



THE KREMLIN'S POLITICAL PRISONERS

Advancing a Political Agenda
By Crushing Dissent

PREPARED BY



WITH SUPPORT FROM



HUMAN RIGHTS CENTRE

Cover Photos

Top Row (from left):

Igor Rudnikov: opposition politician and independent journalist; detained since November 1, 2017 on fabricated extortion charges.

Yuri Dmitriev: renowned historian known for exposing Soviet-era executions and mass graves; detained from December 2016 to January 2018, and since June 2018, falsely accused of sexual crimes.

Emir-Usein Kuku: human rights activist; detained since February 2016 on false terrorism charges relating to his involvement with a non-violent Islamist organization.

Middle Row (from left):

Dennis Christensen: Danish citizen and Jehovah's Witness leader; sentenced to six years' imprisonment in February 2019 for organizing Jehovah's Witness activities after the religion was banned as "extremist."

Anastasia Shevchenko: human rights activist; detained since January 2019 (under house arrest) for her continued involvement with the civic organization Open Russia, which prosecutors apparently believe is banned because a British NGO with the same name was designated as "undesirable" in 2017.

Oleg Sentsov: Ukrainian film director and activist; convicted on false terrorism and weapons charges and sentenced to 20 years' imprisonment in August 2015.

Bottom Row (from left):

Petr Parpulov: convicted of treason and sentenced to 12 years' imprisonment in January 2016 for sharing alleged "state secrets" that were publicly available.

Alexey Pichugin: the Kremlin's longest serving political prisoner, detained since June 19, 2003 in connection to the Yukos case; convicted on fabricated murder charges in 2005 and 2007, currently serving a life sentence.

Oyub Titiev: head of the Grozny representative office of Memorial Human Rights Centre; convicted on fabricated drug charges and sentenced to four years' imprisonment in March 2019.

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By Crushing Dissent**

Report Commissioned By

**FREE
RUSSIA**



Lantos
FOUNDATION



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I. EXECUTIVE SUMMARY

Decades after Boris Yeltsin freed the last Soviet-era political prisoners, the widespread detention of activists, regime opponents, and disfavored minorities is once again being practiced under the leadership of President Vladimir Putin. Since he first became President in 2000, and especially since his formal return to the Kremlin in 2012, the Kremlin has engaged in a wide-ranging crackdown on civil society, political opponents, critical voices, unpopular minorities, and anyone else it views unfavorably or as a threat. Moreover, this persecution is only increasing. In its February 2015 list, Memorial Human Rights Centre – one of Russia’s oldest and largest human rights organizations – identified 46 political prisoners in the country. As of March 25, 2019, however, its list contained 236 individuals (including many in Russia-occupied Crimea). These numbers, however, reflect only cases that have been carefully reviewed and vetted and that conform to a rigorous definition of “political prisoner”; the true number is undoubtedly much higher.

Some of these prisoners have been accused of crimes they simply did not commit – murder, sexual abuse, espionage, treason, or possession of drugs or weapons. The majority, however, were charged for engaging in activities that are clearly protected under international law. These latter cases are enabled by an ever-increasing array of laws specifically designed to criminalize acts of everyday life and, therefore, allow the authorities to arrest, detain, and imprison anyone they want. For example, Russia’s Criminal Code contains notoriously vague prohibitions on, *e.g.*, extremism, separatism, defamation, insulting religious feelings, terrorism, hooliganism, and mass riots. The Code of Administrative Offenses is also used to harass and punish NGOs and activists. While administrative punishments are less severe – for instance, fines and administrative arrest up to 30 days – there are also fewer procedural protections, making it easier for the Government to secure convictions.

While anyone in Russia or Russia-occupied Crimea can become a victim of politically-motivated prosecution, certain groups are more frequently targeted. Political opponents, civil society activists, and journalists are at particular risk. Since the invasion of Crimea in 2014, Ukrainian activists and citizens are also increasingly persecuted. Religious and ethnic minorities – in particular, Jehovah’s Witnesses, certain Muslim groups, and Crimean Tatars – are charged with, among other crimes, extremism. In an effort to sow fear and discourage dissent, prosecutors are also increasingly bringing baseless treason and espionage charges, casting

political opponents as “enemies of the state.” And in Chechnya, a state-initiated “pogrom” against LGBT persons has resulted in the arbitrary detention of suspected homosexuals.

