RF. Utilization of RF Armed Forces to carry out missions for which they are not designed is executed by RF President in compliance with federal laws.

Firstly, if aggression had been grounds to utilize the RF Armed Forces, the RF President in compliance with Article 87 of the RF Constitution should have imposed martial law and immediately notified the Federation Council and the State Duma thereof. However, no martial law was imposed (see above).

Secondly, there are no international treaties of the RF, which could form the basis for the Armed Forces to be used in the Chechen Republic.

Thirdly, one should consider “armed protection of the integrity and immunity of the RF territory,” as this was the grounds on which armed forces were legally operating on the territory of Dagestan. Bilateral agreements with the CRI did not account for application of force to solve territorial contradictions; they were to be determined in the process of negotiations before the end of 2001 (see above).

Consequently, it is legitimate to conclude that the Armed Forces were used for purposes that they are not designed for — such utilization in principle is not excluded by the RF legislation.

The National Security Concept does not exclude utilization of the Armed Forces for purposes, for which they are not designed. Although at the moment no legislation is in place that would clearly regulate conditions and the order in which weapons and military troops could be used for purposes “other than those, for which they are designed,” but it is in this manner that the utilization of armed forces on the basis of Federal Law “On Fighting Terrorism” of July 25, 1998 (#130-FZ) could be interpreted. Article 7 of the law on fighting terrorism allowed use of armed forces for purposes other than those they are designed for, such as for participation in an “anti-terrorist operation” (that is how the RF authorities have called the armed conflict in the North Caucasus from the very beginning).

The RF President, in making a decision to use the Armed Forces for purposes other than those, for which they are designed must look to Article 10 of Federal Law “On Defense.” If an “anti-terrorist operation” is to be the legal foundation of the operation, then the president must issue a decree stating this foundation. It follows from Article 5.3 of Federal Law “On Defense” that the presidential decree must be ap-

512 Even if one ignored CRI independence, what took place was not aggression targeted against the RF, but invasion of the territory of the Republic of Dagestan, a RF subject, by armed groups uncontrolled by the CRI authorities.
513 Approved by Presidential Decree #1300 of December 17, 1997, the Concept, as it is directly stated in its text, is a “political document,” not a juridical one.
514 See for example, Announcement of the RF Government of October 23, 1999 “On the Situation in the Chechen Republic and Measures of its Regulation.”
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Note that the National Security Concept provides that:

Application of military force against peaceful citizens or to achieve internal political goals shall not be allowed...

At the same time, joint actions of certain units of the Armed Forces of the Russian Federation with other troops, military units, and authorities undertaken in full compliance with the RF Constitution and federal legislation are allowed with respect to illegal armed formations posing a threat to national interests of the Russian Federation.

The Concept emphasizes the necessity to “observe the norms of international law and Russian legislation when undertaking compulsory measures (including utilization of military force).”

In 1999, the RF authorities’ application of Federal Law “On Fighting Terrorism” and the “anti-terrorist operation” regime was implemented in order to use the Armed Forces in the course of the armed conflict in the Chechen Republic and to circumvent parliamentary control. Although since September 11, 2001, this terminology has been used by the Russian diplomacy and propaganda on the world arena, “any coincidence should be considered accidental.”

2.7. IMPLEMENTATION OF THE LEGAL REGIME OF “ANTI-TERRORIST OPERATION ZONE” AS GROUNDS FOR LIMITATION OF HUMAN RIGHTS IN THE ZONE OF THE ARMED CONFLICT IN THE CHECHEN REPUBLIC

In 2001, the Chechen Republic was the only RF region in which Federal Law “On Fighting Terrorism” was applied to massively and significantly limit the rights of citizens.

Over the past two years, the law has been repeatedly criticized by domestic experts, as well as by foreign specialists. Among the most significant claims

515 “...The laws shall be officially published. Unpublished laws shall not be applicable. No regulatory legal act affecting the rights, liberties or duties of the human being and citizen may apply unless it has been published officially for general knowledge.” — Article 15, Clause 3 of the RF Constitution.

516 It was in August of 1999 that officials began to speak of the “anti-terrorist operation,” prior to terrorist attacks in Russian cities.

517 See, for example, legal expertise of a representative of the “Memorial” Human Rights Center, M. Petrosian, “Certain legal aspects of conducting a military operation in Chechnya” or Conclusion (in connection with the request of the “Memorial” HRC) on the legitimateness of utilization of RF Armed Forces in military operations on the territory of the Republic of Dagestan, the Chechen Republic, in republics adjacent to it; limitation of citizens’ rights in the Chechen Republic, as well as in territories it borders on; utilization of special troops of the RF Ministry of Justice to block roads and prevent forced migrants from the Chechen Republic from relocating to Ingushetia. Prepared by Chairman of the regional public organization...
that the Council of Europe has with respect to the Russian Federation is the fact that the law on fighting terrorism is out of compliance with European norms. It is suggested that the law be considerably changed. The criticisms primarily had to do with possibilities accorded for by Federal Law “On Fighting Terrorism” for unjustified violations of human rights, as well as conducting long-term, large-scale military operations within the confines of the “anti-terrorist operation,” and execution of massive and indiscriminate bombardments and shellings (these aspects have been briefly reviewed earlier).

However, in 2001, the primary violations of human rights by federal law enforcement authorities in the zone of the armed conflict in the Chechen Republic were associated with “cleanings” or “mop-up operations,” “filtration,” and disappearance of people — i.e., with wide-spread unauthorized searches of living quarters, massive indiscriminate apprehensions, placement of detainees in illegal detention facilities, cruel treatment, torture, and capital punishments without trial. These actions undertaken within the framework of the “anti-terrorist operation” apparently contradict Federal Law “On Fighting Terrorism.”

Representatives of authorities may intrude living quarters of citizens against the will of their inhabitants (according to Article 25 of the RF Constitution) only “in cases provided for by federal legislation.” Only “federal legislation” can limit the right to be secure in one’s home (Article 55.3 of the Constitution), in particular, during conditions of a state of emergency (Article 56 of the Constitution).

On the territory of the Chechen Republic, where, in compliance with Federal Law “On Fighting Terrorism” of July 25, 1998, a less strict “anti-terrorism operation zone” was established. According to Article 13.1.4 of the above law, individuals who are in charge of conducting the operation have the right to “freely enter (penetrate) living and other quarters inhabited by citizens,” provided that the following two conditions are met:

1. when preventing an act of terror, i.e., according to Article 3 of the above law, a crime of a terrorist nature in the form of an explosion, arson, etc., posing a threat to people’s lives, causing significant damage to property or having other socially dangerous consequences, or when following individuals suspected of committing an act of terror;

2. if a delay can pose a real threat to people’s lives and health.


In dealing with citizens’ housing, representatives of authorities participating in the anti-terrorist operation are bound by requirements of the law. In order for them to enter one’s living quarters without authorization, they must have sufficient grounds that pertain to not just “a section of the area” (residential area) in general, but to this particular house. Unauthorized penetration into citizens’ living quarters by the military against citizens will under conditions when an act of terror has already been committed or prevented, when it is done not in the course of following a suspect who has hidden himself according to law enforcement agencies in a particular building, but when attempting to locate an individual suspected of having committed an act of terror or when lives and health of citizens are no longer threatened, — is a blatant abuse of power. It is an illegal action that violates the constitutional right of the human being to security in their homes.

Thus, what one encounters here is not observation of the law, but an arbitrary and expansive interpretation. The fault lies not with the normative act but with the practical application of the law. The law on fighting terrorism was initially designed to regulate local and short-term application of force under conditions when immediate reaction is required and there is no time for waiting for parliamentary sanctions. The anti-terrorist operation regime was used in August of 1999 in order to utilize the Armed Forces without imposing the state of emergency or martial law both of which would have required parliamentary authorization (see above). Federal Law “On Fighting Terrorism” has been applied for several years, throughout a territory measuring many thousands of square kilometers.

Usually, to justify massive unauthorized searches and apprehensions in the course of “mop-up operation” and “focused special operations,” officials refer to Article 13 of the above law. This article allows entering a dwelling during an anti-terrorist operation and abolishes the right to security in one’s home, which in essence dates back (as well as Federal Law “On Fighting Terrorism” itself) to the “rule of the hot trail.” This rule comes from the Anglo-Saxon law which states that when following a criminal, if he has hidden himself in a building, the police are allowed to immediately enter the building without needing a special sanction to do so. When the law was adopted, human rights activists were concerned that the expansion of law enforcement power, given the current situation of discipline within law enforcement authorities under the “anti-terrorist operation,” uncontrolled application would inevitably lead to massive violations of human rights. However, arbitrary and expansive interpretation of the law has exacerbated these consequences. Despite the fact that the law accounts for “unity of time and place,” its significant distribution in time and space detaches the investigation (actions of law enforcement authorities) from the cause (actions of terrorists), in essence rendering this cause optional.519

519 For example, a “mop-up operation” in a settlement can be conducted without due procedure, as it is enough to refer to an explosion of a bomb that occurred much earlier and in a different area.
Law enforcement authorities have been granted broad powers, in absence of any normative base regulating them. The military prosecution department, in particular, admits to this today:520

There is no clear normative base regulating the conduct of “special operations” and “anti-terrorist operations” in general. There is a law, basic Federal Law “On Fighting Terrorism” that allows apprehending individuals and keeping them in detention until they are identified. At the same time, the law does not provide for any specific terms of apprehension — perhaps you have read Article 13 of the given law. The mechanism itself requires improvement: you are quite right saying that the law must have been adopted while still being raw. Therefore, one has to pull things together, resort to a number of normative acts, such as the Administrative Code, the Criminal Code, the Presidential Decree “On Struggling with Homelessness and Beggary,” in other words, to a whole range of laws...

Thus, using Federal Law “On Fighting Terrorism” and the “anti-terrorist operation” rule to limit human rights in the armed conflict zone in the Chechen Republic, authorities of the Russian Federation have deliberately created a regulation-proof legal vacuum that has resulted in massive violations of human rights.

2.8. NORMATIVE AND ADMINISTRATIVE DOCUMENTS ADOPTED TO REGULATE THE ACTIONS OF FEDERAL TROOPS IN THE COURSE OF THE “ANTI-TERRORIST OPERATION”

In 2001, the management of law enforcement authorities, including the United Group of Forces in the North Caucasus and those at the federal level, for the first time during the “second Chechen war” adopted a number of administrative documents targeted at the improvement of the human rights situation and prevention of severe crimes against humanity in the armed conflict zone in the Chechen Republic.

Undoubtedly, this was done not because of the crimes against the civil population, but because these crimes acquired broad publicity through journalists and human rights activists, which injured the image of the Russian government in the world arena, and the image of law enforcement authorities inside the country. This is the impression that is produced by Order #145 issued on May 24, 2001, by the United Group of Forces Commander, V. Moltenkov, “On Measures to Increase Activity of Local Bodies of Power, Population, and the RF Law Enforcement Agencies and Raise Effectiveness of Special Operations in Residential areas on Identification and Apprehension of Heads and Members of Bandit Formations on the Territory of the Chechen Republic.” In particular, Order #145 provides that:521

520 From the speech of a representative of the military prosecution department in Znamenskoye, February 28, 2002.
521 Facsimile of an excerpt from the order the text of which was certified by Deputy Head of the CR Government, Yu. Em. See: the website of the “Memorial” Society (www.memo.ru).
The civilian population of the Chechen Republic has been submitting an ever-increasing number of complaints about “illegal actions” allegedly committed by the North Caucasus United Group of Forces in the course of conducting special operations on identification and apprehension (elimination) of heads and members of bandits’ formations, focused check-ups, as well as passport regime check-ups in residential areas of the republic. To prevent potential violation of the RF laws when conducting special operations and to address the issues raised by residents of Chechnya in their complaints locally, I HEREBY ORDER THAT:

...2. In order to prevent potential violations of the RF laws, address the issues raised by residents of Chechnya in their complaints locally, and to coordinate actions when conducting special operations on identification and apprehension (liquidation) of heads and members of bandit formations in residential areas of the Chechen Republic, military superintendents of administrative centers and districts of the republic, heads of administrations, heads of police departments in settlements, military prosecutors of administrative centers (districts) in zones (districts) where special operations are carried out shall be invited. Invitation of the above listed officials to the command headquarters of the chief of the special operation shall be effected upon the beginning of the special operation directly in the area where the operation is to take place...

This order contains three fragments that are especially interesting. The first two — about “illegal actions allegedly committed by troops” and “potential violation of laws” — indicate that the Commander continues to deny that his subordinates commit crimes. The third — the invitation of military prosecutors “shall be effected upon the beginning of the special operation,” on par with heads of local administrations — indicates that non-military prosecutors are basically regarded as the bandits’ accomplices. No wonder that having chosen such an approach, Order #145 had no positive effect. For example, in mid-June in the Kurchaloyevsky district, the issuing of Order #145 to the above-listed officials (administration heads, military superintendents, and heads of police departments) was accompanied by a series of severe “mop-up operations” that were conducted out of any compliance with Order #145.522

Order #145 by General V. Moltenskoy was followed two months later by Order #46 issued by the RF Prosecutor General, V. Ustinov, the text of which is provided below:

Prosecutor General’s Office of the Russian Federation
Order #46
Moscow, July 25, 2001

523 The text of the order is available on the website of the “Memorial” Society (www.memo.ru).
On Strengthening Control over the Observation of Citizens’ Rights when Conducting Passport Regime Check-Ups in the Chechen Republic

On July 3–4, 2001, during the course of the anti-terrorist operation on the territory of the Chechen Republic, officials and troopers of the United Group of Forces verified observation of the passport regime by citizens.

Upon completion of the verification, prosecutor’s offices in the republic received numerous petitions from residents claiming illegal apprehensions of residents, application of force with respect to them, and other violations of rights and freedoms of the human being and citizen, which served as grounds for initiation of a number of criminal investigations.

This situation indicates that the Chechen Republic Prosecutor’s Office, as well as territorial and military prosecutors have not been successful in ensuring unconditional observation of the established order regulating the verification of implementation of the passport regime, location and revocation of weapons, armory, explosives, and narcotics.

In order to prevent this from happening in the future, as well as to ensure observation of the rights of the human being and citizen during the anti-terrorist operation in the Chechen Republic, guided by Article 17 of Federal Law “On the Prosecutor’s Office of the Russian Federation,”

I HEREBY ORDER THAT:

1. Southern Federal District Department of the Prosecutor General’s Office, the Chechen Republic Prosecutor’s Office, Military Prosecutor’s Office of the North-Caucasian Military District, territorial and military prosecutors shall immediately develop a system of measures ensuring effective control over legality of actions committed by officials and troopers of police forces, internal military forces, troops of the Ministry of Internal Affairs, Ministry of Defense, Ministry of Justice, and Federal Security Service of the Russian Federation when conducting check-ups of the passport regime in residential areas of the Chechen Republic, as well as timely prevention of violations of the rights and freedoms of the human being and citizen.

2. When conducting passport regime check-ups, territorial prosecutors shall be located on the premises of the local administration and execute direct local control over legality of actions committed by units of the United Group of Forces or verify grounds for apprehension of citizens and revocation of their identification documents or property not later than on the following day.

3. When executing control, representatives of the city or of the district military superintendent’s office, as well as the temporary or permanent police department, heads of the local administration, and if necessary, religious leaders shall be notified of a check-up prior to its beginning and invited to the location at which the check-up is to take place.

4. Special attention shall be paid to the legality of and sufficient grounds for apprehension of citizens, as well as to obligatory maintenance of detainee lists including complete personal data, date, time, and grounds
for apprehension, information on the official who conducted the detention, and location of the facility in which the detainee has been placed.

4.1. When transferring detainees to temporary police departments (or representatives of other law enforcement authorities) in order to identify one’s association with illegal armed formations or other crimes, information shall be provided on who of the detained has been transferred to whom and when, and certified by signature of the official to whom the detained individual has been transferred.

4.2. Immediate family members of the detained shall be informed of each detention, grounds for detention, and location of the respective detention facility.

5. In compliance with Article 109 of the RSFSR Criminal Procedure Code, petitions and grievances claiming compulsory actions undertaken with respect to citizens, revocation or extortion of their private funds, property, as well as other abuses committed by officials and troopers of the United Group of Forces shall be meticulously verified. Upon identification of violations, measures shall be taken to hold the perpetrators liable, including initiation of a criminal investigation. Upon completion of an investigation or check-up, local self-government bodies and the population shall be informed of the results.


The Order shall be forwarded to Southern Federal District Department of the Prosecutor General’s Office, the Chechen Republic Prosecutor’s Office, Military Prosecutor’s Office of the North-Caucasian Military District, city and district prosecutors and military prosecutors of the Chechen Republic.

Commander of the United Group of Forces shall be informed of this Order.


This order is quite unique: for the first time since the beginning of the “anti-terrorist operation” in the Chechen Republic, an official of such a rank who is responsible for overseeing administration of justice — one of the highest Russian officials! — publicly acknowledges not only the unfavorable human rights situation associated with “mop-up operations” in the Chechen Republic, but the very fact of massive violations of rights of the civilian population committed by federal law enforcement structures.524 He also identifies the very reason why Order #46 was issued: indeed, the events of July 3–4, 2001, in the settlements of Assinovskaya and Sernovodsk had caused a great public outcry both in Russia and abroad.

524 For more detail, see: “Comments to the Text of the Order of the Prosecutor General Issued in Response to July 3–4, 2001 Events in Sernovodsk and Assinovskaya” on the website of the “Memorial” Society (www.memo.ru).
Order #46 reiterates many of the provisions of Order #145 issued by the Acting Commander of the United Group of Forces in the North Caucasus, which had accounted for interaction with heads of local administrations, military superintendents, heads of local police departments, and district prosecutors, and which, nevertheless, were never complied with. “Mop-up operations” in the Kurchaloyevsky district in mid-June, and in Assinovskaya and Sernovodsk in early July clearly demonstrated that. In turn, “mopping-up” of the settlements of Starie Atagi, Chiri-Yurt, Alleroy and some others in July — August of 2001, demonstrated that Order #46 issued by the RF Prosecutor General was unable to quickly and significantly change the situation.

There are several simple answers to the natural question “why?” Firstly, it is possible that federal troops in the Chechen Republic have become unmanageable and neither the command nor the prosecution can influence the direct executors of “mop-up operations.” Secondly, it is possible that the nature of the documents such as those issued by the Acting Commander and RF Prosecutor General are mere formalities and in reality these officials could not care less about massive violations of human rights. Both these explanations are only partially true — like any simple answers.

In several weeks following the issuance of Order #46, prosecutors began to show up at “mop-up operations” and this immediately became clear that it is not enough to return the situation to the confines of the law. One prosecution official located on the premises of a group conducting a “mop-up operation” is able to prevent murders and “disappearances” of detainees at the “temporary filtration facility.” But he is not able to control actions of thousands of representatives of law enforcement structures who are examining dozens of houses in the settlement simultaneously. In addition, troopers and officials of law enforcement structures and special services overtly sabotage the efforts of prosecution officials. The latter, in essence, face the same difficulties as human right activists: for example, no registration documents are kept in detention facilities, which renders any control impossible.

On the other hand, the leadership of the United Group and General V. Moltenskoy, personally, faced the impossibility of controlling internal forces troops conducting the “mop-up operations.”525

It turned out that the command and the prosecution authorities are unable to prove the fact of a person’s disappearance during a “mop-up operation,” while it is still possible to save him. It is impossible to determine who concretely or which structures have apprehended the person — their faces are covered with masks, they do not introduce themselves and do not present warrants. It is impossible to determine in which vehicle the detained individual has been taken away in order to track his further movements, because license plates of the armored vehicles are missing or covered with mud. Finally, it is impossible to find out if the detained indi-

525 For example, the “mop-up operations” in Alleroy in August and in Argun, Chechen-Aul, and Starie Atagi in December 2001, all of them were accompanied by massive violations of human rights, were commanded by General Bogdanovskiy who was later removed from Chechnya.
vidual has been placed in a legal detention facility controlled by prosecu-
tion authorities or “disappeared” — no lists of detained individuals are
made available upon completion of “mop-up operations.”

Further attempts to regulate “mop-up operations” were undertaken in
2002, when a discussion of the armed conflict in Chechnya at the Civil
Forum in Moscow (November 20–21, 2001) resulted in the establish-
ment of regular working contacts between the management of law en-
forcement structures and human rights activists.526

Thus, all efforts of the military command and law enforcement agencies to
fill the legal vacuum in the Chechnya armed conflict zone undertaken in
2001 can be identified as follows: too little and too late.

To sum up, authorities of the Russian Federation in the zone of the
armed conflict in the Chechen Republic:

✓ in seeking to avoid international interference or control and still hop-
ing to present the events as “an internal affair of the state,” consist-
tently and deliberately moved the situation outside the confines of
humanitarian law, breaking their international obligations by doing
so;

✓ deliberately and consistently substituted the fight against terrorism
with the fight against separatism and liquidation of bandits with res-
toration of sovereignty, refuse to resort to political means of crisis
regulation and are breaking their international obligations by doing
so;

✓ limiting human rights but striving to avoid international interfer-
ence or control provided for by international human rights treaties,
consistently and deliberately violating these treaties, again hoping
to present the events as “an internal affair of the state”; 

✓ in seeking to avoid parliamentary or any other kind of internal con-
rol, consistently and deliberately moved the legal situation outside
the confines of domestic law;

✓ applied Federal Law “On Fighting Terrorism” and imposed the
“anti-terrorist operation” rule to make use of the Armed Forces,

526 During negotiations with the representatives of power, human rights activists managed to
achieve an agreement to conduct regular meetings: once a month — in Chechnya, and once
every three months — in Moscow. At the very first meeting in the settlement of Znamenskoye
on January 12, 2002, General V. Moltenkoy admitted to needing to implement the following
requirements: in the course of a “mop-up operation,” leaders of groups entering houses must
identify themselves, license plates on the vehicles must be clearly discernible, and lists of
detained individuals must be announced immediately upon completion of the “mop-up opera-
tion.” However, at the second meeting on February 28, command representatives denied the
very necessity of such actions. It was only due to the March 22 meeting hosted by the Ad-
ministration of the President that the three above requirements were legally mandated by the
issuance of United Group of Forces Commander’s Order #80 of March 27, 2001. As com-
pared with Order #145, noteworthy is the change of modality and the fact that two provisions
of Order #80 are dedicated to strengthening discipline and raising manageability of troops.
Perhaps, the political leadership of the country has finally admitted to the existence of a direct
link between violations of human rights committed by officials of law enforcement structures
and the loss of manageability of these structures.
thus circumventing parliamentary control, while striving to present events as "part of the global war against terrorism";

✓ applying this law to limit citizens’ rights, deliberately created an uncontrollable legal vacuum which resulted in massive violations of human rights, war crimes, and crimes against humanity;

✓ undertook efforts to fill the legal vacuum, which however can be characterized as follows: too little, too late.
3. VIOLATION OF HUMAN RIGHTS IN THE ARMED CONFLICT ZONE IN THE CHECHEN REPUBLIC

It cannot be overemphasized that the human rights situation in the armed conflict zone in the Chechen Republic remains absolutely disastrous. Although much has improved as compared to the year 2000, those changes have not been in the scale as much as in the structure of human rights violations. The situation in the Chechen Republic is still primarily characterized by violation of inalienable human rights, and first and foremost — the right to life. The next sections of this report are dedicated to these violations, and in essence — to military crimes and crimes against humanity that continue to take place in Chechnya:

- killings of the civil population under massive indiscriminate bombardments and artillery shelling;
- killings of civilian residents committed by military personnel and employees of the Ministry of Internal Affairs (MVD);
- political murders committed by the authorities;
- arbitrary apprehension of people, disappearances, kidnapping, torture and cruel treatment in detention facilities, the “filtration” system.

These sections are followed by those describing violations of the right to security in one’s living quarters and property and the limitation on the freedom of movement. Finally, this report discusses observations of civil and political rights regarding protection in the court of law and administrative instances. In addition, the report describes the situation of forced migrants as they represent an especially deprived population category.

This report will not cover many aspects of the situation in Chechnya that might constitute a separate report on their own. Thus, the issue of observation of the rights of those who participate in the conflict on the federal side and implement the “anti-terrorist operation” is not considered.

3.1. RESPECT FOR IMMUNITY OF PERSON

People continue to die in the armed conflict zone in the Chechen Republic. Mass media regularly report on the dead and wounded among the military and personnel of federal law enforcement structures, as well as on “terminated bandits.” Casualties among the civilian population are rarely reported. There are no official statistics or lists of the killed.
The “Chronicles of Violence”\textsuperscript{527} of the “Memorial” center reports 1,049 people killed within a 20-month period (July 2000 — March 2002). This list is certainly not comprehensive and the real figure of the killed among the civilian population is larger (much larger, most probably). Dozens to hundreds of civilians were killed every month during this period.

Meanwhile, during the first nine months of the “second Chechen war,” 6.5 thousand to 10.5 thousand civilian residents\textsuperscript{528} were killed according to Human Rights Watch. That means, that several hundred to over a thousand civilians were killed per month, primarily in the course of massive and indiscriminate bombardments and shelling.

It is obvious that the conflict is less intensive now. However, crimes against the civilian population of Chechnya continue to take place and they can hardly be considered less violent. Previously, people died of bombings and shelling, where pilots and gunmen did not see their victims. Today, deliberate murders and out-of-trial capital penalties are a more frequent cause of death.

3.1.1. Killing of the Civilian Population as a Result of Indiscriminate Bombings of Residential Areas

Active combat operations accompanied by massive use of artillery and aviation stopped in Chechnya in spring of 2000. Residential areas and living quarters were frequently shelled in 2001, although the scope and the consequences of the shelling cannot be compared with the first several months of the “second Chechen war.”

Episodes of bombings and aviation and artillery shelling of residential areas that occurred in September 2001 are listed below.\textsuperscript{529}

On the night of September 2, Yermolovskaya St. of Grozny was intensively shelled; four of the six apartments in the building #7 were burnt completely. The firefighters and a representative of the local police department who arrived on the following day registered the fact of the fire but did not specify its cause in the document that they showed to the residents of the building.

At 10 p. m., on September 6, the settlement of Akhkinchu-Borzoy of the Kurchaloy district was shelled by tanks: the roof of the local school was ruined; window glasses were shattered; a residential building was severely damaged.

On the night of September 6, the settlement of Serzhen-Yurt was shelled: several houses were damaged; a number of civilian residents were wounded.

\textsuperscript{527} Compiled by the “Memorial” Human Rights Center based on both their own intelligence and mass media reports. “Chronicles of Violence” exists since July 2000 and is available at www.memo.ru.

\textsuperscript{528} The estimate is an extrapolation based on the list of the 1,300 killed compiled by the Human Rights Watch.

\textsuperscript{529} The sample is taken from the “Chronicles of Violence.”
On the night of September 11, the settlement of Kurchaloy was shelled from the direction of the location of a military base: several houses were damaged.

On September 17, in the neighborhood of the Berdakel settlement, a moving column of Russian troopers gun-fired at two cars and a RAF minivan, which were moving from Khasavyurt to Grozny. There were no injured.

On the night of September 18, the settlement of Novye Atagi was shelled from the direction of the regiment #250, which is based in a field next to the settlement. Several civilian residents were wounded, including Alkhazur Asmayev, born in 1947, and Madina Idrisova. Several houses were ruined.

On September 21, the artillery of the federal troops shelled an outlying neighborhood of the Goiskoye settlement of the Urus-Martan district. There were no injured.

On September 23, at 11 p.m., Mir St. in Gudermes was shelled from the direction of a military base located within the city limits. Several buildings were damaged, including the Migrant Temporary Accommodation Center. A young man who was at the moment in the yard of his house was wounded in the back. Two cars were destroyed. Two cows killed. On the following day, local residents filed a grievance against Russian troopers with the superintendent’s office. Officials did not attempt to deny the fact that Russian troopers were to blame but advised to seek compensation from the administration.

At noon, on September 25, the Enikaly settlement of the Kurchaloy district was shelled by Russian tanks. Two local residents were wounded: Dasayeva and Gagayev. The latter’s house was ruined. The cause of the shelling is unknown.

On September 25, the Kurchaloy settlement was shelled by artillery. Houses and buildings were damaged. There were no injured among local residents.

On September 27, a neighborhood of the Zavodsky district in Grozny was shelled by artillery.

On September 28, the Mairtup settlement of the Kurchaloy district was intensively shelled. A house and a car were destroyed. Several houses were severely damaged. Some cattle died. All settlement residents spent the night in cellars. On the night of September 30, in the Avtury settlement a shell destroyed a corner of the house owned by Umar Amaliyev. Bits of this shell damaged the nearby house of Adam Amaliyev. The explosion shattered window glass in neighboring houses. There were no injured.

This brief list demonstrates that in many cases the shelling was “indiscriminate,” not massive. In many cases, buildings were ruined and several people were wounded.
In October, several civilians were killed during shelling but no casualties among the civil population were reported.

It should be also noted that those people who did experience shelling before hide themselves as the shelling begins, which also reduces the number of dead and wounded.

Thus, it is obvious that the bombings and shelling of residential areas have become less intensive and the number of killed and wounded has been radically reduced.

3.1.2. Deliberate Murders of Civilian Citizens Committed by Representatives of Law Enforcement Structures while on Duty

A significant number of residents of the Chechen Republic are killed by representatives of law enforcement structures during “mop-up operations” and “special focused operations.”

There are no known cases of massive murders of civilian residents committed during “mop-up operations” in 2001.330 However, people did die as a result of almost every such “special operation.”

For example, during the “mopping-up” of the Stariye Atagi settlement of the Grozny district that took place on January 14–16, 2001. One woman was killed and thirteen people wounded. The troopers wanted to apprehend a man and a number of women surrounded him, attempting to prevent the apprehension and acted aggressively.

Frequently, murders committed during “mop-up operations” take place at “temporary filtration facilities,” to which the apprehended are delivered. For example, Said-Khusein Abdulkhadzhiyev, about 20 years of age, resident of the Dachu-Borzoy settlement, who temporarily stayed in the Chechen-Aul settlement, and Ali Dalayev, resident of Chechen-Aul, were apprehended in A. Dalayev’s house on December 27, 2001 by troopers who conducted the “mop-up operation” of Chechen-Aul. They were taken to a filtration facility at a chicken-farm near the Stariye Atagi settlement and murdered. Their bodies were returned to their families on December 29, 2001.331

Often representatives of federal law enforcement structures who conduct “special focused operations” (which, as a rule, result in the disap-

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331 “List of Civilian Individuals Apprehended in the Armed Conflict Zone in the Chechen Republic by Representatives of Federal Law Enforcement Structures Who Later “Disappeared” or Were Murdered,” prepared by the “Memorial” Society (www.memo.ru).
Here are but such two episodes that occurred in the Urus-Martan district.

At dawn of June 22, 2001, representatives of unidentified federal law enforcement structures apprehended the Elbiyev brothers, Mukhamad-Ali, Magomed-Salekh and Khas-Magomed, in their house (#55, Kavkazskaya St., Gekhi settlement, Urus-Martan district). The troopers did not specify what the detainees were suspected of and where they would be taken to, having only said, “We will check you out and let you go.” On the following day, their mother went to the settlement police department where nothing was known. Then, she proceeded to the Urus-Martan district administration and later — to the superintendent’s office, where her relatives found her. On the night of June 23, another local resident, Ruslan Shakhmatirov, was murdered in the Gekhi settlement. On the following morning, when people went to the cemetery to dig out a grave for him, they found the bodies of the Elbiyev brothers with signs of violent death. Their relatives appealed to the prosecution authority of the Urus-Martan district. As of March 2002, no information indicating that an investigation had been initiated was available.

Rustam Eskarkhanov and his cousin, Raslambek Eskerkhanov, residents of the Gekhi settlement of the Urus-Martan district, were apprehended by representatives of federal law enforcement structures in the Gekhi settlement and taken in an unknown direction. Their relatives appealed to the local police department and the district department of the Federal Security Service but both denied their association with the apprehension. On the same day, the bodies of R. Eskarkhanov and R. Eskerkhanov were found in the outskirts of the settlement, next to the cemetery. On January 29, 2002, the “Memorial” Human Rights Center forwarded a petition to the Chechen Republic Prosecutor, V. Chernov (petition registration #10-02). As of March 2002, no information indicating that an investigation had been initiated was available.

3.1.3. Political and Other Murders Committed by Authority Agents

In this respect, the situation in the armed conflict zone in the Chechen Republic is unique. Throughout the major part of the Russian Federation political and other murders committed by authority agents are

532 This is a typical element of the tactics used by “death squadrons.” In fact, the same tactics were used by the French secret police in Algeria. See: P. Ossares, Algeria, Special Services, 1955–1957 (Paris, 2001). In 2002, the actions described by P. Ossares who led the French “death squadrons” in the 1950s were recognized in the court of law as crimes against humanity.

533 ”List of Civilian Individuals Apprehended in the Armed Conflict Zone in the Chechen Republic by Representatives of Federal Law Enforcement Structures Who Later “Disappeared” or Were Murdered,” prepared by the “Memorial” Society (www.memo.ru).
rare. Nevertheless, the Chechen Republic is an exception, which can however turn into a rule.

Here, within the framework of Federal Law “On Fighting Terrorism,” Russian federal “power” represented by the United Group of Forces in the North Caucasus exercises authority which is practically not regulated by anything. In this legal vacuum, which in essence was created deliberately, nothing stops representatives of federal law enforcement structures from eliminating representatives of the opposing side — the Chechen Republic of Ichkeria. The latter (like any other guerilla movement, as a matter of fact) do not restrain themselves either and kill “accomplices” of the federal power. Those who order murders are as conspicuous in Chechnya as the motives on the basis of which they do it.

Among the people murdered for political reasons are such prominent actors as the Chairman of the Parliament of the Chechen Republic, a minister, and two heads of local administrations. Bellow, are more details on each of these three cases.

Apparently one of the best known liquidated politicians of separatist Chechnya is Chairman of the Parliament of the Chechen Republic Ruslan Alikhadzhiev, who disappeared after his detention by federal authorities in May of 2000.

Ruslan Alikhadzhiev, born in 1961, was apprehended on May 17, 2000, in his own house in Shali twenty minutes after he had come to the house to see his sick mother. Helicopters were circling over the house, and the apprehension was performed by some special unidentified unit that had been standing by in the yard of the commandant’s office since the early morning of that day. All neighboring houses were blocked, those where he might have entered were searched. Besides R. Alikhadzhiev, five more people (his relatives and neighbors) were arrested. With their eyes blindfolded, they were taken to an unknown destination. For about 34 hours they were kept in a hiding place described as railroad cars, which in 1995–1996 were used in Khankala (the main military base of the federal forces in Chechnya) for holding detainees. On May 18, all but R. Alikhadzhiev were released. On May 25, the First Deputy Chief of the General Staff, General-Colonel V. Manilov, reported at the news conference that R. Alikhadzhiev had been detained. A FSB representative reiterated this statement. But later, the relatives failed to find out anything concerning his whereabouts. On September 22, 2000, at the hearings in the State Duma, Deputy Prosecutor General, Biryukov, stated that R. Alikhadzhiev had been kidnapped by armed bandits and, according to operational information, killed. Apparently, law enforcement representatives would not have dared to make such a statement if he had been alive and if there had been a chance of his release. (Criminal case #22025 re-

534 On one hand, the power feels that it is strong enough not to resort to “strong” measures, on the other hand it does not see the enemy that would require utilization of “strong” measures.

535 For more information, see “List of Civilian Individuals Apprehended in the Armed Conflict Zone in the Chechen Republic by Representatives of Federal Law Enforcement Structures Who Later “Disappeared” or Were Murdered,” prepared by the “Memorial” Society (www.memo.ru).
lated to R. Alikhadzhiev’s kidnapping was initiated by the prosecutor’s office of the Shali district of the Chechen Republic under Article 126 of the Criminal Code of the Russian Federation (“kidnapping”) on July 7, 2000, and suspended after April 10, 2001. (R. Alikhadzhiev’s relatives brought a complaint to the European Court of Human Rights)).

Also, Adam Chimaev, born in 1963, resident of the city of Shali, 71 Melnichnaya St., was previously the Minister of Forestry in the Maskhadov’s government, and worked in the Ministry of Internal Affairs of the republic. On May 5, 2000, was officially granted amnesty, which was certified by the Shali district division of FSB. In late 2000, he was detained and “disappeared,” and his body was found in February of 2001.

A. Chimaev was detained by federal servicemen in an ambush (a temporary checkpoint) between Shali and Germenchuk on December 3, 2000. After a short talk, he was pushed into an armored vehicle and taken in the direction of the city of Grozny. That same day, the evening news informed that “Maskhadov’s comrade” Adam Chimaev was detained.

His body was found and identified by the relatives in the basement of a summer cottage settlement, Zdorovye, not far from Khankala (the main federal forces base in Chechnya), and taken away after the relatives had paid a ransom of three thousand dollars on February 15, 2001. Chimaev was killed by three shots through the heart. His body was mangled by torture. A. Chimaev was buried in a cemetery in Shali on February 17, 2000. Criminal case #21037 under Article 105 of the RF Criminal Code (“murder”) “in connection with the discovery of a mass grave in settlement of Zdorovye” (formulation of the prosecutor) was initiated on March 24, 2001, and is being investigated by the Chechen Republic Prosecutor’s Office.

The third of the prominent murder victims mentioned above is Magomed Vakhidov (born in 1945, resident of the town of Urus-Martan, 92 Sportivnaya St.) who was Mayor of Urus-Martan in 1999. In the fall of the same year, after the commencement of combat activities, he left for the Ingush Republic. In the early summer of 2000, he sent in an application asking for amnesty, which he was granted, and returned to Urus-Martan thinking that his safety was guaranteed. Later, however, he was arrested on two occasions but subsequently released both times.

He was again detained on July 20, 2001, at about 3 a.m., by the personnel of some unidentified federal forces unit. Having thrown a smoke grenade into his house, they entered forcibly, made everybody get out of their beds and stated that they came to detain Magomed Vakhidov, without giving any explanations for the arrest.

On the same day, M. Vakhidov’s relatives inquired with local authorities to find out why he had been arrested, but the authorities refused even to recognize the fact of the arrest.

On July 31, east of Urus-Martan in the orchards of the Michurin state farm, a body of a man was discovered with evidence of forced death. The face was badly burnt, most probably with a soldering blast lamp.
The body had traces of torture by electric current, stab and slash wounds and three shots were fired through the back. His wife could identify her husband only by his teeth.

Another victim, Sultan Tasukhanov (born in 1941, resident of village Tsotsin-Yurt, administration head of Tsotsin-Urt, attended a meeting in Kurchaloi on April 18, 2001. On his way home, masked servicemen of a federal unit in military uniforms stopped his car. Two of the masked men got into his car and S. Tasukhanov and his driver, Ilias Vakhitov, were blindfolded and taken away. The next day, I. Vakhitov was thrown out of the car near the village Geldagan. He stated that the kidnappers, who spoke perfect Russian without any accent when addressing each other, did not ask him any questions.

Later, Sultan Tasukhanov’s relatives inquired with various official institutions but, as of December 1, 2001, have not received any information about him. There is every reason to believe that, like most of the “disappeared,” he was killed.

Murders of representatives of the Provisional Administration of the Chechen Republic and other persons — either those suspected of being collaborators or those who did actually cooperated with the administration, with federal forces, and with Russian special services — are justified by unrecognized authorities of the Chechen Republic of Ichkeria as killings of “national traitors.” There is also good reason to believe that Ichkeria authorities initiate such killings. Understandably, it is hard to find out if the death penalty, at least formally, was passed on any of the murdered people. However, even if such judgments were made (this may be concluded from some official documents of the Chechen Republic of Ichkeria) the victims could not exercise their right to judicial defense, which is a gross violation of Article 6.2.”a” of the Second Additional Protocol to the Geneva Conventions and Article 14 of the International Covenant on Civil and Political Rights. Administration directors and other civilians cannot be equated to combatants and their murder is in reality an extrajudicial execution.

536 In Chechnya, whose total current population is about 600 000 people in a main area of only 100 sq. km, an administration head of a big village like Tsotsin-Yurt is without a doubt, a “political figure.”

537 As far back as May 28, 2000, the Main Staff of the Ministry of Defense of the Chechen Republic of Ichkeria (CRI) issued Order #32, which stated: “The Main Staff of the Armed Forces of CRI in conjunction with the Special Department of the Armed Forces of CRI using the right granted by the CRI Law “On the Martial Law” established judicial and investigation groups at the frontlines, and consequently in regions across the frontlines. Information is being collected and an investigation is being carried out on the activities of national-traitors in populated areas.” On the same day, the Main Staff of the Armed Forces of CRI and the Special Department of the Armed Forces of CRI adopted the “Appeal to National-Traitors” which stated: “The Main Staff of the Armed Forces of CRI and the Special Department of the Armed Forces of CRI adopted the “Appeal to National-Traitors” which stated: “The Main Staff of the Armed Forces of CRI and the Special Department of the Armed Forces of CRI deem it their duty to warn you for the last time that your activities are an open blow against the movement of the Chechen people against Russian occupational forces. You embarked on the path of meanness and betrayal. If you do not stop such activities you will be convicted by the judicial and investigation group, established with the Special Department of the Armed Forces of CRI. The judgements will be announced publicly. The right to execute the sentence will be granted to any willing soldier of the Armed Forces of CRI. Otherwise, it will be executed by a special group set up with the Special Department.” (See: Ichkeria (official weekly of the government of CRI) (2000, #22.) A similar letter was sent to rural administration heads by the Supreme Field Shariat Court on November 1, 2000.
Below is an incomplete list of murders and assassination attempts on personnel of the local Chechen administrations during the second half of 2001 alone.538

On the night of July 6, the head of the local administration of village Alkha-Kala, Ramzan Gatzaev, was killed. A group of armed people called him out in the courtyard of his house and shot him.

