



Human Rights Watch's Supplementary Concerns and Recommendations on Russia

Submitted to the United Nations Human Rights Committee in advance of its Review of Russia

September 2009

This memorandum, submitted by Human Rights Watch in advance of the United Nations Human Rights Committee's ("the Committee") review of Russia's compliance with the International Covenant on Civil and Political Rights ("the Covenant"), addresses several areas of concern raised by the Committee in its List of Issues to be Taken up in Conjunction with the Consideration of the Sixth Periodic Report of the Russian Federation ("List of Issues"). Human Rights Watch found the List of Issues to be comprehensive and reflective of some of Russia's most pressing human rights problems. This memorandum, which supplements our March 25, 2009 submission to the Committee, elaborates and provides updated information on several of these problems, and puts forward measures the Russian government should take to address them. We do this in the hope that it will inform the Committee's upcoming consideration of Russia's report.

Right to life, prohibition of torture and cruel, inhuman or degrading treatment, expulsion of aliens, security of the person and the right not to be subjected to arbitrary detention, right to a fair trial (arts. 6, 7, 9, 13, and 14)

Paragraphs 11 and 15 of the List of Issues focus on the accountability process for grave crimes--including torture, disappearances, extrajudicial killings--in the context of counterterrorism operations in the North Caucasus. These violations continue in Chechnya, Ingushetia, and Dagestan, where the Islamist insurgency appears to be on the rise, and Human Rights Watch is not aware of information demonstrating that the authorities are pursuing thorough and effective investigations to hold their perpetrators responsible. Regarding the European Court of Human Rights judgments on Chechnya, Russia generally has paid the compensation and legal fees mandated in the court's rulings in a timely manner, however as described below it has failed to meaningfully implement the core of the judgments.

Human rights and civic activists, organizations, lawyers, and others who work for justice and accountability or express dissent in these republics have come under increasing attack. At this writing at least three brazen murders of civic activists have taken place in Chechnya in 2009 alone; several other activists in the Northern Caucasus have been subjected to threats, harassment, and intimidation, and state officials have made numerous, hostile public statements against independent groups. These actions profoundly undermine the human rights situation in the region.

Chechnya

In Chechnya, as we noted in our March 2009 submission, the armed conflict has subsided, however, security forces continue to use torture and illegal detention, and impunity for abuses is rampant. The failure to implement fully the European Court rulings on Chechnya contributes to this persistent climate of impunity. As a consequence, law enforcement and security servicemen receive the message that they will not be held accountable for human rights violations they commit.

Since our March 2009 submission Human Rights Watch has further documented Chechen authorities' use collective punishment against people with suspected rebel ties. We documented 15 of a total 30 known cases in which houses belonging to families of alleged insurgents have been deliberately targeted and burned, apparently by Chechen law-enforcement personnel, between July 2008 and September 2009. Our report documenting this practice can be found at <http://www.hrw.org/en/reports/2009/07/02/what-your-children-do-will-touch-upon-you-o>.

The authorities have not held anyone responsible for the house burnings. Indeed, high-level Chechen officials, including the president, Ramzan Kadyrov, have made numerous public statements stressing that insurgents' families should expect to be punished unless they convince their relatives to surrender. Such statements, while falling short of direct instructions to law-enforcement to destroy houses of insurgents' families, encourage lawless punitive actions by police and security personnel.

Human Rights Watch's March 2009 submission to the Committee noted the August 2008 disappearance of Mokhmadalakh Masaev, who had publicly spoken out about his ill-treatment in a secret prison in Chechnya. Since March 2009 there have been new cases of attacks and harassment that highlight the risk to those few who dare speak out about abuses or work for justice for victims. High-level Chechen officials have made threatening

statements accusing human rights activists of supporting insurgents, which further underscores the danger to those working for justice in Chechnya.