The Kremlin’s arrest, trial, conviction, sentencing, and imprisonment of political prisoners violates the International Covenant on Civil and Political Rights, the European Convention on Human Rights, the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, the OSCE Charter of Paris, and the Russian Constitution. In particular, by detaining and prosecuting individuals simply for gathering in public, expressing themselves online, or associating with the “wrong” organizations, the Kremlin is violating their rights to freedom of expression, association, and assembly. In addition, by punishing those engaged in the political process or political activism, the Kremlin is violating their right to political participation. Moreover, political prisoners are routinely denied basic due process rights, including access to counsel, the presumption of innocence, the presumption of bail, and a fair trial. By imposing pretrial detention as the rule, rather than an individualized exception, the Government is further violating the right to the presumption of bail. The widespread use of torture to coerce confessions violates both the right against self-incrimination and the right to freedom from torture. Finally, the Kremlin is violating the right to freedom of religion by imprisoning believers simply for exercising and practicing their faith.

Despite an increasingly hostile environment, a number of activists, politicians, political parties, NGOs, media outlets, and professionals within Russia and Russia-occupied Crimea continue advocacy on behalf of the Kremlin’s political prisoners. In addition to providing a steady stream of reliable information to the international community, these individuals and organizations make public statements, protest, and engage in courageous acts of civil disobedience, often risking imprisonment themselves. Several of these organizations also provide legal, financial, and emotional support to political prisoners and their families.

Internationally, United Nations bodies and experts, regional organizations, European and North American countries, and civil society groups have consistently called for the release of the Kremlin’s political prisoners. The European Union and Parliament, Parliamentary Assembly of the Council of Europe, and Organization for Security and Co-operation in Europe have been particularly outspoken, as have the US, Canada, the UK, Germany, and Ukraine. Exiled Russian dissidents have created or currently lead prominent human rights organizations advocating for

political prisoners, such as *Free Russia Foundation*, *Open Russia*, *Boris Nemtsov Foundation for Freedom*, and *Human Rights Foundation*. Though diverse in their approaches and ideologies, these organizations all play a key role advocating for the release of the Kremlin's political prisoners. The European Court of Human Rights, for its part, has repeatedly held that the Kremlin unlawfully arrested, detained, and convicted activists and political opponents.

One of the most promising developments has been the enactment of “Magnitsky” laws in an increasing number of countries throughout the world. Named after Sergei Magnitsky, a Russian accountant and whistleblower who died after being tortured in a Moscow prison, Magnitsky laws allow targeted sanctions (usually travel bans and asset freezes) to be imposed on individuals responsible for serious human rights abuses abroad. While several countries have sanctioned key Russian officials responsible for Magnitsky's detention, torture, and death, there has not yet been a sustained effort to sanction the officials responsible for the persecution of political prisoners more broadly. This must change. Unless serious consequences are imposed on these officials, the Kremlin will continue to believe it can act with total impunity.

The Kremlin's response to domestic and international advocacy regarding its political prisoners is one of denial, intransigence, and reprisal. Activists within Russia and Russia-controlled territories who speak out face harassment by authorities and may themselves be arrested and detained. Lawyers representing political prisoners have been intimidated by authorities, had their license to practice revoked, and even been jailed. Organizations advocating for political prisoners have been labeled “foreign agents” and fined. Separately, activists and dissidents living abroad have been poisoned, charged and convicted on fabricated charges *in absentia*, and pursued through abusive Red Notices requested by the Kremlin from the international police organization INTERPOL. In the international arena, despite overwhelming evidence to the contrary, the Kremlin continues to deny that it has any political prisoners. It also ignores unfavorable decisions by the European Court of Human Rights, retaliates against countries that criticize it, and consistently invokes its sovereignty to shield its actions and laws from scrutiny despite provisions in numerous multilateral treaties stating that human rights violations cannot be considered solely an internal affair.