On July 15, around 10 p.m., Avadi Bashaev was killed by gunfire from a passing Zhiguli car without license plates. He was a resident of the village Starye Atagi, 46 years of age, deputy head of the local administration, and veteran of the first Russian-Chechen war.

On August 7, in Shali, the deputy head of the district administration, Ruslan Doguev, was badly wounded. Unknown gunmen fired at his car.

On August 11, at about 10:30 p.m., Isa Batukaev, administration head of village Pobedinskoye, was killed while he was entering the village in his car.

On August 12, at about 11 p.m., in Shali, on Grosnenskaya St., P. Apkaev was killed by a Zhiguli car. He was deputy head of the central district administration of Shali.

Beginning August 14–16, part of the Vedeno district came under the control of the Chechen military formations of Shamil Basaev and Khattab. During this period, the deputy prefect of the Vedeno district and several other Chechen staff members of the local administration were killed.

On the evening of August 31, in the village of Germenchuk, unidentified gunmen killed the deputy head of the district administration, Yu. Jabrailov, and chief of the second section of the district military commissariat, Major Khasanov, who was from Karachaevo-Cherkessiya.

On September 2, in Makhety village, unidentified people burnt down the house of administration head Tamusi Dadayev. The criminals set the house on fire when T. Dadayev and five family members were inside. No one was hurt.

On September 10, the head of the administration of the Kurchaloi district, Makhal Taramov, and his deputy, Shaip Lomaliyev, were fired at from a passing car, driving from Kurchaloi to Gudermes.

On September 16, in the city of Argun, a kamikaze terrorist in a truck full of explosives rammed into the house of city administration head Movsar Timerbayev; the house and several neighboring structures were destroyed or damaged. The Timerbayev family was not hurt. A guard of the administration head was killed.

On September 17, during the first half of the day, an attempt was made on the life of Shamil Buraev, head of administration of Achkho-Martan

538 “Chronicles of Violence” by the ‘Memorial” Human Rights Center (www. memo.ru).
district, in the Octyabrsky district of the city of Grozny. A bomb exploded as his car passed by. Three of his guards were wounded, but not critically. Sh. Buraev himself escaped unharmed.

On October 1, in the village of Sergen-Yurt, an attempt was made on the life of Shakhid Chamaev, local administration head. Sh. Chamaev was not hurt. His guards managed to repel the attack and take him to a safe place. It should be noted that two days earlier, a local administration building had been burnt to the ground. Sh. Chamaev has been working as administration head since the beginning of the counter-terrorist operation. He was threatened more than once, leaflets were sent to him with a demand to publicly resign and stop cooperating with federal authorities.

During the night of October 7–8, in the village of Starye Atagi, Ruslan Djumaaev, deputy administration head of the village, was killed in his house.

On the night of October 18, unidentified gunmen killed an OMON (special police unit) serviceman, who was a guard of the city administration head, and his wife. Their three children were left orphans.

On November 16, in the city of Grozny, Ramsan Alikhadgiev, staff member of the city administration, personal driver of deputy mayor of the city, Ibragim Ilyasov, was killed. He was shot dead on Giasov St., in the Lenin district of the city.

On November 17, about 8:15 a.m. in Shali, at 61 Pervomayskaya St., an explosion was triggered near two passing cars, a Volga and a UAZ, with the local administration head Dakaev sitting in one of them. No one was injured.

On November 18, at about 8 a.m. a bomb went off on the outskirts of the village Kulary, 400 meters from the Postov–Baku highway, when the Zhiguli car with local administration head Ibragimov was passing by. No one was injured.

On November 19, military formations of the Chechen Republic of Ichkeria tried to carry out an act of terrorism against the administration head of village Goity: a radio-controlled mine was planted near the building of the local administration; the explosion stunned the driver of the administration head (the official was not in the car at that time).

On November 23, a group of armed people smashed everything in the house of the administration head of the Vedeno district, Kasbek Selimov.

On the night of November 26, an adviser to the administration head of the republic, Said-Akhmad Khaladov was cruelly beaten in his house in the Belorechy village.

On November 26, unidentified gunmen forcibly entered the house of the police patrol company commander of Gudermes district police de-
On the morning of November 29, an attempt on the life of the head of the Leninsky district administration, Khizir Chagaev, was made. Three policemen from the escort were wounded, but K. Chagaev himself was not injured.

On the morning of December 24, in the Sergen-Yurt village, some unidentified persons threw two hand grenades into the building of the local administration. No one was injured.

Also, we cannot but mention another case, that of a prominent Russian human rights activist Victor Popkov, whose murder may be called “political” and “committed by agents of power.” He was riding in a car together with a Chechen medical doctor from Alkhan-Kala on April 18, 2001. Their car was stopped by a white Zhiguli-6 vehicle, which blocked their way. A masked gunman got out and shot them point blank. Badly wounded, Viktor Popkov died in a military hospital in Moscow on June 2, 2001. Alkha-Kala was a base of a gang of kidnappers and the “Vahhabbit” field commander Arbi Baraev (an infamous kidnapper, killed in June of 2001). Baraev’s bandits killed many villagers. After the attack on V. Popkov’s car, the white Zhiguli-6 passed through a checkpoint located only a hundred meters from the crime site without any problems despite the fact that the federal servicemen could not have failed to hear the shots. But the car carrying the bleeding wounded was kept at the same checkpoint for more than an hour. In addition, during the past few years, there have been a lot of rumors about Shamil Basaev having connections with Russian special services. In any case, V. Popkov was killed for his public activities by “agents of power,” and it makes no difference of which “power.”

3.1.4. Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment

*Torture and the Struggle against Torture within the Legal Environment of Russia*

The notion of “torture” does not exist within RF legislation. Neither the term itself, nor topics associated with it are defined clearly. Therefore,
no struggle against the use of torture is underway (in fact, it is impossible), nor are the guilty punished.

The RF Criminal Code does not include an article providing criminal punishment for the use of torture.\textsuperscript{542} The term “torture” is found in two articles of the current Criminal Code (Clause “d,” Part 2, Article 117 — torment; Part 2, Article 302 — forced extortions of testimony), but not in the capacity of the primary element of the crime. It is only an element, among a number of others, that accompanies the primary crime and may only lead to an enhanced sentence after conviction.\textsuperscript{543} Therefore, law enforcement authorities do not regard torture as a separate crime. In particular, this is supported by the fact that such crimes are not accounted for separately. Courts tend not to consider complaints of individuals claiming that torture has been used on them to extort testimony. Therefore, neither the circumstance in which torture had been used, nor the legitimateness of testimony obtained through torture is ever investigated. Methodological materials\textsuperscript{544} define torture simply as a physical exertion causing the recipient unbearable pain. But the UN Convention treats this term in a considerably broader fashion, including in particular, the affliction of psychological suffering. There is not a single decision of law enforcement authorities and judicial bodies, or a normative or administrative act dedicated to opposing this phenomenon.\textsuperscript{545}

As a result, law enforcement authorities are not aware of the fact that the use of torture is absolutely impermissible. The use of violence during apprehension, transportation, and detention, as well as during the interrogation and investigation is not the exception, but the rule for personnel of law enforcement structures, penitentiary structures, and investigation authorities.

On the other hand, Russian legislation renders the notion of “torture” in a vague fashion, thus preventing liability for employees of law enforcement structures. Although official Russian agencies claim that the RF Criminal Code broadens the meaning of the notion of “torture” as applied to all subjects of the law, thus ensuring “a more comprehensive protection of human rights.”\textsuperscript{546} Here, the law deviates from the conventional definition of torture and broadens this notion, which demonstrates a lack of understanding of the sense and goals of the Convention.

\textsuperscript{542} Although, having reviewed the second periodical report of the Russian Federation, the UN Committee against Torture (CAT) did recommend that the RF pass legislation to include the crime of torture in the domestic criminal law, but no relevant article was included in the RF Criminal Code adopted on June 13, 1996. Numerous changes were incorporated into the Criminal Code over the next several years, but none of them established criminal liability for the use of torture.

\textsuperscript{543} Therefore during an investigation, facts of torture may only be treated as a factor affecting the overall qualification of the crime. It may only happen if the suspect is accused of a totally different crime.

\textsuperscript{544} Used by programs of study at institutions of the Ministry of Internal Affairs.

\textsuperscript{545} The Prosecutor General’s Office has not issued a single act pertaining to investigations of the use of torture. The term “torture” is found contextually only in two normative-administrative documents. The Supreme Court has not taken a case clarifying the liability for the use of torture.

\textsuperscript{546} Relevant articles provide for a criminal liability not only for an official, but also for the use of torture within everyday environment. Articles on crimes (against life, health, personal freedom, etc.) are provided as examples.
against Torture that is targeted at the prevention of torture by officials or other individuals of an official capacity.\footnote{Definition of torture in Article 1 of the UN Convention; Article 16 is about the use of torture by officials; Article 10 is about educating officials and individuals acting in an official capacity on inadmissibility of the use of torture; Article 15 is about the use of torture for extortion of evidence, etc.}

**Russian Legislation and Practices in the Armed Conflict Zone**

Federal Law “On Fighting Terrorism” justified large-scale activities of federal structures during the “anti-terrorist operation” in the North Caucasus in 1999–2002. The law gave broad, almost unlimited authority (the implementation of which was essentially unregulated, as effective controls were non-existent or at least weakened), revealing both potential premises and consequences of the notion of “torture” as seen in Russian legislation.

The decriminalization of the notion of “torture” consciously or subconsciously created conditions for its broadened and arbitrary interpretation. In addition, the focus of the law loses its direct object — those who can apply torture, i.e., authorities.

Across the entire territory of Russia, these two circumstances are present (disadvantages of the legislative base and the psychology of law enforcement officials), and overlap in the armed conflict zone with a third — local, but no less serious problem — the artificially created legal vacuum. Within this vacuum, law enforcement structures were granted authorizations that were essentially neither limited from the outside, nor regulated on the inside. Finally, the situation has been taken out of the confines of humanitarian law, whose norms also prohibit the use of torture, cruel treatment, no-trial executions, etc. Combined with the ferocious “Anti-Caucasian” campaign, all of the above, created conditions for blatant and massive violations of human rights. Not only were torture and cruel treatment widespread, but also a number of marginal phenomena, such as arbitrary and illegal apprehensions, keeping detainees in illegal detention facilities, “disappearances,” and murder of the detained was practiced.

The first reports on the use of torture in the armed conflict zone were received in late 1999 — early 2000 when federal troops took control of the major part of the republic’s territory. The denial of the presumption of innocence was all the more conspicuous since from the very outset of the conflict the troops felt they were on adversarial territory and therefore acted accordingly — all the local population was suspected of “being an accomplice to bandit formations,” and every detainee was guilty a priori. Norms provided for by the 1977 Second Optional Protocol to the Geneva Conventions were deliberately not applied, since the federal side, denying the very fact of an armed conflict in the North Caucasus, was systematically taking the situation out of the confines of international humanitarian law.

Cruel treatment of detainees and harsh conditions of detention are taken for granted by law enforcement officials. As a rule, detention was con-
ducted using the worst possible conditions, accompanied by violence and threats to use weapons with respect to not only the detainee but also to everyone else on the premises. In case of apprehension by troopers, primarily by intelligence or special designation subdivisions, detainees were not even guaranteed the right to life: as a rule they were murdered following a “forced interrogation,” i.e., after cruel torture, keeping the detainee alive simply was not a priority. Conditions of detainees during transportation were even harsher, as they were deliberately created to exclude the very thought of escape (people were tied up and placed on top of each other in multiple layers, etc.).

From the very beginning of the conflict, torture and beatings were used essentially everywhere. This was inevitable since at the beginning of the “anti-terrorist operation” the necessary set of dossiers or “filtration files” on the alleged terrorists did not exist, and the testimony given by the detainee was the only material in his file.

Active anti-Chechen propaganda and almost complete uncontrollability of federal law enforcement structures exacerbated the situation.

Torture Impunity

Reports on the use of torture by federal law enforcement officials with respect to detainees in the armed conflict zone in Chechnya appeared as early as January 2000. Nevertheless, during all this time (i.e., more than two years) not a single trooper or law enforcement official was held liable and punished for the use of torture. At least the list of criminal cases initiated by October 2001 does not contain any cases initiated on the basis of Article 117 and Article 302.2 of the RF Criminal Code. In addition, Orders #145 (for 2001) and Order #80 (for 2002) issued by the Commander of the United Group of Forces in the North Caucasus, as well as Order #46 (for 2001) issued by Prosecutor General, targeted at prevention of massive violations of human rights, did not mention “torture” (or according to the RF Criminal Code, “torments” and “extortion of testimony”) among other crimes.

It is impossible to completely rule out that some of the federal troopers did receive penalties for the use of torture and cruel treatment of detainees. But the fact that the thesaurus of senior officers does not contain the notion of “torture” would make it impossible (even if desired) to formulate a requirement for stopping it and make this requirement known to soldiers and junior officers.148

The fact that troop commanders withhold information about the crimes committed can be explained by the fact that they are not personally interested in disclosure, as well as by the principle of “reciprocal protection,” which is de facto imbedded in the legislation. The commanders

148 This is the only factor, except of course for ill will, that explains the return to Chechnya of some troops and subdivisions that were taken out of Chechnya at some point after they had compromised themselves by illegal apprehensions and “disappearances” of detainees, whose bodies were later found bearing signs of torture. For example, the Khanty-Mansi special task police force (OMON) was taken out of Chechnya in spring of 2001 and then returned there in spring of 2002.
conduct investigations of all crimes committed by their subordinates, the commanders are responsible for undertaking necessary investigative, operative, and other legal measures to identify a crime and the individuals responsible.

Authorizations granted by law to commanders allow them to effectively cover up crimes committed within military units.

Most likely, the notion of “torture” is also absent in charters and instructions existing in the Ministry of Internal Affairs, the army, and other law enforcement structures, which certainly does not allow these documents to oppose the use of torture and prevent this phenomenon. On the other hand, the “diffuse,” crawling penetration of “illegal methods of investigation” into the everyday practice of law enforcement structures occurs under the disguise of “tactical devices” absorbed “in the working order” during the course of direct interaction with colleagues. We do not know if the Ministry of Internal Affairs, the Ministry of Justice, etc. have any normative documents addressing this issue. Most likely, what they do have is nothing more than methodological materials used during the educational processes within departmental institutions of learning. However, such a tradition, having no official normative base beneath it, encounters no resistance.

On the other hand, charters and instructions used within the military and internal troops recommend using the so-called “forced interrogation” — torture against the enemy who has been taken prisoner during combat operations on territory controlled by the enemy. These “methods” are used first of all by intelligence and special designation troops. This “experience” is also used by special subdivisions of the Ministry of Internal Affairs, etc. Neither the (lacking) normative base, nor the legal awareness of law enforcement officials, who do not have even the very notion of “torture,” can prevent this from happening.

Torture and “Disappearances” in the Armed Conflict Zone in Chechnya in 2001

Practically all residents of Chechnya who have gone through “filtration” or detention in prisons, both official and illegal, claim to have been victims of torture and cruel treatment. However, judging by their testimonies, the prison and treatment conditions within legal detention facilities have significantly improved as compared to the initial period of the armed conflict (2000). Undoubtedly, the conditions and treatment there are better than in illegal prisons, where detainees are not registered and consequently individuals who conduct interrogations (investigations) have no formal responsibility for the inmates.

549 Article 117 of the RSFSR Criminal Procedure Code.
550 Article 118 of the RSFSR Criminal Procedure Code.
551 Certain, such documents were never declassified or published officially as that would mean a confession to the preparation and commitment of crimes against humanity. However, a number of books written by former and current special designation and intelligence officers provide enough details about the use of “forced interrogation,” apparently based on study and combat experiences. See, for example, “Preparation of Intelligence Officer. The State Intelligence Service (GRU) Special Designation System” (available at www.memo.ru).
During “mopping-up” of a residential zone, most of the males are ousted from the area and placed in a “temporary filtration facility” (most frequently located next to the headquarters of the unit in charge of the “mop-up operation”). Sometimes, it is a field (Sernovodsk settlement or Assinovskaya village in July 2001), sometimes — agricultural structures (former chicken farm in the Starye Atagi settlement), or the ruins of a cement plant (Chiri-Yurt settlement).

A mixed brigade, consisting of employees of various law enforcement authorities and special services, which is an integral part of the “cleaning” unit, usually conducts interrogations. Alongside cruel and sophisticated “Mop-Up Operations” and “Filtration”:

- A “mopping-up” of the Sernovodsk settlement of the heads so that they could not be identified were severely beaten.
- Visingiri Madayev, and Magomed Altamirov. In addition, Visingiri Madayev was exposed to an attack of dogs provoked by interrogators.

On July 2, 2001, a “mopping-up” of the Sernovodsk settlement of the Sunzhensky district was conducted. Men aged 14–60 were arrested in all households. Some of the detained managed to buy their way out, the tariff being 100–200 roubles. Several hundred people (according to some data, about 700 individuals) were unable to pay, including two women, Marem Mazayeva, aged 40, and Gazmagomadova, who were also among the detained. Two sons (aged 14 and 18) of the head of the settlement administration, V. Arsamikov, were arrested. A 90-year-old man, Abdul-Kadyr Gubayev, was arrested as well. 81 people were delivered to a temporary detention facility.

All the detainees were brought to the middle of the field between the settlements of Sernovodsk and Samashki. There, everyone, including the 90-year-old A-K. Gubayev, was ordered to lie down on their stomachs and pull their upper clothes on their heads so that they could not see anything. Troopers used their guns to hit detainees on the head for the slightest movement. Interrogation was conducted inside a tent positioned nearby on the field.

Everyone was asked the same questions: whether or not he was a combatant or a vahhabbit, if he knew any combatants, and what he knew of Shamil Basayev and Khattab. The interrogated were severely beaten. Those who had scars on their bodies — even if those scars dated back to their childhood — suffered most. Some were tortured by electric shock: metal rings connected with wires to an electrical generator were put onto their fingers. The following individuals underwent this torture: Salambek Amagov, Alikhan Basayev, Islam Eldiyev, Ruslan Yasakov, Visingiri Madayev, and Magomed Altamirov. In addition, Visingiri Madayev was exposed to an attack of dogs provoked by interrogators.

552 For more details see: “Mop-up Operations in Sernovodsk and Assinovskaya — Punitive Action.” Field reports by staff-members of the “Memorial” Human Rights Center (www.memo.ru).
and was severely bitten. Son of the chief of the settlement police station, Vakha Susúrkayev, was severely beaten.

On July 2, at about 10:00 p.m., release of the apprehended began. By 02:00 a.m. the majority of them had been released. Salambek Amagov, aged 35, was left unconscious near his house. When fellow-settlers came to help him he was bleeding from his throat. They took him to the hospital in Achkhoy-Martan. Over a hundred individuals were taken to a temporary department of internal affairs in Achkhoy-Martan.

On July 3, “mopping-up” of the Assinovskaya village began. It lasted through July 4 and 5. Approximately 300 people were arrested and taken to a field outside the village. The interrogation took place there and was accompanied by beatings. Head of the village administration, Nazarbek Terkhoyev, was among the detainees. On the evening of July 3, the majority of those detained in Assinovskaya and those who had been detained in Sernovodsk and taken to Achkhoy-Martan were taken to a forest area near the Chemulga settlement and released.

Thus, as is usual in a “mop-up operation,” massive indiscriminate apprehensions took place. The apprehended were tortured, two of them disappeared.

Since the fall of 2001, representatives of prosecution authorities are often present at “mop-up operations” in compliance with Order #124 of the Commander of the United Group of Forces and Order #46 of the Prosecutors General. Their presence, however, cannot change the overall punitive nature of “mop-up operations.” Nevertheless, in several cases monitoring by prosecution officials resulted in the release of individuals who had been illegally kept in military units (Avtury settlement, December 2001) and the prevention of murders and “disappearances” in “temporary filtration facilities.” Usually, monitoring by prosecution officials helped improve the situation, although prior to their monitoring detainees had been both “disappeared” and murdered. Still, no control over permanent detention facilities under superintendent’s offices and those at military units (not accounted for by law) is exercised or possible either by the military or territorial prosecution authorities. No systematic registration of detainees is carried out there, and consequently, it is impossible to find out who of the “disappeared” had been kept there.

Meanwhile, it is those apprehended by the military (army, internal troops, special designation units, army intelligence, special services — usually it is impossible to determine which in particular, although according to some data, representatives of the military intelligence also participate in apprehension of people) who most frequently fall victims to the most cruel torture and executions without trial. Many of those who had been apprehended in the Urus-Martan district and later disappeared had been kept for a while on the third floor of the district superintendent’s office where the district FSB department is located.

553 By now, only one exception to this rule is known: the atrocious murder of people apprehended in the Shatoysky district in early January 2002 was committed by special designation fighters of the Chief Intelligence Department (GRU).
Signs of torture were also found on previously apprehended civilians whose bodies were found in the Urus-Martan district. For example, the face of Magomed Vakhidov, whose body was found on July 31 to the east of Urus-Martan, in the gardens of the Michurin state farm, was severely burnt, most likely by a blowlamp. His body wore multiple signs of torture by electric shock, as well as numerous stabs and cuts.

Signs of torture were also found on the bodies of people previously apprehended by representatives of federal law enforcement structures, which were found in the Zdorovye village next to Khankala, the primary base of the federal troops in Chechnya. For example, on February 25, 2001, the body of Isa Larsanov was identified there. He had earlier resided in the Alkhan-Kala settlement and was arrested in his house by the military on January 17, 2001, at about noon. On January 19, the same military people conducted a search in his house. His body had multiple electric burns — on the back and on the palms of his hands. His face was dark-brown, eyes were missing. There were large dark spots around his eye-holes, one of his lips was bitten through. His hair had turned gray and was standing on end. Over fifty bodies were found in the Zdorovye village. "Disappearance," torture, and murders cannot be regarded as "discrete faults" or "excesses" of the executor.

Behind the facade of the official detention facility, interrogation and investigation system there is another, unofficial detention system that operates on the premises of military units, etc. The center of this system is located in Khankala, the chief base of the federal forces. Cruel torture leading to quick death and executions without trial are used within this alternative "investigation" system. The practice of the military intelligence and special designation units is transplanted into the parallel "investigation" system. Apparently, inside this unofficial system the investigation is fragmented and violence is "privatized." In essence, investigation as a state institution is being destroyed.

3.1.5. The Right to Fair and Public Trial

The court system was partially restored in the Chechen Republic in January 2001, although throughout the year it did not exist on the entire territory of Chechnya. Currently, the Supreme Court and 10 district and city courts operate in the Chechen Republic. They are located in the following residential areas:

- Gudermes: Supreme Court, Gudermes city court;
- Grozny: Lenin district court;

554 Criminal case #19013 based on Article 127 of the RF Criminal Code (illegal imprisonment) was initiated on February 19, 2001 and is being investigated by prosecution authorities of the Chechen Republic. Criminal case #21037 based on Article 105.2 of the RF Criminal Code (murder) "on the fact of the finding of a mass grave in the cottage area" (as formulated by prosecution authorities) was initiated on March 24, 2001 and is being investigated by prosecution authorities of the Chechen Republic.

555 Based on the brief by the "Memorial" Human Rights Center "On the activities of courts in the Chechen Republic" (www.memo.ru).
✓ Naurskaya village: Naursky district court, Zavodskoy district court of Grozny;
✓ Beno-Yurt settlement of the Nadterechny district: Nadterechny district court;
✓ Staropromyslovsky district: Staropromyslovsky district court of Grozny;
✓ Shali: Shali district court, Grozny district court;
✓ Oktyabrsky district: Oktyabrsky district court of Grozny;
✓ Urus-Martan: Urus-Martan district court.

However, these courts do not fully operate — only one judge reviews cases. There are no lay jurors, since their candidacies are to be approved by the legislative body of the RF subject, and there is no such body (parliament) in the Chechen Republic. Therefore, in compliance with the RF legislation, operation of courts on the territory of the Chechen Republic is significantly limited.

As far as civil lawsuits are concerned, the courts are only allowed to review suits whose claims do not exceed 9,000 roubles. Factually this means that the majority of suits claiming compensation for material damage caused by combat operations as a result of the “anti-terrorist operation” are not accepted by the courts of the Chechen Republic. As far as criminal lawsuits are concerned, the courts are only allowed to review cases on which the maximal punishment may not exceed five years of imprisonment. Other categories of lawsuits are transferred upon completion of investigation to the RF Supreme Court, which forwards them for adjudication to courts of the neighboring RF subjects.

Most frequently, lawsuits that are likely to result in a punishment exceeding five years in prison are adjudicated in Stavropol, Rostov, Pyatigorsk, Volgograd, Makhachkala, and other cities of the North Caucasus. Crimes committed by military personnel in the Chechen Republic are investigated by military prosecution authorities and are transferred for adjudication to special military courts, as a rule — to Vladikavkaz.

Thus, not a single criminal lawsuit based on facts of power abuse, murder, robbery and other serious crimes committed in the course of the present conflict is adjudicated by courts on the territory of the Chechen Republic. Local courts primarily review cases on establishment of juridical facts, reinstatement in employment, etc.

It is important to note that court decisions, as a rule, are not implemented. For example, as reported by a high bailiff of the Oktyabrsky court of Grozny, since April 2001, he has been trying to implement decisions on 50 lawsuits but has not succeeded with a single one. As a rule, all writs ended up with defaults on the judgments. Thus, the court system that has been formally restored in the Chechen Republic is factually incompetent to adjudicate serious crime lawsuits that are most important for residents of the armed conflict zone. It is also unable to effectively work with lawsuits that it adjudicates.
3.1.6. Lack of Opportunity to Secure Guaranteed Out-of-Court Protection of Human Rights\textsuperscript{556}

It must be recognized that over the past year the number of criminal lawsuits based on facts of crimes committed against civilians has drastically increased. This has become possible due to the pressure exerted by international organizations. Nevertheless, it is quite obvious to everyone who has access to objective information about the situation in Chechnya that the number of such lawsuits remains minuscule in comparison with the number of all sorts of crimes committed by the military against the civilian population. In addition, the investigation of the majority of these cases has been suspended. The number of thoroughly investigated cases is a small fraction of the overall number of criminal suits.

None of the investigations of the episodes of massive murder of civilian residents committed by federal troops have been completed, not the one in the Staropromyslovsky district of Grozny, or in Alkhan-Yurt, or Novye Aldy. None of the cases dealing with “disappearances” of people have been investigated. None of the officials responsible for “mop-up operations,” in the course of which massive crimes were committed, have been held accountable.

In March of 2002, the Chief Military Prosecutor of Russia reported that during the period of the armed conflict in Chechnya, military prosecution authorities investigated 129 criminal cases on crimes committed by the military against the civilian population. As a result, 30 individuals have been convicted and 44 cases have been passed to the courts. At first glance, these statistics seem to reflect a job well done by military prosecution authorities. However, the situation takes on a different look when assessed in light of the overall number of crimes committed by federal troops. The overall number of crimes committed by federal law enforcement structures against the civilian population and subject to investigation by territorial and military prosecution authorities is enormous. For example, as reported by V. Kalamanov’s office, it has received grievances from more than 23 thousand individuals, the majority of which are claiming serious crimes. According to another official Russian structure — the Government of the Chechen Republic — the number of citizens of this RF subject who disappeared during the 1999–2002 armed conflict amounts to 2 thousand people. This is supported by data provided by nongovernmental organizations: far from being an exhaustive source, the “Chronicles of Violence” (issued by the “Memorial” since July 2000) reports the murder of 1,049 civilian residents within a 20-month period (through March 2002). The overall number of criminal cases initiated by prosecution authorities is about a tenth of that total.

In the majority of cases, when military criminals are not caught red-handed or there is no other indisputable evidence proving that troopers of a particular military unit had committed the crime, the criminal case is initiated and investigated by territorial civil prosecution authorities. Currently the territorial prosecution authority is investigating a number of

\textsuperscript{556} Based on petition of the “Memorial” Human Rights Center to the UN Commission on Human Rights, April 2002.
cases, which is about ten times greater than that investigated by military prosecution authorities. In addition, territorial prosecution authorities may not interrogate the military or undertake investigative actions on the premises of military units. Therefore, in the overwhelming majority of cases, they fail to prove that those who committed the crime belong to the army, internal troops or the FSB, convincingly enough for the military prosecution authorities to continue the investigation. Thus, military prosecution authorities can refuse to take cases whose investigation is complicated or otherwise undesirable. For example, the territorial prosecution authority is investigating 400 “disappearance” cases, whereas the military — only nine. In addition, 3/4 of such cases investigated by the territorial prosecution authority have been suspended “due to the impossibility of identifying those responsible” — doing that would mean working with the military in the majority of cases.

In addition, the territorial prosecution authorities are clearly understaffed to investigate such a large number of criminal cases. Therefore, its effective operation is simply impossible. However, the above listed difficulties — an artificial separation of authority between the military and territorial prosecution and the lack of financial and human resources — could be overcome if the top leadership of the country had enough political will to investigate the crimes committed against the civilian population and punish the perpetrators.

### 3.2. OBSERVATION OF BASIC CIVIL LIBERTIES

#### 3.2.1. Freedom of Movement

The freedom of movement in the Chechen Republic is severely limited both in space and in time. Military authorities de facto impose a curfew in Chechnya, in absence of formal legal grounds for doing so. Also, unregulated by law is the operation of the system of check-points blocking main roads in the republic. Although the number of check-points in northern areas of Chechnya was significantly reduced in 2001, on the rest of the territory they jeopardize not only civilian freedom of movement, but also their very lives. “Disappearances” of people detained by federal law enforcement structures are numerous. Below are several examples.557

Imran Dalayev, born in 1967, resided at 15 Chapayeva St. in Urus-Martan. He was detained at a check-point by federal troopers between Urus-Martan and Gekhi on February 6, 2001, together with Zelimkhan Murtazaliyev. On April 7, the bodies of I. Dalayev and Z. Murtazaliyev were found in state farm gardens nearby Tangi-Chu settlement. Tracks left by an armored vehicle led to the site.

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557 List of Civilian Individuals Apprehended in the Armed Conflict Zone in the Chechen Republic by Representatives of Federal Law Enforcement Structures Who Later “Disappeared or Were Murdered,” prepared by the “Memorial” Society (www.memo.ru).
Khasain Vakhayev, born in 1976, resided at 100 Sovetskaya St., in Tsotsin-Yurt. He was detained by federal troops at a mobile check-point outside Tsotsin-Yurt on April 12, 2001, and then “disappeared.” Most likely the detention was conducted by internal troops. Although license plates were covered with mud, witnesses noticed the license plate number of one of the vehicles (#138).

After his death, the brother of Khasain Vakhayev, Khusein, and his father, Kharon, searched for him and tried to negotiate his release. They found out that Khasain most likely was kept in Khankala. Military prosecution authorities initiated a criminal case in August 2001.

Khanip Dzhabrailov, born in 1973, resided in Urus-Martan, and was detained by representatives of federal law enforcement structures on September 11, 2001, at a check-point between Urus-Martan and Martan-Chu and then “disappeared.” Representatives of district law enforcement structures denied having anything to do with the detention. Nevertheless, it was found out unofficially that Kh. Dzhabrailov was kept in the district superintendent’s office for several days.

In addition, the check-point system is ineffective since it is profoundly corrupt. From the very outset of the “anti-terrorist operation,” the troopers and police serving at many of the check-points on Chechen roads have been extorting money from the drivers of passing vehicles.

Over 2001, apparently due to the overall growth of prices, the illegal tariffs at check-points grew dramatically. For example, at the beginning of the year each humanitarian aid truck sent by international organizations from Ingushetia to Chechnya was allowed to pass through each of the three check-points located on the Rostov–Baku highway, Kavkaz-1, at the intersection with the Achkhoy-Martan road, and at the intersection with the Urus-Martan road) for 50 roubles. By the end of the summer, the tax had grown — the military and police began to demand 300 roubles from each truck.

The same is happening to passenger transportation — the tariffs have significantly grown. For example, previously the check-points located between Kurchaloy and Mairtup settlements demanded 10 roubles from each mini-van and 5 roubles from each car. Since mid-September, the military demand 50 roubles from a mini-van, and 20–30 roubles from a car.

The check-points system in the Chechen Republic is an example how state structures violating citizens’ rights promptly become corrupt and ineffective.

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558 “Check-Points in Chechnya Raise Illegal Pass Tariffs” (www.memo.ru).
3.3. OBSERVATION OF BASIC POLITICAL FREEDOMS

3.3.1. The Right to Periodical Change of Power Through Elections

In 2001, no elections were conducted in the Chechen Republic despite the fact that representative and legislative bodies of power did not function and in fact were missing. Some deputies of the parliament elected in 1997 conducted their activities while being in exile since it was not safe for them to be in Chechnya. Attempts to reanimate the puppet parliament “elected” in 1996 were undertaken by the federal side only at the very outset of the second war. It is hardly the law that prevents one from holding another series of such “elections.” Firstly, a normal electoral process under the conditions imposed by the emergency situation is impossible. A normal campaign would be unfeasible. The safety of candidates, their representatives, election commissions, and voters themselves would not be guaranteed. The side opposing the federal forces in absence of a political dialogue between them would be excluded from the electoral process and would strive to do everything within its power to prevent elections from taking place. In 2000, there were two “voting” sessions conducted in relatively calm conditions. This was apparently due to the fact that elections to federal bodies of power, which are not valid and dangerous for the “separatists,” were combined with “elections” to local structures, legitimizing federal sovereignty in Chechnya. Such “elections” would not only turn into a farce, but absent a political dialogue between the parties, the result would be bloodshed.

However, it is hardly these considerations that prevented the federal power in 2001 from holding elections in the Chechen Republic. Apparently, after the 1996 experience when the “Deputies of the People’s Assembly” were “elected” in such a fashion that proved absolutely useless, the costs of the elections outweighed any resulting benefit. Thus, the government began to look for a way to, in fact, legitimize elections and not merely in form. It seems that in November 2001, the creation of the “Duma–PACE” (“Judd–Rogozin”) Working Group of a “Consultative Council,” which consists of representatives and activists of public and political organizations in Chechnya. Giving “pre-parliament” authority to this “Working Group” must be regarded as a preparatory stage. It is expected that the process will continue in 2002. It is worth mentioning that such actions by the federal side combined with the refusal to establish a dialogue with the

559 For example, Rizvan Larsanov, member of the CRI Parliament, who did not stop his public activities after 1999, tragically died on November 30, 2001. He searched for those “lost in action” and assisted in the release of those who were kept in detention by force. (See: “The Murder of Rizvan Larsanov” at: www.memo.ru).
560 Presidential elections in March and parliamentary elections in August (A. Aslakhanov was elected to the RF State Duma).
561 In December 1995, under a practically suspended state of negotiations mediated by OSCE, on the eve of “voting,” Chechen troops entered a number of large residential areas of the republic (the elections of deputies for the RF State Duma and those for the head of the Chechen Republic at the same time). In June–July 1996 (elections of the RF President and parliamentary elections at the same time), the “voting” went quietly.
562 According to N. Britvin, spokesman for the Representative of the RF President in the Southern federal district, the development of a relevant legislation is already underway.
opponent can hardly lead to a truly free election of the representative power in the Chechen Republic.

3.4. THE SITUATION OF SEVERAL ESPECIALLY VULNERABLE GROUPS

The peculiarity of the human rights situation in and around the Chechen Republic as compared to other subjects of the Russian Federation is that in speaking of “the most vulnerable groups” one cannot help but mention practically all groups of Chechen origin. They are those who directly reside in the armed conflict zone, forced migrants, primarily those who reside on the territory of neighboring Ingushetia, all the descendants from the republic and ethnic Chechens living on the territory of Russia.

3.4.1. The Situation Existing on the Territory of the Chechen Republic

The social infrastructure of the Chechen Republic has been destroyed during combat operations; no real restoration has been initiated to date. By the end of the last year, more than 670 thousand people were reported to reside in the republic.

The Operation of Health Care Institutions

Buildings of certain health care institutions (the tuberculosis hospital and railway departmental hospital in the Oktyabrsky district of Grozny, the Shatoi central district hospital, and the hospital in the Kargalinskaya village of the Shelkovskoy district) are still occupied by troops and federal law enforcement structures.

Restoration of more than fifty operating health care institutions of the Chechen Republic has been extremely slow. Medications and equipment from the Ministry of Health were next to non-existent. Medical personnel were scarce: the number of physicians was 2.5 times less than needed, the corps of medical nurses was 1.7 times smaller than necessary. The majority of health care institutions constantly experienced a shortage of electric power. As a result, complex surgeries were not available. Relatives of the seriously ill (up to several hundred people per month) attempted to relocate the patients to other localities.

Hospital #9 in the city of Grozny continued to handle the bulk of the workload (the emergency room treats up to 15 individuals daily, the outpatient department — up to 100 people). Since October 15, 2001, this institu-

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563 Based on the brief “Social Situation in Chechnya” prepared in the framework of the Migration and Law Program by the “Memorial” Human Rights Center (March 2002).
564 Two surgery departments were operating in the hospital, both capable of admitting 90 patients. The emergency room, gynecology, brain surgery, oral surgery, therapy, and intensive care departments were capable of admitting 60, 60, 30, 15, 30, and 9 patients respectively.
tion has been also working as an ambulance station. Practically no building repair has been conducted. The blood transfusion center is not working. Diagnosis equipment is lacking, as are a number of specialists. The hospital experiences intermittent shortages of electric power. When the power is off, doctors use an autonomous generator that is only powerful enough to supply electricity to surgery and intensive care departments. Water, sewer, and medical assistants are provided by a Polish humanitarian mission.

Wages of doctors and medical personnel of hospitals were low but paid on time.

Educational Institutions (The Example of Grozny)

In 2001–2002, 45 schools worked in Grozny, with the majority of them needing very various repair work. In 2001, the government was to undertake restoration of 15 schools. Repair works began in 12 of them but were left uncompleted. Restoration of the other three operating schools was never even begun. Some of the schools are being actively repaired by international organizations (school #16 — by the Danish Refugee Council; school #7 — by the Czech organization “People in Need”).

By the end of the year, 19,718 children attended the functioning schools of Grozny: the supply of textbooks (from grade 1 through grade 11) is on average 31.5% of the number required; native language and literature textbooks are practically non-existent. At the beginning of the 2000–2001 academic year, the number of teachers was 1,217. However, by the end of the first semester was down to 1,394.

The Social Situation in Rural Areas (on the Example of the Urus-Martan district)

More than 103 thousand people reside in the district. 28,870 of them, according to official data, are internally displaced persons. They are being assisted by the Danish Refugee Council and International Red Cross Committee. This assistance is not enough, though.

During combat operations, 8,253 houses were ruined. In 2000–2001, authorities conducted no restoration work. The Danish Refugee Council assisted families whose houses were destroyed. Construction materials were provided to three hundred families in the Goi-Chu settlement. Since the fall of 2001, however, the government began to provide funding for housing repair. Damage certification acts were put together, as were lists of households scheduled for restoration (although not very many, for example in the Goiskoye settlement — only 16 houses).

Since late 2001, registration of the unemployed began (the majority of the population is unemployed). Those who have been officially granted unemployment status are paid a monthly benefit of 100 roubles.

\(^{565}\) In 1994, this figure amounted to 39,797 students, which indicates that the permanent city population has been reduced by more than half.
17,437 pensioners reside in the district. The Pension Fund has paid off its arrears in retirement benefits to these people and continues to pay pension benefits on a regular basis.

29 schools operate in the district. Their cumulative student body is 19,224 pupils. The temporary district police station is still located on the premises of the local boarding school.

Five hospitals are functioning, although they seriously lack equipment, supplies, medications, and qualified personnel.

3.4.2. The Situation of Forced Migrants in Ingushetia

The overall number of forced migrants from the Chechen Republic who have found refuge in the republic of Ingushetia remained almost the same throughout 2001. Following the fall 1999 exodus, when the number of forced migrants in Ingushetia almost equaled the number of local residents, approximately 50% of the refugees left the region, with the minority of them relocating to other regions of Russia in 2000 and the majority returning to Chechnya. Those who stayed in Ingushetia either did not have the sufficient financial means, the desire to travel further, or were afraid of going back to Chechnya.

At the same time, Chechen refugees in the Republic of Ingushetia remained the subject of a heated dispute between the federal structures and the administration of the Chechen republic, on one side, and the government of Ingushetia and humanitarian and human rights organizations, on the other side. The dispute was primarily associated with the desire of the federal center to remove the problem of refugees from the agenda, as well as with the desire of the administration of the Chechen Republic to reroute cash flows and humanitarian aid from Ingushetia to Chechnya. Even the issue of the overall number of refugees in Ingushetia was controversial.

According to federal structures, the so-called Form #7 (forced migrants registration) statistics show that by early December 2000 there were approximately 143 thousand registered refugees, by early February 2001 — around 150 thousand (approximately 12 thousand refugees were not registered). These figures did not significantly change later on. But according to the Danish Refugee Council, more than 175 thousand refugees resided...
in Ingushetia as of February 2000. The overall number of refugees from Chechnya who have gone through the Migration Service of Ingushetia since the time when combat operations resumed in fall of 1999 exceeded 308 thousand people by the summer of 2001. More precise official figures are not available since registration of refugees using Form #7 was stopped in April 2001. By early 2002, neither the Migration Service nor the Danish Council had precise lists or information on the number of refugees in Ingushetia.

Of the 148 933 refugees, 53 The declarations of federal structures and administration of Chechnya that the number of refugees is significantly exaggerated resemble exorcisms reiterated for two and a half years. The true meaning of these declarations can be explained by the requirement to forward all humanitarian aid directly to Chechnya, circumventing Ingushetia (where, allegedly, there is a lack of control over distribution and possible corruption) and exclusively through state structures (where control is truly impossible and the scope of corruption, as demonstrated by the previous war experience, is beyond description). This “switch of cash flows” is not exactly capable of returning forced migrants to their homeland: their numbers in Ingushetia did not decrease even during the first six months of the war, when the situation in the camps was verging on a humanitarian catastrophe.