The situation markedly deteriorated in summer 2009 when, against the background of increasingly lawless and violent counter-insurgency operations, three local activists were abducted and killed. The shocking killing in July 2009 of Natalia Estemirova, a leading human rights defender in the republic who documented abuses by Chechen law-enforcement and security agencies on behalf of the Memorial Human Rights Center was followed by harassment and intimidation of several Memorial's staff-members in Chechnya. One of them had to be evacuated from Chechnya due to evident danger to his physical security. Also, on August 10, 2009, Zarema Sadulayeva and her husband, Alik Dzhabrailov, who worked for Save the Generation (an NGO that provides assistance to children affected by conflict in Chechnya), were abducted from their Grozny office and discovered murdered the next day. Local law enforcement and security personnel are implicated in all three cases.

Ingushetia

In our March 2009 submission we described the rise in insurgent attacks on public officials, security and law-enforcement personnel, and civilians since 2007, and noted that during counterinsurgency operations government forces had been involved in extra-judicial executions, unlawful, abduction-style detentions, and torture and cruel or degrading treatment.

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

Dagestan

In Dagestan, the number of abductions, extra-judicial executions, and enforced disappearances in connection with counter-insurgency operations has been on the rise since summer 2009. Human Rights Watch is aware of five extra-judicial executions in August

2009 of individuals the government presumes to be involved in the insurgency and five enforced disappearances in September 2009 alone. Among them is Nariman Mamedyarov, who in September 2008 was held by authorities in incommunicado detention, tortured, and later released. He was abducted again in September 2009; his body was found two weeks after his abduction.

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

We hope that the Committee will recommend that Russia take the following steps to address the above concerns:

- Ensure access to the region for UN special mechanisms, including the Working Group on enforced and involuntary disappearances and the Special Rapporteurs on torture, on extrajudicial, summary and arbitrary executions, and on violence against women in full agreement with the requirements for conducting visits that these procedures’ terms or reference set forth;
- Inform the international community, including the Committee, on the status of the investigations into the murders of Natalia Estemirova, Zarema Sadulayeva, and Alik Dzhabrailov and into attacks against NGOs;
- Seriously examine the possibility of official collusion in recent cases of killings, attacks, and threats against activists in the North Caucasus, and promptly and effectively investigate these crimes and hold perpetrators accountable;
- Ensure effective protection of and foster a favorable climate for human rights workers, civic activists, lawyers, and independent reporters fighting abuses and impunity in the Northern Caucasus;
- Ensure meaningful accountability mechanisms to bring perpetrators of serious abuses to justice and ensure transparency regarding investigations and/or prosecutions undertaken, including their outcome;

- Immediately stop the practice of extra-judicial executions, enforced disappearances, abduction-style detentions, and other abuses perpetrated by security services, military, and law-enforcement agencies;
- Sign and Ratify the International Convention on the Protection of All Persons from Enforced Disappearance;
- In cases of arrest, ensure that all procedural guidelines are fully observed and family members are provided adequate information on the status and whereabouts of their arrested relatives.

Russia's Implementation of European Court of Human Rights Judgments on Chechnya

In nearly all of the 115 judgments the European Court has issued on cases from Chechnya to date, it has found Russia responsible for executions, torture, enforced disappearances, and for failing to properly investigate these crimes. As noted above, following a judgment, Russia generally has paid the compensation and legal fees mandated in European Court rulings in a timely manner. However, it has failed to meaningfully implement the core of the judgments: it has failed to ensure effective investigations and hold perpetrators accountable.

Human Rights Watch research carried out in July and August 2009 examined in detail Russia's implementation of European Court judgments on Chechnya in 33 cases. We found that as of this writing no perpetrator in any of these cases has been brought to justice, even in cases in which the court has found that the alleged perpetrators are known, could be easily identified, and in some instances even named them in its judgments. In addition, failures that had plagued earlier investigations into abuses in Chechnya and had led the court to find violations related to the investigations continue to this date. These include: the state's failure to inform the aggrieved parties about the investigation; failure to provide access to criminal case files; inexplicable delays in investigation; and legal obstacles preventing investigators from accessing key evidence held by Russian military or security services.

Our September 2009 report on this issue describes these shortcomings in greater detail. Please see <http://www.hrw.org/en/node/85744>.