While countless government officials are complicit in the Kremlin's persecution of political prisoners, there is a smaller group of key individuals

who bear particular responsibility. This includes high-level officials liable under the principle of command responsibility, such as President Vladimir Putin, FSB Director Alexander Bortnikov, Security Council Secretary Nikolai Patrushev, Prosecutor General Yuri Chaika, Federal Penitentiary Service Director Gennady Kornienko, Minister of Justice Aleksandr Kononov, Minister of Internal Affairs Vladimir Kolokoltsev, and Investigative Committee Chairman Alexander Bastrykin. There is also a group of judges, prosecutors, and investigators who have been involved in multiple political prisoner cases.

Finally, although the Kremlin has been remarkably resistant to outside pressure to release political prisoners, a sporadic but significant pattern of pardons, amnesties, and other early releases demonstrates that dedicated advocacy can have tangible results. It is hoped that this report can contribute to and support such advocacy, and help secure the release of all of the Kremlin's political prisoners.

II. BACKGROUND ON POLITICAL PRISONERS IN RUSSIA

The Russian and Soviet governments have a long history of detaining and persecuting political prisoners. Under Joseph Stalin, the USSR's infamous *gulag* system of forced labor camps held millions of prisoners in brutal conditions. Alongside average citizens, many of the country's educated professionals and intellectuals were eventually detained,¹ including writer Aleksandr Solzhenitsyn, who later documented the horrors of the *gulag* system in *The Gulag Archipelago*. While the camps declined in importance after Stalin's passing, they were used from the late 1960s through the 1980s to hold some of the country's most prominent political prisoners.²

In the late 1980s and 1990s, there was hope that the country might break with its dark past. After assuming leadership in 1985, Mikhail Gorbachev instituted the policies of *glasnost* and *perestroika* – colloquially, openness and reform – that included a professed commitment to freedom of expression and religion and the release of many political prisoners and political opponents from jail and exile.³ Boris Yeltsin, elected as the first President of the newly created Russian Federation in 1991, released the last political prisoners,⁴ oversaw numerous amnesties,⁵ and issued thousands of pardons annually.⁶ His presidency marked the only period in modern Russian history when the country did not have any recognized political prisoners.

When Vladimir Putin became President in 2000, however, it quickly became clear that he did not share his predecessors' interest in reform. A month after Putin took office, Vladimir Gusinsky, a media mogul described

¹ *Gulag*, HISTORY.COM, accessed Feb. 13, 2019, available at <https://www.history.com/topics/russia/gulag>.

² *Gulag: Soviet Forced Labor Camps and the Struggle for Freedom*, CTR. FOR HISTORY AND NEW MEDIA, GEORGE MASON UNIVERSITY, accessed Feb. 13, 2019, available at <http://gulaghistory.org/nps/onlineexhibit/dissidents/prisoners.php> and *Gulag*, *supra* note 1.

³ *Gorbachev's Domestic Reforms Broke With Soviet Past*, VOA NEWS, Mar. 2, 2011, available at <https://www.voanews.com/a/gorbachevs-domestic-reforms-broke-with-soviet-past-117354428/170523.html>.

⁴ *Released Last Political Prisoners in Russia*, IZVESTIA, Feb. 11, 1992, available at <https://yeltsin.ru/day-by-day/1992/02/11/10741/> [in Russian].

⁵ *Russian Federation: Human Rights Developments*, HUMAN RIGHTS WATCH, accessed Feb. 15, 2019, available at <https://www.hrw.org/legacy/wr2k/Eca-17.htm>.