890 (36%) stayed in compact residence areas. It is these people who became the focus of the federal center’s attention. This is explained by the fact that refugees’ tent camps were graphic evidence of military actions in Chechnya as well as of Russian government’s attitude towards its citizens. They also drew the attention of international missions and foreign journalists. Journalists and delegations who were deprived of an opportunity to work freely in Chechnya were able to visit the neighboring Ingushetia, and their reports on the status of forced migrants undoubtedly caused Russian authorities quite a lot of trouble. It was the population of compact residence areas that presented a “television portrait” of the Chechen war. In their attempts to return displaced persons back to their places of residence, the federal authorities wanted most of all to return these people to Chechnya.

It became quite obvious as early as the summer of 2000 that the majority of forced migrants from Chechnya residing on the territory of Ingushetia would have to spend another winter there. Therefore, the Ministry of Emergency Situations of the Republic of Ingushetia, the territorial department of the RF Ministry for Federation Affairs, and the UN High Commissioner on Refugees developed plans to construct new camps equipped with amenities for 12 000 people. In addition, the existing camps were to be reconstructed and expanded. All work was to be finished before the fall cold and slush on the roads. However, the position of the local authorities, which stemmed from the real situation in Chechnya and Ingushetia, conflicted with federal politics targeted at forcing refugees to return to Chechnya. In late August 2000, the representative of the RF President in the Southern federal district, General V. Kazantsev, met with refugees to announce that by October they “were to be back home again.” As a result, endless red-tape obstacles protracted the construction of the camps.

569 The other 73% — in the private sector.
financial blockade continued, and it was not until early February 2001 that the Ministry of Emergency Situations of the Republic of Ingushetia completed placing residents in the first camp, “Alina,” designed for 4 thousand people, and began installment of tents in new camps, “Bela” and “Satsita,” where it is expected to put up 400 tents to settle another 8 thousand people. The second and third stages that were to have been completed by late 2000 have in fact continued throughout all of 2001.

Becoming registered and obtaining a refugee status is another serious problem. Since the very outset of the “second Chechen war,” refugee status, as a rule was, not granted to forced migrants, even though they still were registered using Form #7. However, since April 13, 2001, registration of migrants using Form #7 was stopped by a decision of the territorial department of the Ministry for Federation Affairs, until “a new form is introduced.”570 Meanwhile, the migration from Chechnya to Ingushetia continued, several hundred people crossing the border each month.

The majority of migrants did not wish to return to the Chechen Republic immediately. In May 2001, a survey ordered by the UN High Commissioner on Refugees of 624 families (4,370 people) was conducted, including those residing in private houses, camps, and spontaneous settlements. About 24% of the surveyed families partially or completely planned to return to Chechnya in 2001; about 75% of the families did not plan to return in the current year “should the situation remain the same”; 9% of the families did not have any intentions to go back. Based on the results of this survey, the UN High Commissioner on Refugees made the conclusion that the majority of forced migrants were not ready to return.

Meanwhile, federal authorities kept trying to return forced migrants from Ingushetia to Chechnya.571

On February 25, 2001, there was a meeting between the Chairman of the Chechen Republic Government and Chairman of the Ingushetia Republic Government, A. Malsagov and S. Ilyasov. Deputy Representative of the RF President in the Southern federal district, A. Korobeinikov also attended. The meeting was dedicated to the discussion of issues related to the return of forced migrants to Chechnya. On the next day, February 26,

570 Request for information sent by the “Memorial” Human Rights Center on May 14, 2001, was responded to with Letter #1207, dated May 25, 2001, signed by the head of the Ministry for Federation Affairs territorial department, M. Gireyev: "...the Ministry for Federation Affairs body functioning on the territory of the Chechen Republic is vested with the same authorities as in the Republic of Ingushetia, where citizens can petition to... Camps have been created, premises have been prepared... We inform you that Form-7 (registration of families arriving in emergency situations) is obsolete and does not meet the requirements of the current situation of refugees from the Chechen Republic. In view of the need to start using new registration methods, the registration of arriving citizens has been suspended.”

571 First, such attempts were undertaken in December 1999, when trains with refugees were transported from Ingushetia to Chechnya, namely, to the Semovodsk settlement. Simultaneously, the return of migrants to the so-called “safety zones” began. These zones, firstly, were agreed upon with the opposing side, and secondly, were not an obstacle for the federal troops either. Thus, both sides acted in the “safety zones” as if they were in a desert, not burdening themselves with the responsibility of taking care of local residents’ lives. This soon led to new human sacrifice: hundreds of residents who had returned to the settlements of Zakun-Yurt, Shaami-Yurt, and Katyr-Yurt in the neighborhood of Shali were killed in bombings and shelling in early February 2000.
2001, the Chechen Republic Government adopted Statute #5 “On Measures to Prepare Temporary Accommodation Facilities for Displaced Persons on the Territory of the Chechen Republic.” It was then that a department was established under the Chechen Republic Government to coordinate temporary accommodation facilities, return the displaced persons, and interact with international humanitarian organizations. Deputy Chairman of the Chechen Republic Government, Yu. Em, headed that department. Together with the Danish Council, he planned to put together during March–April lists of families whose houses had been damaged, and submit these lists to the Ministry of Emergency Situations of Ingushetia. The latter was to provide tents to those of the listed families who had decided to return to Chechnya, as well as construction materials depending on the degree of damage. Financial means were to be provided for by the RF Government.

On May 24, 2001, the Chechen Republic Government established the maximal term during which forced migrants were allowed to stay in Ingushetia. According to the RF Minister of the Affairs of Chechnya, V. Yelagin, “residents of tent camps and other compact residence areas will be taken to Chechnya by the end of the year: by then, temporary accommodation facilities will be ready for them.” The date when the returning was to begin was also named — July 1, 2001.

However, in June, A. Blokhin, Minister for Federation Affairs and National and Migration Policy, who had visited Ingushetia, declared that a major portion of migrants would most likely remain on the territory of the republic for another winter and ordered the territorial department of the Ministry for Federation Affairs to start preparations for the next winter.

Supplies that were provided to forced migrants at the expense of the state were irregular. Repeated disruptions in the distribution of food and provision of electricity occurred because of the enormous amounts of money that the state owed to the organizations that provided bread and hot meals to the camps, as well as to electric power suppliers. It was as early as September 27, 2000, that a final document was adopted at a meeting called by the RF Prime-Minister “On Assisting Citizens Who Have Been Forcibly Displaced on the Territory of the Chechen Republic and Temporarily Accommodated on the Territories of the Republic of Ingushetia and the Chechen Republic.” Article 3 of this document stated that the payment of arrears should be made within a two-week period. But the amount of arrears grew larger, which resulted in new suspensions in the distribution of hot meals. As of early March 2001, the overall amount of money owed by the federal center to the territorial department of the Ministry for Federation Affairs equaled almost 500 million roubles, of which 171 million roubles went for food. These figures were constantly growing, as funds had been not transferred since 2000. Almost all tents in the camps were in disrepair and had to be replaced, but not more than 50% of them were actually replaced.

572 Note that attention was given primarily to migrants who lived in camps, not in private houses.
Since 1999, a unified system of double mutual control over distribution of aid has been in place in Ingushetia when state structures controlled humanitarian organizations and vice versa. Permanent coordination of their work was effected by a special operative “headquarters on admittance and accommodation of refugees from the Republic of Chechnya in the Republic of Ingushetia” (it was headed by the Minister of Emergency Situations of Ingushetia, V. Kuksa). In making each other’s work “transparent,” state authorities and non-governmental organizations create conditions that do more than just allow identification of abuses — although this is vital too. Dozens of public servants and heads of local administrations were removed from their offices in Ingushetia over the past year and a half for abuses committed while distributing humanitarian aid. What is important is that the trust of humanitarian organizations was secured. Their mandate did not allow transferring humanitarian aid to state authorities for uncontrolled distribution. More than half of the overall amount of aid has been provided by international and non-governmental organizations.

It seemed that the commission headed by the representative of the RF President in the Southern federal district, V. Kazantsev, recognized the value of this experience when visiting Ingushetia. Suggestions followed that it should be shared with neighboring regions. In addition, it was suggested that special bodies in Dagestan and Chechnya should be established to coordinate activities on sustaining the suffering population, as well as operative headquarters akin to those working under the Ministry of Emergency Situations of Ingushetia.

However, on April 6, 2001, it was declared that effective May 1, 2001, all humanitarian organizations that supply camps (compact residence areas) with basic food would have to re-route their supplies to the private sector, leaving the camps exclusively to the Ministry for Federation Affairs. Order #452 issued by the Ministry of Emergency Situations on March 19, 2001 stated that:

*In compliance with Statute #163 of the Government of the Russian Federation federal budget funds will be used to procure and supply foods to citizens residing in temporary accommodation facilities and premises rented from legal entities (except those accommodated within the private sector)...*

3. *In order to provide foods to forced migrants residing within the private sector, I suggest that managers of various humanitarian organizations... exclude temporary accommodation facilities of the Ministry for Federation Affairs, as well as compact residence areas rented from legal entities from their plans and... concentrate their efforts exclusively on assisting forced migrants residing within the private sector...*

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573 It was established by Orders #134-rp (October 6, 1999) and Order #160-rp (November 9, 1999) of the President of Ingushetia “On Republican Headquarters to Assist Forced Migrants from the Chechen Republic” and “On Approving the Statute on the Republican Headquarters to Assist Forced Migrants from the Chechen Republic.” Local department of the Ministry of Emergency Situations was vested with coordination of the process.

574 Nothing was heard about this from the neighboring Chechnya, but this points to the lack of control rather than corruption.
This re-orientation concerned only basic foods for adults. Humanitarian organizations were allowed to supply baby food, clothes, and everything else to camps as before.

The actions of the Headquarters in the Republic of Ingushetia headed by V. Kuksa were reasonable in these conditions — should governmental Statute #163, that vested the federal power with complete responsibility for the situation in camps, be considered one of the “conditions.” In the meantime, due to the interruption of federal funding, distribution of bread and hot meals was suspended again in early April 2001.

By issuing Statute #163, federal authorities monopolized the provision of food supplies, rendering camp residents completely dependent on state assistance. Federal authorities thus obtained an additional opportunity to “force them out” to Chechnya without providing any security guarantees.

However, this experiment was a failure: already on May 21, humanitarian organizations had to resume the provision of food supplies to migrants in compact residence areas. The Ministry for Federation Affairs proved incapable of providing foods to all migrants’ settlements: kitchens stopped working, distribution of free bread also stopped.

However, the structure responsible for coordination of efforts assisting migrants was destroyed. In compliance with a directive from “above,” Decree #48 issued by the President of Ingushetia on May 17, 2001, transferred the authority to coordinate activities of state and international organizations on the territory of Ingushetia to the territorial body of the RF Ministry for Federation Affairs and National and Migration Policy.575 As a result, since November 2001 forced migrants began to suffer an acute shortage of food; the provision of food supplies was reduced.

Problems related to provision of health care were serious in all compact residence areas. Migrants suffering serious chronic illnesses (such as diabetes, cancer, and tuberculosis) were insufficiently supplied with necessary medications. Malnutrition, lack of fruit and vegetables weaken the immune system. In conditions of overcrowding, even respiratory infections assumed an epidemic nature. Senior citizens and children become “risk groups” in this situation. Children under three years of age suffer anemia, rickets, and hypotrophy. Pregnant and lactating women suffer various degrees of anemia. Provision of nutritional mixes to infants is irregular or non-existent. The following health problems are widespread: vascular dystonia, hypotonia, hypertension, and heart diseases. Over-

575 Coordination was re-instated, but much later.
crowded hospitals of Ingushetia do not have the capacity to admit everyone who needs hospitalization.576

The following organizations assisted in taking ill migrants from out of the territory of Ingushetia to other Russian regions (and abroad in exclusive cases): “Vesta” Consultation Center, “Hammer Forum” humanitarian organization, “Zaschita” All-Russian Center for Medicine of Disasters,578 the World Health Organization,579 and the “Memorial” Human Rights Center. However, these organizations cannot provide specialized medical treatment, while people who experience financial needs are not capable of solving such problems independently.

In 1999–2000, attempts were undertaken in large camps to organize classes in tent schools, but 75% of children residing in private houses did not attend them. In 2000–2001, schools of Ingushetia accepted all children who wanted to study. Therefore, in 37 schools of the republic, classes had to be organized in three and more shifts. Tent (field) schools operated in migrants’ camps. Since fall of 2001, there are schools functioning in every camp. Five schools under the common name of “Omega” have been constructed and operate with assistance from UNICEF and the Center for Peacemaking and Development. Provision of food to children has been organized in schools.

3.4.3. The Situation of Chechens in Other Regions of the Russian Federation

Throughout 2001, forced migrants from the Chechen Republic and ethnic Chechens in general remained “the most vulnerable social group” on the entire territory of Russia. Their rights are infringed upon to such a degree that according to the “Memorial” Human Rights Center and “Civil Assistance” Committee, ethnic Chechens who have abandoned Russia qualify for the refugee status as provided for by Article 1 of the UN Convention of 1951. For them, Russia is not a country in which they could feel safe.580

Since 1995, at the very outset of the “first Chechen war,” the “Migration and Law” Network has been providing gratis legal consultations to former residents of the Chechen Republic who have lost their housing, the opportunity to live on their land, and their way of life. Some of these people were wounded and lost their family members. The state, however, does almost nothing to remedy the wrong or to compensate these people for the things they have been deprived.

576 There are a total of 64 health care institutions in the republic — district, municipal, rural, and divisional hospitals with overall capacity of 1,095 beds.
577 Assists people who have suffered from combat operations in Chechnya.
578 Assists first and foremost those who suffer tuberculosis.
579 Assists first and foremost assists with prosthesis.
580 From Statement “On the Status of Chechens in Russia” by the “Memorial” Center and “Civil Assistance” Committee (October 26, 2001). For more information, see: www.memo.ru.
581 Within the framework of the “Migration and Law” Program administered by the “Memorial” Human Rights Center, fifty offices providing free legal assistance have been established in various regions of Russia. This Network permanently monitors the situation with victims of military conflicts, in particular, the armed conflict in the Chechen Republic.
In 1997, a few of those who suffered during the 1994–1996 period were given some small compensation, but the majority did not receive anything at all. However, during that period, they could at least obtain the formal status of refugee. To those who fell victim to the “second Chechen war” in 1999–2001 this status is almost never granted: “lack of qualities and circumstances accounted for by Article 1 of Federal Law “On Forced Migrants” serves as the basis for not doing this. This means that nowadays authorities interpret the notion of “forced migrant” differently than 1996, when “mass riots” served as sufficient grounds for granting the status as accounted for by Article 1 of this law.

According to human rights organizations, a campaign of criminal charges lodged against Chechens is being conducted in Russia, and first and foremost — in Moscow. It manifests in detentions of Chechens for several days based on different accusations, frequently hooliganism. Also, illegal searches are conducted in their apartments. They are often framed with illegal drugs, weapons, and explosives that are planted in their apartments or slipped into their pockets by police officers in order to be “discovered” during the search. These practices became evident during a seminar organized for lawyers of the “Migration and Law” Network in April 2001, where Roza Aziyeva, a former resident of Chechnya, is registered at the address of her acquaintances, there is a word “Chechen” typed in block letters — every police officer checking her identification will pay attention to this inscription and undertake measures according to his views.

Another former resident of Grozny, Maret Torshkhoyeva, was encouraged by registration authorities to register as a foreign citizen in exchange for a significant amount of money.

As a rule, however, the passport services of Moscow and of the Moscow region simply refuse to register forced migrants because of their nationality — such refusals are often accompanied by insulting oral comments. Refusals in writing never refer to the applicant’s nationality, and the management of registration bodies denies existence of any directives prescribing to limit registration of Chechens. It is possible that no such written directives really exist. Still, there are grounds to believe

582 It was paid out very slowly and, after the devaluation of the rouble in August of 1998, this compensation was not sufficient to acquire even very modest housing.
583 For more information, see: A. Burtin, L. Vakhnina, S. Gannushkina, V. Gefter, A. Osipov, O. Cherepova, “Discrimination Based on Place of Residence and Ethnicity in Moscow and the Moscow Region. August 1999 — December 2000” (“Memorial” Human Rights Center and “Civil Assistance” Committee: Moscow, 2001). The climax of this campaign fell on September — October 1999 and was facilitated by explosions of residential buildings in Moscow, Buinaksk, and Volgodonsk, despite the fact that authorities failed to prove that a single Chechen was associated with these explosions. Since August 2000, this campaign has been picking up strength again.
584 The “Civil Assistance” Committee has a copy of the registration certificate.
585 Response of the Moscow Chief Police Directorate to the inquiry by V. Igrunov, Deputy of the RF State Duma.
586 Based on petitions to the “Civil Assistance” Committee.
that the actions of passport and registration personnel go beyond their own personal attitudes but instead are influenced by a policy of the authorities.\footnote{At least one case demonstrates it convincingly. In late 1998, two descendants of Chechnya, Zalva Aiskhanova and Khalvash Gachayev, applied to the police station of the city of Korolyov of the Moscow region seeking to obtain registration. On March 15, 1999 Z. Aiskhanova petitioned to the “Civil Assistance” Committee. The Committee’s staff-member, E. Burtina, called the head of the passport service of this police station, N. Novichkova. The latter said that two months prior she had been reprimanded for having provided a Chechen with a temporary registration for the period of six months. This automatically deprived her of planned promotion in rank as well as of a bonus. N. Novichkova did not exclude that her colleagues, being frightened (or taught) by that case, might have denied registration to Z. Aiskhanova and Kh. Gachayev in view of their ethnicity.}

The constantly exacerbating xenophobia directed mostly against ethnic Chechens also negatively affects the situation of forced migrants. Small and medium-sized enterprises who partner with Chechen entrepreneurs are forced out of business,\footnote{For example, in late 1999, Umar Temirbulatov was deprived of the right to rent a premise in violation of the existing rent agreement — the landlord explained his decision by threats he had been receiving from the police. U. Temirbulatov failed to find other premises for his enterprise and went out of business. His family was granted refuge in France.} while other people simply lose their jobs. For example, Aslanbek Beiers, who used to work at the Vnukovo Airport, petitioned to the “Memorial” Human Rights Center in early 2001. He was dismissed from his job when transport police officers found out that he was a Chechen, even though his last name is not characteristic of this nationality. But more often, Chechens are not hired at all: the “Civil Assistance” Committee has consulted many employers who come to this organization for advice, believing that when they hire a Chechen they break the law.\footnote{Some can be occasionally convinced of the opposite, but the absolute majority simply prefer not to have anything to do with any Chechens.}

This picture is completed by the actions of law enforcement authorities that create unbearable conditions for descendants from Chechnya.

On May 29, 2001, investigation officers together with representatives of the local department against organized crime (a total of 150 individuals) conducted searches in nine houses of the Lukovitsky settlement district (Tver region) where Chechens, forced migrants, were staying at their relatives. The operation was carried out, allegedly, due to the petition of one of the settlers stating that his sewing machine had disappeared, but was of an exclusively threatening nature and resembled a “mop-up operation” rather than anything else. For example, one of the operatives threw a 12-year old boy on the floor, put a gun against his temple and imitated a gunshot; the mother of the child was hit with the but of the gun as she dashed to her son’s rescue.

A colony of forced migrants from Chechnya settled down in the previously abandoned village of Spirovo (Vyshny Volochok district of the Tver region). Colony members busy themselves with agriculture and forestry.\footnote{The group’s leader, A. Arsamakov, and the mullah do everything they can to make sure that the Chechens avoid conflicts with the local population. Nevertheless, the district police categorically refuse to} The group’s leader, A. Arsamakov, and the mullah do everything they can to make sure that the Chechens avoid conflicts with the local population. Nevertheless, the district police categorically refuse to
register the group with the internal affairs department. Criminal cases were constantly filed against colony members during the year. And although none of these cases has resulted in any convictions, the charges keep these people under constant nervous strain. Police regularly detain some of the Chechens, beating and threatening them and extorting money. A. Arsamakov himself has been repeatedly pressured and provoked to commit illegal actions.

4. REGIONAL HUMAN RIGHTS MOVEMENT

As can be seen from the above, the Chechen Republic is a very “special” place from the viewpoint of human rights and rule of law in the Russian Federation. Therefore, strictly speaking, it is not appropriate to apply the term “regional human rights movement” to the Chechen Republic. The human rights organizations that operate in the region constantly keep in touch with organizations from other Russian regions, as well as with interregional and all-Russian organizations. The situation in the Chechen Republic has been considered separately at national Russian fora of public organizations. International non-governmental organizations also operate in the armed conflict zone, again — in close contact with local and Russian human rights activists.

On the other hand, the human rights situation in the Chechen Republic has been repeatedly considered at fora of intergovernmental organizations, whose delegations have visited the region many times. Therefore, Russian authorities had to respond. They established or inspired the establishment of state and “public” “human rights” structures, which more or less formally worked in this direction and quite actively in making contact with international organizations (which, apparently, was their primary goal).

Thus, it would make sense to consider in this section not the “regional human rights movement,” but “activities of human rights organizations and international organizations targeted at the situation in the armed conflict zone in the Chechen Republic.” But obviously, this is impossible within the framework of this report. We will limit ourselves to a brief overview of the topic.

Constant monitoring of the human rights situation in the Chechen Republic is conducted by several Russian human rights organizations. The most prominent is the “Memorial” Human Rights Center591 (“Memorial” Society), whose activity in the armed conflict zone is carried out within the framework of the “Hot Spots”592 Program and within a network of legal consultancies for forced migrants, “Migration and Law.”593 The monitoring effort, with the head office in Nazran,594 has been ongoing since spring of 2000, and consultancies in Grozny, Urus-Martan, and Gudermes — since fall of the same year. The “Memorial” Society does not conduct an

591 Executive Director: T. sKasatkina, central office located at: Moscow, 103051, Maly Karetny per., 12; http: www.memo.ru e-mail: memhrc@memo.ru.
592 Director — O. Orlov.
593 Director — S. Gannushkina.
594 Director — E. Musayeva (e-mail: memorial@southnet.ru).
operative monitoring with news mailings or on-line accounts due to the fact that the working style developed by the “Memorial” over the years puts reliability first and expediency — second. Any piece of information is checked and cross-checked many times, which takes quite a while as communication is difficult in Chechnya. The “Memorial’s” website is regularly updated with information and regional situation reports. Since July 2000, it has been maintaining the “Chronicles of Violence” and updating the list of those lost in action. In addition to the monitoring activity, the “Memorial” provides legal and humanitarian assistance to victims of the conflict. Materials of the “Memorial” were the primary source of information for this report.

The monitoring within the armed conflict zone is also conducted by the Society for Russian-Chechen Friendship that the Moscow Helsinki Group has been cooperating with for two years.

The Committee of the National Salvation of the Chechen Republic was founded and began its activity in 2001. It was established to serve forced migrants residing in the republic of Ingushetia.

Information on the human rights situation in the Chechen Republic is also published by the “Glasnost” Fund and “Prima” Information Agency, both of which have correspondents in the conflict zone. Generally speaking, given the human rights situation that has emerged in the Chechen Republic in 2001, any honest report from the region is forced to address the situation. This has, in fact, determined the policy of authorities towards the media, and resulted in an almost complete absence of any such reports in mainstream periodicals. The gravity of the situation regarding human rights has not yet been recognized by Russian society as a whole, nor has it (or the entire armed conflict in the North Caucasus) become the focus of national public discussion.

595 Co-Chairpersons: S. Dmitriyevsky and R. Kutayev, Chairman of the regional representative office in the Chechen Republic and Republic of Ingushetia: I. Ezhiev. (Addresses: head office — N. Novgorod, Oksky s’yezd, 2, office 122, phone: (8312) 300714, 340488; regional office in the Chechen Republic and Republic of Ingushetia — Republic of Ingushetia, Nazran district, Yandare settlement, state farm, refugee camp, representative office of Society’s information center in the North Caucasus — Republic of Ingushetia, Karabulak, Dzhabagiyev st., 36, apartment 9. The organization was founded on April 17, 2000 in Nizhny Novgorod. Website: www.uic.mmv.ru/hr.nnov/friend.


597 Director — R. Badalov; the Committee works closely with the movement “For Human Rights” led by L. Ponomaryov.

598 Website of the Glasnost Media information agency — www.glasnostonline.org; the agency descends from the Glasnost independent bulletin founded in 1987 by Sergey Grigoriants, a former political prisoner and currently Director of the “Glasnost” Fund.

599 Website of the “Prima” Information Agency — www.prima-news.ru; the agency descends from the Express-Chronicles newspaper founded in 1987 by A. Podrabinek, a former political prisoner and currently Director of “Prima” Information Agency.

600 Exceptions are scarce. First of all, articles by A. Politkovskaya, Novaya Gazeta (www.novayagazeta.ru), some publications in the Moscow News (www.mm.ru), Obshaya Gazeta (www.og.ru), Novye Izvestia, the Itogi magazine (prior to replacement of the editorial board members) and the renewed Weekly Journal (www.ej.ru), as well as reports of those foreign journalists who are not afraid to damage their relationships with Presidential Aid S. Yastrzhembsky. Another exception is “Radio Liberty” (www.svoboda.org).
There are human rights groups active in the Chechen Republic that are not working closely with organizations from other Russian regions, interregional, or national organizations. An example of such a group is the “Dog Teshar” (“Hope of Heart”) association of relatives of non-combatants who had been arrested by federal law enforcement structures and subsequently disappeared.

In general, practically the majority of Chechen public organizations call themselves “human rights organizations” and consider themselves to be such. There are many reasons for this. It is true that they invoke “human rights” language and arguments but their goals, methods and style qualify them as “political” organizations. This is only natural under current conditions of an armed conflict, polarization of society, where both opponents regard civil society structures as “mobilization resources.”

The situation in the armed conflict zone has been considered separately at two national Russian fora of non-governmental organizations — All-Russian Emergency Human Rights Congress (January 20–21, 2001) and Civil Forum (November 21–22, 2001). The former dedicated a separate section to the Chechen problem, the latter comprised a panel discussion “Chechnya — Our Common Pain and Concern: Ways to Achieve Peace and Consent” as well as a special “roundtable” composed of top public officials. Although these two events were perceived quite differently by the human rights community of Russia, the Chechen topic attracted the attention of practically the same people and organizations.

It can be tentatively said that the decisions of the Emergency Congress resulted in anti-military and other actions of human rights and non-governmental organizations. Although, undoubtedly, the Civil Forum brought about negotiations between human rights organizations and the authorities, including the law enforcement structures, which are now regularly held in Moscow and Chechnya.

Human Rights Watch is the principal international non-governmental organizations that constantly address human rights violations in the armed conflict zone in the North Caucasus and sends their representatives there.
During 2001, as in the previous year, the observation of human rights in the Chechen Republic was repeatedly considered by international organizations. The UN Committee on Human Rights adopted a resolution on April 20, 2001. The High Commissioner on Human Rights, Mary Robinson, visited the armed conflict zone and met with representatives of human rights organizations there. The Parliamentary Assembly of the Council of Europe has repeatedly sent missions to the armed conflict zone (in particular, prior to its four annual sessions held in January, April, June, and September). In addition to PACE’s (Lord Judd’s) Commission, Joint Working Group “Duma–PACE” (Judd–Rogozin) was established. But in general, PACE and the world community as a whole have practically given up their position on the Chechen issue by the end of 2001. Some observers explained this by the change in the overall international situation following the September 11 terrorist attacks in the USA, resulting in international anti-terrorist operations and Russia’s participation therein. However, most likely this was not a temporary blindness: international organizations have been gradually disassociating themselves from events in Chechnya for quite some time already.

Other international organizations, such as Amnesty International and the Federation International des Ligues des Droits de l’Homme (FIDH) have also sent their missions to the conflict zone and issued documents on the situation in Chechnya. A human rights component is also found in the work of a number of international humanitarian organizations that operate in Chechnya and Ingushetia. Human rights organizations work in the region permanently and episodically — local, Russian and international — continued their close cooperation as they exchanged information, prepared joint documents and reports, and undertook joint activities within intergovernmental structures (UN, Council of Europe).

From the very outset of the conflict in the North Caucasus human rights organizations have been constantly appealing to the international community. The Russian Federation, as a member of a number of European structures, had assumed the responsibility for observing human rights and had pledged to solve any conflicts by political means. International pressure on Russia under these circumstances is not only legitimate but also necessary. In January 2000, PACE addressed the Chechen issue for the first time. In spring of the same year, a resolution was adopted requiring that Russia observe human rights: the Russian delegation was deprived of the right to vote; recommendations were made to members of the Council of Europe to file international lawsuits with the European Court, and the CE Committee of Ministers recommended to suspend Russia’s member-

(May 2001); “Dirty War:Disappearances, Torture, and No-Trial Executions” (March 2001); “Last Seen…: “Disappearances” in Chechnya Continue” (April 2002). Note that at the outset of the “second Chechen war,” in the fall of 1999 — spring of 2000, HRW permanently monitored the situation in the region and during that period could be considered the most competent human rights organization on the Chechen issue.

608 Materials of Amnesty International in Russian are available at amnesty.memo.ru.
610 For more details see: Petition of the Initiative Group of Human Rights Organizations “Common Action” to the Parliamentary Assembly of the Council of Europe (January 19, 2002).
ship in the Council of Europe. However, as early as May 2000, the Committee of Ministers refused to comply with this recommendation. No state has ever applied to the European Court. And in January 2001, the privileges of the Russian delegation were completely restored.611

In late November 2001, a seminar organized by Alvaro Gil-Robles, Commissioner for Human Rights to the Committee of Ministers and the Parliamentary Assembly of the Council of Europe, took place in Strasbourg with the participation of the Russian authorities, both federal and local, on one side, and representatives of Russian and Chechen human rights organizations on the other side. In his summary on the results of the seminar, the Commissioner in particular noted that “competent authorities of the Russian Federation had officially assumed this position [protecting the civilian population] and had already achieved certain successes in this direction and are currently striving to prevent such violations.” At the same time, in late November 2001, under the auspices of the “Duma–PACE” Joint Working Group, a Consultative Council was established consisting of employees of administrative bodies of the Chechen Republic and representatives of Chechen public organizations who had attended the Council of Europe events in Strasbourg. The Consultative Council was thus created rather spontaneously, which to a certain degree explains the fact that its members were chosen at random, on the one hand, and from a very narrow scope of people, on the other hand. In addition, the members of the Council had not been provided in advance with the powers to enter such a structure. However, it was presumed that the Consultative Council would be given significant authority, so that in essence it could become a “pre-parliament” of the Chechen Republic. Theoretically, this may result in the refusal of the Council of Europe to continue demanding that the situation in Chechnya be solved politically.

The Council of Europe has been consistently referring to significant progress in observation of human rights in Chechnya and, thus, refused to take any effective actions. It is impossible to agree with this. Nothing has in essence changed in the Chechen Republic: on the one hand, massive and gross violations of human rights continue to take place, on the other hand, no effective investigation of previously committed crimes has begun.

It is possible that European parliamentarians have decided that the Russian society and state have finally realized the depth of the crisis and an active discussion is underway on solutions. However, the visits of PACE delegations and work of the “Duma–PACE” Joint Working Group do not visibly affect the situation. The State Duma hearings on the Chechen problem conducted with the participation of European parliamentarians in September 2000 and June 2001 were undoubtedly useful, but for Russian official structures they remain a unique experience when it comes to the circle of participants and intensity of discussion. If this had been done by Russian authorities “for export,” i.e., for image-making purposes, then the goal was achieved, if “for domestic use” — the answer is no. The State Duma Commission on Assistance to Normalization of Public-Political and Socio-Economic Situation and Observation of Human Rights

in the Chechen Republic has proven effective only in the sense of propagation.

The same applies to another state institution that had been designed to protect citizens in the conflict zone. The official human rights structure established on the initiative of the Council of Europe — Office of the Special Representative of the RF President on Observation of Rights and Freedoms of the Human Being and Citizen in the Chechen Republic, headed by V. Kalamanov — has proven unable to either reduce the level of violence or protect the civil population from abuses of law enforcement structures. Its activities are primarily limited to registering complaints of citizens.612

The third official human rights structure — The National Public Commission — was established in 2000, following the 56th session of the UN Commission on Human Rights.613 The UN Commission urged the RF Government to immediately begin investigation of the alleged human rights violations and breaches of international humanitarian law in the Chechen Republic and expediently create an independent commission in accordance with recognized international standards. However, neither the procedure of establishment of the National Public Commission, headed by the former Minister of Justice, P. Krasheninnikov, nor its membership allows us to speak of its being in compliance with the relevant international standards. It is unknown if the National Public Commission has done anything concrete to investigate violations and hold the guilty accountable.

5. IMMEDIATE MEASURES THAT NEED TO BE TAKEN TO IMPROVE THE HUMAN RIGHTS SITUATION IN THE REGION

The situation in the armed conflict zone in the Chechen Republic is so complex that a simple solution can hardly be proposed — it is simply not feasible.614 A complex solution, on the other hand, will not fall within the scope of this report. Human rights have been violated in Chechnya so massively, grossly, on an everyday basis and for such a long time-period that human rights violations in the region cannot be considered as “deviation from the norm” — the notion of normalcy as such seems to have been forgotten. A “different norm” and a “different reality” exist in Chechnya today. We shall only indicate a general direction to be taken, but not in a detailed way out. There are five basic problems that can be identified: the dead-end of the armed confrontation; the

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612 In 2000, V. Kalamanov insisted that the number of criminal cases initiated from citizens’ complaints could be used to evaluate his activity. In late 2001, the complaints numbered over 20,000, whereas the criminal cases — dozens of times less than this number.
613 See: “Petition of the “Memorial” Society to the UN Commission on Human Rights” of March 2002.
614 There is an opinion that the problem boils down to the determination of the status of the Chechen Republic. Chechnya’s independence, according to some, or restoration of the sovereignty of the Russian Federation according to others, are presented as ways to automatically solve the problem. However, in these arguments politics are substituted for the law. At the same time, the reality shows that the overall costs of such a “simple,” “automatic” decision, which have been mounting for eight years, actually constitute the very essence of a situation that seems unresolvable.
legal vacuum in the conflict zone; the ongoing crimes against the civilian population; the impunity of criminals; the lack of control; the lack of mutual trust. Therefore, one can tentatively outline five general directions that should be followed to bring about a possible settlement of the crisis:

- civilian regulation of the conflict;
- positioning of the “anti-terrorist operation” in the Chechen Republic within the confines of national and international law;
- termination of illegal actions of federal law enforcement structures, establishment of a single leadership and improvement of discipline within the United Group of Forces;
- investigation of committed crimes, conviction and punishment of the guilty;
- internationalization of the conflict, “transparency” of the conflict in the North Caucasus, granting access to representatives of international organizations, human rights activists, charity organizations, journalists, and finally, mediation and observation by international organizations during the process of regulation of the conflict.

Keeping in mind the impossibility of a purely authoritative solution to the Chechen problem and the responsibilities assumed by the Russian Federation to regulate conflicts by using political means, human rights activists and international organizations repeatedly have demanded that the federal power start a dialogue with the opposing side, i.e., with A. Maskhadov whose legitimacy was recognized in 1997 by both the international community and the Russian government. The Russian government always replied that a dialogue in Chechnya was already underway, naming structures and executives delegated by no one, but loyal to Moscow. Some signs of progress were visible in the fall of 2001. Following the ultimatum put forward by V. Putin in September, statements were issued on preparation of contacts with representatives of A. Maskhadov. A meeting of V. Kazantsev, representative of the RF President in the Southern federal district, and A. Zakayev, representative of the President of Chechnya, actually took place. However, there was no follow-up to that meeting.

In compliance with the Second Optional Protocol to the Geneva Conventions, it must be acknowledged that what is going on in the Chechen Republic is an armed conflict of domestic nature. In compliance with existing legislation, it is necessary to declare a state of emergency in the conflict zone and, in compliance with the established procedure, the UN and Council of Europe should be notified of the above.

It is imperative to immediately and decisively bring to order those whose function is to establish and protect “the constitutional order.” It is necessary to terminate the practice of massive apprehensions of citizens based on sex and age, collective punishments, robberies of the civilian population by the military, abuses and murders during special operations in residential areas, as well as other violations of human rights in the conflict zone.
This process can be assisted by equally significant measures aimed at investigating crimes committed by representatives of federal law enforcement structures. Proper and thorough investigation can be made possible by considerably increasing funding, improving the technical base, increasing staffing and expanding the authority of prosecution bodies, and establishing joint groups consisting of representatives of territorial and military prosecution authorities. But the main prerequisite is, of course, the political will of the top power of the Russian Federation.

International organizations — UN structures, OSCE, Council of Europe — must not slacken their attention to the ongoing events in the Chechen Republic. Regular review of the situation at international fora is vital, as is the dispatch of representatives to the conflict zone. It is necessary to secure access to the territory of the republic for permanent observation missions from international, intergovernmental, and non-governmental organizations, special rapporteurs (in particular, it is necessary to secure their access to all detention facilities), and journalists. Only wide public and international scrutiny can bring about success in normalizing the situation in Chechnya.
DECENTRALIZATION
AND HUMAN RIGHTS
IN CONTEMPORARY RUSSIA
In order to fully appraise the impact of decentralization trends in Russia on the domestic human rights situation, it is necessary to identify the true attributes of the transformations that the country’s institutions and structures of state authority have experienced. The developments in this area could hardly be in line with the conventional vision of decentralization as a consistent sequence of democratic reforms. Moreover, the decentralizing process that had taken place in the contemporary Russia cannot be viewed as an effort toward reform.

Previous international experiences dictate that any full-fledged decentralization effort should be predicated on the following prerequisites:

- a solid framework built on a clear-cut legal system devoid of any internal contradictions;
- availability of a sound reform strategy deemed transparent and explicit by all levels of state authority;
- provisions for a thoroughly crafted power-sharing system made part and parcel of the reforming effort;
- transfer of power established and maintained as a voluntary and wholly predictable affair aimed at ensuring improvements in government management rather than as an enforced measure;
- augmented responsibilities adequately perceived and applied by the government bodies whose powers have been enhanced;
- sufficient levels of relevant expertise and skills maintained by all levels of government authority;
- a measure of cooperation between disparate subjects of authority and between different political elites.

We hereby conclude that none of the aforementioned requirements have been satisfied in Russia in the late 1980s through the 1990s. In those years, the country had witnessed a sporadic fragmentation of the Soviet system, with the new-nation-building effort continuing through the present day. While evaluating different dimensions of continuing social and political shifts, it is possible to talk of both archization or return to the conventional Soviet patterns and of the emerging liberal and democratic trends.
I. SPECIFICS OF THE SOVIET STATE SYSTEM
AND ITS FRAGMENTATION

During the XX century, the Soviet Union was one of the most central-ized countries in the world. Centralization had been just as ontologically attributable to the former Soviet state as the absence of private ownership or market economy. Given its single system of government management and the total mobilization of resources and economic planning, the once agrarian country had been turned into a global superpower. The backbone of the state had been the Communist Party of the Soviet Union (KPSS), which held a monopoly of political power, controlled all economic sectors, passed strategic development decisions, and provided solutions to any and all conflicts between local administrations or industries.

Both power verticals (Party and State) had been built and developed around the principle of strict hierarchy and rigorous bottom-up reporting relationships. As a reinforcement to this system, an omnipotent repressive machinery was used either to counter the political opposition or to energize the state institutions and sustain their functionality.

Despite the existence of the of pertinent institutions notwithstanding (such as public Soviets (councils), their executive committees on all levels and the government), the state authority bodies had been rigidly supervised by the Party. Thus, the state authorities have not been involved in making policy decisions. The Party also fixed the economic growth priorities.

Domestic administrative units, just like economic planners, had not been in any way independent in managing their own affairs. The USSR budget mechanism was structured as follows:

*It actually made a set of nested “matryoshka” dolls, with the parent authority passing the lower-level budgets (the effort eventually producing the USSR State Budget). All expenditures had been committed top-down, with no on-site updates being possible in the process. Notably, each local budget would have sufficient revenues assigned to cover the confirmed needs. The tax rates ranged within 2–100% of the turnover tax. Should some entity’s spending levels happen to be uncovered by the revenues generated through taxation, the parent authority would deal out the requisite amount to meet the relevant shortage. Any degree of budget self-sufficiency on the regional or local level was out of the question.*

Under such circumstances, one could hardly talk of any culture of local self-government. Local administrations had been rigidly overseen by their parent authorities, which for their part, proceeded from the fiscal-year plan drafted and confirmed by the USSR State Planning Committee.

615 A. Magomedov, “The Mystery of Regionalism: Regional Ruling Elites and Regional Ideologies in the Contemporary Russia: Models of Political Reconstruction from Bottom-Up” (hosting.ulstu.ru/magom).
Understandably, given the single unifying ideology and the functionality of repressive machinery, this kind of system proved to be rather viable. In fact, the level of repression did not necessarily need to be high; the principal behind the arrangement was the very applicability of repressive measures as a comprehensive method of government management. However, the Achilles’ heel of the system was its inability to embrace innovations.

The system, indeed, had been exclusively stable in the sense that it rejected any and all innovations falling beyond the logic of the established industrial system — the kind of system that was built around certain technologies through the use of relevant centralization and management approaches. Simply put, it lacked in-house resources needed to get appropriately adapted to new post-industrial-world conditions, top-of-the-line technologies and modern social challenges.616

During the period of its existence, the system did give rise to some changes (including those targeting the growth of economic self-sufficiency of the union republics), but its main characteristics remained the same.