We hope the Committee will recommend that the Russian authorities take the following steps to ensure full implementation of European Court of Human Rights judgments:

- Bring ongoing investigations to meaningful conclusions by identifying and prosecuting perpetrators of violations found by the European Court;

- Ensure effective, objective and thorough criminal investigations into the actions of persons named in European Court judgments as participating in or having command responsibility for operations in Chechnya that resulted in violations found by the court;
- Provide victims and relatives up-to-date and complete information about the investigation;
- Provide families all information as to the fate and whereabouts of the disappeared;
- Ensure an effective judicial mechanism to challenge the actions or omissions of the investigative authorities as one aspect of ensuring effective investigations;
- Take disciplinary action against investigators who fail to take all necessary investigative steps, to inform aggrieved parties about the investigation, or otherwise fail to comply with their professional duties;
- Ensure effective coordination between military and civil prosecutors' offices and investigative directorates, including sharing of information as well as effective prosecutorial and judicial oversight to prevent cases from being trapped in indefinite referrals from one prosecutor to another;
- Ensure that domestic legislation and regulations regarding the use of force by military or security forces comply fully with human rights law;
- Ensure that officials engaged in or commanding security operations, including counterterrorism operations, are not immune from prosecution for violations of the law.

Freedom of opinion, expression, assembly and association (arts. 18, 19, 21, 22 and 25)

Paragraph 26 of the Committee's List of Issues raised the important issue of restrictions on the registration and operation of nongovernmental organizations (NGOs) and other associations under Russia's 2006 NGO law. In our March 2009 submission Human Rights Watch described these and other restrictive regulations and their impact on NGOs.

In April 2009, President Dmitri Medvedev acknowledged problems in the 2006 NGO law and its implementation. In particular, President Medvedev noted restrictions "without sufficient justification," and the fact that many government officials view NGOs as a threat.

President Medvedev created a working group to draft changes to Russia's law on non-commercial organizations (NCOs). Approximately 35 percent of Russian NGOs are registered as NCOs. The rest are registered under other legal forms.

President Medvedev personally submitted the working group's first round of proposed amendments to the Duma (Parliament), which adopted them in June 2009.

These changes, which apply only to noncommercial organizations, consist of the following:

1. Planned inspections of NGOs by the Ministry of Justice are now limited to once every three years (previously they could occur once per year). Unplanned inspections remain unchanged and can still occur without limitation.
2. Slightly simplified registration procedures to allow for the Ministry of Justice to suspend, rather than reject, registration applications that contain errors.
3. The introduction of a public reporting system whereby NGOs that do not receive any foreign funding would report on their funding and activities to the public rather than the government via reports published on a website. Groups that receive foreign funding will have to continue reporting to the state on this funding (separate from their reporting to the tax inspectorate) as well as publish reports on their funding, which increases their reporting burden. Nearly all human rights groups and groups that work on sensitive issues receive foreign funding and will be subject to this dual reporting burden.

These changes, while mostly welcome, leave many problematic areas of the law and its implementation unaddressed. The schedule for the introduction of further reform proposals is unclear.

More fundamentally, the climate for NGOs and civic activists continues to deteriorate markedly. NGOs and activists that work on sensitive issues have been the victims of violent attacks and government harassment and interference into their work.

We noted above the murders of three civic activists in Chechnya and threats to other civic activists there that have occurred since our March 2009 submission. Since that time activists and civic groups in other parts of Russia have faced harassment and excessive interference in their work. Several examples include:

- In July, the Kazan Human Rights Center, which assists victims of police abuse and Agora, a consortium of human rights organizations, suffered a series of harassing inspections and legal action against their leaders that appear to be aimed at stopping their work.
- In June, Aleksei Sokolov, an activist from Ekaterinburg who reports on prison and police abuse, was beaten and threatened while being arrested on what appear to be politically-motivated charges, and remains in detention awaiting trial.

- In March, Lev Ponomarev, leader of the nongovernmental group Za Prava Cheloveka (“For Human Rights”), was violently attacked by several unidentified assailants on his way home from a meeting with a member of the Parliamentary Assembly of the Council of Europe.

Contributing to the hostile operating climate for NGOs, the authorities also use tax inspections, inspections for fire code or labor code compliance, police raids, and politically motivated criminal charges to harass and intimidate such organizations. Many NGOs are vulnerable to being targeted under the 2002 Law on Countering Extremist Activity, which designates certain forms of defamation of public officials as extremist and allows any politically or ideologically motivated crime to be designated as extremist. NGOs and activists that are outspoken on controversial topics of Russian government policy, such as human rights violations in Chechnya or human rights more broadly, or are perceived to be affiliated with or viewed as supportive of the political opposition, are at risk of being targeted under the 2002 extremism law.

As we noted in our March 2009 submission, an investigation into extremism was used as the pretext for the December 2008 commando-style raid on Memorial in Saint Petersburg, an organization that holds vast archives on Soviet political repression. In the raid, the organization’s archives were confiscated and its work severely disrupted. The archives were returned in June 2009, only after Memorial pursued the matter through the courts.

We hope the Committee will recommend that the Russian authorities take the following steps to fully promote freedom of association:

- Condemn, unequivocally, attacks on human rights defenders and journalists, and investigate and prosecute those crimes to the fullest extent of the law;
- Foster an environment in which civil society can operate freely by imposing only those obligations and burdens on NGOs that are compatible with international standards and absolutely necessary, and strictly defining the terms under which the government can interfere in legitimate private citizen activity;
- Further amend the 2006 NGO law to streamline the registration process so that NGOs can register promptly and without undue complications, amend any sanctions for violations of the NGO law so that options other than liquidation are available which can compel or help noncompliant NGOs to come into compliance, and remove the most restrictive and intrusive provisions of the law such as those that allow the authorities to conduct unlimited ad hoc inspections and attend all NGO events.

Prohibition of slavery (art. 8); Non-discrimination, equal rights of women and men, and prohibition of advocacy of national, racial or religious hatred (arts. 2, 3, 20 and 26)

We welcome the Committee's inclusion in the List of Issues of questions regarding Russia's measures to ensure assistance to victims of trafficking (para. 18) and to prevent harassment of minorities by law enforcement authorities (para. 9). We urge the Committee to consider additional questions to the Russian government related to its protection of migrant workers.

Despite the global economic downturn in the last year, large numbers of migrant workers from the former Soviet Union continue to seek employment in Russia, which remains the dominant economy in the region. As we noted in our March 2009 submission, workers face abuses that include denial of contracts, non-payment or delayed payment of wages, excessively long working hours, and unsafe working conditions. In the worst cases, employers or intermediaries confiscate workers' passports and force them to work without wages. Workers often face police extortion and ill-treatment. In most cases workers are unaware of official avenues of redress or fear retaliation for their irregular residency or work status should they appeal to official agencies.

We hope the Committee will recommend that the Russian authorities take the following steps to prevent and remedy abuses against migrant workers and to prevent trafficking into forced labor:

- Rigorously inspect and prosecute employers and intermediaries responsible for trafficking into forced labor, as well as employers and intermediaries who confiscate passports, withhold wages, use physical violence against workers or commit other violations of Russian law;
- Create effective, accessible mechanisms for migrant workers to receive timely redress for abuses;
- Ensure that migrant workers are aware of their rights under international and Russian law and informed of this complaint mechanism;
- Ensure that complaints of abuse made by migrant workers are thoroughly investigated by the Labor Department, prosecutor's office and other relevant agencies, *irrespective* of migrants' legal or employment status;
- Cooperate with labor-sending governments to facilitate prosecutions and investigations of employers and intermediaries implicated in trafficking, including by facilitating the participation in the investigation of complaints, and any legal proceedings, by victims who have already returned home;

- Establish a clear regulatory framework for state and private employment agencies, individual employment recruiters and other intermediaries and adequately fund mechanisms for regular monitoring of these entities, including unannounced visits.