By the 1980s, the resources of the rapid industrialization of the 1930s had been largely exhausted, with the Soviet Union effectively entering a systemic crisis phase. Mikhail Gorbachev’s reforms, aimed at bolstering the Soviet economy, merely served to accelerate the downward trend. Populist measures, passed by former Soviet governments, left the USSR macroeconomic vehicles nearly in shambles. By that time, the Communist ideology had become degraded, and careful attempts to introduce a measure of democracy had left the repressive machinery effectively paralyzed. As it lost its political and ideological supremacy, the Communist Party started to rapidly lose its power and influence. The once centralized state system weakened and eventually crumbled. This crisis of authority was compounded by rising nationalism, of which more destructive manifestations had been made by the former Soviet republics seeking to achieve self-governance or even complete independence. The situation was also aggravated by the confrontation between the USSR and RSFSR (Russian Soviet Federative Socialist Republic) leaderships (with that spirit being boosted by personal enmities between M. Gorbachev and B. Yeltsin).

The Soviet State definitively collapsed following the attempted coup d’etat during August 19–21, 1991, which was actually the very last endeavor carried out to consolidate the USSR both politically and administratively.

However, during 1989–1990, the union republics and lower-level authorities already began releasing statements regarding graded sovereignty or independence,617 and unauthorized unilateral moves were made to achieve

617 A few examples to this effect would be in order. On August 30, 1990, the Tartar ASSR (autonomous republic as part of the RSFSR) passed its Declaration on State Sovereignty, the document, in particular, reading that Tatarstan could join international agreements and delegate part of its authority to the RSFSR. The Chechen-Ingushi ASSR (autonomous
these goals or other sets of powers (in particular, those relating to taxation and budget formation). Local public initiatives were launched at the grassroots level to put into place self-government authorities, neighborhood or apartment-building-community managing committees, etc. The central authorities were not strong enough to keep these sporadic trends in check. All of these shifts had transpired as part of a spontaneous process of people unilaterally implementing their rights; however, at the same time these trends signified the onset of the period of administrative chaos.

As democratic trends gathered momentum, they grew into a powerful and unstoppable force targeted at dismantling the totalitarian system. In principle, this phenomenon could only be understood as natural and positive. However, given the specific environment, the uncontrolled decentralization effort contained attributes of a totally different phenomenon.

Despite the predominant political and ideological conditions at the close of the XX century, the Soviet Union’s collapse was basically no different than the fall of older empires, such as the Russian empire during the years 1917–1920 or the Chinese empire in the first half of the last century. In each of these cases, the central authorities lost their effectiveness, manageability at the national level became uncontrollable, regional and local political ambitions were emboldened, institutions of state authority eroded, and governing bodies at all levels sought to apply their own parochial management strategies.

II. FEDERATIVE MAKEUP IN THE ABSENCE OF FEDERATION PER SE

Specifics of the political culture of totalitarianism are normally reflective of the invariable fact that in terms of substance the political institutions have now and again been at odds with realities. To confirm this observation, while formally being a federation, the Soviet Union had always been an exemplary unitary state, rigorously centralized at that. And as soon as the Soviet political system started to grow weak, it was precisely the pseudo-federative makeup of the state that served as a catalyst of the country’s fragmentation. In theory, a Soviet republic could enjoy a rather impressive body of powers. However, in the Soviet Union, where the formal political makeup was largely a decoration, the union republics’ rights were not clearly defined. Evidently, the country had been held together by the Communist Party rather than by some federation-based arrangements. Just as the old system of governance lost its legitimacy, a sort of legal vacuum emerged in the area of relations between the center and the union republics, with each side struggling to have that vacuum filled out to serve its interests. For example, in the area of drafting budgets the following transpired:

republic as part of the RSFSR) declared its state sovereignty without seceding from the USSR. The Gorno-Altai autonomous region became the Republic of Altai.
Given the specifically Soviet-vintage environment, a “budget war” was unleashed, with the union republics refusing to transfer tax revenues over to the federal treasury and insisting on the introduction of the single-channel tax collection system and establishment of local watchdog agencies to track the layouts administered by the USSR leadership. Notably, it was the power-sharing problem compounded by rising nationalist sentiments, along with the fact that state attributes continued to be kept by the union republics, which basically provided for disintegration of the Soviet Union.

To emphasize, in the early 1990s, almost the same developments could also be seen transpiring within the RSFSR whose political makeup was no different from that of the former USSR. However, the Russian regions for the most part possessed no state attributes. And national (ethnic) separatism could be used by regional elites to pursue their ends with a certain degree of effectiveness in only about two dozen autonomous territories. Importantly, the Russian center had acknowledged the fait accompli when the regional authorities acquired a good measure of power. The catchphrase by B. Yeltsin — “Take as much sovereignty as you can handle” — had nearly become the command of the times. Though decentralization was de-facto acknowledged, it was not appropriately translated into relevant legislation, with the authority demarcation problem remaining outstanding.

III. STATE AUTHORITY AND LOCAL SELF-GOVERNMENT IN THE EARLY 1990s

Following the triumph of democratic forces in late August 1991, Russian society was effectively able to build a democratic state without any constraints. However, the problem required something more than just removing the Communist Party and having democratic elections to fill the various levels of elective offices throughout the country. Clearly, another set of major prerequisites was not only economic reform, introducing private ownership and market-based relations; but also a radical reshaping of the entire government management system, renewing the legal base, and growing a new political culture with the goal of civilized decentralization.

As a reminder, at the close of 1991, even the more consistent economic reform program was drafted as an emergency effort, with the regional segment nearly ignored.

It was only rather belatedly, from the middle of 1992, that the Yeltsin Government started to tackle the regional reform effort. As he addressed the September 1992 Cheboksary [capital of the Chuvash Republic] meeting of regional leaders, Yeltsin acknowledged that

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the need for regional reforms had largely been ignored and that the relevant focus ought to be shifted from Moscow to the regions.  

Admittedly, even in later years the federal authorities turned out to be incapable of running consistent and balanced policies, which can be explained by the worsening of the confrontation between the President and the Supreme Soviet.

Political initiatives of the two rival branches of the federal government essentially boiled down to either side sporadically performing field trips across Russian provinces to deal out promises, suggest therapies and make overall policy statements. As a matter of fact, the provinces had been made sort of an “expendable asset” in the battle waged by the two center-based presidential and parliamentary elites. To underscore, even the crucial decisions on local taxation, finances and investment policies (critically relevant for any effort to assure a switch to a market economy) had been made “on the move” in the course of brief visits to this or that province. Generally, those decisions came as sorts of pledges rather than as realistic and sound strategies.  

Moreover, the conflict between the President and the Supreme Soviet was generally part of the overall power-sharing problem, in this particular case — between different branches of the federal government. Historically, the Soviets (established back in 1917) had somewhat miraculously held together the legislative and executive powers. In 1991 when the Office of the President of the Russian Federation was established, the centralized system of government was not reshaped. The President and Supreme Soviet would inevitably have differences, with personalized political ambitions largely standing in the way of constitutional reforms that would have made the Supreme Soviet into a purely legislative body of federal authority.

To compound it all, similar trends had been observed in the Russian provinces. Regional and local Soviets “found the obstinate close-mindedness of the deputies together with their inability either to reach agreement on new arrangements or have things restarted and build bonds with the local executive authorities eventually turned out to be extremely destructive.” The never-ending in-house conflicts stood heavily in the way of reforms.  

619 A. Magomedov, “The Mystery of Regionalism: Regional Ruling Elites and Regional Ideologies in the Contemporary Russia: Models of Political Reconstruction from Bottom-Up” (hosting.ulstu.ru/magom).
620 Ibid.
622 The system of Soviets had from the very start been reflective of the domineering archaic public institutions characteristic of conventional agrarian societies, according to scholars of Russian government institutions. Traditionally, in order to “provide balanced council,” an agrarian community assembly, for example, would be gathered to re-carve the community-held land properties to match the current household requirements (with social justice principles being duly applied). Clearly, that institution was fully in line with Soviet-type socialism providing for public ownership of all production assets. A switch from the old ways over to a market economy and private ownership rights revealed a profound discrepancy between the Soviet-based government and the newly-created political and economic realities. Interestingly enough, the Soviet deputies of the late 1980s-early 1990s primarily held that their duties should be related not so much to making laws as to assur-
It was only in October 1993 that the confrontation between the Supreme Soviet and the President came to be resolved. The political crisis was overcome through the unlawful application of force. Notably, the President’s triumph in the center was immediately followed by victories in the provinces. Following these victories, the October 9 and October 26 Presidential Decrees “On Reforming Representative Bodies of Authority and Local Self-Government Structures in the Russian Federation” and “Regulations on the Guidelines for Creating Local Self-Government Structures in the Russian Federation for a Period of Gradual Constitutional Reforms” were issued to eliminate the old system of regional and local Soviets across the country.

* * *

Though in the early 1990s the emerging democratic system of state authority and self-government failed to be appropriately streamlined, no trace was left of the old centralized political system. This happened because of the democratic effort launched under the late Soviet times as part of the national “perestroika” (restructuring) effort, when the authorities would periodically operate in violation of the standing regulatory procedures and unilaterally assume extra powers, thereby effectively leaving the control of either the Communist Party or of the parent federal government bodies.623 Notably, the old ways had particularly been phased out on account of the economic crisis.

The economic and political chaos of the early 1990s produced a rapidly escalating process of regions becoming more self-protective. “Following the close of research into local governments in Russia, one can conclude that the country’s general political crisis produced a dramatic growth of local particularism.”624 What one could observe was a focused adaptation process under which both local and particularly regional authorities had sought to have their territories protected against the propagating crisis waves threatening to engulf the entire country.

In the initial stage, the system of economic relations between different levels of authority had been arranged to reflect the guidelines for democratic decentralization.

In the 1990s, while proceeding from the principle of independence of regional and local governments, the federal authorities distributed the burdens shouldered by the center, regions and local municipalities. Concurrently, a decision was passed to define the taxes applicable on the federal, regional and even local levels. From the very start this ap-
proach had the following two pitfalls. Firstly, it was built around averaged indicators for revenue and spending levels in all the regions. Obviously though, Russian regions had come to be very much different from one another in terms of economic capacities and requisite spending levels. As a result, in spite of a rather good start, a system of decentralized relations between the center, regions, and municipal formations had not been created.

No effective and balanced strategy to level out regional budgets was developed (the reason in part being the lack of requisite expertise and relevant skills of management experienced in market conditions). Secondly, the split of taxes and responsibilities between different levels of authority likewise turned out to be inadequate. The third pitfall revealed itself only after a passage of some years. As new federal laws (often produced as a result of populist approaches) came to be passed, the inherent burdens were compounded. Given the binding character of the federal legislation, regional and local authorities could hardly afford to disregard the relevant provisions. As a result, many regional and most municipal

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625 The northern territories lying in the zone of severe Arctic climate cannot on principle exist without federal aid. The autonomous districts with their population in some cases possibly just several tens of thousands have to maintain the same (in terms of the number of institutions) bureaucratic apparatus, as the other constituent subjects of the Federation, such as, for instance, the Sverdlovsk region populated by 4.7 million persons. Admittedly, this problem has been observed both on the federal and regional levels. To provide an example, the Nizhny Novgorod region alone holds as many as 560 municipal formations (both city-based and rural ones) with radically different capacities and requirements. See S. Mitrokhin, “How to Distribute Powers and Finances between Different levels of Authority,” Information Bulletin of the “Yabloko” Movement’s Commission on Municipal Policies (2001, #10).

626 Contemporary researchers of local self-government describe the existing situation the following way: “The population expects that the local authorities will solve specific municipal (district-scale) problems and timely pay wages to the budget-financed sector workers. A local self-government head’s explanation that the wage payment to the budget-financed sector workers is delayed due to a non-accomplishment of their duties by the federal center of the Federation constituent subject might satisfy the social sphere workers for a while, but not for too long. Very soon, such local administration heads start to be perceived not as victims of the state economic policy, but as weak will-lacking chiefs incapable of ensuring the payment of subsidies due for the municipal entity, or as persons in conspiracy with financial institutions “twisting” [i.e. gaining interest from] the municipal funds in a bank. Some local heads’ statements that money has been sent and the other local heads’ statements that they have not received any money create a confusion and just aggravate the social tensions. The chronic lack of funds forces the local chiefs to take unpopular measures: to increase tariffs for the municipal residential services, to hike public transportation prices, to increase charges paid by the street peddlers, to maximally reduce spending on children care and education institutions and on holiday celebration events etc., but those, however, do not solve the problem. Shlisselburg Mayor S. Yurkova, accusing the federal authorities, put it as follows, “You approve benefits and exemptions (and those are numerous nowadays), but do not provide funds... and that fact promptly produces a negative attitude: the President is good, the Government is good, but a city mayor is, sorry, the enemy number one.” In Yuzhno-Sakhalinsk, Deputy Mayor V. Sokolov acknowledged that 25% of an annual city budget are spent to finance all kinds of benefits and exemptions. One should think that in the other localities not less is spend on those purposes... As for new rights, they remain on paper only, without being supported by material and financial substantiation. For example, one will hardly find today a municipal entity ready to organize its own municipal fire-fighting service and do without the services rendered by the Ministry of Internal Affairs (MVD). What can a local self-government head do if the bulk of the budget consists of subsidies, the payment of which is time and again delayed or cut down by the federal and regional authority bodies? The state authorities eagerly delegate, in addition to the responsibility, many of their duties on the municipalities. And they do it in a way which is not very correct. Transfer of the engineering infrastructure, resi-
formations had their budgets a-priori deficient. At that, regional and local authorities, just as the old Soviets and executive committees, proved to be unable to share powers and taxes in a civilized manner.

All those developments provided a backdrop against which the “tax war” was unleashed. It so happened that each region had just one or a few large cities with major industries that could be tapped to generate most of the revenues for local budgets. Understandably, the local mayors wanted to keep most of their tax revenues, while the regional authorities struggled to meet vital needs such as supporting poorer municipalities, particularly the rural ones. Regional authorities took a political course at depriving local self-governments of their sources of income. For instance, in the Smolensk region they established a procedure under which the tax revenues from big taxpayers economically active in the territory of municipal entities (energy sector enterprises, railway organizations) go directly to the regional budget with no deductions for the benefit of the local budgets. The Governor of the Omsk region deprived the budget of the city of Omsk of revenues from the most profitable enterprise — the oil refinery. After that, the amount deducted from federal taxes that goes to the city budget started being set year by year at the lowest level in Russia.

At the same time, local administrations generally sought to tackle their problems through the sheer non-application of the federal legislation. Numerous local statutes had been passed to put ceilings on the taxes prescribed by federal law. For example, the Mayor of the city of Krasnodar (Krasnodar territory) issued a decision canceling the urban transportation privileges for veterans of the Second World War, while the Mayor of Rostov-on-the-Don (Rostov region) cancelled privileges concerning municipal residential service charges paid by the law enforcement and military servicemen.

At the height of those processes, the President eventually triumphed over the Supreme Soviet, and the old soviet system was effectively taken apart.

A new Constitution, passed on December 12, 1993, created a new organization of the state. The fundamental law of Russian was justly perceived by the international community as one of the more advanced documents...
in its list of human rights safeguards.\textsuperscript{631} When it comes to the issue of local self-government, the Constitution prescribes that local administrations do not fall within the purview of the state power vertical. For example, when the draft Constitution had been debated,

\begin{quote}
all arguments had been pursued to define the powers and responsibilities of the President and Parliament with nearly nothing being said of local self-governing structures. The constitutional guidelines for local self-government subsequently became the subject matter of most heated debates and displeasures voiced by numerous regional leaders.\textsuperscript{632}
\end{quote}

Notably, regional leaders have been perceiving local self-governing bodies as threats, which have increasingly grown in size because the center has grown weaker, regions have become more isolated, and because of the developments of October 1993 when the Soviets were dismissed and new representative bodies were yet to be created.\textsuperscript{633} The powers of regional leaders were bolstered by many of the regional leaders succeeding in building "manageable" parliaments by way of exerting unlawful pressures on the electoral process.\textsuperscript{634}

\section*{IV. LOCAL SELF-GOVERNMENT IN THE MIDDLE 1990S}

Since 1995, the legal basis for implementing the Russian citizens’ constitutional right to self-government has been Federal Law “On General Principles for Local Self-Government in the Russian Federation.” The law is

\begin{footnotesize}
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\item The Constitution of the Russian Federation carries a provision on the relevant Russian international commitments being preemptive to comparable domestic provisions, with the human rights-related rules being no exception.
\item Yu. Erofeeva “Local Self-Government as a Civil Society Institute” — dissertation draft.
\item Notably, regional heads concentrated powers in their hands on account of the following impersonal motivations: regions had grown to become administrative units where a solid degree of manageability could be secured. With the old ideology being abandoned, in order for the public efforts to be appropriately energized, the use was made of the so-called ideology of regionalism that happened to be applied through the use of rather radical strategies. Providing a most telling example in that regard would be the 1992 attempt to have the Sverdlovsk region turned into the Urals Republic. The regional leader Eduard Rossel had this to say in order to explain his initiative, “… The first idea to have the Urals region brought tightly together emerged following the general disintegration trend setting in. With nearly everything coming to pieces, direct links to Moscow getting eroded, no new ideology or effective management tools being offered, we largely felt totally abandoned and we just proceeded to take stock of our inventory and see what could be done under the given circumstances.” (A. Magomedov, “The Mystery of Regionalism: Regional Ruling Elites and Regional Ideologies in the Contemporary Russia: Models of Political Reconstruction from Bottom-Up” (hosting.ulstu.ru/magom)). Providing rather graphic examples in this regard have been Russia’s autonomous “ethnic” republics that chose to fan out nationalistic sentiments and in the early 1990s declared their “state sovereignties” and special status within the confines of the Russian Federation.
\item For instance, during the election campaign for the legislative assembly of the Kemerovo region in 1998, the opposition candidates did not enjoy equal access to mass media and the whole regional administration worked in favor of the election campaign of the actual Governor's bloc. As a result, 34 seats in the legislative assembly out of the total of 35 went to the representatives of Governor A. Tuleyev’s bloc. In Moscow, the election campaign of 1997 resulted in 25 out of 35 deputies elected to the Moscow Duma being Mayor Yu. Luzhkov’s associates. For more details on those influences and pressures, please see the section of this paper entitled “Human Rights Violations by Regional Authorities.”
\end{itemize}
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based on the constitutional division of municipal self-government from state authority. Under the law, the population of an urban/rural settlement, irrespective of their number, cannot be deprived of their right to exercise local self-government, and the existence of elected self-government bodies is mandatory. The exclusive competence of representative self-government bodies embrace, in particular:

- adoption of obligatory rules concerning the matters of competence of the municipal entity as stipulated by the statute of the municipal entity;
- approval of the local budget and its execution;
- setting up the local taxes and charges;
- setting up of the procedures for management of and disposal of the municipal property.

Regional leaders naturally seek to reduce the number of municipal formations authorized to create self-government structures, on the one hand, and have all regional governing bodies brought into a single network, on the other. As a consequence, local citizens have ended up totally deprived of some of their legitimate rights because the local self-government, as such, has been nearly abandoned. Elsewhere, the functional self-government structures, to varied degrees, have lost their influence on shaping local executive administrations. Clearly, this state of affairs tends to be at odds with the European Charter on Local Self-Government (Clause 2, Article 3) ratified by the Russian Federation in 1998.

Moreover, this trend was compounded in the mid to late 1990s with the regional legal base being developed to boost regional financial clout at the expense of the taxation base held by the local self-government authorities. The Tax Code’s first part, enacted in 1998, has reduced the number of local taxes to five levies with three of those running the risk of eventually falling under the regional jurisdiction. Other fiscal novelties (laws on the sales tax, small-business income, etc.) have served to almost wholly eliminate local taxation and revenue-generation base, thereby putting the municipalities in the position of absolute dependence on their regional authorities and the regional authorities’ financial policies.

The very existence of local self-government structures stands in the way of building up a vertical regional power, which is supposed to assure order and prosperity in the region, at least according to regional heads. Given the existing economic and political realities, the relationships between local and parent self-government structures, to say nothing of their relations with the regional authorities, very often have been confrontational by nature. These attitudes have been translated into the regional heads both seeking to outlaw local self-government and fan out open conflicts.

635 For example, between local districts and parent rural municipalities.
By way of example, it would suffice to refer to Yu. Spiridonov, head of the Komi Republic, who had this to say of the local government:

_We have no local self-government in Russia as such. It is just nowhere to be seen. Whatever is available is merely a travesty of the local self-government principle, in particular, and of effective authority, in general. Remember, we are talking about power-sharing, meaning who is going to or not going to command which assets._\[636\]

The characterization above is clearly indicative of the level of political culture and ambitions of Russian regional leaders.

While taking advantage of their special status within the Russian Federation and the unavailability of a fully-functional mechanism to assure supremacy of federal laws over regional legislation, leaders of a number of the ethnic republics within the Federation have been resorting to broad interpretation of their rights under the relevant region-center power-sharing bilateral agreements and passing regional laws to curtail the rights of local self-government structures.

For instance, when it comes to the “specifics” of local legislation in connection with local self-government, Bashkortostan is certainly the champion. According to Regional Law “On Local State Authority in the Republic of Bashkortostan,”\[637\] heads of local administrations are named to hold the office and removed from the office by the President of the Republic (Article 25). What is more, the Bashkortostani President’s right to name and remove heads of district and city administrations is confirmed by the local constitution (Article 95 of the Constitution of the Bashkortostan Republic). Apart from that, the Constitution of Bashkortostan and the aforementioned law clearly impinge the right to elect and be elected for the office of the head of a local or city administration, with both documents being in contradiction to each other.

Within 1998–1999, a sequence of unsuccessful attempts was made to appeal the aforementioned inconsistent republican legislative provisions. On account of no federal law being available to provide either general principles for building state authority structures or any set of common guidelines for shaping representative and executive governing bodies, the Supreme Court of the Republic of Bashkortostan referred both to the republican right to lay down its own law to regulate the state authority-building effort within the Republic and to the Treaty “On Demarcation of Jurisdictions between the Republic of Bashkortostan and the Russian Federation” that had been drafted to have the Republic of Bashkortostan fully authorized to shape and maintain the state authority bodies within the Republic’s confines.

Additionally, on March 4, 1999, the Constitutional Court of the Russian Federation ruled that the provisions of Republican Law “On Local State Authority in the Republic of Bashkortostan,” under which the heads of

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637. The “local state authority” notion held by the title of the law comes to be at odds with the Russian constitutional provision on splitting the authority into “state authority” and “local self-government.”
local administrations can be either named or removed by the President of the Republic, contravened the relevant provisions of the Constitution of the Russian Federation and were supposed to be void in keeping with the due process. Notably, this ruling has never been publicized by any of the republican print or broadcast media outlets. Heads of local administrations, one year after the Constitutional Court issued its ruling, continue to be either appointed or removed by the President of Bashkortostan.

Though the Komi Republic legislation of May 28, 1998, pertaining to local self-government, held safeguards for local self-governing structures to be shaped on the basis of elections, it nonetheless carried some provisions that came to be out of line with the Constitutions of the Komi Republic and that of the Russian Federation. Under the new law, it is the head of the Komi Republic that has the exclusive right to nominate candidates for the offices of heads of municipal (city, town, rural district) administrations, the provision effectively robbing the local citizens of their right to elect and be elected for the office of head of local a self-government body. In 1998, the Supreme Court of the Komi Republic ruled that the abovementioned provisions of the law were not in compliance with the Constitution of the Republic of Komi. Notwithstanding, the State Council and the leader of the Republic of Komi appealed the ruling to the Supreme Court of the Russian Federation. On December 25, 1998, the Supreme Court of the Russian Federation confirmed the ruling of the Supreme Court of the Republic of Komi. However, as of the close of 1999, the relevant law had not been either reviewed or updated. Notably, following the February 1999 elections for local self-government, the head of the Republic of Komi carried on with the practice of nominating his candidates for the offices of heads of the local administrations.

In the Republic of Mordovia, voters likewise have been devoid of the right to directly elect heads of local administrations. In Mordovia’s towns and districts, heads of local administrations continue to be nominated by the President of the Republic of Mordovia, with subsequent endorsement being duly passed by the deputies of district Soviets. Hence, the opportunity for the people to directly elect the head of a local self-governing body is totally ruled out unless, of course, the candidate has been cleared by the President of Mordovia. This practice, as a matter of fact, has been recorded in Republican Law “On the Election of Deputies of Representative Local Self-Government Bodies in the Republic of Mordovia,” dated July 3, 1999. In 1999, the State Duma Committee on Local Self-Government Affairs held a review of the aforementioned law and determined that its provisions were most conspicuously at odds with relevant federal legislation.

The Constitution of the Republic of Kabardino-Balkaria provides for the following procedure: the President of the Republic nominates a candidate for the office of head of a local administration. Then the local representative body has an opportunity to confirm the candidate. Following this procedure, the newly-confirmed “chairman-elect” is appointed head of the relevant local administration by the President, the latter possessing the right to have the former official removed at his own discretion. Remarkably, the Constitutional Court of the Russian Federation ruled that this legal provi-
sion had to “be invalidated and could not be applied either by local courts or officials.”

To underscore, regular regions of Russia have not been very much different from the ethnic republics in the matter of making laws on local self-government.

Particularly indicative in this respect has been the situation in the Bryansk region. Though the rural Soviets had received guidance on passing decisions to dissolve, and notwithstanding the pressure they received from regional administrations and legislatures, some of the region’s districts held elections for heads of local administrations, in 1999. Apart from that, a number of local township Soviets rejected the “guidance,” refused to dissolve, and passed their own charters using the term “municipal formation” (townships of Bytosh, Ivor and Star from the Diatkov rural district), with all other township administrations duly dissolving.

The region’s districts and the city of Bryansk became self-contained municipal formations. Candidates for heads of the city-based districts are nominated by the Bryansk administration head following relevant approvals by the city Soviet. Those officials are posing as deputy heads of municipal formation administrations. Similarly, heads of townships and lower-level communities (nominated and confirmed in the manner described above) pose as deputy heads of district administrations.

Some of the local districts (Novozybkov, Pochep, Suzemsky, Klimovsky) filed applications to secure registrations for groups of activists seeking to arrange referendums in order to learn more about violations of the right to elect and be elected for local self-government structures. Unfortunately, the applications have been left unheeded.

The Ivanovo region passed a law in 1996 to have most of the local districts and their administrative centers established as municipal formations. As a consequence, merely six regional towns kept their status as municipal formations and their right to shape their own self-governing bodies. Following relevant amendments introduced into law at a later date, some more regional communities received the right to restore their self-government capability. However, the existing electoral procedures appear to be rather complex. Over the past few years, only the town of Kokhma managed secure the right to operate as “municipal formation” and form its own administration, in 1998.

The ongoing litigation in the Yaroslavl region notwithstanding, local citizens have not been able to exercise their right to shape their self-government bodies even for the town of Rybinsk (population of 250 000). Since 1994, just Yaroslavl and Pereslavl-Zalessky have been maintaining their own self-governing bodies. All other municipal formations operate as conglomerates of communities within a single rural district (larger towns being included). Remarkably, the region currently holds 11 towns, 13 industrial townships and a few large rural settlements.

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638 Pogarsky and Gordeevsky districts
Things appear to be the same in the Novosibirsk region, where heads of rural districts and larger towns are just appointed by the regional head. The draft law on the election of heads of local territories has continuously been put on the “back burner” by the regional Soviet. Notably, the town of Tatarsk collected more than 3,000 petitions in support of elections of the heads of territorial administrations.

Nonetheless, the Charter of the Novosibirsk region provides for establishment of so-called territorial administrations authorized to rule on a self-governing basis in the rural districts and larger towns.

Apart from that, Clause 4, Article 41 of the Charter decrees that the regional legislature (Soviet of Deputies) and administration have the right to participate in drafting local budgets and have them either amended or updated. Clearly, this provision does not comply with Clause 2, Article 36 of Federal Law “On General Principles for Local Self-Government in the Russian Federation,” under which local budgets are supposed to be independently formed by the local self-governing bodies.

Additionally, the confrontation between E. Nazdratenko (former Governor of the Primorsky territory) and V. Cherepkov (former Mayor of Vladivostok), which lasted for several years, can truly be characterized as one of the more detestable and broadly publicized clashes on the issue of local self-government. E. Nazdratenko could not cancel self-government for such a city as large as Vladivostok. The Governor’s efforts had been aimed at removing the unwelcome Mayor and preventing him or his advocates from regaining power in the city. In the September 1998 local elections most of the city voted against all of candidates, the obvious motivation being that the ballot failed to feature the name of V. Cherepkov as candidate for Mayor of Vladivostok. Remarkably, the name of V. Cherepkov had been stricken off the ballot just three days prior to the election, which was an indication of the outright pressure applied by the regional authorities. Then, in December 1998, Nazdratenko managed to secure a presidential decree (which was legally insufficient), which authorized the regional head to name the acting head of the city administration, who would hold the office of mayor until the next mayoral elections. Following that arrangement, Yu. Kopylov (Cherepkov’s contender in the mayoral elections) assumed the Mayor’s Office and issued an order to appoint himself (while referring to the relevant presidential decree signed by B. Yeltsin) acting Mayor of the city of Vladivostok. Immediately afterwards, E. Nazdratenko confirmed the order issued by Yu. Kopylov. After this, Yu. Kopylov used the local police to seize the town hall, where the previous administration refused to acknowledge Kopylov’s authority. Then, in early January 1999, the city authorities found “valid” grounds (the unavailability of the City Charter) to cancel the mayoral elections scheduled for January 17, 1999.

639 The background story runs as follows. V. Cherepkov was elected Mayor in July 1993. In 1994, he was removed from the office by presidential decree. Then, he successfully appealed the presidential decision in a court of law and was restored in his position as the head of the Vladivostok city administration (1997).
640 The reason being two other candidates took legal action against V. Cherepkov who allegedly breached campaign rules. The court ruled against V. Cherepkov.
641 Presidential Decree #1561 of December 11, 1998.
Events surrounding the Vladivostok representative body elections appear to have been wholly unprecedented even for the current Russian environment. For example, by the start of 1999, City Duma elections had been held 14 times since the closure of the local Soviet in October 1993, with a full-fledged local legislative assembly never being shaped. January 1999 saw another set of local legislature elections, with the Central Election Commission providing an augmented level of supervision. Notably, the elections produced 16 deputies out the requisite 22, with most of those elected being V. Cherepok’s supporters that in the very first (and the only) session had him elected as Speaker of the Duma. Subsequently, the election results in eight electoral districts had been challenged and then overruled. The Duma activities became pointless for lack of a quorum. December 1999 saw the State Duma elections being concurrently run with the Vladivostok city elections. However, the results of the latter remained inconclusive. To be precise, deputies were elected in three election districts only, which was not sufficient for a City Duma quorum to be formed and effective engagements to be launched. The local self-government was finally formed only in the middle of 2001, which required elections to be held the sixth time.

As a matter of fact, the Governor’s unwillingness to settle for existence of a self-contained authority in the region, just like his desire to have things managed (or mismanaged) unilaterally, doomed the territory’s capital to a permanent crisis of power. Finally, the Primorsky territory can hardly be regarded as a well-to-do region in social and economic terms.

In summary, an effort to shape local self-government structures consistent with the Russian Constitution and Federal Law “On General Principles...” cannot assure effective operation of those governing bodies. Something more is required. Regional authorities can all too easily ignore the rights of smaller municipal formations.

By way of example, the residents of Khomutinino (Uvelsky district, Chelyabinsk region) have since 1993 been seeking to exercise the right to shape their own administration. They drafted, passed by referendum, and registered the Charter for the Khomutinino municipal formation. Notwithstanding the circumstances, G. Litovchenko (head of the Uvelsky district backed up by the Governor) refused to grant financial independence to the Khomutinino community. The Governor and regional legislature refused to have the Khomutinino spending passed as a separate budget line-item. In response to the Khomutinino community’s application to the presidential administration on the matter in question, the center formally replied in February 2000 that the community’s demands were fully justified. Alas, the official document left the local district and regional authorities totally unaffected.

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642 One should bear in mind that V. Cherepok is little different from E. Nazdratenko in terms of outlooks and judgments. The conflict apparently turned out to be so bitter and lasting on account of the two leaders being so authoritarian in their attitudes.

643 It was precisely the Mayor-Governor conflict that primarily generated the energy crisis in the region when the locals were nearly left without electricity for an indefinite period of time, according to some knowledgeable mass-media analysts.
In 2000, V. Kiselev, head of the administration of Kirov, informed the community that in 1999 the regional Duma, in violation of the law on financial foundations of local self-government, ruled to retain only 20%, rather than 50% of income tax for the city needs.

Notably, municipal formations’ financial independence from their regional bosses has been used by the latter to coerce the local self-governing representative bodies into passing decisions to the liking of the Governor.

For example, in the Chita region, the local self-governing bodies lack the resources needed to cover pressing municipal expenses. This clearly explains why their powers are actually so small. All municipal formations depend on regional transfers for their livelihood. While taking advantage of the circumstance, the head of the regional administration unscrupulously violates the constitutional provisions and interferes in the affairs of local administrations. To provide another example, in the 2000 City Duma Speaker elections, the head of the regional administration suggested by fax that the City Duma deputies should vote for his nominee N. Nazarov. In the elections for administration head of the Chita city, the regional Governor arranged and held a meeting with the City Duma deputies to tell them that the city would receive no extra funding if his nominee was not supported.

V. REGIONAL ISOLATIONISM AND POWER GRABBING BY REGIONAL AUTHORITIES

In the second half of the 1990s, local self-government bodies actually were devoid of any independence, while regions conversely bolstered their positions. Unfortunately, the effort to beef up the regional authorities’ positions had been completed by usurping the powers of local and central authorities, as opposed to democracy-geared decentralization activities. The explanation lies in the fact that the central authorities had been compelled to settle for it. Following the dissolution of the Supreme Soviet, the President’s legitimacy was dubious and he felt obliged to make concessions favorable to the regions in exchange for preserving supreme power and adoption of the 1993 Constitution. Admittedly, rather than becoming universal, those concessions were implemented via separate deals between the center and the subjects of the Russian Federation. In addition, one ought to bear in mind that the federal subjects are radically different not only in terms of economic potentialities but also in political status (republics being higher in status than regions). While benefiting from their Federation status and using the factor of personal clout, regional leaders sought to secure maximal tax breaks and exemptions ignoring the interests of other regions or the concerns of the state as a whole.

Understandably, most of the perquisites were secured by the richer republics that managed to minimize their tax-based contributions to the federal budget.

By way of example, while all Russian regions had been committed to transfer 10% of their income tax revenues to the federal budget, Tatarstan had to provide merely 1% of the same revenues, with other subjects of the Rus-
sian Federation providing 50% of the excise tax revenues from the sales of distillery-origin products and 100% of the relevant levies from oil, petroleum products and natural gas deliveries. Notably, Bashkortostan and Tatarstan had been allowed to keep these revenues. 646

Other powerful subjects of the Federation, while lacking the status of republics, could not have the same tax exemptions incorporated into the bilateral power-sharing agreements, though they kept entering these provisions into their arrangements with the Ministry of Finance.

What is more, whatever could not be made legal in the first place might be introduced unilaterally. For example, Bashkortostan, Sakha (Yakutia), Tatarstan and Tyva placed special provisions into their constitutions that suspended federal rules deemed to impinge on the interests of the given subjects of the Russian Federation. 645

Throughout the 1990s, the regional leaders were able to take advantage of federal constitutional provisions which allowed them to nominate the heads of regional law enforcement structures. Then the Federal government would rubber stamp these appointments. Thus, local law enforcement authorities came entirely under the personal control of the regional leadership. For example, as reported by Izvestia, “in 1998, the Republic of Kalmykia held only one federal structure of authority left that was beyond the reach of the ambitious Kalmyk President (K. Ilyumzhinov). That structure was the local federal security service (FSB) office. Notably, K. Ilyumzhinov does all that he can to have the local FSB head replaced.” 646

Notably, regional leaders even try to formally take control over the courts. 647 The President of Ingushetia, R. Aushev, for one, transferred the courts from federal jurisdiction to republican jurisdiction, which was decided by a local referendum. 648

Thus, the overblown powers of regional leaders had the most destructive implications for the implementation of human rights in the second half of the 1990s. In fact, the following scheme has worked in Russia:

| Weak State (lack of a single uniform legal framework, absence of professional staff and “corporate culture,” connections, lines of supervisions and powers not worked out) |
| Spontaneous decentralization is resulting in local particularism |

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644 S. Mitrokhin “Decentralization of Authority in Russia” (www.orc.ru/~yabloko/Themes).
645 Ibid.
647 De facto, the judiciary system has found itself heavily dependent on the regional and local authorities. The degree of dependence is proportionate to the material support they render to the courts. In the overwhelming majority of reports by the regional human rights organizations, it is stated that the courts, in practice, never pass unbiased decisions on the cases, wherein a regional or local authority body is a party.
In the conditions of regionalization, authoritarian regimes are forming in the federation’s subjects and, as a consequence, authoritarian tendencies are growing stronger on the federal power level. Truly democratic institutes are not constructed. Massive corruption and non-transparent systems of governance precondition and support one another.

Regional authorities have turned out to be the principal violators of human rights and fundamental freedoms, which has been explicitly demonstrated by the findings of the human rights monitoring run by the Moscow Helsinki Group across the entire territory of the Russian Federation since 1998 and until present.

VI. HUMAN RIGHTS VIOLATIONS BY REGIONAL AUTHORITIES

Human rights violations by regional authorities have been nearly ubiquitous covering all spheres of social and public life. In order to illustrate this unwelcome phenomenon, it would be in good order to provide some telling examples borrowed from the regional reports submitted within the framework of the aforementioned human rights monitoring program. (Naturally those below are, unfortunately, only a few of the great number of similar facts that we have at our disposal.)

A. Examples of Regional Normative Acts that Are in Violation of Human Rights

In the first place, mention should be made of the thousands (sic!) of regional and local laws and bylaws, including constitutions and charters, at odds with the rules of federal statutes. It should be pointed out that this particular phenomenon largely comes from regional and local lawmakers and administrators being inadequately trained for the job and audits being unheard of, rather than from some sort of political rivalry or confrontation between the regions and the center. At the same time, many of those regional laws that contradict federal law also place unlawful constraints on human rights.

The head of the Astrakhan region administration issued Ruling #334 “On Additional Measures to Assure Security for the Population and Control the Crime Environment in Astrakhan Region” that refuses registrations, either temporary or permanent, to individuals arriving from the Chechen Republic.

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649 By way of example, according to the reports for the year 2000 submitted to the MHG by the human rights organizations, the Republic of Udmurtia alone had as many as 600 statutes that were found to be out of line with the relevant federal legislation; the Tula region had 1,400 such deficient statutes; just in the course of 2000 the Kirov region had 13 normative acts by the regional Duma, 43 — by the regional administration and over 500 local statutes and rulings appealed by the prosecutor’s office.
Article 2 of the Krasnodar Territorial Charter prescribed as follows: “...the Krasnodar territory is a primordial place of residence of the Russian people, the circumstance must be accounted for in shaping and maintaining the state authority bodies and local self-government structures.” Part 2, Article 12 of the Charter ruled that the regional authorities were authorized to place constraints on constitutional human rights and liberties depending upon the geographical location of local community. Under Part 2, Article 26 of the same Charter, voting rights could only be enjoyed only by citizens who have lived within the territory for at least five years. Regional Law “On the Procedures for Registration of Individuals within the Confines of the Krasnodar Territory” prescribed constraints on the temporary stay or permanent residence of Russian citizens, foreign nationals, or persons without citizenship that arrived from the outside. Under this statute, forced migrants were supposed to renew their residence registrations several times, the relevant penalties being applied in the form of fines.

In the Krasnodar territory, Decision #172 of the territory administration head “On Some Issues of Registration of Marriages within the Krasnodar Territory,” dated December 28, 1991, established a permission-based procedure for registration of marriages between the territory residents and persons coming from outside the RF, while Decision #389 “On Restriction of Registration of Divorces of Some Categories of Citizens within the Krasnodar Territory,” dated August 24, 1992, did the same as regards divorces (it should be mentioned both acts were revoked in November 1997). In both cases, the permissions were to be issued by the administration heads of the relevant districts or cities. All known cases of permissions denied concern only persons representing national minorities (Armenians, Georgians, Kurds, Turks).

What is more, the former Governor of the Krasnodar territory, N. Kondratenko, issued a ruling barring the outgoing deliveries of agricultural supplies provided by private-sector operators.

In the Sverdlovsk region, the law on gubernatorial elections held a constraint under which the gubernatorial office could only be filled by a candidate that has lived in the territory for at least one year.

In Tatarstan, Republican Law “On Elections” held provisions allowing for uncontested presidential elections, with the presidential office necessarily having to be filled by a person that has lived in the republic for so many years. Article 59 of the Republican Constitution used to read that “the Republic of Tatarstan laws are preemptive within the confines of the republic unless they come to be at odds with Tatarstan’s international legal commitments.” The problem is not only that this provision did not comply with the relevant federal rules contained in the Constitution of the Russian Federation, but the additional problem is that Tatarstan, in principle, cannot operate as equitable signatory to international human rights agreements.

The Charter of the Khabarovsk territory (Clause 3, Article 26) decrees that a candidate running for a seat in the territorial Duma should be a permanent resident of the Khabarovsk territory.
Notably, Moscow Mayor Yu. Luzhkov issued Ruling #1057-RM “On Interim Measures to Streamline the Handling of Arriving Refugees, Forced Migrants and Persons Seeking to Secure that Status.” The migration service is required to provide the aforementioned status only to those persons that have their local residence registered with direct family relatives for at least six months. Clearly, this rule comes to violate the requirements of Federal Law “On Refugees,” Federal Law “On Forced Migrants,” and those of the Constitution of the Russian Federation. The Rostov regional legislators passed Regional Law “On Interim Residence Registrations Secured by Persons Staying in the Rostov Region.” The law violates federal freedom-of-movement rules by introducing authorization-type registration, with the temporary stay being limited to 45 days and relevant charge being fixed on the level of 9% of the minimal monthly wage per each day of stay in the region. The Constitution of the Republic of Adygea (Article 100) decreed that a local judge could only be named from amongst the permanent residents of the given subject of Federation. The Republic of Altai Constitution decreed (Article 37.3) that the offices of head of the republic, chairman of the regional government, and speaker of the state assembly could only be filled by local residents of a single ethnic community. Other subjects of the Russian Federation passed laws that variously impinged on the rights of journalists and mass media outlets. Leading in this particular violation was again the Republic of Bashkortostan with its Code “On Mass Media,” whose numerous provisions failed to comply with those of the Constitution of the Russian Federation and Federal Law “On Mass Media.” All in all, twenty articles of Republican Code “On Mass Media” held rules contravening those of the relevant federal legislation. The ban on censorship, decreed by Article 5 of Republican Code “On Mass Media” (to emulate Article 3 of Federal Law “On Mass Media”), as a matter of fact, appeared to be unenforceable because the concluding paragraph in the same article, contained a phrase stating that “exceptions could be made pursuant to other applicable legislation.” Another article of the same Code placed unjustifiably rigid constraints on the free release of information not only about the “private life” or “family secrets” (the notions being employed by the federal legislation) but also about anything that might be viewed as related to “personal” affairs, thereby effectively placing a ban on covering any individual activity. Also impinged have been the rights of citizens in other subjects of the Russian Federation when it came to establishing private media outlets. Rules for registration of those outlets have been made excessively strict, in violation of the provisions held by relevant federal laws, with provisions to de-register mass media vehicles made easy in the meantime. For example, Rules for Accreditation and Stay of Correspondents of the Russian Federation Mass Media Outlets in the Territory of the Republic of Bashkortostan, just like Regulations for Accreditation of Mass Media Representatives with the Supreme Soviet of the Republic of Bashkortostan, were in violation of as many as 38 provisions of the relevant federal laws.

650 Moscow holds the federal city status. So does St. Petersburg.
In the Republic of Kabardino-Balkaria (KBR), Article 62 of Republican Law “On Mass Media and Publishing Operations” decreed that “foreign mass media offices within the KBR shall exclusively be set up following the receipt of prior approval by the KBR Cabinet of Ministers (Government),” with the federal legislation, however, ruling that this task can be handled by relevant confirmation from the Ministry of Foreign Affairs (Article 55 of Federal Law “On Mass Media”).

Normative acts limiting the right to choose places of meetings, pickets, etc. are adopted in a number of regions. In the Republic of Bashkortostan, Republican Law “On Freedom of Assemblies, Demonstrations and other Public Events” stipulates that public events may be held in any place suitable for those purposes, with a long list of exceptions, use of which forbidden by the decisions of the local council of deputies. Such places may include:

- territories, buildings and constructions not ensuring citizens’ safety:
  - places close to hazardous or harmful production sites and facilities,
  - railway and automobile transportation knots, on bridges, passes and in railway alienation strips, oil-, gas- and liquid fuel pipelines and high-voltage electric power transfer lines, fire- and explosion hazardous facilities, as well as in the territory of sites of great moral and cultural importance: historical and cultural monuments, pilgrimage places, cemeteries and religious constructions, … main urban highways, republican status highways, beaches and holiday recreation zones, agricultural and forestry areas.

The law actually forbids to hold public events at court buildings or places where visiting court sessions are being held, pre-trial detention places, places of imprisonment, and compulsory medical treatment facilities.

**B. Violations of Freedom of Speech by Regional Authorities**

Representatives of regional authorities consider mass media primarily as a political tool of no self-importance and strive to control it, that fact eloquently testified to by numerous examples from the reports of regional human rights organizations.

In the Astrakhan region, Governor A. Guzhvin actually asserted that mass media was just a means of power attainment, while the Komi Republic head, Yu. Spiridonov, said the following: “I believe and I am firmly confident that no authority exists except the authority elected by the people. The fourth branch of authority — oh, well…. If this satisfies someone’s self-adoration or vanity, then for God’s sake use this term!”

Mass media are also accused by regional authorities of rendering a negative influence on society. The administrative head of the Kirov region, V. Sergeyenkov, sees the press as the cause of the bad state of living standards in the region, as it “enchants immature residents, distorts our past and present, and sets some groups of people against the others.”
It is according to these notions that the authorities develop their policy toward mass media, aspiring to protect themselves from criticism, to use mass media for self-advertisement and to struggle against the opposition as well.

Authorities of the Republic of Bashkortostan during the election campaign for the State Duma of the Russian Federation in 1999 went as far as openly switching-off the broadcasts of the national Russian channels. Namely, the decision of the State Assembly (legislature) of Bashkortostan banned for almost a month (till the end of the election campaign) the broadcasts of weekly analytical programs of ORT and RTR television channels, because these programs allegedly violated the election law. The legislators thus committed an obvious violation of the right to obtain information and exceeded its authority. However, after a meeting of the President of the Republic of Bashkortostan with the President of the Russian Federation,651 the full broadcasts of the channels were restored.

in Bashkortostan, during preparations for the presidential elections of 2000, all mass media that were holding even the least independent opinion of President Rakhimov were subjected to severe persecution. Police took by storm the headquarters of “Titan” Radio — the sole radio station that dared to give the floor to the opposition candidates. The radio station staff were beaten, while its chief, A. Galeyev, who tried to oppose the policemen, was arrested and made subject to criminal prosecution.

There are, in fact, no independent television companies broadcasting Irkutsk today — all of them to a varying extent are controlled by the Governor and his team. Under the previous Governor, Yuri Nozhikov, the press in the region had been much more unconstrained and democratic, but with the election of Boris Govorin in August 1997 “freedom” was over for many publishers and, while journalists of the Irkutsk region could vehemently criticize the President and Cabinet of the Russian Federation, the Governor became untouchable. It was enough for “AIST” TV-Company to run a story about the B. Govorin’s acquisition of a new flat worth one million roubles for the company’s managers to be quickly changed.

B. Govorin and his docile legislative assembly skillfully regulated freedom of speech in the Irkutsk region through the regional budget expenditure. Approximately 2.45 billion roubles of “live money” was spent on mass media in the first half-year of 1998, which was 116% of the planned figure in the budget652.

Certainly, the budgetary funds in the Irkutsk region are by no means spent on independent press. The lion’s share of those were invested in the Irkutsk State TV and Radio, used to buy commercial TV channels operating in the territory of the region, spent on Vostochno-Sibirskaya Pravda and Sovetskaya Molodyozh newspapers (former “Party” and “Komsomol” [Lenin’s Young Communist League] newspapers respec-
tively) and other editions and television companies serving the local authorities.

In the Novosibirsk region, on the eve of its gubernatorial elections of 1999, the regional administration took the local mass media under its control. The most vulnerable organizations were regional newspapers, who had their editorial boards forcibly appointed by the Committee on Press and Information. Some 30% of the regional newspapers’ editors were replaced. A. Mikhaltsev, editor of Berskiye Vedomosti was subjected to persecution by the regional administration. According to Novaya Sibir editor, V.Dosychev, editors of financially and creatively independent newspapers, N. Khmelyov of the city of Kuibyshev, N. Stolyarov of the city of Bolotny and A. Sidorenko of the city of Kargat, found themselves under constant pressure and threats of dismissal. As a result of conflicts and personnel policies of the Committee on Press and Information, some experienced journalists — i. e., Priobskaya Pravda editor Aleksandra Popova, Kocheneshkiye Vesti editor Aleksandr Gamayurov — had to go.653

During the gubernatorial election campaign in the Tomsk region in 1999, several mass media at once were subjected to persecution. On August 20, 1999, a regular program “Eks-Nedelya” was closed on Tomsk State TV and Radio on the demand of Governor V. Kress. A program titled “About Politics, but Tastefully” of “Digect-FM” Radio was closed in September 1999 after A. Deyev, one of the candidates running for the regional governorship, made his speech there. On September 8, 1999, “Studiya STS Anten” TV broadcasting was suspended for quite a while because of the coverage that it was giving to the election campaign within the framework of the program “What to Do?”

In 1999, Governor of the Kemerovo region, A. Tuleyev, stopped the Interregional TV Channel’s broadcasting,654 a story about his opponents shown in the “Gubernskiye novosti” program did not suit him.

In the Tula region, the broadcasts of RTR (federal channel) were twice interrupted by blocks of local advertising exactly when a story criticizing Governor V. Starodubtsev was to be broadcast. A complaint was lodged with the regional prosecutor's office, but the guilty person turned out to be impossible to find.

C. Violation of the Freedom of Conscience by Regional Authorities

In the Republic of Tatarstan in 1998, at the Unification Congress of two Spiritual Directorates of Moslems, the Mufti (single head of Tatar Moslems), who was inclined to displays of independence from the state and refused to support the President of Tatarstan, M. Shaimiyev, at the last

653 In the USSR, all mass media were official tools of various power bodies and the Communist Party. At the time of perestroika, those mass media became independent, but regional and local authority bodies are still listed among the founders of the majority of regional and local newspapers. Until a certain time, that factor did not affect the press freedom situation. But when the authority bodies faced a need to control mass media, they began successfully using their founders’ status to influence the information and personnel policies.

654 A TV program broadcast across several Siberian regions.
elections, was deposed and replaced with a more compliant spiritual leader. This decision of the Unification Congress caused a protest on the part of a significant number of practicing Moslems. It is characteristic that after the Mufti's replacement the authorities of Tatarstan provided the Unified Spiritual Directorate of Moslems with a loan amounting to 500 thousand roubles.

In the Kursk region, the Governor's order introduced obligatory teaching of the Russian Orthodox faith (“Law of the Lord”) in all schools, which directly contradicts Federal Law “On Freedom of Conscience.”

In the Voronezh region, in early 1999, the regional Duma adopted Regional Law “On the Procedure of Carrying out Missionary Activities,” according to which the question of whether an association is a religious community should be solved through court procedure. The legislators explained that the act was necessary to limit the activities of such organizations in the general education institutions.

In the Republic of Dagestan, after the Chechen armed formations’ intrusion in 1999, Republican Law “On Banning the Wahhabite and Other Extremist Activities in the Territory of the Republic of Dagestan” was adopted. The law not only stipulated a censorship of “printed editions, movie-, photo-, audio- and video products and other materials,” but also allowed studies of the citizens of Dagestan in religious education institutions abroad only upon agreement with the local authorities, thus putting limits on the freedom of conscience.

D. Violations of the Right to Periodical Change of Authorities through Elections

Regional heads generally are the central perpetrators of violations concerning the influence on the election process. Governors can act united with various political forces, but it is precisely them who determine the direction of administrative interference in the regions. We shall illustrate this tendency with the violations that took place during the campaign of election to the State Duma in 1999, when the regional leaders aspired to ensure the election of candidates to the Duma supported by them.

In a few regions it is public knowledge that governors tell their subordinates, heads of municipal structures, and local self-government bodies which candidates should be supported, but most likely this is a universal practice.

In the Vladimir region, according to the evidence supplied by the “Narodnaya Sovest” public organization, First Deputy Governor Yu. Fyodorov gave an informal instruction to the chiefs of enterprises, heads of administrations, and chairpersons of local self-government

655 Under the relevant federal legislation, the question of whether an association is of a religious nature is not a problem of juridical nature and shall not be resolved by a court. That is up to the existing religion research examination bodies.

bodies to support the elections certain candidates of pro-Communist orientation. As a result, the heads of local administrations arranged meetings of those candidates with the voters, carried active propaganda in their favor, and put obstacles on campaign activities by other candidates (for example, denying the latter premises for meetings with the voters).

An approximately similar situation took place in the Saratov region as well. Chairman of the Government of the region, P. Kamshilov, at a session of the permanent working meeting under the auspices of the Government of the Saratov region on December 14, 1999, told those present that the election had entered the final stage, therefore it was necessary to put more emphasis on field work “to accomplish what we have planned concerning both the candidates’ personalities and the parties and movements.” Governor of the Saratov region D. Ayatskov, who spoke after him, promised he would encourage those ministers, heads of directorates, and departments who achieve “good results at the elections” (obviously, in the districts they were in charge of), in particular, by granting them a vacation from January 1 through 10, 2000.657

Regional heads not only openly supported certain candidates, which is unlawful, but also carried propaganda in their favor, even on the days when campaigning is forbidden by law. On December 18 (on the eve of the election day), the President of the Republic of Mordovia spoke in support of the “Otechestvo — Vsy Rossiya” (“Fatherland-All Russia”) election bloc,658 the President of the Republic of Bashkortostan carried out propaganda for the same bloc on the election day. The Governor of the Kamchatka region on December 19 said via “Prichal” TV channel that I. Yarovaya, “Yabloko” candidate, was not a person to vote for and called the ship of the V. Pervakov, acting though court, or the moral damage inflicted on him.

The candidates actually supported by regional leaders received numerous opportunities to break the law, as election commissions turned a blind eye to that. Thus, the election commission of the Khabarovsky territory accurately answered all inquiries. However, as soon as complaints against the head of administration of the territory and candidate he supported started arriving, the commission practically ceased to work.

657 Quoted from the report by the human rights center “Solidarnost.”
658 Additionally, on his behalf, some leaflets were circulated with propaganda in favor of the same bloc and the candidate he supported.
Also, using their control over the law enforcement bodies, regional leaders prevented dissemination of campaign materials containing criticism of them. For example:

On November 27, Main Traffic Security Inspection Service (GIBDD) officers detained a private car transporting 2,500 leaflets (out of 20,000 copies printed) of “Yabloko” election association. The GIBDD officers declared that the leaflets’ contents were an insult to Governor V. Yakovlev (they accused the St. Petersburg regional leader of the failure of municipal reform, criminalization of the city etc.). The confiscated the leaflets and were delivered to the police precinct #9, and also transferred to the city administration, and the city election commission. Later, these 2,500 leaflets disappeared with their whereabouts impossible to trace…659

VII. NEW PRESIDENT AND CHANGE OF REGIONAL POLICY

For the reasons described above, President Yeltsin was compelled to turn a blind eye to the regional leaders’ obvious arbitrariness and could not prevent their growing power in the first half of the 1990s. The actual expansion of the regions’ powers in that period, to a large extent, was not supported legislatively. Legislative acts adopted in the constituent subjects of the Russian Federation contradicted the federal ones, that fact creating a solid basis for their potential cancellation. B. Yeltsin’s administration would not dare an open confrontation with the regions (though after the beginning of the first Chechen campaign no republic risked to blackmail the center any longer with a secession from the Russian Federation). As shown above, regional leaders to a substantial extent control the election process in their regions, and consequently federal authorities appear to be heavily dependent on them during elections. With very weak chances to win the presidential elections of 1996, B. Yeltsin was in an extreme need of support from the regional leaders, that fact inevitably strengthening their power. Besides, in many respects due to the influence of the regional leaders, opposition dominated the State Dumas of the first two sessions. Meanwhile, the Upper Chamber of the Parliament (Council of Federation) consisted of the regions’ heads and regional legislative assemblies’ chairpersons. Accordingly, it was impossible to get the approval for any legislative initiative that the regional leaders might find dangerous. Even in such environment, after B. Yeltsin’s re-election for the second term, the federal center began to undertake cautious steps to restrict the regional leaders’ endless power. In particular, the typical agreements on distribution of power were developed, which ruled out a possibility of the regions acquiring some of the rights of the federal center. Also, the institute of the Federal Treasury limited the regional authorities’ freedom of maneuver in disposing the budget funds began to be introduced.

In 1999, expecting the inevitable change of the head of state (under the RF Constitution, a person shall not hold the presidential office for more than two terms), a substantial part of the regional leaders consolidated to

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659 Information from the Harold and Selma Light Center (St. Petersburg)
promote their representative to the presidency and render permanent the powers obtained. But the federal authorities, although seemingly in a deep crisis, found the necessary resources (and the ideological ones) to counter the regional expansion. That process was personified by V. Putin who, in the wake of patriotic and militarist sentiments, and with the use of the second Chechen military campaign, attained an unusual popularity. Leaning on this sociological phenomenon and fully exploiting the resource of the federal TV channels, which were incessantly engaged in discrediting of their political opponents, the federal authorities were able to form the majority in the third State Duma. Three months later, in March 2000, V. Putin won the presidential elections in the first round.

Having engaged quite certain ideological blocs, the federal authorities could not but make a sharp inclination toward authoritarianism. (At that, it is necessary to note that the first steps toward authoritarianism were made much earlier by B. Yeltsin himself when in 1993 he disbanded the Supreme Soviet by the Ministry of the Interior and army forces and then ensured for himself more than extensive powers in the new Constitution.) After V. Putin’s advent to power, the federal authorities, in order to strengthen their positions, started using the same methods that the regional leaders had been using for a number of years: first of all, that implied the establishment of control over mass media editorial policies (replacement of ORT TV-channel managers; destruction of V. Gusinsky’s “Media-Most” holding) and political manipulations during the election campaigns (using administrative resources to promote their candidates).

Since the moment of his inauguration, V. Putin has turned to open offensive actions against the regional leaders. Putin’s administration within a record-breaking time carried out the so-called federal reform. The President obtained the right to dismiss those regional leaders who violate the norms of the RF Constitution. The way of forming the Council of Federation was changed: the heads of regions and chairpersons of regional legislative assemblies ceased to be the Upper Chamber members ex officio. As a result of the reform carried out, the candidates for membership in the Council of Federation are now only presented by the regional leaders and approved by the regional legislative assemblies. Such way of formation provides the federal authorities with wider opportunities to influence the decisions of the Council of Federation. (The heads of regions had no other way out but to support the presidential reforming initiative, as they understood that, if necessary, the President could summon the qualified majority (two third of the votes) in the State Duma and overcome their veto).

Additionally, by presidential decree, the country was divided into seven federal districts headed by the President’s plenipotentiary representatives. They are to coordinate the work of federal institutions in the territory of the regions included within their respective federal districts. One of the direct priority tasks set before the plenipotentiary representatives was to bring the regional legislation in conformity with the federal one.

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660 Due to objective reasons, B. Yeltsin could not be very active as President. Governance de facto to a large degree was carried out by the Presidential Administration and a number of big businessmen close to it. That fact sharply reduced the legitimacy of the decisions adopted and the moral authority of the federal bodies was irrevocably falling throughout the second half of the 1990s.
and to ensure the observance of the federal legislation in the whole territory of the country.

Also the federal authorities' financial capacities and their control over the budgeting process have increased. Under the new Tax Code adopted in 2001 the federal authorities' share of general taxes has considerably grown and some taxes have been relocated from the regions to the center. The institution of the Treasury, created under B. Yeltsin, has begun to be introduced at accelerated rates. All accounts on budget payments, including intra-regional ones, have been transferred to its system. As the regions have got various debts to the federal center, their own tax receipts may at any moment be withdrawn to cover their debts.

It is obvious, that the above-listed measures limiting the power of the regional heads and, consequently, to a certain extent positively influencing the human rights situation have nothing to do with decentralization. Rather, on the contrary, we are facing the construction of a centralized power, which relies to a substantial degree on financial levers, not political ones. While on the threshold of the 1990s we witnessed the disintegration of the empire, today we are dealing with "the consolidation of the lands." Undoubtedly, the present political system is not the Soviet regime. The structure of the modern economy and world-wide trends of globalization make it essentially impossible to use the Soviet methods of governance. Also, the RF Constitution and the basic federal laws as well as Russia's integration into the fundamental international agreements coupled with simple economic expediency push the country toward a gradual pursuit of a civilized decentralization. Even more so, in the process of building vertical power, the center regularly indicates that this vertical is just the first step in the reform of the state system of Russia and shall be followed by gradual de-bureaucratization and decentralization. Certain steps have actually been made in that direction. On August 15, 2001, the government of Russia approved the Program of Development of Budget Federalism. As assessed by S. Mitrokhin (State Duma Deputy, "Yabloko" faction member, Deputy Chairman of the State Duma Committee on Local Self-Government), "with the official adoption of the Program, the Government turned its face toward the most acute problems of our financial sphere — the problem of mutual relations between the regional and local budgets… It [the Program] makes a huge step toward the strengthening of the financial basis of local budgets."
However, we do not dare to make any optimistic forecasts about the prospects of these undertakings. Besides the objective factors, there are also political ambitions that in Russia, as a rule, turn out to be dominant, and their realization implies a concentration of authority, rather than a civilized division of powers.

In any case, from our point of view, the chance for an efficient building of a democratic decentralized system on the ruins of the totalitarian empire was missed. The absence of a liberal political culture, deep traditions of authoritarianism, and a low level of the society's ability to self-organize can be named among the factors conducive to this failure. Having covered during the last ten years a rather long road of reforms, in reality Russia has not progressed very far toward the solution to its structural problems or building truly operational democratic mechanisms that would decentralize governance.

VIII. CONCLUSIONS AND RECOMMENDATIONS

The political system stipulated in the RF Constitution is sufficiently democratic. Contradictions between the real politics and the spirit of the fundamental law of the Russian Federation are caused by the ruling elites' unwillingness and inability to adhere to the latter. Therefore, we deem it inexpedient to dwell in this section upon the factors that can be for convenience sake united within the framework of the concepts of "political culture" and "political will," and we will not venture beyond the spheres of law-making and economic policies, as well as professionalization of the employees of state authority and local self-government bodies.

A. To enable a decentralized governance system to function in Russia, the following is necessary:

✓ to bring the regional laws on organization of local self-government in conformity with the federal legislation and with the European Charter on Local Self-Government;
✓ to ensure a transparency of the budgeting process, to develop mechanisms of control over the budget expended by the representative bodies of local self-government and the public;
✓ to introduce budget realization mechanisms narrowing opportunities for non-purpose use of budget funds;

the financial resources are carried on a pre-schedule basis (for example, the cancellation of the municipalities' share within the tax on production of mineral raw materials), while the provisions aimed to increase the financial resources of the local self-government are not carried out.” (S. Mitrokhin, “How to Distribute the Powers and Finance between the Levels of Authority.” Newsletter of the Commission on Municipal Policy of “Yabloko” Association (2001, #10).
✓ to develop and introduce budget leveling methods that take into account the geographic, cultural, and economic diversity of the Russian regions;

✓ to develop and introduce schemes of division of functions and powers between the authority levels, taking into account the geographic, cultural and economic diversity of the Russian regions;

✓ to expand the tax-base for the local self-government;

✓ to terminate the policy of charging the local self-government budgets with new burdens resulting from norm-making activities of federal and regional authorities;

✓ to professionalize the personnel staff of local self-government bodies in the field of economics and management, primarily in the field of budgeting and taxation.

B. The world community's influence on the decentralization processes in Russia should first and foremost be aimed to ensure that:

✓ Russia carries out its obligations under the international agreements, in particular those under the European Charter on Local Self-Government;

✓ the basic liberal democratic principles incorporated in the RF Constitution and a number of the federal laws are not revised;

✓ programs of credit financing on the part of the international financial institutions include the regional and local components (as such programs will be a stimulus for the regional and local authorities in the field of carrying out transparent financial policies and observance of human rights).

C. The activities of the international organizations and funds interested in carrying out a successful decentralization in Russia should be aimed at:

✓ education programs for civil servants on different levels with the purpose of embedding the notions of the efficiency of decentralization as a method of governance;

✓ professional managerial training for the local self-government bodies' employees;

✓ introduction of a program of grants to support NGO projects in support of local self-government in the center and the regions, as well as in legislative bodies when budgets and normative acts are adopted.

✓ implementation of a program of grants for development of local self-government on the lowest level;

✓ implementation of a program of grants for NGO projects aimed at introduction of transparent budgets;

✓ implementation of a program of grants in support of NGO anti-corruption initiatives;
implementation of a program of grants aimed to support economic and sociological studies in the field of decentralization, reforms of budget, and tax policies, local self-government development, prevention of corruption in the conditions of geographic, cultural and economic diversity of the Russian regions.

All above-listed programs should be carried out either directly by international organizations and foundations, or with large Russian NGOs engaged as coordinators. We see an engagement of Russian officials in the distribution of funds and implementation of such projects as extremely undesirable both due to the high level of corruption and because their participation in those projects may become an additional lever for the upper levels of the state system to influence the lower ones.
OVERVIEW OF BASIC TRENDS IN THE EVOLUTION OF REGIONAL LEGISLATION OF THE RUSSIAN FEDERATION

The Report is rafted by the INDEPENDENT COUNCIL OF LEGAL EXPERTISE
COMPOSITE FINDINGS
OF THE REGIONAL LEGISLATION MONITORING EFFORT

Following an in-depth study of the laws and regulatory statutes passed by regional legislative assemblies and executive bodies, the laws and normative acts can be broken down into the following four tentative groupings:

✓ Laws defining the constitutional makeup of a subject of the Russian Federation or legal status of a region of the Russian Federation;
✓ Laws dealing with constitutional rights and liberties of Russian citizens;
✓ Legislation regarding civil institutions;
✓ Legislation defining the financial and economic functions of Russian regions.

The examination of a large portion of documents taken from the entire body of laws and regulatory acts passed by regions of the Russian Federation reveals certain basic trends in the evolution of regional legislation.

1. LAWS DEFINING THE CONSTITUTIONAL MAKEUP OF A SUBJECT OF THE RUSSIAN FEDERATION OR LEGAL STATUS OF A REGION OF THE RUSSIAN FEDERATION

During the monitoring effort directed at regional legislation, regions of the Russian Federation have been heavily involved in passing regulatory acts defining their constitutional makeup. It is of note that the newly adopted laws (or amendments thereof) in this category have often been inconsistent with relevant provisions of the federal laws and the Constitution of the Russian Federation. Often only later would regional charters and constitutions be appropriately updated (primarily, following relevant adjudications passed by the Constitutional Court of the Russian Federation) to be brought in sync with federal norms. This approach in the evolution of legislation has become a sort of a legal habit in the Russian Federation.

In comparing the original and subsequent wordings of certain legal acts, gradual changes in regional legislation can be followed.

A particularly vivid example of the above can be seen in the different wordings of the Constitution of the Udmurt Republic (UR) of December 7, 1994 (particularly, if compared with the wordings of the UR laws of May 11, 1995 (#17-I), January 9, 1998 (#549-I), January 24, 2000 (#139-II), UR referendum of March 26, 2000; the UR laws of April 18, 2000 (#168-II), April 18, 2000 (#169-II), November 2, 2000 (#226-II), and November 28, 2000 (#228-II).
The initial wording of Part 2, Article 5 of the Constitution of the Udmurt Republic stipulated that the Udmurt Republic should move independently to establish its system of governing bodies. However, according to Part 1, Article 77 of the Constitution of the Russian Federation, the aforementioned responsibility could only be carried out “in compliance with the guidelines of the constitutional political system of the Russian Federation and general principles for building representative and executive governing bodies as prescribed by the relevant federal law.” This article can be found in the October 6, 1999 Federal Law “On General Principles for Creating Legislative (Representative) and Executive Governing Bodies in Subjects of the Russian Federation” and clearly underscores the non-constitutionality of the pertinent provision found in the UR Constitution.

Following the relevant legal amendment, the UR Constitution now reads as follows:

*The Udmurt Republic shall move independently to establish its governing bodies in compliance with the guidelines of the constitutional political system of the Russian Federation and general principles for creating legislative (representative) and executive governing bodies in subjects of the Russian Federation prescribed by the relevant federal law.*

**UR Law wording of April 18, 2000 (#168-II).**

In his concluding opinion, an expert from the Independent Council of Legal Expertise (NEPS) points out the following:

*Article 8 of the UR Constitution contains a provision regarding republican citizenship. However, the Constitution of the Russian Federation does not provide for republican citizenships, though it does not explicitly ban them either. Inasmuch as the Udmurt Republic (UR) has no law regarding republican citizenship, the relevant constitutional provisions appear to be wholly unsubstantiated. The same could be said of Clause “c,” Article 67.*

The out-of-sync provision was updated to be compatible with the Constitution of the Russian Federation on April 18, 2000, by UR Law (#168-II), which states the following:

1. Each citizen of the Russian Federation residing within the confines of the Udmurt Republic shall concurrently be regarded as citizen of the Udmurt Republic enjoying all rights and freedoms, as well as bearing all responsibilities pursuant to the Constitution of the Russian Federation and Constitution of the Udmurt Republic.
2. Requirements for citizens of the Russian Federation to become citizens of the Udmurt Republic shall be defined in keeping with the relevant federal legislation.

It is also important to point out that Article 11 of the Constitution of the Dagestan Republic still has a provision similar to the original, non-constitutional rule contained in the UR Constitution. The Dagestani constitutional provision reads as follows:

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665 The numbers of articles here and further below are those carried by the Constitution of the Udmurt Republic.
The Dagestan Republic maintains its own citizenship rules. Dagestani citizenship can be received or terminated according to the relevant republican law. Under that law and pertinent international arrangements, dual citizenship may be secured. Each citizen of the Dagestan Republic concurrently shall be regarded as a citizen of the Russian Federation...

The Independent Council of legal Expertise also makes this observation: Part 1, Article 13 stipulates that the procedures for changing types and forms of ownership of land and other natural wealth properties shall be governed by the laws of the Udmurt Republic. However, this issue falls within civil law because under Clause “о,” Article 71 of the Constitution of the Russian Federation all civil-related matters shall exclusively be regulated by the pertinent federal laws.

Part 2 of this article allows for the republican Constitution and laws (provided pressing public interests are incurred) to introduce certain limitations on the ownership and uses of lands and other natural-wealth properties. Pursuant to the provisions of Clause “д,” Part 1, Article 72 of the RF Constitution, the rules for development and management of natural resources shall be jointly established by the pertinent federal and subject-level legal acts, with the republican statutes necessarily not in contradiction with the federal law. It is only in the absence of relevant federal legislation that any given republic can independently govern the uses of its natural resources. However, should a pertinent federal law to be passed, the republican rules shall have to be updated or amended accordingly.667

To point out, all discrepancies in this regard have been taken out by the relevant UR law, with the new wording of Article 13 now reading as follows:

Land and other natural wealth resources in the Udmurt Republic shall be safeguarded and used for the life and function of the Udmurt people, and shall feature government, municipal, private and other forms of ownership. The questions of ownership, uses and administration of land and other natural wealth properties shall be governed by the relevant federal and republican legislation.

See the wording of the November 28, 2000 UR Law (#226-II).

It should be underscored that Article 14 of the Dagestan Constitution continues to repeat the aforementioned non-constitutional regulation, with the pertinent provision reading as follows: “The right of private ownership of lands shall be secured on the grounds and within the constraints established by the relevant republican law.”

As he continues to analyze the Constitution of Udmurtia, the expert of the Independent Council points out the following:

Part 2, Article 17 reads that the basic human rights and civil freedoms shall not infringe upon the rights and freedoms of other persons. Part 3, Article 17 of the RF Constitution holds a more moderate provision, stipulating that in exercising human rights and civil freedoms, one shall not infringe upon the rights and freedoms

667 Ibid.
of other persons. Not a word is mentioned of the so-called basic human rights and freedoms because they are all basic." 668

The regional lawmakers duly heeded this bit of advice, amending the article accordingly. 669

The expert goes on to point out that Article 25, just as in several other articles, of the Constitution of Udmurtia contains the terminology “the law of the Russian Federation.” To clarify, the Constitution of the Russian Federation normally refers to federal laws. 670 Local lawmakers moved to remove this discrepancy and had the relevant provisions made consistent with Article 25 of the Constitution of the Russian Federation. The UR Constitution has for the most part replaced “law of the Russian Federation” with the “federal laws.” 671

To augment the RF Constitution, Part 3, Article 29 of the UR Constitution bans the promotion of violence, cruelty, pornography, and drug addiction. This rule relates to the freedoms of expression and speech. The expert of the Independent Council of legal Expertise continues to observe that “this amounts to regulating human rights and civil liberties, which falls within the jurisdiction of federal authorities, pursuant to clause “v,” Article 71 of the Constitution of the Russian Federation. The same can be attributed to the right to work, stipulated by Part 1, Article 37, the right to the minimum wages (Part 6, Article 37) and the right to flexible working hours (Part 6, Article 37).” 672

However, the given phrases were not taken out of the UR Constitution and the contradiction with the Constitution RF remains. 673

In continuing his analysis of Article 36 of the UR Constitution of Udmurtia, which governs the ownership and uses of land properties, the expert underscores that:

It fails to reproduce the provisions in Part 2, Article 36 of the RF Constitution stipulating that owners are free to use and dispose of their land. Part 3 of the same article of the Udmurtia Constitution enables the republican authorities to fix limits for privately-owned land properties, while Part 3, Article 36 of the RF Constitution states that requirements and procedures for private ownership and administration of land properties shall be governed by federal law. 674

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669 Article 25 of the UR Constitution, as amended by the April 18, 2000 UR law.
671 Article 29
1. Each citizen shall enjoy the freedom of expression and speech.
2. No propaganda or public drive to fan social, racial, ethnic or religious hatred or enmity shall be tolerated. Propaganda of social, ethnic, racial, religious or language dominance shall be outlawed.
3. Propaganda of violence, cruelty, pornography or drug addiction shall be barred…”
The regional lawmakers duly heeded this opinion, with the relevant article losing parts 2 and 3 as a consequence.

The legal expert also observes that “contrary to what is contained in Part 3, Article 46, the republic shall have no right to enter into international legal arrangements regarding the protection of human rights and civil liberties (Clause “k,” Article 71 of the RF Constitution).” The UR Constitution has been amended accordingly, with Article 46 now reading as follows: “Pursuant to the Russian Federation’s international commitments, each person can stand up for his rights and liberties by appealing to the relevant international human rights bodies, provided all domestic legal options have been exhausted (see the April 18, 2000 UR Law wording (#168-II)).”

In addition, the expert opinion also states that:

An emergency situation and relevant constraints on human rights and civil liberties can only be established by the relevant federal constitutional law (Part 1 and 2, Article 56 of the Constitution of the Russian Federation) and never by Udmurtia legislation, as was initially stipulated by Part 1, Article 56 of the Udmurtia Constitution. Hence, questions related to the pros and cons for establishment of an emergency situation in the republic also shall be handled by relevant federal constitutional legislation, ignoring what was originally stated in Part 2, Article 56 of the Udmurt Constitution.

Pursuant to the April 18, 2000 UR Law (#168-II), Article 56 of the UR Constitution has been updated with due regard for the Independent Council of Legal Expertise’s Opinion to read as follows:

1. An emergency situation within the confines of the Udmurt Republic can be introduced under the circumstances and in keeping with the procedures defined by the relevant federal constitutional law.
2. In an emergency situation, introduced to provide for security of citizens and protection of the country’s constitutional political system in keeping with the federal law, certain constraints can be placed on existing human rights and civil liberties, with the limitations and time period being clearly defined.

Concerning Part 2, Article 68 of the UR Constitution, the Independent Council of Legal Expertise concludes that:

while allowing to place constraints of the transfers of goods and services within the Republic to support the aforementioned interests, the UR Constitution obviously is in opposition with the provisions of Part 2, Article 74 of the RF Constitution, which states that this type of constraint can only be implemented by the relevant federal law.

This opinion was also taken into consideration by the regional lawmakers. They updated the article to read as follows: “Constraints on the transfers of goods and services within the Republic shall only be introduced in compliance with the applicable federal laws and should it be necessary to provide for security, health and safety of the population or

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675 Ibid.
676 Ibid.
Many provisions in the Tatarstan Constitution have also been updated during the course of the monitoring effort.

The Constitution of the Tatarstan Republic was adopted November 6, 1992, with subsequent amendments adopted on the following dates: November 30, 1994; March 30, 1995; December 8, 1995; November 27, 1996; May 26, 1999, July 21, 1999. The republican Constitution was preceded by the 1990 Declaration of State Sovereignty of the Tatar Soviet Socialist Republic, with Article 5 stating that the Declaration provided the groundwork for the prospective Constitution of Tatarstan. In April 1991 the original 1978 Constitution (Basic Law) of the Tatar Soviet Socialist Republic was made to lose a number of provisions designed to confirm that the republic was part of the Russian Federation and that the federal laws were preemptive vis-à-vis the republican statutes. In March 1992, the republic held a referendum on the status of Tatarstan as a sovereign country and unconstrained player in the international arena. This occurred despite the fact that on March 13, 1994, the Constitutional Court of the Russian Federation issued a ruling stating that some of the Declaration’s provisions, republican constitutional novelties, and formulas for the referendum were in contradiction with relevant provisions of the Constitution of the Russian Federation. Tatarstan then refused to join the March 31, 1992 Federation Agreement, while aspiring to a special status of a sovereign country being merely associated with Russia but not an integral part of it. Notably, this attitude happened to be translated into Article 61 of the current Constitution of Tatarstan, which reads that the Tatarstan Republic — a sovereign country and holder of international legal rights — is associated with the Russian Federation pursuant to the Treaty on Mutual Delegation of Authority and Functions.

In February 1994, following the current Constitution of the Russian Federation coming into force, Russia and the Republic of Tatarstan concluded the Treaty on Demarcation of Responsibilities and Mutual Delegation of Authority between Governing Bodies of the Russian Federation and those of the Tatarstan Republic (hereinafter referred to as the Treaty), whose subject matter for the most part comes from Tatarstan’s self-perception as an associated sovereign state. Notably, demarcation of competencies between the Russian Federation and the Tatarstan Republic is largely at odds with the provisions of Articles 71–73 of the Constitution of the Russian Federation. To emphasize, the RF Constitution has never been reflective of the inter-governmental association institution. Part 3, Article 11 of the RF Constitution providing for agreements between the federal center and regional governing bodies was concluded in order to regulate demarcation of authority and functions rather than to allow mutual delegation of relevant responsibilities. Admittedly, the Treaty’s preamble reads that the Tatarstan Republic is united (not associated) with the Russian Federation by the RF and the Tatarstan Constitutions and the given Treaty, with the latter’s Article 1 stipulating that the given documents provide for demarcation of responsibilities and mutual delegation of competencies. However, these provisions can be perceived in a very different manner. It is against the backdrop of the aforesaid that one should look into the dis-

assure protection of natural assets and cultural valuables” (see the April 18, 2000 UR Law wording (#169-II)).
crepancies between the Tatarstan Constitution and that of the RF Constitution.

In the first place, one should point out that the Tatarstan Constitution makes no mention of the republic being an integral part of the Russian Federation. This circumstance is only indirectly confirmed by certain provisions of the Tatarstan Constitution. Part 2, Article 19, for one, reads that citizens of the Tatarstan Republic hold citizenship of the Russian Federation. What is more, Article 1 of the Tatarstan Constitution states the following:

The Tatarstan Republic is a sovereign democratic state operating to express the will and interests of multiple ethnic communities of the republic.
The state’s sovereignty and authority come from the people.
The state sovereignty is an inherent quality of the Tatarstan Republic.

These unqualified definitions are at odds with the provisions of the RF Constitution.

The June 27, 2000 Determination by the Constitutional Court of the Russian Federation (#92-O) holds that the provisions of Article 1 of the Tatarstan Constitution contradict those in the RF Constitution regarding republican (state) sovereignty and the people being the exclusive holder of sovereignty and the (only) source of authority in the republic.

The Constitutional Court of the Russian Federation has arrived at the following legal position on the sovereignty question:

Sovereignty of the Russian Federation as a democratic federative law-governed state encompasses the country’s entire territory and is recorded in the Constitution of the Russian Federation as one of the pillars supporting the nation’s constitutional system (see Part 1, Article 4). Under the Constitution of the Russian Federation, the holder of sovereignty and the only source of authority in the Russian Federation is made up by the country’s multiple ethnic communities (see Part 1, Article 3) that accept the Constitution of the Russian Federation (see the Preamble), while continuing the historically established unity of the state, proceeding from the universal principles of equality and self-determination of peoples and seeking to revive the sovereign nationhood of Russia. The sovereignty implying (under Articles 3, 4, 5, 67 and 79 of the Constitution of the Russian Federation) preeminence, independence and self-sufficiency of the state authority, comprehensiveness of the legislative, executive and judicial powers within the confines of the single state and its independence in the international circuit generally amounts to the principal requisite quality making the Russian Federation a country fully equipped to maintain the legal status of a sovereign nation.

Clearly, the Constitution of the Russian Federation allows for no other holder of sovereignty and source of authority than Russia’s multiple ethnic communities and, hence, provides for no other national sovereignty than the sovereignty of the Russian Federation. Given the Constitution of the Russian Federation, the sovereignty of Russia rules out the existence of two levels of sovereign authority,
with either level claiming to be preeminent and independent. Put otherwise, the national sovereignty allows for no fragmented sovereignties held by any republic or region within the Russian Federation.

Article 6 provides for the unions to take part in the management of the country by having representatives hold elective offices in the Russian Federation. But, Paragraph 10, Article 2 of Federal Law “On Basic Guarantees for the Voting Rights of Citizens of the Russian Federation and their Right to Take Part in a Referendum” stipulates that an electoral association can only be made by a public policy association, a role that cannot be played by a trade union.

Creating a great deal of doubt lately has been a provision in Part 2, Article 8 of the Tatarstan Constitution, under which the republican territory shall create a WMD-free zone. To remind, pursuant to Clause “m,” Article 71 of the Constitution of the Russian Federation, just as in Clause 11, Article 4 of the aforementioned Treaty, Russian defense and security matters exclusively fall within the purview of federal authorities. Understandably, these questions also include issues of troops and weapons deployments. Only the federal governing bodies can have the powers to appropriately station or deploy armed forces to assure the nation’s defense and security. Of course, natural and legal constraints of environmental security and humanitarian nature are always to be taken into account when finding the right solutions to national defense and security problems.

Part 1, Article 11 refers to such type of state-run assets as utilities, which are not held by municipal authorities. To underscore, the RF Constitution has no mention of this form of ownership.

Part 3, Article 12 stipulates that acts of involuntary dispossession of assets can be performed pursuant to the law. This formula implies that one can exclusively talk of invoking the federal law or, in part, republican law as well. Inasmuch as one should primarily talk of contracting or terminating the legal entity rights guaranteed by the RF Constitution (Clause “v,” Article 1 of the RF Constitution; Clause 2, Article 4 of the Treaty), the relevant governing rules can only be provided by the federal law.

The same can be said of Part 4, Article 20, which defines the procedures for implementation of constitutional human rights, civil liberties and responsibilities. It should likewise have been underscored that those provisions are part of the federal law. Other articles (44, 46, 47 and other) also feature the same kind of inconsistencies.

Part 2 is headed “Individual and State,” and is to follow the example of the last Soviet-era constitutions. However, “human being” and the “citizen” do not necessarily make a personality or subject capable of understanding the repercussions of his behavior and be accountable for it. It has not been accidental that the RF Constitution (except for one single provision whose wording has come to pass through the editor’s lack of alertness rather than intentionally) has no mention of the term “individual.”
Article 19 holds a number of rules on republican citizenship, which are not provided by the RF Constitution. Admittedly, Article 2 of Federal Law “On Citizenship of the Russian Federation” allows for citizenship of the republics of the Russian Federation. Under Part 1 of this article, “citizens of the Russian Federation shall be made by the persons that have taken Russian citizenship pursuant to the provisions of this law.” Hence, the federal authorities decide whether Russian citizenship is either given or taken. When it comes to republican citizenship, pursuant to Part 2 of this article of the Russian law, the citizens of the Russian Federation permanently residing within a republic in the Russian Federation concurrently hold citizenship of the given republic. So, republican citizenship can be either assumed by default by a Russian citizen becoming a permanent resident in the given republic or terminated in the similar fashion with a Russian citizen leaving that republic for good.

Part 1, Article 19 of the Tatarstan Constitution reads that the relevant law of Tatarstan shall establish the grounds and procedures for taking republican citizenship. This provision says that Tatarstan would (with the republican citizenship law still being unavailable) independently rule on questions related to granting the Tatarstan citizenship to the applicants that (pursuant to the aforesaid Part 2, Article 19) by default would become Russian citizens. Notably, the persons becoming permanent residents in Tatarstan may fail to secure the Tatarstan citizenship.

One can see an obvious and rather meaningful discrepancy between the Russian law and the Tatarstan Constitution. To point out, Clause 2, Article 4 of the Treaty has the “citizenship in the Russian Federation” falling within the federal purview, the notion of citizenship meaning something more than just Russian citizenship. Evidently, the relevant provisions of the Tatarstan Constitution are also at odds with the Treaty. In addition, the very fact that issues of republican citizenship are referred to in Clause 8, Article 2 of the Treaty to be republican competency in no ways excuses Tatarstan of the responsibility to tackle those questions with due regard for the federal law.

As was already pointed out, the same rule eventually was taken out of the Udmurt Republic Constitution because it contradicted the Constitution of the Russian Federation.

Part 1, Article 21 of the Tatarstan Constitution stipulates that all the Tatarstan citizens enjoy human rights and civil liberties pursuant to the universally accepted legal rules and international commitments maintained by the Tatarstan Republic. Of course, one just wonders if the RF Constitution matters in this context at all. The same observation appears to be applicable to Part 4, Article 42.

In addition, under the Tatarstan Constitution, a number of human rights can exclusively be enjoyed by citizens (apparently of the republic, rather than of Russia), while under the RF Constitution the same array of human rights can be exercised by each person (it would suffice to draw a comparison between Article 34 of the Tatarstan Constitution and Article 46 of the RF Constitution, just as Articles 41 and 35, 42 and 37 accordingly).
Article 23 holds the guidelines for the status of foreign citizens and non-citizens. Following a close study of the Tatarstan Constitution, one can easily conclude that Russian nationals with no Tatarstan citizenship are foreign nationals within the confines of Tatarstan.

Part 1, Article 37 stipulates that the right to create a public association can only be enjoyed provided the action is “in line with the people’s interests and serves to promote public activity.” Clearly, it is very reminiscent of the relevant formulas carried by the Stalin or Brezhnev-vintage constitutions. Obviously, the only problem remaining is who is going to say whether a public association serves the people’s interests or not. Understandably, this rule gives a very convenient tool for the government to nip in the bud unwelcome public associations. Importantly, the entire value of any public association is in its ability to stand up for a given social segment. This is particularly true of the unions that have normally been created to fight for the interests of the employee or workforce and repel employer-origin encroachments.

Part 2 of the said article hold guarantees for human rights, civil liberties and dignity of individual opposition members, rather than public associations thereof.

These rules contradict Article 30 of the Constitution of the Russian Federation where it reads that any eligible person shall have the right to establish a public association without any pre-conditions, with the freedom of operation of such organizations being assured. Notably, the article places a ban on any person being coerced into securing or maintaining membership of such public associations.

Article 48 contains provisions on the right to free education exclusively provided by the state-run educational establishments, while Article 43 of the RF Constitution applies this right also to municipal schools and colleges.

Pursuant to Article 58 of the Tatarstan Constitution, the compulsory active military duty shall be performed either within the Tatarstan Republic or outside the confines of the Tatarstan Republic on the basis of contractual arrangements. But Part 2, Article 59 of the RF Constitution stipulates that an eligible Russian citizen shall perform his compulsory active military duty in keeping with the federal law.

Article 59 reads that the Tatarstan Republic shall independently define its constitutional legal status and tackle the political, economic, social and cultural development questions, with the republican laws being preemptive across the republican lands should those statutes comply with Tatarstan’s international commitments. However, Part 1, Article 66 of the RF Constitution stipulates that the Constitution of the Russian Federation and that of the relevant republic shall jointly define the status of a republic within the Russian Federation. Pursuant to Part 1, Article 15 of the RF Constitution, laws and other legal acts passed within the Russian Federation shall not contradict provisions of the RF Constitution.
The Constitutional Court of the Russian Federation issued the June 27, 2000 Determination (#92-O) to have the provisions of Article 59 of the Tatarstan Constitution passed in contradiction to the Constitution of the Russian Federation regarding the Tatarstan Constitution and Tatarstan laws being preemptive across the Tatarstan lands.

Under Article 72 of the Tatarstan Constitution, the Prime Minister of the Republic of Tatarstan can hold a deputy seat on the State Council, while heads of local administrations can be elected to sit on the local Soviets (legislature). This arrangement clearly is in contradiction to Part 4, Article 18 of Federal Law “On General Principles for Building Legislative (Representative) and Executive Bodies of State Authority in Subjects of the Russian Federation.”

Clause 4, Part 2, Article 89 stipulates that the State Council of Tatarstan, among other functions, is responsible for: regulating property relations, making arrangements for management of the national economy and socio-cultural programs, supporting the fiscal and funding system, handling administrative and policy tasks, mapping labor compensation and pricing policies, safeguarding the environment and overseeing the extraction and use of natural resources, as well as tackling other pursuits that need to be governed by the relevant laws of the Republic of Tatarstan. Also, underlying those responsibilities are the provisions of Clauses 2, 4, 6, 12, Part 2, Article 2 of the Treaty, in which the republican state authorities have the powers to: set republican taxes; provide for legal regulation of administrative, family and housing relations, as well as of the relations in the area of environmental security and natural wealth management; tackle questions related to the ownership, uses and management of land, subterranean deposit, water, forest and other natural wealth assets; regulate the management of state-run enterprises, organizations, other fixed and movable state properties located within the Republic of Tatarstan and passed as exclusive holdings of the Tatarstan people, except for federal assets; establish the National Bank pursuant to a separate agreement.

To point out, the above is in blatant contradiction with Clauses “v,” “zh,” and “o,” Article 71 of the Constitution of the Russian Federation, under which the powers to regulate human rights and civil liberties, set legal guidelines for a single marketplace, provide for fiscal, credit and customs regulatory standards, shape cash printing and baseline pricing policies, develop civil legislation and govern the management of intellectual properties have exclusively been the competency of the federal authorities, just as matters related to defining the general principles for taxation policies, which are likewise regulated by the federal law. Pursuant to Part 1, Article 72 of the RF Constitution, assigned to be managed through joint efforts pursued by the federal and subject-level state authorities (with any republic necessarily operating within the meaning of the relevant federal law) have been such matters as natural wealth management; environmental security; national parks and nature preserve areas; historical memorials and cultural sites (Clause “d”); general principles for collecting taxes and levies in the Russian Federation (Clause “i”); administrative, formal, family, housing, land, water, forest, subterranean deposit, environmental security and other related legislation (Clause “k”). Admittedly, Clauses 6, 21 and 22 of the Treaty to a certain extent appear to be in line (though imperfectly) with the afore-
mentioned rules that happen to be largely out of sync with the relevant provisions of the Tatarstan Constitution.

The State Council powers vis-à-vis the President of the Tatarstan Republic and the Cabinet of Ministers, pursuant to Clause 14, do not fully correspond with the provisions of Articles 23–25 of Federal Law “On General Principles for Building Legislative (Representative) and Executive Bodies of State Authority in Subjects of the Russian Federation.”

The State Council’s powers to elect judges for general and arbitration jurisdiction courts, appoint the republican prosecutor and chairman of the investigation committee, or to pass amnesty decisions (Clauses 18–20) are at odds with the relevant federal responsibilities and contradict provisions of Articles 71 (Clause “о”), 72 (“Clause “1,” Part 1), 83 (Clause “е”), 103 (Clause “е,” Part 1), 118 (Part 3), 124, 128 (Parts 2 and 3), 129 (Parts 1 and 3). The same could be said of Clause 2, Part 1, Article 101 of the Tatarstan Constitution, under which the President of the Tatarstan Republic shall name his candidates for the Supreme Court and High Arbitration Court of Tatarstan, as in Part 2, Article 103 designed to regulate the procedures for those candidates to be appointed to their offices by the State Council, Clause 8, Article 111, under which the President of Tatarstan shall name his candidates for the positions of prosecutor of the Republic of Tatarstan and chairman of the investigation committee of the Republic of Tatarstan, or propose that the aforesaid officials should be removed from their high offices.

Also, the provisions of Parts 14 and 15 (designed to regulate the matters related to court and prosecutorial activities) of the Constitution of Tatarstan are in contradiction with the aforementioned provisions of the RF Constitution.

The procedures for confirming the composition of the republican central election commission (Clause 24) exclusively by the State Council of Tatarstan is not in compliance with the rules set by Part 1, Article 23 of Federal Law “On Basic Guarantees of the Voting Rights of Citizens of the Russian Federation and their Right to Take Part in a Referendum,” under which the central election commission shall be formed on a parity basis by legislature and executive bodies. The same criticism is applicable to Clause 2, Part 1, Article 101 of the Tatarstan Constitution under which the President of the Republic shall name his candidates for as many as half the seats on the republican central election commission.

Under Clause 28, the State Council has the right to introduce an emergency situation in the republic, whereas under Article 88 of the RF Constitution only the President of the Russian Federation can declare an emergency within the Russian Federation. Obviously, the same applies to Clause 16 Article 111 of the Tatarstan Constitution under which the President of Tatarstan has the right to call an emergency in the republic.

Article 94 authorizes the republican Unions Council to come up with legislative initiatives. This official trade union organization appears to have an edge over the independent unions, which clearly amounts to a
breach of Part 4, Article 13 of the RF Constitution that views all public associations as equal-standing players.

The Constitution of Tatarstan has the chief executive lacking such privileges with regard to the republican parliament as the right to veto parliamentary rulings and the right to dissolve the parliament in keeping with the provisions carried by Part 2, Article 8 and Part 3, Article 9 of Federal Law “On General Principles for Building Legislative (Representative) and Executive Bodies of State Authority in Subjects of the Russian Federation.”

As provided by Part 1, Article 108 of the Tatarstan Constitution, elected to hold the office of President of Tatarstan can be a citizen of the republic who has turned 35 years of age, has been a permanent resident of the republic for at least ten years and has a good command of the republican state languages. However, pursuant to the provisions of Part 6, Article 4 of Federal Law “On Basic Guarantees of the Voting Rights of Citizens of the Russian Federation and their Right to Take Part in a Referendum,” subjects of the Russian Federation are, indeed, free to set additional rules for citizens of the Russian Federation to be effectively enabled to enjoy the ballot-access right upon their reaching the established age limit. But the general rule is that the candidates running for any and all chief executive offices in the general elections shall only be required to reach 30 years of age. Part 5 of the aforesaid article in the federal law reads that any limitation of the ballot-access right related to the permanent or prevailing residence qualification within a certain territory in the Russian Federation can only be prescribed by the Constitution of the Russian Federation. Importantly, no federal law or law of a subject of the Russian Federation shall fix time periods for permanent or prevailing residence in any given region of Russia for a citizen of the Russian Federation to enjoy the ballot-access right. What is more, the Constitution of Tatarstan carries no rule under which the chief executive office in the republic shall not be held more than two times in a row by the same person, which is required by the provisions of Clause 5, Article 18 of Federal Law “On General Principles for Building Legislative (Representative) and Executive Bodies of State Authority in Subjects of the Russian Federation.”

While operating in accordance with Clause 9, Article 111 of the Tatarstan Constitution, the President of Tatarstan shall appear for the Republic of Tatarstan in the international circuit, appoint and recall the republic’s agents to and from foreign countries and international organizations, enter into agreements with foreign countries, accept the letters of credence or recall from plenipotentiary representatives of foreign countries. Clearly, these powers are very much at odds with the provisions carried by Clause “a,” Part 7, Article 18 of Federal Law “On General Principles for Building Legislative (Representative) and Executive Bodies of State Authority in Subjects of the Russian Federation,” under which the chief executive officer in a subject of the Russian Federation (head of the top-level executive body of state authority in a subject of the Russian Federation) can only speak for his subject of the Russian Federation when doing business either with the federal bodies of state authority or bodies of state authority in other subjects of the Russian Federation, or local administrations, or when maintaining external
commercial links, with the aforesaid official being authorized to sign commercial treaties and agreements in the name of the given subject of the Russian Federation.

Clause 10, Article 111 of the republican Constitution states that the President of Tatarstan is authorized to grant political asylum to foreign applicants, while it is common knowledge that, pursuant to Clause “a” Article 89 of the RF Constitution, it is the President of the Russian Federation who enjoys this right.

Article 126 of the Tatarstan Constitution declares that the rulings by local Soviets (legislatures) shall be binding on the relevant local administrations or self-governing bodies. Clearly, this is against the provisions carried by Article 12 and Part 12 of the RF Constitution, and against the rules of Federal Law “On General Principles for Local Self-Government in the Russian Federation.”

The human rights activists and law scholars particularly target the way the local election system is covered by the Constitution of the Republic of Tatarstan.

The republican election law is different from the federal election law in that the former holds more constraints for exercising the democratic civil liberties and creates better conditions for local political elites. Professor M. Farukshin, noted political scientist in Tatarstan, points out that this phenomenon is reflective of the “regional legal separatism,” with the leaders of the Republic of Tatarstan basically having established for themselves a separate (stand-alone) electoral legal base. This situation is at odds with the relevant federal law and conveniently responsive to the local ruling officials’ aspirations. The Republic of Tatarstan is particularly peculiar in the way that over the past decade a most extraordinary legal environment has been developed in the region: while the elections for federal offices are generally conducted pursuant to well-established democratic rules, elections of the regional officials are held in keeping with a rather different electoral system. The latter heavily breaches the principles carried by the pertinent federal legislation, according to the local political scientist. In the first place, the discrepancies emerge when it comes to the elections for the State Council of the Republic of Tatarstan. Notably, the local parliamentary elections are conducted in the two types of electoral districts: administrative-territorial and territorial districts, with the former actually fitting within the boundaries of administrative districts and cities. For the 1995 elections, Tatarstan totaled 61 such electoral districts, with the 1999 elections numbering 63 of those. Hence, out of the total of 130 seats in the State Council of Tatarstan as many as 63 seats in the last elections were filled out by representatives from the administrative-territorial districts and the remaining 67 seats were taken by the winning candidates running in the territorial electoral districts. Initially (through March 1995), the difference between the two was that the deputies sent by the administrative-territorial districts were allowed to function as parliamentarians and concurrently work at their main jobs. This arrangement was established for the heads of local district and city admin-

Elections in the Russian Federation are conducted on a competitive basis, which provides for a district election commission placing at least two candidates on a single ballot, according to the applicable Russian legisla-
tion. Federal Law “On Basic Guarantees of the Voting Rights of Citizens of the Russian Federation and their Right to Take Part in a Referendum” carries an explicit rule stating that the scheduled elections in any given electoral district shall be postponed should it so happen that by the ballot day the given electoral district has the “number of registered candidates either falling below the established limit or being equal to it.” The Constitution of Tatarstan (Article 77) treats this particular subject somewhat differently: “the ballot paper can carry any number of candidates,” which allows for uncontested elections to be conducted in order to elect either the President of Tatarstan or State Council deputies from amongst the available heads of local administrations. Though the September 22, 2000 Law of the Republic of Tatarstan “On Electing the President of the Republic of Tatarstan” holds a prescriptive rule on contested elections, the relevant republican constitutional provision remains unchanged and basically uncontested elections within Tatarstan. The federal legislation proceeds from the general principle that “no federal law or law of a subject of the Russian Federation shall be passed to establish time periods for mandatory permanent or primary residence within a given region of the Russian Federation as grounds for a Russian citizen to secure the ballot-access right.” Though the new Tatarstan law on electing the President of the republic carries no residence qualification for candidates choosing to run for the local presidential office, other electoral laws of the Republic of Tatarstan continue to be rather ambiguous in this regard. To provide an example to this effect, the July 21, 1999 and January 21, 2000 versions of Republican Law “On Electing People’s Deputies in the Republic of Tatarstan” hold provisions requiring that the candidates for people’s deputies running in the administrative-territorial districts should either work or live within the relevant districts, while the candidates running in territorial districts should be residents of the Republic of Tatarstan. This sort of legal collision creates fertile grounds for any prospective candidate wishing to refer either to this or other republican law, depending on the campaign pursued at the moment.

The total of ballot papers assigned and shipped to any given election commission shall not exceed by more than 0.5% the total of voters registered per relevant electoral precinct by the ballot delivery date, according to the federal law. The law on electing deputies of the State Council of the Republic of Tatarstan reads that the total of ballots shipped to any election commission shall not exceed by more than 4% the total of voters registered per relevant electoral precinct by the delivery date.

Under the relevant federal legislation, the election commissions, which have been involved in registering the candidates (developing the voter lists), are required to release to the mass media the overall election results per given electoral precinct within one day of the relevant voting returns being tabulated, while under the Tatarstan electoral legislation, “the central and district election commissions that are authorized to release the election results within the timelines and in the format prescribed by the republican central election commission.”

Clearly, deviations from the federal rules in the Republic of Tatarstan have generally been aimed to curtail application of the democratic electoral principles, thereby creating conditions for possible breaches of the guidelines for free and fair elections.
The January 22, 2002 Adjudication by the Constitutional Court of the Russian Federation (#2-P) reads that “…the relevant provision in Part 2, Article 70 of the Constitution of the Republic of Tatarstan and provisions carried by Clause 8 Article 21 of Republican Law “On Electing People’s Deputies in the Republic of Tatarstan” have been unlawfully applied to put constraints on the federal guarantees for universal, free and equal voting rights exercised by citizens of the Russian Federation as they proceed to send their representatives to legislative (representative) bodies of state authority. This is definitely against the Constitution of the Russian Federation, particularly, the provisions of its Article 3 (Parts 2 and 3), 19 (Parts 1 and 2), 32 (Parts 1 and 2) and 55 (Part 3).

Also, major alterations (aimed to bring the regional document in line with the RF Constitution) have been sustained by the Charter of the Krasnodar territory (as provided by the relevant Krasnodar territory laws of July 18, 1997 (#95-KZ), January 4, 2001 (#331-KZ) and May 10, 2001 (#355-KZ)).

The last report by the Krasnodar regional human rights organization reads that Article 2 of the Charter holds a discriminatory provision designed to confirm inequality of Russian citizens as to their ethnic origins: “Krasnodar territory is an age-old area of residence of ethnic Russian people… This circumstance shall be taken into account when shaping and providing for operation of the bodies of state authority and local self-government.” Clearly, this kind of approach is very much against the nationally declared rights to equal access to the civil service and to jobs held by the local self-government structures.679

Admittedly, that discriminatory provision eventually was removed from the aforesaid article, which now runs as follows: “The Krasnodar territory is a historic region where the Kuban-based Cossacks became organized and an age-old area of residence of the ethnic Russian people who comprise the bulk of the territory’s population” (the wording being introduced by the Krasnodar territory law of January 4, 2001 (#331-KZ)).

The report likewise indicates that “…Article 7 of the Charter is in opposition to the Constitution of the Russian Federation when the regional government is authorized to place focused constraints on the application of human rights within the Krasnodar territory, particularly, the right to engage in entrepreneurial commercial activities, and manage and dispose of personal properties.” The Krasnodar territory Law of the January 4, 2001 (#331-KZ) had the aforesaid provision eliminated from the Charter’s wording.

The report also underscored that “Part 2, Article 12 of the Charter of the Krasnodar territory is out of line with the provisions of the RF Constitution when it empowers the regional government to place constraints on certain constitutional rights of those regional residents who have not stayed in the territory long enough.” Notably, the Krasnodar territory law of the January 4, 2001 (#331-KZ) had this discriminatory provision excluded from the Charter.

679 Report by the Krasnodar Center for Human Rights.
While in contradiction to the Constitution of the Russian Federation, the Krasnodar Charter’s Articles 16, 51–53 authorized the regional government to set up local (rather than federal) courts funded through regional and local budgets (see Article 55 of the Krasnodar Charter). This arrangement has the courts directly dependent on the local authorities in terms of relevant resources and financing.

The aforementioned regional law likewise had these provisions excluded from the Krasnodar Charter.

Also, the report reads that Article 18 of the Charter breaches the Constitution of the Russian Federation when it curtails the right to engage in the regional governing activities and has its application predicated on the length of residence maintained by a given person in the Krasnodar territory.

The aforementioned regional law eventually had this Article brought in accord with the Constitution of the Russian Federation.

Part 2, Article 26 of the Charter of the Krasnodar territory used to breach the voting rights of eligible Russian citizens as it had those rights qualified by the “21 years of age” and “have permanently lived in the territory for at least five years” limitations.

The aforementioned regional law had this wording introduced to the Charter: “Elected to the office of deputy of the legislative assembly of the Krasnodar territory can be a citizen of the Russian Federation who has turned 21 years of age and has the ballot-access right in keeping with the relevant federal and regional laws” (Krasnodar Territory Law of the January 4, 2001 (#331-KZ)).

So, the reported cases of the regional statutes that were out of sync with the relevant provisions of the Constitution of the Russian Federation primarily have come from the regional lawmakers seeking to have the regional governments empowered beyond the levels prescribed by the Constitution of the Russian Federation.

It should be noted that the Krasnodar region is a truly extreme case, more an exception than a rule. However, other regions have also been found in violation of federal law in connection with their legislation. To point out, those trends to a certain extent have been countered by the Constitutional Court of the Russian Federation whose rulings on invalidating certain regional-level laws as being at odds with the Constitution of the Russian Federation have been conspicuous and numerous. Human rights analysts have closely researched the “permanently updated” and unstable legal acts passed by subjects of the Russian Federation.

Alarmingly, many of the cases related to regional laws contradicting federally established human rights and civil liberties have never been looked into by the Constitutional Court of the Russian Federation.

Research of the aforementioned examples has allowed identification of the following areas where human rights and civil liberties have been
variously curtailed or infringed upon by separate legal acts passed by
the regional lawmakers in subjects of the Russian Federation:

✓ curtailing of some constitutional rights and liberties;
✓ regional legal constraints exceeding those carried by the Constitu-
tion of the Russian Federation;
✓ provisions on certain human rights and civil liberties interpreted in
an arbitrary (and discriminatory);
✓ independence of the courts in subjects of the Russian Federation
being eroded.

Holding a special place in the entire category of regional legal acts have
been the charters of municipal administrative units or municipalities.

The charter of a municipal administrative unit is a most essential element
giving the legal basis for local self-government. This document generally
holds provisions that define: the organizational structures and forms to
maintain local self-governing activities; safeguards for the rights of local
residents seeking to find solutions to pressing issues; mapping, legal,
technical, economic and financial guidelines for local self-government
tasks; powers for local governing structures and administration officials
along with the guarantees for their rights and responsibilities.

Research of a number of municipal charters has allowed to conclude that they
are generally in compliance with requirements of Federal Law “On General
Principles for Building Local Self-Government Structures in Subjects of the
Russian Federation” and are fully reflective of the aforementioned aspects.

The City of Chita Charter, for example, directly prescribes a number of
legal documents that need to be passed to assure management of the
city. The key documents include the Rules for the Chita City Duma
(Clause 1 Article 19 of the Charter) and the Regulations for Shaping
and Providing for Operation of the Chita City Duma’s Functional Struc-
tures. Clause “g,” Part 1, Article 18 mentions a conference commission.
Pursuant to this provision, a ruling can be passed to confirm the regula-
tions for that commission, with its status and formation particulars be-
ing prescribed accordingly.

Part 3, Article 9 of the Chita Charter provides for adoption of the Regu-
lations for the Permanent Chita Election Commission. Also, the Charter
carries the relevant provisions to allow the City Duma to pass the stat-
ute “On the Territorial Public Self-Governance in the City of Chita”
(Article 14), Regulations for the City of Chita Audit Chamber (Article
26), Regulations for the Chita City Duma’s Functional Structures (Part
2, Article 27), Regulations for Appointing or Replacing the Head of
Chita City Administration (Part 5, Article 33), Regulations for Holding
a Contest for Candidates Seeking the Office of Head of the Chita City
Administration and Rules for Having the Head of City Administration
either Appointed or Replaced (Article 35), Regulations for Municipal
Offices and Municipal Services in the City of Chita (Article 44) with
the latter document carrying the list of municipal offices, rights and
responsibilities of the relevant officeholders, and safeguards for those officials to effectively exercise their functions. As compared to the pertinent guarantees established by the federal laws and Chita regional legislation, the aforementioned safeguards are larger in number.

The City of Dzerzhinsk Charter (Nizhny Novgorod region) includes a complete set of provisions designed to assure implementation of right to hold a local referendum, accountabilities of the local governing bodies and officeholders before the state, the city’s residents and legal entities established pursuant to Federal Law “On General Principles for Building Local Self-Government Structures in Subjects of the Russian Federation.” It appears to be a bit untenable that Part 2, Article 11 of the Charter holds a provision under which the city competencies include the responsibility to assure regulation of management of the Nizhny Novgorod regional assets transferred for provisional administration to the Dzerzhinsk city authorities. Remember, the procedures for management and administration of properties are exclusively regulated by owners. Given this circumstance, the aforementioned article should be updated also to read as follows: “…within the powers granted by the owners.”

Charters rather comprehensively consider human right issues. At the municipal level a position of Municipal Ombudsman may be introduced and a relevant statute may be adopted. However, Charters of all municipal units do not provide for this position, which is a most considerable drawback in the domain of human right at the municipal unit level.

2. Regional Laws Dealing with the Constitutional Rights and Liberties of Russian Citizens

2.1. Laws Dealing with the Right to Unconstrained Access to and Distribution of Information.

During the months of the monitoring effort, the regional governments have passed a number of laws relating to the aforementioned right.

For example, the December 10, 2001 Ruling by the Kaliningrad regional administration (#495) “On Measures to Assure Implementation of the Rights of Citizens and Organizations to Gain Access to Legal Information” effectively enabled local residents and organizations to receive the desired legal information by creating a public center for legal knowledge as part of the Kaliningrad regional multi-dimensional reference library.

The November 29, 2001 Kaliningrad Regional Law (#89) “On Government Support of Information Technologies in the Kaliningrad Region” has provided regulations for using government resources to back the uses of information technologies within the Kaliningrad region in support of local residents and legal entities.

Government support for IT (information technology) users is expected to be received by the local industries, enterprises, organizations, entrepreneurs and
proprietors maintaining no legal entity status. This kind of backing has been arranged in order to:

- make available the requisite IT resources and information services through the use of either dedicated links or local area networks;
- turn out information products and programs, including those generated under contracts with foreign customers;
- perform information production sequences and provide information services in the area of commerce and trade, including the performance of accounting and billing tasks through the use of local area networks;
- maintain information exchange links and provide information services in the area of document filing and dispatching through the use of state-of-the-art IT capacities;
- develop, adjust and introduce advanced engineering technologies created through the use of CAD techniques and unit-level customized approaches.

The value of the aforementioned services and products in overall sales completed by regional enterprises, organizations and proprietorships is expected to be at least 75%.


The November 28, 2001 Moscow Law (#66) “On Changes to be Introduced to the January 28, 1998 Moscow Law (#2) “On Developing Cable Television Services in Moscow” revoked the provision under which Moscow could have a special procedure for gaining and documenting the right to own and operate cable television networks and facilities.

Also revoked has been the rule under which a penalty could be slapped on the person found to be unlawfully using his cable networks or facilities for commercial purposes and generating unregistered revenues.

The law came into force within ten days following its official release.

The December 24, 2001 Directive by the Mayor of Moscow (#36-UM) “On Establishing the Moscow City Award in the Area of Journalism” confirmed the Regulations on the Moscow City Award in the Area of
Journalism and description of the relevant certificate and badge reading “Recipient of the Moscow City Award in the Area of Journalism.”

The annual total of awards conferred on the winning candidates shall not be in excess of 15, with each recipient likewise getting the monetary incentive valued at 300 minimal monthly wages in the Russian Federation.

The Moscow City Award is generally supposed to be conferred on individual citizens or groups of citizens for singular creative accomplishments and superior professional standards achieved in the area of journalism in order to promote the mass media roles in the overall effort to address and effectively tackle social, economic and cultural problems in the life of Moscow, to encourage Muscovites to love their city, hold dear its history and traditions.

The January 17, 2002 Ruling by the Ryazan City Soviet (#13) “On Exemptions for the Municipal Property Holders from Levies for the Provision of Relevant Information Services” in the period within January 1, 2002 — December 31, 2002 rules that exempted from levies for the provision of information on the pertinent living premises being part of the municipal housing are the disabled persons, retirees and parents caring for three or more under-age children.

The December 21, 2001 Directive by the Samara Governor (#448) “On Confirming the Rules for Accreditation of Print and Broadcast Media Reporters with the Samara Regional Administration” prescribes specific types of accreditation, procedures for securing the desired accreditation, rules and responsibilities for the accredited journalists. Attached to the Rules for Accreditation is a blank form of the “Press” accreditation certificate.

The November 19, 2001 Ruling by the Cabinet of Ministers of the Republic of Tatarstan (#810) “On Licensing the Activities Pursued to Support International Information Exchanges” reads that the job of granting relevant licenses to assure international information exchanges within the confines of Tatarstan is supposed to be done by the republican ministry of communications. Notably, the Ruling sets specific rates for the services related to considering relevant applications, granting or renewing the licenses to support international information exchange tasks. To point out, licenses to assure international information exchange activities are granted pursuant to the federal laws.


After researching the aforementioned set of regional legal acts and statutes, one can explicitly conclude that the rights to access and distribute information in Russian regions have been somewhat expanded. To attest to this improvement have been the simplified procedures for gaining media licenses, easier rules for acquiring and operating cable television networks and facilities, newly emerged structures to keep households aware
of their legal commitments and rights, and newly launched programs for supporting and developing disparate web-based networks. In our judgment, problems with implementation of the aforementioned rights have, for the most part, come from the persisting gaps and glitches in the federal legislation and law enforcement (judicial included) practices.

2.2. The Right of Citizens of the Russian Federation to Freedom of Movement, Choice of Place of Stay or Residence as Provided by Regional Legislation

Issues relating to this particular right have been to a certain extent described above. However, the problems associated with properly entering this right into regional laws appear to reach beyond the inadequate contents of relevant provisions of the Constitution of the Russian Federation and charters of subjects of the Russian Federation. The contents of lower-level regional statutes have been frequently found to contain discriminatory laws contradicting the Constitutions (charters) of relevant subjects of the Russian Federation.

The regulatory statutes recently passed by the legislators of the Krasnodar territory provide a good example of discrepancy between regional and federal laws.

On February 20, 2002, the Legislative Assembly of the Krasnodar territory passed Ruling #1363-P “On Extra Measures to Alleviate Tensions in the Realm of Ethnic Relations in the Localities Densely Populated by the Meskhetian Turks Temporarily Residing within the Krasnodar Territory.”

An expert of the Independent Council of Legal Expertise had the following to say in his report about the aforementioned ruling:

Clause 2, Part 3, Article 32 of the Charter of the Krasnodar territory, defining the powers of the Legislative Meeting that can be implemented in the form of specific rulings and orders, in no way intends regional lawmakers to command the right of issuing guidance for any structures of the regional administration, to say nothing of directives for local offices of federal government ministries or agencies. Notably, Part 1 of the Article explicitly states the following: “The Legislative Assembly of the Krasnodar territory shall be exclusively authorized to address and resolve questions falling within its purview.” Even Part 3 (“z”) of the said Article, under which the Legislative Assembly can issue guidance to regulate “other matters specified by the Constitution of the Russian Federation and federal laws to be the competency of the Legislative Assembly of the territory,” cannot empower the latter body to pass the aforementioned type of statutes, for they could not be derived from either the Constitution of the Russian Federation or federal laws. The Constitution of the Russian Federation covers the issue of protecting the rights of ethnic minorities by the shared jurisdiction of the Russian Federation and its subjects, with some of the said ruling’s provisions however being reflective of the document’s reverse thrust, which will be explained in greater detail on the forthcoming pages. The Legisla-
The expert pays particular attention to the fact that the document in question:

"It is not clear about what changes to Clause “a” Article 1 of the Treaty on Power Sharing Between the State Power Bodies of the Russian Federation and State Power Bodies of the Krasnodar Territory are proposed by the Legislative Assembly of the Krasnodar territory in Clause 2 of the said ruling. To point out, the language of the given Treaty is as follows: "Article 1. This Treaty shall separate the powers held by the federal bodies of state authority and Krasnodar territory-based bodies of state authority on the issues falling under joint purview and provide for regulation of activities pursued by the bodies of state authority in the following areas controlled by the Russian Federation and the Krasnodar territory: a) establishing regulatory regimes to manage migration flows within the Krasnodar territory, with social and political stability in the border subject of the Russian Federation being appropriately assured."

Notably, Clause “a,” Article 1 of the Treaty, under which regulation of migration flows falls under joint competency of the Russian Federation and its subject (Krasnodar territory), is in contradiction with Clause “v,” Article 71 of the Constitution of the Russian Federation. The Constitution attributes the competency of regulating the rights and freedoms of persons and citizens (including the rights of ethnic communities) exclusively to federal authorities. Clearly, migration is a manifestation of the freedom of movement, the implementation of the freedom to choose where to stay temporarily or reside permanently. This freedom is stipulated in Part 1, Article 27 of the Constitution of the Russian Federation, and it can be enjoyed not only by Russian citizens but also by any and all persons within the Russian Federation. To emphasize, it is exclusively pursuant to the provisions of Part 3, Article 55 of the federal (never regional) Constitution that this freedom (just as other rights and liberties) can be curtailed. Keeping this point in mind, the aforementioned provision of the Treaty between the state power bodies of the Russian Federation and the Krasnodar territory can and should be reviewed in order to have that anti-constitutional rule repealed. Obviously, provisional or permanent discrimination against non-citizens staying in the territory cannot be tolerated. However, a discriminatory rule continues to be by contained in Clause 2 of the said ruling issued by the Krasnodar regional lawmakers."

The expert report goes on to say:

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680 See the report by the Independent Council of Legal Expertise on Ruling #1363-P passed by the Legislative Assembly of the Krasnodar territory “On Extra Measures to Alleviate Tensions in the Realm of Ethnic Relations in the Localities Densely Populated by the Meskhetian-Turks Temporarily Residing within the Krasnodar Territory.”

681 Ibid.
Clause 3 of the given ruling fails to clarify which persons “illegally staying within the Krasnodar territory” are to be targeted. Pursuant to the aforementioned provision under Article 27 of the RF Constitution, unauthorized stay can only be tolerated within the Russian Federation in general, rather than specifically within the Krasnodar territory. Notably, only the June 25, 1993 Federal Law #524-1 “On the Right of Citizens of the Russian Federation to Freedom of Movement, Choice of Stay or Residence within the Russian Federation” makes exceptions to this rule for Russian citizens. This law states that “the right of citizens of the Russian Federation to freedom of movement, choice of stay or residence within the Russian Federation” can be curtailed:

✓ in a border-line zone;
✓ within “off-the-fence” military bases;
✓ in restricted-access administrative units;
✓ within natural-disaster areas;
✓ in separate territories and communities where the risk of contagious diseases, wide-spread poisoning or epidemics warrant the introduction of special control regimes to regulate movement or business activities pursued by persons or organizations;
✓ within territories where either a state of emergency or martial law has been introduced.

No area within the Krasnodar territory is likely at this time to fall into any of the categories warranting the curtailment of human rights and freedoms as mentioned above.

Foreign nationals or non-citizens may have the aforementioned curtailments applied to them based on provisions contained in Part 3 Article 62 of the Constitution of the Russian Federation. They also can continue to function in keeping with the provisions of the USSR Law “On the Legal Status of Foreign Nationals in the USSR” as translated into the relevant May 19, 1995 Federal Law #82-FZ and August 15, 1996 Federal Law #114-FZ, subsequently amended by the February 17, 1998 Ruling #6-P by the Constitutional Court of the Russian Federation. Under Article 19 of that law, “foreign nationals can move on the territory of the USSR and choose their place of residence within the USSR pursuant to the pertinent regulations established by the applicable USSR legislation. Admittedly, the right to movement and choice of place for residence can only be limited to a certain degree, provided such measures are warranted by the pressing need to assure national security, maintain public law and order or the health and moral standards of the population, or defend the rights and rightful interests of the USSR citizens and other persons.” Article 29 of the said law prescribes that “… foreign nationals violating the rules of stay within the USSR, including such infractions as living under non-valid documents, non-observing the established residence registration procedure or choice of place of residence rules, refusing to leave the territory of the Krasnodar territory shall on a regular basis carry out special measures to detect persons unlawfully staying within the Krasnodar territory and apply relevant measures to them. The regional police shall also draft a sequence of preventive strategies to avoid or identify at the earliest possible stage ethnic conflicts.”
country following the visa expiration date or breaching the USSR transit rules, shall incur criminal liability.”

Pursuant to Article 30 of the given law, “any foreign national breaching the legislation on legal status of foreigners in the USSR can risk having his time of stay in the USSR reduced.”

Also, “a foreigner might have the duration of his stay in the USSR curtailed whenever the grounds for his further stay in the country have become no longer valid. A decision on cutting short a given foreign national’s stay in the USSR can be made by relevant Ministry of Internal Affairs authorities.”

Notably, under the provisions of Article 31 of the aforementioned law, a foreign national can be expelled from the USSR:

1) if his actions oppose national security or public law and order interests;
2) if this measure is motivated by the need to safeguard the health and moral standards, the rights and legitimate interests of USSR citizens and other persons;
3) if the foreign national has gravely breached the applicable legislation on the legal status of foreign nationals in the USSR, customs, foreign exchange or any other Soviet laws.”

The said law decrees that any decision to expel a foreign national can be made only by the cognizant Soviet authorities. A compromised foreign national must leave Soviet territory before the deadline set by the relevant decision. Any foreign national refusing to do so shall be detained and forcefully expelled by a ruling issued by the local prosecutor. Importantly, such persons can only be detained for the time needed to carry out the expulsion decision. This provision eventually had been ruled by the Constitutional Court of the Russian Federation as opposing the Constitution of the Russian Federation, which allows for a foreign national to be detained in excess of 48 hours without a pertinent court ruling being issued.

The provisions of Article 32 of the said law also are applicable to non-citizens either staying or residing within the USSR, unless other Soviet legislation is preeminent in this matter.

Understandably, the given legislation is only applicable when its provisions remain in line with those carried by the Constitution of the Russian Federation. Although the Constitutional Court of the Russian Federation only ruled on the provisions of Article 31 of the said law in order to respond to the specific application, it does not mean to infer that all other provisions of that law are fully in keeping with the Constitution of the Russian Federation. It appears obvious that any and all decisions regarding issues related to foreign nationals or non-citizens are now generally decided upon by specially authorized authorities operating in accordance with the existing federal legislation.

What is more, it should be pointed out that while the Krasnodar regional lawmakers passed the aforementioned ruling, they seem to have overlooked or left unheeded the February 19, 1993 Federal Law #4528-1 “On Refugees” and the February 19, 1993 Federal Law #4530-1 “On Forced Migrants.” The regional authorities are to honor any status of “refugee” or “involuntary migrant” that had
To add, the said ruling prescribes (Clause 4) that land plots for migrants should be assigned in the localities densely populated by an ethnic community (with ethnic Russians apparently failing to be regarded as such a community).684

Given the aforementioned circumstances, the expert concludes that the Legislative Assembly of the Krasnodar territory “has reached beyond its competency in passing the aforementioned ruling. The document, as a matter of fact, not only relates to the matters lying within the purview of the federal authorities but also effectively violates human rights and civil liberties declared by the Constitution of the Russian Federation.”685

On March 27, 2002, the Legislative Assembly of the Krasnodar territory passed Ruling #1381-P “On Measures to Step Up Government Supervision over Migration Processes and Provide for Expulsion of Persons Found to be Unlawfully Staying within the Krasnodar Territory.”

Just as in the previous document, this particular ruling goes beyond the authority of the Krasnodar regional legislature prescribed by the Krasnodar Regional Charter and makes an incursion into federal competency.

Following a thorough investigation of the document, the Independent Council of Legal Expertise concluded that:

The task of regulating human rights and civil liberties, just as the rights of ethnic minorities, is exclusively managed by the federal authorities (see Clause “v,” Article 71 of the Constitution of the Russian Federation). To clarify, one can only talk of persons unlawfully staying within the confines of the Russian Federation as a whole or within territories specified pursuant to the provisions held by Article 8 of the June 25, 1993 Federal Law #5242-1 “On the Right of Citizens of the Russian Federation to Freedom of Movement, Choice of the Place of Stay or Residence within the Russian Federation.” Im-

683 See the report of the Independent Council of Legal Expertise on Ruling #1363-P passed by the Legislative Assembly of the Krasnodar territory “On Extra Measures to Alleviate Tensions in the Realm of Ethnic Relations in the Localities Densely Populated by the Meskhetian-Turks Temporarily Residing within the Krasnodar Territory.”

684 “4. The Krasnodar Regional Committee for Land Resources and Management shall on a regular basis conduct focused checks to see if land in the localities densely populated by ethnic communities have been lawfully allocated and managed. Relevant punitive measures are applied to violators of the applicable land legislation.”

685 See the report of the Independent Council of Legal Expertise on Ruling #1363-P passed by the Legislative Assembly of the Krasnodar territory “On Extra Measures to Alleviate Tensions in the Realm of Ethnic Relations in the Localities Densely Populated by the Meskhetian-Turks Temporarily Residing within the Krasnodar Territory.”
Importantly, the Krasnodar territory-held lands are not on the list of those specified territories. Overall, there is no basis at all to speak of unlawful migrants within the Krasnodar territory. Any person legally staying in the Russian Federation can enjoy the right to move to and settle in the Krasnodar territory, with the only exception being the localities indicated by Article 8 of Federal Law #5242-1. No local self-government authorities and no migration supervision panels or commissions can legally stand in the way of implementation of that right, notwithstanding the provisions held by Clause 2 of the aforementioned regional ruling.686

In his concluding observations, the expert points out that:

While certain unwelcome persons, indeed, can be administratively expelled from some of the specified territories and localities, they cannot be legally banned from the Krasnodar territory as a whole. So, the regional administration would be ill advised to authorize any funding to support an effort to carry out unlawful administrative expulsion measures. To underscore, it would certainly not be in good order to commit any resources from public associations or commercial structures to do this job, as has been suggested by the said ruling.687

Notably, the legislation on the regulations for persons staying or residing within the Krasnodar territory provided for under Clause 3 of the said ruling can hardly be in line with the Constitution of the Russian Federation or relevant federal laws. Hence, the rightfulness and feasibility of that piece of regional legislation appear to be very doubtful. In addition, matters relating to the procedures for administrative expulsion of foreign nationals or non-citizens are likewise stipulated in federal, rather than regional, legislation. The guidelines for those procedures are established by the December 30, 2001 Administrative Code of the Russian Federation which is expected to be put into effect on July 1, 2002. The regional police authorities should not be tasked to elaborate on the aforementioned procedures.

In discussing the aforementioned right in Russian regional legislation, the amendments introduced during 2000 to the October 6, 1999 Federal Law (#184-FZ) “On General Principles for Building Legislative (Representative) and Executive Bodies of State Power in Subjects of the Russian Federation.” are important. Pursuant to the provisions of Article 31 of the current version of the said law:

Bodies of state power in subjects of the Russian Federation shall be held accountable for any violation of the Constitution of the Russian Federation, federal constitutional laws and federal laws. They shall also be committed to ensure that regional constitutions or laws, charters, statutes or other regulatory documents passed or debated by the authorities of the territories, regions, federal cities, autonomous regions and autonomous districts, and their pertinent activities, are not in contradiction with provisions

686 See the report of the Independent Council of Legal Expertise on Ruling #1381-P passed by the Legislative Assembly of the Krasnodar territory “On Measures to Step Up Government Supervision over Migration Processes and Provide for Administrative Expulsion of Persons Found to be Unlawfully Staying within the Krasnodar Territory.”

687 Ibid.
of the Constitution of the Russian Federation, federal constitutional laws and other federal laws.

Should any subject of the Russian Federation pass any regulatory statute that is in contradiction with the Constitution of the Russian Federation, federal constitutional laws or federal laws, or generate either massive or grave transgressions of the applicable human rights and civil liberties or threats to the unity and territorial integrity of the Russian Federation, national security of the Russian Federation and its defense capability, integrity of the legal and economic environment of the Russian Federation, it shall be held accountable pursuant to the relevant provisions carried by the Constitution of the Russian Federation and this federal law.

The aforementioned amendments to the October 6, 1999 Federal Law #184-FZ “On General Principles for Building Legislative (Representative) and Executive Bodies of State Power in Subjects of the Russian Federation” appear to have provided the proper tools to prevent any lawmaking authority in subjects of the Russian Federation from passing legislation that might restrict the aforementioned human right.

3. SOCIAL, ECONOMIC AND CULTURAL RIGHTS

3.1. Social and Labor Rights in Regional Legislation

The human rights monitoring effort conducted shows that the larger part of regulatory statutes passed by the legislative and executive authorities in subjects of the Russian Federation or regions (or municipal administrative units thereof) have to do with civil rights dealing with social and labor relations. It is also this particular category of regulatory acts that have been most frequently amended, updated or replaced. Laws passed by legislatures in subjects of the Russian Federation have displayed greater stability, although there is hardly a single statute in this category that has kept its original wording to the present day. Apparently, the key reasons for this phenomenon are both the volatility of social policies on the regional level and also the fact that regional lawmakers are seeking to fill unifying gaps found in federal legislation. This particular circumstance has not infrequently resulted in discrepancies between federal and regional laws.

Below are a few examples reflective of the current environment.

The Mayor of Ryazan issued the May 12, 1996 Ruling #1385 to make effective Federal Law “On Veterans” on July 1, 1996, rather than on January 25, 1995, the date when the said law was officially released. Pursuant to the ruling, local veterans living in apartment blocks with no central heating have the right to a 50% exemption for natural gas and living premises maintenance costs. All other exemptions contained in Federal Law “On Veterans” are not mentioned. What is more, the February 11, 1999 Resolution “On Adopting Local Taxes and Levies for 1999” passed

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688 Public Legal Reference System “Referent” (April 1999).
by the Sasovo Town Duma (Ryazan region) contradict the provisions of Article 54 of the Constitution of the Russian Federation. The given resolution put into effect Regulations on Taxes and Levies on January 1, 1999, thereby introducing increasingly burdensome rates and also making them retroactive. Regulations on Taxes and Levies failed to be duly released, which violates Clause 3, Article 15 of the Constitution of the Russian Federation.689

These particulars of the Sasovo Town Duma were eventually amended after the Sasovo-based inter-district prosecutor lodged a number of protests. The Sasovo prosecutor filed a series of protests on the matter after the local human rights center, “Choice of Integrity,” had filed the relevant appeal. It should be noted that this non-governmental organization has been instrumental in getting as many as seven regulatory documents appropriately amended.690

Many of the newly passed statutes have been largely declarative in character, with some legal acts producing public outcries from certain social groups. To provide an example to this effect, in December 1999 a furious protest was generated by the November 29, 1999 Saratov Regional Duma Law #58-ZSO “On Introducing a Single Imputed Tax on Retail Vendors in Saratov Region.” The outraged entrepreneurs (operating without being registered as legal entities) were reluctant to recognize the newly introduced tax rate because it was prohibitively high. They proceeded to stage a public rally, rightfully claiming that the given law was a destructive legal vehicle, primarily designed to have them ruined and put out of business.

On August 13, 1999, the Tver regional prosecutor’s office lodged a protest against the wording of Regional Law “On Municipal Civil Service in the Tver Region.” Article 4 of this law states that local self-government structures have the right to update or change the rates for entitlements and allowances payable to municipal civil servants that reinforce government pensions, and provisionally suspend or reduce payments. Authority for such action is derived from Attachment #3 to the Tver Regional Law “On Civil Service in the Tver Region.” Clearly, this provision contradicts the requirements of Part 2, Article 39 of the Constitution of the Russian Federation and Part 1, Article 18 of Federal Law “On the Guidelines for Municipal Civil Service in the Russian Federation.” Existing federal or regional laws establish or release years-of-service related extra payments designed to improve pension benefits collected by either federal or municipal civil servants.691

The Tomsk regional lawmakers passed the November 17, 1998 Regional Law “On Quotas for Jobs in the Tomsk Region to be Filled by Persons that Badly Need Social Protection and Find it Difficult to be Employed.” Notably, the law contains legal, economic and technical provisions to define balanced quotas for jobs to be filled by separate

689 As reported by the Sasovo-based human rights center “Voice of Integrity.”
690 Ibid.
691 The information provided by the Tver regional prosecutor’s office.
categories of citizens that particularly badly need social protection and who find it extremely difficult to find employment.

To make the said law more effective, the Tomsk regional administration passed the January 29, 1999 Ruling #28, confirming the standard agreement on job quotas (with any quota-setting task being performed on the basis of the given agreement, pursuant to the said law).

It should be pointed out that setting quotas is unlikely to be a success unless it is supported by pertinent regulatory documents passed by local administrations.

For example, Article 5 of Regional Law “On Quotas for Jobs in the Tomsk Region to be Filled by Persons that Badly Need Social Protection and Find it Difficult to be Employed” prescribes that quotas for jobs should be established by local self-government authorities keeping in mind the current fluctuations in the labor market. The local authorities would be well advised to develop and pass the documents containing specific requirements and procedures for determining job quotas. Understandably, those procedures and regulations should be correlated with inputs made available by governmental job centers, labor protection groups, and other interested organizations. This issue could have been much better managed if local self-government structures and regional authorities joined forces when developing Regional Law “On Quotas for Jobs in the Tomsk Region to be Filled by Persons that Badly Need Social Protection and Find it Difficult to be Employed.”

A large number of amendments and additions have been introduced to the existing regulatory statutes. The October 18, 1999 Ruling #163 of the Tomsk City Duma “On Quotas for Jobs in Organizations” has received an amendment prescribing that job quotas should be defined keeping in mind persons with past convictions, who often remain unemployed through no fault of their own. This addition, in our judgment, is very positive, particularly given that the very impossibility to land a job often serves as one of the major motivators for repeated crime.

The March 4, 1999 Arkhangelsk Regional Law #109-21-03 “On Social Protection of Certain Categories of Russian Citizens” significantly contradicts federal legislation. The said law contradicts provisions in the July 17, 1999 Federal Law #178-FZ “On State Social Protection,” namely in Article 6 (“State social protection benefits can be paid either with a one-time payment or for a period of at least three months”) and Article 11 (“The size of social protection benefits payable to the disadvantaged families and single citizens, whose individual incomes is less than the subsistence level established in relevant subjects of the Russian Federation, shall be determined by the laws of relevant subjects of the Russian Federation at the cost of resources found to be reflective of the gap between the aggregate of subsistence level incomes and aggregate of incomes received by disadvantaged families and poorly resourced single citizens”).
The said regional law’s provisions either introduce new rules and requirements that cannot be derived from federal legislation or constrain federal law.

For example, Article 1 of the above regional law introduces the notion of “particularly needy citizens,” which is not to be found in Federal Law “On State Social Protection.” What is more, the regional statute carries such new notions as “targeted assistance” or “citizens temporarily going through a hardship,” which are not in the relevant federal law. Notably, Article 3 of the regional law actually limited opportunities for requesting social assistance, for under the regional statute “targeted assistance can be extended only one time a year as a single social protection benefit.” Also, the regional legislation (Article 4 of the said law) radically reduces the size of social aid payment to one-fourth the minimal monthly wage (limited to 332 roubles).

Overall, the aforementioned regional legislation had not been made compliant with the relevant Federal Law within the prescribed three-month time period, as was decreed by Article 13 of the dedicated October 17, 1999 Federal Law.

Another major problem with regional legislation is seen in pointlessly replicating federal law by lower-level lawmakers and in developing and passing new statutes by regional legislatures that are often, not only in terms of substance but also by the letter, out of sync with the federal laws.

One example to this effect is provided by Regional Law “On Minimal Wages to be Paid within the Volgograd Region in 2000,” which introduced a procedure for setting minimal wage rates in the Volgograd region for the year 2000. This law translated into specifics the provisions of the earlier November 9, 1999 Regional Law “On Regulating Wages in the Volgograd Region.”

The minimal wage that is fixed pursuant to the above regional law is needed to help seal a three-way agreement on wage levels. Regional employers operating outside of this agreement can be governed by federal legislation on labor relations. The minimal wage rate is not to be below the level specified by the State Duma of the Russian Federation according to Article 78 of the Labor Code of the Russian Federation. Importantly, the federal laws do not provide any provisions that would allow employers use other criteria in fixing minimal wages for their employees.

In keeping with the aforementioned regional law, the minimal wage shall be fixed according to the balance between the subsistence level indicator and the proposed minimal wage level, and the ratio is to be confirmed by the Volgograd regional lawmakers and recorded in the regional employment agreement. The regional three-way agreement is sealed between the Volgograd regional administration, the regional council of trade unions, and the regional association of employers or other representative organizations authorized to speak for either employers or the employed. It is essential that this document should be
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Within the Volgograd region. Concluded on a voluntary basis. This agreement is applicable to the participating organizations and businesses operating within the Volgograd region.

Hence, an employer who has committed himself to the tripartite agreement shall have his wage policy governed by the relevant law of the Volgograd region, with the employer’s obligations being subsequently translated into an employment contract or any other document that provides for the regulation of the local wages. Pursuant to Article 6 of the March 11, 1992 Federal Law #2490-1 “On Collective Employment Agreements and Contracts” (as amended and developed by the pertinent federal laws of November 24, 1995 and May 1, 1999), the employer shall be committed to open talks within seven days, should an effort be launched by the employee to develop, conclude or update a collective employment agreement. Notably, although the employer is permanently bound to honor the minimal wage rule established by the federal law, he can always be persuaded into improving the standing wages for his employees on the basis of specific bilateral arrangements.

Another example is provided by the Tula regional legislation. On May 24, 2000, the Tula Regional Court passed a ruling to invalidate Clause 6 of the September 21, 1999 Governor’s Ruling #356 “On Raising the Rates for Budget-Supported Employees under the Unified Wage Scale.” Under this ruling, local wages are roughly 50% lower than the average wage found across Russia. The expert concludes that Clause 6 of that ruling is in contradiction with the provisions of Article 2 of Federal Law “On Streamlining Wage Rates for Budget-Supported Earners,” which ruled that the first wage category under the unified wage scale for the budget-supported employees should be set at 110 roubles per month on April 1, 1999. Also, the aforementioned Clause 6 contradicts Clause 1 of the March 18, 1999 Ruling by the Government of the Russian Federation “On Raising the Rates for Budget-Backed Employees under the Unified Wage Scale.” The latter also put wage rates (appropriately approved by relevant national Russian employers’ associations) under the unified wage scale for budget-supported employees into effect on April 1, 1999. The Tula Regional Court’s decision was appealed with the Supreme Court of the Russian Federation. On August 7, 2000, the Supreme Court’s panel on civil cases looked into the appeal filed by I. Sevostyanov, authorized agent of the Tula regional administration, who protested against the decision passed by the Tula Regional Court on May 24, 2000. The panel determined that the Tula Regional Court’s decision should be left unchanged.692


692 See the ruling by the Panel on Civil Cases of the Supreme Court of the Russian Federation. Case #38 GOO-14 of August 7, 2000.
Notably, the very fact of the Khabarovsk regional lawmakers passing the Khabarovsk Territory Law “On Accountabilities for Breaching the Rules for Attracting and Using Foreign Labor within Khabarovsk Territory” is inconsistent with federal legislation. Issues related to establishing any rules for attracting and using foreign labor in the Russian Federation fall within legislation written to assure regulation and protection of human rights and civil freedoms in compliance with Clause “v,” Article 71 of the Constitution of the Russian Federation, and should be managed by the federal authorities.

Given the fact that a federal law regarding questions related to attracting and using foreign labor in the Russian Federation was yet to come, the Khabarovsk Regional Duma would have been well advised to draft and submit to the RF State Duma its own version of the relevant legislation. In addition, regional lawmakers had no authority to rule on these matters.

There are numerous examples of regional and local by-laws and regulatory documents being heavily inconsistent with the provisions of relevant regional, federal and international statutes and commitments in the area of human rights.

This sort of lawmaking strategy has been broadly practiced in the Khabarovsk territory. Apart from the aforementioned examples, the regional authorities have passed a series of such inconsistent documents. A most graphic example of this is the December 19, 1997 Khabarovsk Mayor Ruling #3489 “On Streamlining the Rules for Exemptions/Reduced Rates Enjoyed by Different Categories of Users of Public Transit Facilities,” which was eventually ruled invalid because it was found to be in contradiction with relevant federal legislation. This decision was adopted on December 29, 1997 by the Khabarovsk-based Tsentralny district court. The rulings (passed by the Khabarovsk City Mayor, Khabarovsk Regional Duma, or head of the Khabarovsk regional administration) that contradict federal law have usually been uncovered by regular citizens whose rights have been crudely violated, rather than by the prosecutors who’s job it is to keep track of regional laws being consistent with federal laws.

To provide another example, Yu. Kolmakov (resident of Khabarovsk) filed a suit with the Khabarovsk Regional Court. He claimed that the calculations used to determine the subsidy payable towards covering housing maintenance costs and utilities based on the area of floor-space actually held (as required by the provisions of Clause 6, Article 3 of the Khabarovsk Territory Law “On Guidelines for Allocating Social Living Floor-Space within the Khabarovsk Territory”) actually worked against his civil rights and radically reduced his family’s material well-being. This amounted to a transgression of the federal law. To clarify, “subsidies payable towards covering housing maintenance costs and utilities shall be granted to citizens by state power bodies in subjects of the Russian Federation in accordance with the established social living floor-space rates and allowances for utility services…” (Clause 1 in the Regu-
Provisions under clause 6 Article 3 of the Khabarovsk Territory Law “On Guidelines for Allocating Living Floor-Space within the Khabarovsk Territory” decree that calculations of the pertinent subsidies should be made “with due regard for the floor-space actually held.” The federal statutes state that “housing maintenance and utility subsidies should be computed pursuant to the established social living floor-space standards.” The regional law, however, states that subsidies payable “to cover the social living floor-space limits should never be in excess of the amount needed to cover the expenses relating to the apartment floor-space actually held.”

Federal legal acts, while being based on the universal application of the equally accessible right of citizens of the Russian Federation to receive housing maintenance and utility subsidies, state that allowances should be calculated on the basis of applicable social housing standards (which happen to be variously fixed by different subjects of the Russian Federation) and that they should not be linked to the living floor-space actually held. The said law of the Khabarovsk territory, while contradicting the federal requirement, rules that the subsidy calculations should be performed based on the living floor-space actually held. This obviously serves to reduce the level of subsidy for those who live in housing containing less floor-space than the established housing norms.

The Khabarovsk Regional Court eventually left Yu. Kolmakov’s suit unsatisfied. The court’s decision has been appealed with the Supreme Court of the Russian Federation.

*Separate Russian regions have passed social protection laws designed to support a broad range of social, labor and economic rights enjoyed by persons residing within the confines of a given subject of the Russian Federation.*

A good example of such a statute is the December 29, 1999 Saratov Regional Law “On Social Protection of the Population in the Saratov Region” passed by the Saratov Regional Duma.

Importantly, Article 7 of this regional law confirms the rights of citizens to social protection:

*Citizens shall have the right to: mandatory and effective assistance made available in keeping with procedures established by the regional government and local self-government structures; respectful and humane treatment from the social security and assistance services; voluntarily accept or refuse social assistance; receive free-of-charge information on the existing types and forms of social assistance, procedures and conditions for relevant services; choose the needed social service support activity; receive free-of-charge legal and psychological aid from local social security establishments.*
Article 4 of the aforementioned regional law solidly reflects the following basic social assistance principles:

- Targeting the activities designed to extend social assistance to separate categories of needy citizens in compliance with the pertinent provisions contained in federal and regional laws;
- Applying differentiated approaches in order to define the size and type of social assistance;
- Making it a priority to extend social assistance services to support under-age people experiencing severe everyday hardships;
- Using a comprehensive approach in running any social assistance activity designed to concurrently provide several types of aid (financial, in-kind, service support or tax exemption-related, legal or psychological);
- Providing for the right social response, which should imply an effort for the timely introduction of cost-of-living adjustments (COLAs) to the applicable social security standards in the area of minimal monthly wages and subsistence levels;
- Promoting any self-help and self-reliance endeavors;
- Assuring accessibility of all types and forms of available social security services;
- Providing for continuity of all types and forms of social security;
- Maintaining the established guidelines for voluntary, humane and private nature of social assistance services provided.

Of course, the list of civil rights in the area of social security could be extended, because the aforementioned social security principles hold safeguards for some human rights that even failed to be recorded under Article 7 of the said law (for example, the right to keeping confidential any knowledge related to social security services rendered).

The aforementioned law provides for the following three forms of social security:

- Financial assistance;
- In-kind assistance;
- Assistance in the form of certain personalized services or tax exemptions.

Under the provisions of Article 31 of the said law, any financial assistance effort can be made in the following forms: “lump-sum social security payments to help meet certain household-related needs; single compensation payments; extra allowances to reinforce pension or other social security benefits; subsidies to help cover utility or public transit-related expenses; subsidies to help cover medication costs; donations to provide for juvenile wellness centers.”

The in-kind social assistance can come in the following forms: “staple household items and foodstuffs; medications; specialized transportation vehicles; fuels; automated health rehabilitation facilities; food stamps or free meals.”
Importantly, social assistance services also can be made available in the following forms:

- temporary living premises provided for the retirees or disabled (including juniors) during periods of particularly grave personal hardships personalized home-based support services made available for the retirees and disabled retail services to enable disadvantaged persons to buy staples at discounted prices home delivery of hot meals (either free of charge or for a small fee);
- household support services offered at reduced rates by barber shops or hairdresser salons, laundry shops or dry cleaners, shoe (clothing, household appliances) repair shops;
- health rehabilitation centers for the disabled children;
- athletic goods and facilities for disabled children;
- specialized facilities offered to assure social rehabilitation of the under-age persons;
- telephone consulting services; etc.

Some of the subjects of the Russian Federation have passed specific laws to provide for social protection of certain segments of population.

On March 17, 1998, the Republic of Sakha (Yakutia) passed Republican Law #6-II “On Social Protection of the Disabled in the Republic of Sakha (Yakutia).” Under this law, “persons attributed to Category I or II disability shall have their working week reduced to 35 hours with full wages being assured.”

Also, the said law establishes extra benefits for different groups of the disabled:

The disabled and families with juvenile disabled (living in the apartment blocks held by the government, municipal or private operators) shall receive at least a 50% exemption in their housing maintenance and utility bills, and fuel shall be acquired in line with the established norms to provide for heating of homes featuring no central heating lines, being 50% covered by the municipal authorities. To add, the disabled and families with juvenile disabled requiring healthcare services on a continuous basis shall enjoy a 50% exemption (at the cost of the local municipal budget) in covering their telephone and radio line bills.

The disabled and families with juvenile disabled requiring healthcare services on a continuous basis shall enjoy a priority in having telephone lines installed in their homes and have a 50% exemption (at the cost of the local municipal budget) in covering the telephone bills.

In order to create proper conditions to support civil, economic, political and other rights and freedoms of the region’s residents that had received wounds or other debilitating injuries in the years of the Great Patriotic War of 1941–1945 as minors, the Legislative Assembly of the Krasnodar territory passed the November 25, 1997 Law “On Legal Status and Social Protection of the Disabled Citizens Who, while Being Under-Age Persons, Sustained Wounds, Concussions or Other Injuries in the Years of the Great Patriotic War of 1941–1945.”

This particular law carries a very important rule, which states that “the rights and benefits established for the disabled and invalids from childhood pro-
duced by military operations in the years of the Great Patriotic War of 1941–1945, and for members of their families by the USSR and Russian laws shall not be repealed unless adequately replaced.”

Pursuant to Article 4 of the aforementioned law,

Social protection of the citizen-invalids, who had sustained their wounds or injuries in the years of the Great Patriotic War of 1941–1945, provides for implementation of a range of measures designed to create conditions that would enable this category of the disabled be economically and morally well off and makes available a number of extra rights and exemptions relating to:

✓ pension support;
✓ housing support;
✓ utilities and housing maintenance services;
✓ healthcare and spa-based treatment, medications and medical treatment facilities;
✓ public transit services;
✓ workplace conditions;
✓ communications services.

The local municipal budgets are committed to allow to persons with war-related disabilities to enjoy the following extra exemptions:

Citizen-invalids, that (while still being under-age persons) sustained wounds, concussions or other injuries in the years of the Great Patriotic War, shall enjoy the following extra rights and exemptions:

✓ additional benefits to reinforce the pension calculated pursuant to the provisions of the RSFSR Law “On Government Pensions in RSFSR,” the add-on payment being valued in the amount of two minimal old-age monthly pensions;
✓ home telephone line installed on an out-of-turn and free-of-charge basis;
✓ housing provided by the government or municipal authorities on an out-of-turn and free-of-charge basis to individuals qualifying for housing improvements;
✓ 50% in housing (actually held within the established limits) maintenance bills, with family members (sharing the given floor-space with the said disabled person) likewise enjoying this 50% exemption. This exemption also shall be enjoyed by eligible persons holding either government or municipal, or private housing;
✓ 50% exemption in utility (water supply, waste water and hard waste management, natural gas and power supply, central heating supply — all within the established ceilings — as well as telephone, radio and television services) bills, with family members (sharing the given floor-space with the said disabled person) likewise enjoying this 50% exemption. Eligible persons living in premises with no central heating lines shall have a 50% exemption in the cost of fuel (calculated in keeping with the established norms) and relevant delivery services will be made available on an out-of-turn basis. Exemptions on utilities shall be made available irrespective of the form of ownership relating to the living premises in question;
free-of-charge use of services provided by the out-patient clinics to which the eligible retirees had been assigned while on active duty; free-of-charge use of healthcare services made available by either government or municipal healthcare facilities (including hospitals for war veterans);

free-of-charge access to medications prescribed by the doctors within the ceilings and pursuant to the rules established by the relevant state power executive authority based in Krasnodar territory;

availability of an annual vacation period scheduled for a convenient season and provision of extra (up to 30) unpaid vacation days within a year;

provision of free-of-charge rest-home or sanatorium vouchers on an out-of-turn basis for the non-active eligible invalids on the express recommendations of certified doctors;

provision of free-of-charge motorcycle-type carriages or cars for Category I invalids (having poor eyesight or no limbs). Whenever warranted by the relevant medical considerations, the eligible invalids have the right to officially turn their vehicle driving functions over to any other person residing in the same community. Upon the death of the given invalid person, his transportation vehicle (motorcycle-type carriage or car) shall be restored to the original owner;

provision of compensation payments for the invalids holding free-of-charge or discounted-price vehicles, as well as for Category I and II invalids that have paid full price for their vehicles, the purpose of the benefits being to make up for the cost of the gas supply, maintenance and repair services within the ceilings established in Krasnodar territory;

provision of annual compensation payments for the eligible invalids (having the right to receive a free-of-charge transportation vehicle but refusing to use that right) in the amount and pursuant to the procedure established in Krasnodar territory for persons holding exemptions under Federal Law “On Veterans”;

100% cost of return travel to any destination within the Russian Federation once a year either by air or rail, or highway, or water, with the relevant travel documents being necessarily submitted.

The Chukotka Autonomous District Duma passed the April 8, 1998 Law “On Extra Social Security Measures to Protect Members of the Indigenous Ethnic Communities Living within Chukotka Autonomous District.” In particular, this statute reads that extra socials security measures to protect members of the indigenous ethnic communities living within Chukotka autonomous district shall be applied by:

- composite life insurance policies made available in keeping with the procedures established by the relevant insurance agreement between the Chukotka autonomous district administration and authorized insurance company;
- pension-augmenting benefits distributed pursuant to the procedures established by an agreement on extra pension benefits
concluded between the Chukotka autonomous district administration and non-governmental pension fund;

- targeted benefits payable to members of the indigenous ethnic communities living in rural areas within Chukotka administrative district in accordance with the procedures, in the amounts and on the conditions prescribed by the Chukotka autonomous district administration.

The regional legislation monitoring concludes that most of subjects in the Russian Federation have passed specific regulatory statutes that assure protection of the rights of juveniles, with a broad range of social, labor and economic rights of juveniles residing within the given regions of the Russian Federation being appropriately legislated.

One of the first subjects of the Russian Federation to pass this type of legislation was the Sverdlovsk region with the October 23, 1995 Regional Law #28-OZ.

Article 1 of the said law reads as follows:

Every child, irrespective of his citizenship, marital or extramarital birth, gender, age, language, ethnic origins, state of health, social or economic station, convictions or religious beliefs, shall enjoy the right to be protected. Impaired children (those with physical or psychological deficiencies, invalids, orphans, parentless or uncared-for children) and juvenile delinquents, shall equally have the right to be protected. The only limitations to this right may those conditions stipulated by the relevant legislation of the Russian Federation.

To add, the said law carries the following provision:

Every child shall have the right to be raised and mentored in the fold of a family. The family-based upbringing of any child is recognized to be the priority option that best meets the interests of the child, and it can only be discontinued on the grounds explicitly defined by federal law.

In raising a preschooler, any family is assisted by a network of functional daycare centers and nursery schools. The relations between the parents (their replacements) and preschool educational and mentoring establishments are generally governed by dedicated agreements. To point out, the parents shall not be charged more than 20% of the overall cost of relevant care and education functions maintained by the given daycare center or nursery school, with the bulk of the cost being borne by the local municipal budgets (provided the parents (or their replacements) hold jobs with budget-supported organizations or enterprises and that their children attend the given preschool educational or daycare facility. Should the parents (or their replacements) hold jobs with private or public-sector organizations or businesses, the relevant cost-sharing arrangements are defined in keeping with the applicable collective agreement.

Any child has the right to be cared for by his parents and to communicate with his relations, have his interests honored, have his developmental objectives supported and human dignity defended.
Any child separated from one or both of his parents has the right to communicate with them and other relatives, hear from them that be supportive of his true interests and help his healthy development.

Article 9 of the aforementioned law holds specific provisions written to assure protection of the child’s right to education: “Every child shall have the right to an education, with proper safeguards for receiving a free-of-charge basic general education.” Notably, the said protects the child’s right to receiving a compulsory general education pursuant to the educational standards established on the federal and regional levels.

No child can be expelled from either government or municipal-run school until he has completed his basic general or primary trade education.

No unlawful constraints can be placed on juveniles as they seek to be enrolled in an educational institution. No children enrolling in a primary school shall be tested, except for children seeking to enter specialized schools.

The right to receive a general higher, additional or any other kind of vocational or trade education is backed up by the existing system of government-run educational institutions called upon to perform their prescribed functions in keeping with the standards designed responsive to the people’s contemporary educational needs. Non-governmental educational establishments operate to satisfy the demands for educational services on the basis of dedicated contractual arrangements.

The cost of juvenile education provided by private-sector or other non-governmental schools is made up for by the official authorities within the established limits and in keeping with the procedures prescribed by the Sverdlovsk regional government.

The quality of educational services provided is monitored by performing checks on the integrity of final examinations, the testing effort being performed by a special board of state examiners shaped by the relevant executive authorities to include members from the educational governing bodies and parent-and-teacher associations.

In order for impaired children (requiring special treatment) to effectively use their right to receiving an education on the level of the established standards, additional financing is released from the regional budget to have the said objective achieved. The region provides improved developmental conditions for the children boasting special talents or capabilities.

Notably, children have the right to freely choose additional educational opportunities or services to meet their personal interests or aptitudes. Any effort to receive an additional education is funded by resources released by the relevant municipal budgets, individual contributions and the law-prescribed share of education-related levies collected in the Sverdlovsk region to support targeted educational programs duly approved by the regional government.

No preschool educational establishments can be either privatized or made to serve a non-social service role. The premises, buildings or other properties designed to house social establishments illegally transferred to other organizations, shall be restored to
their original owners by the local property management authorities as required by the applicable ruling passed by the Sverdlovsk regional government.

Article 10 of the aforementioned law carries provisions designed to assure implementation of the children’s rights to protection of life and health:

Children enjoy the right to environmental security, a healthy way of life, effective medical treatment and rehabilitation following a temporary incapacity. The contemporary living, educational and mentoring conditions are supposed to be in line with Federal Law “On Sanitary and Epidemiological Well-Being of the Russian Population.” Notably, heads of juvenile educational and developmental establishments, parents (or their replacements) and local self-government bodies are held accountable for any transgression of the provisions held by this law.

Focused efforts to create conditions providing for balanced and harmonious physical development, and comprehensive rehabilitation and rest of young people residing within the Sverdlovsk region are supported by resources allocated by the federal and regional budgets, as well as by other sources. Provision of dairy products for infants two years of age or younger is maintained by a network of milk kitchens and special sections in local stores, the effort being financed from the local municipal budgets. Meals for primary school students are provided free of charge, while those for fifth-through-eleventh grader general education pupils are made available pursuant to the rates established by the Sverdlovsk regional government.

Given the ongoing government-run healthcare system, children enjoy the guaranteed right to free-of-charge, accessible and qualified medical assistance provided as necessary, with preventive treatments, rehabilitations and vaccinations being readily available. The cost of services to support ailing minors is covered by the relevant social insurance fund. The cost of an ailing minor and his companion traveling to a specialized regional hospital or clinic is covered by the regional budget. Medications for children who are under three years of age and use the services of a local outpatient clinic, are made available free of charge, pursuant to the applicable legislation.

Children under three years of age who are hospitalized without their mothers or other immediate-family members close by are only treated with the consent of the latter.

The parents (or their replacements), who have intentionally refused to call for or declined qualified medical help to the detriment of the child’s health, are held accountable in accordance with the provisions of Article 46 of the said law.

In order to assure protection of the child’s right to life, health and preventive treatment, local self-government bodies in the Sverdlovsk region are empowered to pass regulatory acts barring the under-age persons through 14 years of age from staying outside beyond 22.00 hours unless accompanied by friendly adults.
To point out, Article 11 of the aforementioned law provides for protection of the juvenile right to work (participation in useful public activities):

**Juveniles have the right to receive trade-school educations, employment and their own wages.** With parental consent, juveniles through 14 years of age in their off-school hours have the right to take part in useful public activities that appear to be within their capabilities and cause no harm to their physical, moral or psychological health. Juveniles 14 years of age and older have the right to be trained for a job. This particular right is backed by local self-government bodies, educational authorities, job centers and committees for the younger generation affairs, that join forces to establish and maintain a system of primary professional (trade) education schools. The cost of maintaining such educational centers is generally covered by the budgets at all levels and extra-budgetary foundations. Job centers are involved in an overall effort to have the job-seeking juveniles appropriately employed. Special job quotas are provided for juveniles, pursuant to the applicable regional legislation.

Enterprises, businesses and organizations are committed to filling their juvenile quota-based jobs. Notably, minors, including juvenile delinquents, can only be fired from their jobs if a specific decision is passed either by the local juvenile protection panels or court of law. Any failure to honor these rules is administratively punishable pursuant to the provisions held by Article 43 of the aforementioned law.

**Juveniles are not allowed to be recruited for jobs involving hazardous conditions, lifting of prohibitive weights, subterranean operations, or nighttime or overtime shifts.**

What is more, during a school session or semester, students shall not be recruited to do jobs unrelated to their schooling. During their school vacation students can do assorted jobs exclusively with parental consent.

Article 12 of the said law provides for protection of the juvenile right to rest and leisure:

**School children should have their classes adequately integrated with leisure activities.** Local self-government bodies annually design a special health fitness program for juveniles and have it confirmed by heads of the local administrations. Such programs are carried out at the cost of resources allocated by the budgets at all levels and social insurance funds. Juvenile job-holders have the right to rest, which is appropriately safeguarded. They enjoy shorter business hours and extended annual summer vacations. These advantages are financed by the relevant employment foundations.

Article 13 contains provisions that assure protection of the right of children to express their views:

**Any juvenile capable of formulating his opinion, has the right to be heard on issues bearing on his interests whenever a court of law or a magistrate addresses such matters.** The opinion expressed by a juvenile who is 10 years of age and older, except for the situations when such opinion is against his interests, shall be
seriously considered by any authority considering the relevant case. As they grow to acquire the civil capability status, juveniles enjoy the right to publicly express their viewpoints on questions relating to the functional political system in the country or moral problems.

Article 14 of the said law is dedicated to protecting the rights of children to keep their individual attributes and qualities:

Every child has the right to a nationality, name, definition and indication of ethnic origins, gender and looks. These attributes are fixed by the parents (or their replacements) and can only be changed by the child upon reaching the established age limit. Children whose dates of birth have not been appropriately registered are to have their attributes and personal data defined through the agency of trustees or custodians.

Article 15 provides for protection of the right of children to have their honor, dignity and personal immunity appropriately secured:

Any harsh handling of juveniles and having them subjected to physical or psychological pressures shall not be tolerated. Persons found guilty of such transgressions shall be prosecuted pursuant to the applicable law.

Educational establishments are to have law and order maintained through application of the policies and measures designed to prohibit denigrating or insulting actions with regard to children. Any encroachment on the given juvenile’s dignity or honor by the individuals called upon to perform the prescribed educational or mentoring tasks shall be duly prosecuted, with the relevant moral damages being redressed in keeping with the law.

Detention, arrest or imprisonment of a juvenile is supposed to be only used as an exceptional measure in the conditions explicitly defined by the applicable legislation. A juvenile delinquent can only be kept in a pretrial detention facility following a solidly substantiated ruling by the local police authorities or a commission for the protection of juvenile rights.

Whenever a juvenile believes that his honor or dignity has been made to suffer, he has the right to independently appeal to the trustees or custodians, or any other authority authorized to stand up for the rights of the minor.

Article 16 of the said law provides for protection of the right of juveniles to freedom of religious beliefs:

Any juvenile has the right to freely pursue his religious belief, practice his religion without any constraints and be protected against a risk of being coerced into any religious confession. The parents (or their replacements) are barred from forcing their children to participate in religious functions or services.

Educational establishments have no right to oblige any student to attend any theological classes. Theological educational institutions have no right to keep any student who is resolved to leave the given school on their own free will.

Any effort made to coerce juveniles who are younger than 16 years of age into religious organizations against the will of their
Article 17 provides for protection of the right of juveniles to participate in activities maintained by public organizations:

A juvenile has the right to take part in juvenile public organizations. The authorities are to promote and assist those public organizations that are aimed at developing girls’ and boys’ personalities, creative capabilities, proactive social attitudes and preferences for cultural, athletic or leisure pursuits. Any minor shall freely participate in any public organization founded and maintained to support their interests. The activities supported by those organizations shall be against the law or detrimental to public security and order, or the health, morals, rights and liberties of other societal segments or individuals.

Article 18 of this law safeguards the right of children to a proper upbringing:

A child has the right to be appropriately supported by his parents or other family members or persons (stepmother, stepfather, grandfather, grandmother, adult brothers or sisters, guardians) committed to provide financial resources, pursuant to the applicable family-related legislation. Those persons committed to support their juvenile charges have the right to negotiate the size and procedures of alimony payments. In the absence of such an arrangement, child-support alimony shall be made available following a court ruling. If the executor fails to sue for alimony, the trustees shall move on their own initiative to promote the rights of a given child.

Recovery of alimony payments or alimony arrears in the amount defined by either an out-of-court settlement or a court ruling is to be achieved at the cost of resources drawn from the payer’s wages or other income. Should the pertinent wages or other incomes be insufficient, the money shall be secured at the cost of resources drawn from the payer’s bank accounts or other assets held by funding organizations, enterprises or businesses. Should those financial assets be insufficient to cover the alimony commitments, the requisite resources shall be made available at the cost of the alimony payer’s properties in keeping with the rules established by the applicable civil procedure legislation.

Should parents be found evading their responsibilities related to the maintenance of their children, a court of law shall consider an application submitted by the parties concerned or trusteeship or custody authorities, or prosecutors and rule to begin a search effort to have the parents located and have them face the applicable criminal or family-related civil liabilities.

While the parents are searched out, just as in any other situation stipulated by Russian law regarding alimony payments, the size of the monthly social benefit given to support the given child is increased in keeping with the pertinent legislation of the Russian Federation.

Under Article 19 of the said law:
Juveniles have no right to own the properties held by their parents, while the parents can own no effects or assets held by their children. But children and their parents sharing a household have the right to own and use each other’s effects and properties. If a family becomes an owner of a formerly governmental or municipal property (residential premises included), a juvenile (irrespective of his age) shall have the right to hold part of that transferred (or privatized) property. Upon reaching 14 years of age, a juvenile holding his own property (inherited, donated, privatized or received through some other arrangement), earning a wage or generating some other income has the right to contribute to the family’s budget, thereby securing the right to own part of the family’s wealth. Until a juvenile has reached a specified age, the right to dispose of his effects or properties can be exercised by his parents (or their replacements) under the supervision of relevant trusteeship or custody authorities.

Should the parents (or their replacements) abuse the right to manage their children’s properties or valuables, the trusteeship or custody bodies shall have the right to file a suit to restrict the parents’ right to manage those properties and bring the assets under trust management. In the families engaged in entrepreneurial activities whose children are substantively involved, the children’s shares of the family’s wealth are computed and determined pursuant to a special in-house arrangement.

Should the parents (or their replacements) refuse to recognize the right of their children to own part of the family’s wealth, the given juvenile can appeal to the local trusteeship authorities or commission for the protection of juvenile rights. The conflict related to defining the size of the given child’s share of the family wealth and separating it from the family’s wealth are considered by a court of law, with the trusteeship or custody bodies necessarily participating.

In accordance with Article 20 of the said law:

A juvenile has the right to the level of support commensurate with the capabilities of the Russian Federation and the Sverdlovsk region and in accordance with the current subsistence level established by the applicable legislation. Juveniles in the Russian Federation can receive social aid in the form of:

- a lump-sum or monthly benefits paid to support juveniles on a personalized basis;
- indemnities paid to compensate for a sustained loss;
- exemptions or advantages extended to the families raising children.

Given the existing social and economic conditions, local self-government bodies can practice other forms of social aid in the event that other categories of children need assistance.

Importantly, social aid on a priority basis is provided to children from disadvantaged families, parentless children assigned to the care of foster parents, children of citizens experiencing extreme hardships, as well as to the families maintaining disabled children (the relevant provisions in the April 30, 1997 Regional Law #28-OZ).
Should they lose their parents or become disabled, children have the right to be supported by the state. All types of social support that are provided to children are extended to the households where those children are raised, with the benefits being necessarily used to meet the child’s needs. These benefits or allowances are received by one of the parents (or their replacements).

Should a juvenile be transferred to other persons or placed in a juvenile support institution fully supported by the government, the parents (or their replacements) forfeit the right to receive the children-maintenance benefit, allowances or any other privilege, except in cases when such parents continue to enjoy the right to keep part of the social benefit payable to their children in conformity with the applicable legislation.

The children-support social benefits, allowances or exemptions, just as the pertinent alimony resources, are fully extended to the person authorized to raise the given child. To support a foster child, families receive the established monthly social benefits calculated and defined in keeping with the regulations set by the Government of the Russian Federation. The foster child compensations and exemptions or privileges for the foster parents are determined by the applicable regional legislation (see the April 30, 1997 Regional Law #28-OZ).

The orphans and parentless children kept by juvenile establishments have their loss-of-provider pension benefits or alimony transferred to the bank accounts maintained for the given juveniles pursuant to the rules and procedures established by the applicable law.

Efforts to defend juveniles’ right to housing in the Sverdlovsk region are pursued in compliance with the housing legislation of the Russian Federation, the Sverdlovsk regional laws “On Housing Policies in the Sverdlovsk Region” and “On Distributing Housing Assets,” and the aforementioned law.

Should a family be eligible to rent government or municipal housing, the relevant authority should take into account the family’s children and unborn babies of at least 22 weeks old (after conception).

Once born, an infant has the same right to housing held by his parents (foster parents) under a leasing or sub-lease arrangement. The infant keeps this right in the event the original housing asset is either swapped or divided.

Should the given housing property be privatized free of charge, the children sharing the living premises with their parents (foster parents) or other current or former immediate family members enjoy the unrestricted right to participate in the privatization deal, with pertinent housing holders being duly recorded in relevant registration documents.

Any attempt to either not include the minors in the housing privatization documents or to assign them a housing share smaller than shares specified for other family members, or distribute the juvenile-held share among other family members can only be undertaken by the parents (foster parents) with prior concurrence from the trusteeship or custody authorities.

The residential premises acquired by a family as private property through installments (home loans or subsidies) partially paid with
resources made available by relevant organizations, enterprises or municipal budgets are covered by the rules designed to appropriately provide for a commonly and equally (children included) shared housing property.

The premises where a juvenile lived and now has been moved to a juvenile support establishment or elsewhere and where other immediate family members continue to reside, shall be kept in reserve for the given child during the entire length of stay at the said establishment or with his relatives, trustees (custodians).

The premises where only juveniles continue to live shall be registered as their rightful property pursuant to applicable housing legislation.

All measures to protect the housing rights and interests of juveniles, whenever a housing property (in which the owner’s children reside) is transferred to a new owner, are executed with the involvement of the trusteeship (custody), notary public and court authorities.

Given the above, one can safely conclude that the Russian regional laws regarding social rights and benefits funded by the budgets of the subjects of the Russian Federation continue to be increasingly diversified. However, it should be taken into account that attempts by regional lawmakers to fill the gaps in the federal legislation of the Russian Federation very frequently result in the restriction of the constitutional rights.

3.2. The Right to an Education

Of all social, economic and cultural rights guaranteed by Russian regional statutory acts, a very special place is held by the constitutional right to an education that was designed to include a complex of cultural, social and economic rights contained in the laws of subjects of the Russian Federation. Given the superior relevance of this right, the regional legislation monitoring effort had been undertaken in order to primarily cover the statutes (21 regional laws “On Education”), which contain provisions related to the aforementioned right. Notably, most subjects of the Russian Federation maintain specific laws on educational matters. An analysis of these laws resulted in the following conclusions regarding safeguards of this right within the Russian regions.

The laws on education primarily stipulate the right to a free education within the confines of relevant Subjects of the Russian Federation.

To provide an example, in the Kaliningrad region, Article 6 of Regional Law “On Education” contains the following provision:

Residents of the Kaliningrad region, while being citizens of the Russian Federation, shall enjoy the assured right to receive generally accessible and free-of-charge primary, middle or high school education, basic vocational education, as well as specialized higher graduate and post-graduate education at government-run municipal educational establishments in the Kaliningrad region pursuant to the established state educational standards, provided an applicant is to receive his selected education for the first time.
One should particularly pay attention to the fact that the aforementioned statute is only addressed to citizens of the Russian Federation. This circumstance certainly has created some hurdles for non-citizens (refugees, migrants) seeking to take advantage of this right.

Importantly, Russian regional laws carry reinforced educational rights designed to support the less socially secure segments of population in some subjects of the Russian Federation.

For example, in the aforementioned Kaliningrad region, Article 9 of Regional Law “On Education” provides for some privileges for those getting their educations in rural communities:

2. Should a number of local rural communities share a single educational establishment to provide for basic general education, the local self-government bodies shall make available transportation to have the students delivered to school and brought back to their homes. The size of classes shall be determined by the given school founder.
3. Rural general education schools can only be eliminated if the interested community holds a general meeting and passes a relevant decision.
4. A rural educational establishment can run a logistical support or apprenticeship activity with the use of a land plot, farming equipment and livestock or poultry. Revenues generated from selling the products from such an activity shall not be taxed. The profit shall be committed to develop the school’s educational base and provide for social support of the faculty and staff.

Also, Article 10 of the given law reads as follows:

2. Dormitories can be established for school children from communities located in excess of three kilometers from the given school, with free meals being provided. Should no such dormitory be established, the local self-government authorities shall have the commuting school children from rural communities provided with special transportation assets or public transit tokens.

Also, any rural education asks for the availability of extra rights and privileges for schoolteachers and attending personnel. For example, Article 11 of the aforementioned law reads this: “Educational specialists employed in rural areas shall have their base pay (job salaries) raised by 25% pursuant to the pertinent federal legislation.”

Much significance in the Russian regional laws on educational matters is attached to the rules designed to safeguard the social, economic, personal and cultural rights of students attending general education schools of learning.

Article 20 of the Kaliningrad Regional Law “On Education,” for example, carries the following provisions:

1. Students, pupils and trainees shall have their human dignity safeguarded.
Should a student, pupil or trainee sustain any moral damages (produced either by physical or moral suffering) through some actions that happen to breach their established rights, the guilty party shall be held accountable in keeping with the relevant laws of the Russian Federation and Kaliningrad region. Under-age children, regarding certain actions as leading to the erosion of their dignity, have the right to appeal to their trustees, panel for juvenile affairs, or judicial authorities.

2. General education schools shall independently use their resources (received either through budgetary or extra-budgetary outlays and incomings) in order to develop and carry out activities to provide for additional social support of students, pupils or trainees, including such moves as the establishment of stipends, social allowances and exemptions needed to cover expenses relating to room and board, public transit, training materials or clothing acquisition, fitness or health rehabilitation costs.

3. A family, where both husband and wife are students, shall have the right to occupy a separate room in a dormitory building, have their children assigned to a day-care center without being put on a waiting list and at the reduced rates provided for by the relevant legislation.

4. Trade school-based students and trainees from disadvantaged families, expectant mothers and mothers caring for children under one year of age, as well as students suffering from stomach or duodenum ulcers, or sugar diabetes shall have the right to a free daily single dietary meal, the costs being covered by the foundation for social protection of trainees and through the use of extra-budgetary resources.

5. Under-age persons are attracted to fill out relevant jobs through local job centers under the quotas established by the regional administration and local self-government authorities.

Establishments, enterprises and organizations are committed to primarily employ general education school dropouts and graduates from trade schools or colleges under the quotas established by the authorities. This provision also applies to under-age persons that are particularly in need of social protection and recommended for employment by local job centers.

6. At the completion of their learning and training at vocational trade schools and until they reach 23 years of age, students and trainees who are orphans or parentless children, have the right to be fully supported by the government in keeping with the applicable regulations and enjoy special social safeguards stipulated by federal legislation.

Hence, on the example of Kaliningrad we can see that the level of social and legal safeguards for students, pupils or trainees in the regional legislation appears to be somewhat higher that the relevant level provided by federal laws. Particularly attractive are the regional law provisions on the right of under-age students or trainees to have their dignity honored and the right to defend that dignity by going to a court of law.

In the Jewish autonomous district, Regional Law “On Education” contains a list of student rights that also include the right to choose an educational establishment and a form of getting an education. A very criti-
cal provision is carried by Article 17, which in particular reads as fol-

lows: “Students shall not be engaged to perform chores or tasks that are
not provided by relevant training curricula unless they concur or have
the consent of their parents.”

Clearly, this provision seems to sound somewhat ambiguous, for it allows
for students to be made to perform some tasks upon consent from their
parents. In this case the dignity of students might be caused to suffer, to say
nothing of the risk of breaching the constitutional rule barring the use of
forced labor.

Also, of certain interest is another provision of the same law, under
which a 15-year-old student can leave school before completing his
general education upon relevant concurrence from a local community
panel for juvenile affairs, parents (or their replacements) and the local
self-government authority. In this particular case there is a discrepancy,
given that the aforementioned provision appears to be in contradiction
with the student’s right to independently choose his educational estab-
lishment.

In Moscow, Regional Law “On Education” expands students’ rights by provid-
ing the right to study and use the native language:

All educational classes and mentoring activities within the con-
fines of the Moscow region are conducted in the Russian lan-
guage. Any other educational or mentoring language can be se-
lected and determined by the school founders, and it shall be ap-
propriately backed by the relevant educational establishment’s
charter.

2. An educational institution can have specials classes or class se-
quences established to provide for education with the use of a foreign
language (or language spoken by an ethnic community based within
the Russian Federation) provided the students and their parents (or
their authorized agents) file their request to this effect and the relevant
founders grant their concurrence to meet that initiative (should the
requisite teaching staff be available).

Also, the given law (just like similar laws passed by a number of other
regional lawmakers in the Russian Federation) carries the following
parental rights and obligations:

1. Parents (or their authorized agents) of under-age children shall
be responsible for mentoring and educating their children.

2. Parents (or their authorized agents) of students or trainees
have the right to:
   a) choose a school and form of education for their children until the
   latter complete their basic general education;
   b) become familiarized with the relevant school’s charter, curricu-
   lum or regulations;
   c) participate in managing the given school pursuant to the es-
   tablished regulations;
   d) provide for mentoring and education of a junior or under-age
   teenager in the family;
   e) get free information about the functional curricula maintained
   by government or municipality-un day care centers (the privilege
3. Parents (or their authorized agents) of students or trainees shall be committed to:
   a) assure that their children receive the basic general education;
   b) assure that their children grow healthy both physically, psychologically, morally and spiritually;
   c) defend the rights and interests of their children in the educational area.

4. Parents (or their authorized agents) of under-age children shall be materially responsible for the damage caused by the children to the school facilities pursuant to the applicable legislation.

5. Parents (or their authorized agents) that are found to be either standing in the way of implementation of their under-age children’s right to an education or evading their obligation to provide for education, support and proper mentoring of their children, or forcing their children to engage in amoral activities, shall be held accountable pursuant to the applicable Russian legislation.

To summarize, Russian regional laws provide a relatively comprehensive set of safeguards (on certain points even more elaborate than those contained in the federal legislation) in order to assure the right of every person to an education. However, there are certain departures from the constitutional rules addressing a broad range of opportunities that are an integral part of the right to an education.

4. LEGISLATION REGARDING CIVIL INSTITUTIONS:
TRENDS IN THE EVOLUTION OF LEGISLATION ON NONPROFIT ORGANIZATIONS

The monitoring effort has researched the bills drafted affecting federal and regional legislation regarding nonprofit organizations. Focused research of these draft laws and expert opinions on relevant legal provisions has revealed the following trends:

4.1 The Development of the Status, Forms and Regulatory Provisions for Operations Pursued by Nonprofit Organizations (Differentiation Trend)

The 1990s and 2000 have marked a watershed in the creation of the right legal base for the nonprofit sector in the Russian Federation. The primary event was made by the passage of the first part of the Civil Code, which not only had all legal entities broken into profit and nonprofit organizations but also defined a number of their applicable forms. Further evolution of the nonprofit sector’s legal base was made by the adoption of Federal Law “On Nonprofit Organizations” and a number of other federal statutes drafted to assure regulation of their status.

Despite the fact that the effort to provide for establishment of the nonprofit sector’s legal base has achieved a measure of progress, ongoing
practices have served to reveal the need for further development of legislation for nonprofit organizations. Their status needs to be improved and forms need to be given in order to build on the standards carried by applicable laws. This need has primarily been reflected in the initiation of a number of bills designed to introduce further differentiation in the forms of nonprofit organizations that are listed under Article 2 of the aforementioned law, which reads that “nonprofit organizations can be created to operate as either public or religious organizations (associations), nonprofit partnerships, establishments, autonomous nonprofit operations, social or charity houses, dedicated foundations, disparate activities and unions, as well as other forms provided for by the applicable federal laws.” A measure of opportunity for implementation of an effort to develop the given trend has been held by the provision of Federal Law “On Nonprofit Organizations” allowing for passage of federal laws designed to codify other structural forms of nonprofit organizations.

Most conspicuously this trend has been reflected in the draft federal law “On Nonprofit Societies.” As they proceeded to substantiate the bill, the drafters particularly emphasized the fact that persons truly interested in pursuing socially relevant initiatives and desirous of creating a nonprofit organization to meet a stated goal can take advantage of such institutionalized forms as foundations and autonomous nonprofit organizations. However, these forms do not provide for membership, which actually rules out the possibility for the founders to be directly involved in running their organizations. And as past experiences have shown, this capability certainly is important.

Notably, no management-related questions seem to occur whenever it comes to starting such a nonprofit organization as an establishment. However, even here one would encounter certain constraints because an establishment can only have a single founder-owner, which radically limits the freedom of using this particular structural form.

The forms allowing for membership are known to include retail cooperative societies, public and religious organizations, amalgamations of legal entities (associations and unions), and nonprofit partnerships.

Understandably, all these forms are generally set up to enable relevant members to meet their assorted ends, rather than pursue some activity to stand up for a common set of good public values.

So, current legislation hardly allows for creation of proper conditions to help implement public initiatives through the use of a more proactive form. That is, with a group of persons or legal entities not only starting a nonprofit organization designed to serve a certain purpose but also being directly involved in running that organization, according to the bill drafters. This circumstance urged the aforesaid bill drafters to come up with a new institutional form for a nonprofit organization, which should be known as “nonprofit society.”

Clearly, this draft law has been designed to assure development of the provisions held by the Civil Code and Federal Law “On Nonprofit Or-
ganizations” and related to nonprofit entities. The bill has been written to define the legal status and regulations for establishment, operation or closure of a nonprofit society as just another nonprofit organization; set the rights and duties for members; prescribe relevant procedures for auditing the available assets, growing and different using properties. The bill includes 14 parts and 62 articles. Notably, this draft law is peculiar in that it was drafted to feature the smallest possible number of reference rules. The bill’s provisions for the most part can be made directly applicable, and they are not predicated on any standards carried by other laws.

The “nonprofit society” institutional form serves to meet the following requirements:

a) provide for membership;

b) allow for a broad-based mix of prospective founders, including private individuals, legal entities, combinations thereof; preventing any sharing of revenues between the participants or re-possession of assets when the given organization is either functional or about to be eliminated;

c) hold no participant liable for the organization’s commitments and keeps the individual participants’ liabilities separated from the organization’s responsibilities.

Importantly, the bill’s Article 10 provides a comprehensive list of socially relevant objectives that may be pursued by a nonprofit society. Some of these include the following: social support and protection of citizens; material support of disadvantaged families; social rehabilitation of the unemployed, disabled and other unfortunate persons; support of victims of industrial catastrophes, natural disasters or other calamities; protection of the child and mother; development of education, science, culture and arts; preventive healthcare of citizens and protection of their health; other activities and efforts.

For the first time ever, the proposed legislation, designed to govern the nonprofit sector, provides for varied membership categories (associated members, honorary members, with some of the latter not necessarily being founders of the given nonprofit society).

To point out, these provisions have been positively assessed by a team of expert reviewers, who maintain that the existing nonprofit organization forms should be developed to meet the pressing realities of today.

The problem of differentiating nonprofit organization forms appears to also be covered by the draft federal law “On Freedom of Conscience and Religious Associations.” For example, Clause 5, Article 4 of the said law provides for separation of religious organizations into local and centralized ones, with all religious communities likewise being categorized into religious groups and religious organizations.

The goal of further development and diversification of nonprofit organizations’ forms also is served by the draft federal law “On Public
Verification of Prisoner Rights and Public Associations Assisting Law Enforcement Bodies and Authorities Running Penitentiary Facilities.

In our judgment, this trend is the natural outcome of historic shifts in the process of building a civil society in the Russian Federation. Obviously, this change should be welcome. The availability of varied nonprofit organizations’ forms is both a major safeguard for protection of civil rights and an indicator of democratic principles being applied in social life.

4.2 The Blending of the Status of Nonprofit and Profit Organizations (Unification Trend)

Along with the differentiation trend, the reviewed draft laws have been reflective of the backward trend, with the status of nonprofit and profit entities featuring increasingly smaller numbers of distinctions.

This change has been particularly conspicuous in the draft Tax Code of the Russian Federation. The reviewers, in particular, point out that in their expert opinion, while the Civil Code of the Russian Federation categorizes all legal entities into profit and nonprofit, the draft Tax Code provides for a single taxation target for any and all legal entities, not broken into profit and nonprofit organizations for the purpose of taxation. Elimination of distinctions between profit and nonprofit organizations would basically result in taxation pursuant to the same set of rules. This would certainly have most grave consequences for many non-profit organizations, with many quickly facing the possibility of elimination, according to the expert that reviewed the said bill.

In addition, the expert reviewers suggest that the unification trend has been indicative of the government seeking to increasingly influence on activities of nonprofit organizations, with the goal of the government being to effectively leave those structures void of independence and self-sufficiency.

4.3 Growing Government Intervention in the Affairs of Nonprofit Organizations (Nationalization Trend)

The trend of growing government intervention in the affairs of nonprofit organizations has been evident in nearly all draft laws affecting nonprofit organizations’ entities, according to experts of the Independent Council of Legal Expertise.

To provide an example, domestic justice authorities are authorized to approach public organizations with a request for any information apart from the list of items currently specified by law, according to the draft federal law “On Introducing Changes and Amendments to Articles 38, 42 and 44 of Federal Law “On Public Associations.” The expert reviewers have quite rightfully pointed out that the proposed provisions would allow the government to interfere in the affairs of civil society, which would be in opposition to the Constitution of the Russian Federation, which upholds the principle of circumspection of such intervention.
To underscore, the bill likewise provided for the justice authorities gaining an expansion of supervisory functions with regard to public organizations (one of those, for one, including the authority to run unwarranted compliance verification checks, etc.).

While moving against the right of religious organizations to get established and functional in accordance with their in-house hierarchical and institutional structural arrangements, Federal Law “On Freedom of Conscience and Religious Associations” indicates that such public organizations should necessarily feature prescribed structures and types.

These are the more common trends seen in the evolution of federal legislation on activities of nonprofit organizations.

Research of regional legislation (including regulatory statutes) has revealed the prominence of a third trend, of the government (on the regional level) increasingly becoming involved in the affairs of nonprofit organizations.

For example, Article 17 of the draft new wording for the Pskov Regional Charter reads as follows: “Activities by public and political associations and religious organizations may be pursued within the region without any constraints provided their goals and actions stay in compliance with federal and regional laws.” Clearly, the wording “…provided their relevant goals and actions” amounts to an explicit limitation of associations and opposition political parties on the community. Punitive measures including the possibility to place an unwarranted half of the regional administrative units, including republican-level cities and rural districts. The Mordovian Ministry of Justice brought an action to the Republican Court to have the Mordovian Presidential Party banned for failing to meet the requirements of the June 10, 1996 Law. In the meantime, the chairman of this political party, V. Guslyannikov, called on the judges to run an in-depth check on the law to see if it is in line with the Constitution of the Russian Federation and International Covenant on Civil and Political Rights. The court hearings were completed on December 29, 2001, and were wholly in support of the Ministry of Justice of Mordovia. The political party was ordered to secure a new registration (which took one and a half years!).

In the Perm region, the draft Regional Law “On Prevention of Alcoholism and Drug Addiction” carries a provision committing religious organizations to conduct relevant activities and coordinate them with an
action plan pursued by the regional authorities. Notably, the speaker of the regional legislative assembly and head of the legislative assembly’s committee for social policies have been approached by the Perm region-based Inter-Confessional Advisory Committee. The message was that the aforesaid requirement breached the principle of separation of church and state and provisions of Clause 2, Article 4 of Federal Law “On Freedom of Conscience and Religious Associations.” The Inter-Confessional Advisory Committee came up with its own wording for this provision. Following further improvements to the bill, all glitches and inconsistencies have eventually been ironed out.

Though some regional laws have been written to assure economic support for nonprofit organizations, mechanisms for implementation have not been thought through properly, which actually prevents good provisions from being effectively applied.

To provide another example, Regional Law #148-01-ZMO “On Government Support for Young Adult and Juvenile Public Associations in the Murmansk Region” carries safeguards, guidelines, rules and measures aimed to provide support for young adult and juvenile public associations within the levels of targeted amounts from the regional budget and extra-budgetary regional foundations, in compliance with the provisions of Clause 2 Article 2 of the June 28, 1995 Federal Law “On Government Support for Young Adult and Juvenile Public Associations” (#98-FZ). That law was passed to promote long-expected major improvements in the country and revival of military and patriotic activities pursued by sporting clubs. To build on Law #148-01-ZMO, the Murmansk regional government passed the September 27, 1999 Ruling (#59-PP) confirming the Regulations on Regional Advisory Board for Younger Generation Policies, Regulations on Procedures for Funding Programs (Projects) Pursued by Young Adult and Juvenile Public Associations, Regulations on Funding Organizational Activities Pursued by Young Adult and Juvenile Public Associations in the Murmansk Region and “Regulations on Extending Grants to Young Adult and Juvenile Public Associations. The Murmansk-based daily Murmansk Vestnik for October 7, 1999, made the following comment:

Though these decisions are all fine and full of promise, a small-sized organization can hardly count on receiving any funding from the Murmansk government, particularly given that, to qualify for assistance, an association should at least have 50 members. What is more, a government “subsidy” shall not cover more than one third of the costs borne by a given young adult or juvenile association while pursuing its organizational activities. Then, a “donation” shall not be in excess of half the actual expenses paid to maintain the submitted program (project). Put otherwise, if you had no money to begin with, you are unlikely to see any funding coming your way.

The laws of the Republic of Tatarstan provide a good example of regulatory statutes governing the work of local nonprofit associations on the regional level.
The Constitution of the Republic of Tatarstan (Article 6) states that all political parties, trade unions, public movements and public associations are empowered to participate in running state affairs through representatives elected to sit in the government offices. Protection of human rights and civil liberties is regarded as a function of state structures (Article 29), which provides for separation of the state from the church and religious associations in the Republic of Tatarstan. Citizens of Tatarstan are authorized (Article 37) to form political parties, trade unions, public movements and other public associations, with the government providing relevant assistance and advice in drawing up charters and terms of reference and putting those into effect. Political parties, trade unions, public movements and other public associations, whose activities counter provisions of the Constitution of Tatarstan, can be disbanded by a specific court ruling.

Notably, Article 40 commits government structures, associations and officials to enable citizens to get familiarized with official decisions and documents that have bearing on citizens’ rights and their rightful interests. Importantly, Tatarstan citizens have the right (Article 43) to appeal against moves undertaken by office holders, government bodies and public associations.

Article 76 empowers residential neighborhood, workplace, office and school-based voter meetings, just like appropriately registered political parties, trade unions and public associations, to nominate their own candidates to run for elective offices. In addition, voter meetings, political parties and other public associations enjoy the right (Article 79) to freely and comprehensively look into and discuss the political, professional and personal qualities of nominated candidates running for deputy seats. The former also has the right to campaign either for or against any candidate at public gatherings and through the media.

Article 94 empowers the republican trade union council for labor relations and social security matters to initiate legal motions for debate by the State Council of the Republic of Tatarstan.

Article 153 commits the Prosecutor General of the Republic of Tatarstan and local prosecutors to provide for compliance verification of laws that govern the activities of government structures and public associations.

Article 166 requires government bodies, public associations, officials and citizens of the Republic of Tatarstan to honor and strictly adhere to the Constitution of Republic of Tatarstan.

The Land Code of the Republic of Tatarstan (Article 19) states that non-farming organizations, public associations and religious communities can be allowed to acquire farmland. Article 66 allows acquisition of land plots by home building, dacha, cattle rearing, gardening and garage nonprofit associations and societies.
Republican Law “On Electing the President of the Republic of Tatarstan” empowers the trade unions, appropriately registered political parties and other republican public associations (Article 6) to nominate their candidates to run for the office of President of the Republic of Tatarstan. The government is committed to enable (Article 7) citizens and public associations to participate in unconstrained election campaigns.

Republican Law “On the Budgetary System in the Republic of Tatarstan for 1999” exempted from compulsory healthcare insurance taxes (Article 36) public organizations of the disabled, including enterprises and establishments that pursue appropriately chartered objectives.

Notably, Republican Law “On the Budgetary System in the Republic of Tatarstan for 2000” provided funding (Article 33) for the “Job-Seeker Club” and “New Start in Life” public organizations, with the relevant outlays totaling some 300 thousand roubles.

Republican Law “On Targeted Taxes to Eliminate Old Housing” exempts from taxes (Article 2) public organizations maintained by the disabled, war veterans and other categories of citizens.

Republican Law “On Insurance Tax Rates for the State Employment Foundation in the Republic of Tatarstan for 1997” exempted from taxes payable into the State Employment Foundation of the Republic of Tatarstan, public organizations of the disabled, and religious associations.

Republican Law “On Social Partnerships,” which was designed to cover the sector and territory trade union organizations, enables the social partnership parties (Article 16) to dispatch written requests to knowledgeable parties and have the requested information on social and labor matters delivered within ten days free of charge.

Republican Law “On Non-Governmental Pension Funds” defines a nonprofit pension fund (Article 3) as a specialized nonprofit organization. What is more, Article 30 provides for government-backed incentives to help energize non-governmental pension funds, including the application of assorted forms of economic support, made available by official authorities. Also, the law provides for graded tax exemptions for certain categories of public associations.

The February 8, 1994 Republican Law “On Civil Service” places a ban (Article 2) on the government structures maintaining political party chapters or branches. Articles 9 empowers civil servants to officially request and receive uncharged from government bodies, local

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693 Vedomosti of the State Council of the Republic of Tatarstan (#1, 1996).
694 Vedomosti… (#12, 1998).
695 Vedomosti… (#12, 1999).
696 Vedomosti… (#12, 1997).
697 Vedomosti… (#5, 1997).
698 Vedomosti… (#3, 1999).
administrations and public associations information needed to carry out their specified functions.

Republican Law “On Culture”\textsuperscript{700} specifies a set of rights and freedoms (Article 7) to enable citizens to form artistic unions, associations and public organizations pursuant to established procedures. The law reads (Article 13) that the Republic of Tatarstan is committed to help promote the creation of artistic organizations and their local branches, as well as the establishment of regional chapters of international creative associations that are officially nonprofit organizations.

The legal status of religious associations, generally operating as nonprofit organizations, is determined in the Republic of Tatarstan by Republican Law “On Freedom of Conscience and Religious Associations.”\textsuperscript{701} Article 5 of the law proclaims that the church is separated from the state and that all religious associations are equal before the law. The law is particularly advantageous in that it is designed to make available financial, material or other official assistance to religious associations in the business of restoring, maintaining and protecting cultic, historic and cultural buildings or structures that are a part of the republic’s cultural heritage. The law also helps provide for tax breaks and other exemptions for religious organizations.

Republican Law “On Protecting Labor in the Republic of Tatarstan”\textsuperscript{702} (Article 22) provides for public oversight of legitimate rights and interests of employees, with compliance verification normally carried out by trade unions.

Republican Law “On Charity Activities” governs matters related to charity operations.\textsuperscript{703} Article 6 of this law reads that a charity is a nonprofit organization established to pursue charity operations in line with the applicable legislation.

Article 11 provides for tax exemptions in favor of charity houses and participants in compliance with the established rules. Unfortunately, the law itself does not contain a rule defining specific tax exemption rates and policies attributable to public organizations.

Article 17 allows for the possibility of charity organizations to be financed by the federal budget, budget of the Republic of Tatarstan, local budgets or extra-budgetary foundations. Notably, this particular rule allows the creation and maintenance of a government funding vehicle in support of non-profit organizations.

Article 20 of the aforementioned law empowers government agencies and departments, and local administrations and authorities to back charities by:

\textsuperscript{700} Ibid.
\textsuperscript{701} Vedomosti... (#8, 1999, Part 2).
\textsuperscript{702} Vedomosti... (#12, 1997).
\textsuperscript{703} Vedomosti... (#7, 1999).
a) granting tax breaks and exemptions in keeping with the established procedures;

b) providing material support and subsidies (including having charities either in part or wholly exempted from paying for the services or properties made available by government organizations or local self-government structures);

c) providing funding by-auction to support charity programs put together by charity organizations;

d) submitting proposals to place government orders related to social services with enterprises and businesses;

e) enabling charities to own, either free of charge or on easy terms, government properties as they get denationalized or privatized.

For the purpose of backing nonprofit charity organizations, moves can be made to set up charity-promotion councils (committees or commissions) made of representatives of government agencies and departments or local administrations.

Pursuant to Republican Law “On Sales Tax,” the services provided by a bar association, which operates as a nonprofit organization, just like the rites and ceremonies offered by religious organizations, which are likewise nonprofit organizations, are exempted from sales tax (Article 2).

To point out, Republican Law “On Private Detective and Security Services” was drafted on the initiative and with direct participation of the Association of Private Security Structures in the Republic of Tatarstan (a nonprofit public organization headed by A. Tukhvatullin).

Article 20 of the said law enables private security and detective organizations to establish an integrated association of nonprofit organizations, with each one remaining self-sufficient and holding a legal entity status.

Article 21 empowers the Association of Private Security Structures to participate in drafting republican laws and other regulatory statutes that have bearing on the interests of private security elements and detectives. Clearly, this rule serves to promote participation of relevant nonprofit organizations in drafting the republican legislation and enable them to stand up for their interests on the top law-making level.

In compliance with the July 3, 1998 Republican Law (#1703) “On Employment,” trade unions and other professional associations are empowered (Article 21) to participate in the overall effort to assure the best employment of the available labor resources.

Republican Law “On Licensing” decrees that any and all non-governmental organizations should be appropriately licensed (Article 9)

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704 Vedomosti... (#7, 1999).
705 Vedomosti... (#1, 1999).
706 Vedomosti... (#4, 1999).
to provide commercial services aimed at promoting employment of active job seekers.

Under Republican Law “On Security,”707 public and other organizations and associations have the right (Article 17) to appropriately request and receive information on the engagements pursued by security agencies.

In keeping with the November 29, 1994 Republican Law (#2244-XII), as amended by the January 21, 2000 Law (#37), the appropriately registered political public associations are empowered (Article 5) to nominate their candidates to run for people’s deputy seats in the republican legislature. The relevant rights of Tatarstan’s political public associations are contained in Article 21 of the said law.

As decreed by Republican Law “On Introducing Amendments and Changes Republican Law “On Land Tax Payments,”708 public associations of the disabled and their enterprises or businesses, whose charter capital holdings are formed by contributions from public associations of the disabled, shall be exempt (Article 12) from paying the land tax.

Notably, Republican Law “On Legal Regime for Emergencies”709 (Article 16) allows for, following release of a warning notification, temporary suspension of operations of political parties and public movements found to be in the way of returning the situation to normalcy. The positive point in this provision is Article 17 of the said law, which reads that “emergency-related measures, passed to limit the rights of public associations, shall not contradict relevant rules carried by international law.”

Republican Law “On Protection and Balanced use of Air”710 empowers (Article 35) nonprofit public associations to run statutory compliance verification checks, to monitor if public — and private-sector industries and organizations properly honor the rules for air protection. Regrettably, the law prescribes no concrete mechanism to assure compliance verification activity, a circumstance that certainly makes it difficult for the proclaimed rules to be effectively applied.

Under Republican Law “On Single Imputed Tax for Certain Operations,”711 public associations of the disabled, organizations whose charter capital holdings are wholly made by contributions from public organizations of the disabled, as well as enterprises and businesses which are wholly owned by public organizations of the disabled, have the choice (Article 3) of either switching to pay a single imputed tax or to maintain the current taxation procedures.

In compliance with Republican Law “On International Agreements Maintained by the Republic of Tatarstan,”712 public associations and local divisions and departments of state bodies of power have the right (Article 7) to advice on the feasibility of concluding international agreements. Impor-

707 Vedomosti… (#6, 1999).
709 Vedomosti… (#10, 1999).
710 Vedomosti… (#11, 1999).
711 Vedomosti… (#12, 1999).
tantly, Article 31 of the said law enables public associations to submit recommendations to the President of the Republic of Tatarstan, State Council of the Republic of Tatarstan and the Cabinet of Ministers of the Republic of Tatarstan on matters relating to termination or suspension of the international arrangements maintained by the Republic of Tatarstan.

Republican Law “On Public Libraries and Library Activities”\(^\text{713}\) gives guidelines for library operations, the purpose of which are to safeguard the rights of individuals, public associations and ethnic communities to gain access to desired information and knowledge.

To emphasize, Republican Law “On the Constitutional Court of the Republic of Tatarstan”\(^\text{714}\) contains provisions (Article 11) designed to place certain constraints on civil rights of the judges of the Constitutional Court of the Republic of Tatarstan. The latter are prohibited from joining any political party or movement. The judges of the Constitutional Court of the Republic of Tatarstan are authorized to appropriately request and receive from public associations desired information or documents.

Under Republican Law “On Science and Research Activities,”\(^\text{715}\) scientists and researchers have the right (Article 10) to secure membership in public associations.

Pursuant to Republican Law “On Protecting Consumer Rights,”\(^\text{716}\) public consumer associations (their amalgamations or unions) have the right (Article 46) to: participate in drafting requirements and standards for safety of products (works and services); take part in drawing up draft laws and other regulatory statutes in the Republic of Tatarstan to assure regulation of relations in the area of protecting consumer rights; run independent quality and safety validation checks on the marketed products (works and services); check to see if the established consumer rights and service standards are appropriately observed by relevant vendors and service providers; act on registered consumer demands and conduct investigative reviews to have the breached consumer rights restored; submit proposals to the State Council of the Republic of Tatarstan on the matters related to protecting the rights of consumers, improving the quality of relevant products (works and services), discontinuing production and sales products (works and services) found to be hazardous to the health of consumers, their properties or environment; approach the prosecutor and other law enforcement offices, as well as government agencies, authorized to look into administrative misdemeanors, with materials designed to have the persons or legal entities responsible for the production and sales of products (works and services) found to be below the established quality and safety standards, as well as for violation of the proclaimed consumer rights, appropriately prosecuted pursuant to the procedures established in the Republic of Tatarstan; approach the prosecutor offices in order to appeal against decisions passed by republican authorities or local self-government structures in violation of the laws designed to govern relations in the area of protecting consumer rights;

\(^{713}\) Vedomosti... (#11, 1999).
\(^{714}\) Vedomosti... (#11, 1998).
\(^{715}\) Vedomosti... (#7, 1998).
\(^{716}\) Vedomosti... (#7, 1997).
provide the information needed to take steps in order to improve the environment in retail consumer markets and prevent further transgressions of the law; and to go to court to stand up for the rights of individual consumers (groups of consumers).

Under Republican Law “On Environmental Security,” one of the principles underpinning the environmental security effort is made by the authorities (Article 3) tackling relevant tasks together with public associations and individuals on a cooperative basis.

Article 37 of the said law states that the findings and conclusions of public environmental monitoring efforts launched and conducted by groups of scientists or public associations shall be “binding” whenever the government environmental security experts make their own assessments. Heads and members of public environmental monitoring teams are held legally accountable for validity and comprehensiveness of their concluding reports.

Notably, Article 72 allows for environmental monitoring efforts to be carried out by public associations or groups of concerned citizens.

Publicity and solid communications with public associations and private individuals in matters related to assuring balanced uses of natural resources and protecting the plant and vegetative assets are passed by Republican Law “On the Plant World” as one of the primary guidelines to effectively tackle the task of protecting and managing plant life (Article 6).

Pursuant to the provisions of Republican Law “On Production and Consumption Wastes,” apart from the requisite design and engineering feasibility studies, public environmental security checks (Article 11) shall be performed prior to designing, constructing, commissioning or operating any enterprise or facility intended to support production or consumption-related waste evacuation and management tasks. Importantly, those checks may be initiated and conducted by dedicated teams of scientists or public associations, with their results necessarily being considered by the pertinent government environmental security authorities. Article 17 provides for a possibility of environmental monitoring efforts to be pursued by public associations or groups of concerned citizens of projects related to the management of production or consumption wastes.

Comprehensive Program for Countering Drug Addiction and Drug Trade in the Republic of Tatarstan for 1999–2001 contains Clause 2.1.8. This clause provides an array of measures to integrate the efforts of public associations aimed at putting in check the ongoing drug abuse and establish a system of tender-based arrangements to enable non-governmental or-

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717 Vedomosti… (#3, 1997).
718 Vedomosti… (#10, 1997).
719 Vedomosti… (#7, 1997).
720 Confirmed by the May 26, 1999 Ruling (#21750) passed by the State Council of the Republic of Tatarstan to prevent drug addiction and create nonprofit associations, including teenager sporting and other pursuit clubs and activities.
ganizations to run programs to monitor and remedy drug-related problems.

To emphasize, public associations and organizations feature prominently among principal participants of the ongoing government-backed Program “The Younger Generation of Tatarstan in 1999–2000.” Notably, Part 6 of the Program provides for supporting a variety of nonprofit organizations (younger generation-based associations, organizations and movements) by drafting and passing regulatory statutes designed to bolster relevant public associations and organizations. This support comes from conducting annual contests for the best programs and projects advanced by the functional public associations or organizations of juveniles or young adults.

Pursuant to the September 7, 1998 Ruling by the Cabinet of Ministers of the Republic of Tatarstan “On Exempting the Tatarstan Republican Organization of the All-Russian Society of the Disabled and its Enterprises and Businesses from the Requirement to Pay Fines and Penalties” (#495), the Tatarstan branch (nonprofit organization) of the All-Russian Society of the Disabled and relevant enterprises and businesses are exempt from the requirement of paying fines and penalties.

The July 6, 1999 Ruling (#413) by the Cabinet of Ministers of the Republic of Tatarstan “On Progress in the Local Implementation of Federal Law “On Social Protection of the Disabled in the Russian Federation” in its Clause 8 decreed that the Ministry of Finance of the Republic of Tatarstan should outlay an adequate level of financing in a separate line-item of the Year-2000 Budget for government orders to be appropriately placed with the enterprises and businesses owned by public organizations of the disabled in Tatarstan.

The January 31, 1992 Decree (#UP-49) by the President of the Republic of Tatarstan in its Clause 1 ruled that any interference by public associations or their heads (members) in the affairs of government agencies or officials, just like any interference by government agencies or officials in the matters of public associations, except for the cases stipulated by the law, should be punishable by penalties payable by the guilty parties in the amount of 500 through 2,000 roubles per natural person and 2,000 through 5,000 roubles per public association.

Pursuant to the August 31, 1991 Decree (#UP-107) by the President of the Republic of Tatarstan “On Terminating the Activities of the Body-Politic-Based Chapters of the Political Parties and Massive Public Movements Seeking to Achieve Political Goals in the Republic of Tatarstan,” chapters or branches of political parties and massive public associations operating in the fold of government agencies and departments in the Republic of Tatarstan became outlawed. To point out, any and all civil servants have the right to be members of those political forces and pursue their “extra-curricula” activities exclusively during non-business hours and outside the official premises.

In compliance with the 1991 Decree (#UP-127) by the President of the Republic of Tatarstan “On Preventing the Creation and Banning the Operation of Public Militant Associations and Armed Formations...
within the Republic of Tatarstan,” any effort to grow a public militant association or raise an armed formation within the confines of Tatarstan has been banned. These public militant associations and armed formations that were still functional were speedily outlawed and disbanded.

To sum up our analysis of the relevant Tatarstan legislation, public associations dealing with the disabled enjoy priority efforts on the part of government agencies and departments in the Republic of Tatarstan towards local nonprofit organizations. The disabled have been awarded almost all tax exemptions in Tatarstan. For example, as was mentioned above, only public organizations of the disabled, along with related enterprises and businesses, were made exempt from the requirement to pay the compulsory healthcare insurance tax.

Government incentives (tax breaks, easy registrations, etc.) or support of non-profit organizations and the more disadvantaged segments of society (including large families, single mothers, war veterans, retirees, students of universities and community colleges, etc.) have been non-existent.

Given that laws of the Republic of Tatarstan are in compliance with federal legislation, local tax incentives to urge the commercial sector to engage in charity activities are actually unavailable. This is unlike legislation in the West, where local charities and nonprofit organizations are backed by the private sector. Understandably, this trend does not facilitate the effort to attract private financing in support of local nonprofit organizations and has negatively impacted the evolution of nonprofit structures and development in civil society.
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