⁶ Masha Lipman, *How Putin Pardons*, WASHINGTON POST, July 17, 2001, available at https://www.washingtonpost.com/archive/opinions/2001/07/17/how-putin-pardons/e91b8caa-8cc0-4e83-8bcc-6a4220a445ac/?noredirect=on&utm_term=.91df1f2382ac.

then as “the sole oligarch to oppose . . . Putin publicly and consistently,”⁷ was arrested and accused of stealing \$10 million of state property.⁸ He was called “the first political prisoner of Putin’s Russia”⁹ and the European Court of Human Rights later held that his detention was politically motivated.¹⁰ At the time, Gusinsky’s detention was described as a “defining moment” for Putin,¹¹ which proved to be a prescient description. Over the course of his first two terms in office (2000 to 2008), Putin moved to repress dissent and destroy the opposition. This was exemplified by the prosecution of the Yukos Oil Company and its CEO Mikhail Khodorkovsky, who not only spoke out against Putin but was also funding opposition political parties and civil society organizations.¹² The “Yukos Affair” included political persecution of Khodorkovsky’s business and civil society partners Platon Lebedev and Leonid Nevzlin and dozens of Yukos employees, including Alexey Pichugin, now the Kremlin’s longest serving political prisoner.¹³ Other notable examples from this time include the arbitrary detention of civilians in Chechnya,¹⁴ the prosecution of journalists and

⁷ Ian Traynor, *Russia Turns Against Irreverent Oligarch*, THE GUARDIAN, June 14, 2000, available at <https://www.theguardian.com/world/2000/jun/15/russia.iantraynor>.

⁸ Kathy Lally, *Owner of Independent TV Station in Russia is Arrested, Imprisoned*, BALTIMORE SUN, June 14, 2000, available at <https://www.baltimoresun.com/news/bs-xpm-2000-06-14-0006140027-story.html>.

⁹ *Russia Turns Against Irreverent Oligarch*, *supra* note 7; see also Stephen Mulvey, *Analysis: Is the Kremlin Against Free Speech?*, BBC NEWS, June 14, 2000, available at <http://news.bbc.co.uk/2/hi/europe/790511.stm> (“Media-Most’s general director, Jan Zamani, commented: ‘The first political prisoner has appeared in the era of Vladimir Putin.’”).

¹⁰ *Gusinskiy v. Russia*, App. No. 70276/01, Eur. Ct. H.R., May 19, 2004, at ¶¶ 76–78, available at [https://hudoc.echr.coe.int/eng#{%22tabview%22:\[%22document%22\],\[%22itemid%22:\[%22001-61767%22}\]](https://hudoc.echr.coe.int/eng#{%22tabview%22:[%22document%22],[%22itemid%22:[%22001-61767%22}]).

¹¹ *Russia Turns Against Irreverent Oligarch*, *supra* note 7.

¹² THE CIRCUMSTANCES SURROUNDING THE ARREST AND PROSECUTION OF LEADING YUKOS EXECUTIVES, RAPPOREUR OF THE PARL. ASSEMBLY OF THE COUNCIL OF EUROPE, Nov. 29, 2004, § III, ¶ 69, available at <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=10730&lang=EN>.

¹³ Vladimir Kara-Murza, *For Russia’s Longest-Serving Political Prisoner, It’s 15 Years and Counting*, WASHINGTON POST, June 19, 2018, available at https://www.washingtonpost.com/news/democracy-post/wp/2018/06/19/for-russias-longest-serving-political-prisoner-its-15-years-and-counting/?noredirect=on&utm_term=.57ee135d77c2.

¹⁴ REPORT 2003, AMNESTY INT’L, 2003, at 207, available at <https://www.amnesty.org/download/Documents/POL1000032003ENGLISH.PDF> (“Human rights violations by Russian forces: Human rights violations reported in the conflict zone included extrajudicial executions, ‘disappearances’ and torture, including rape. These violations would constitute war crimes. Other violations of international human rights and humanitarian law included arbitrary detentions, ill-treatment, looting and destruction of property.”); REPORT 2002, AMNESTY INT’L, 2002, at 205, available at <https://www.amnesty.org/download/Documents/POL1000012002ENGLISH.PDF> (“Both sides to the conflict in Chechnya continued to commit serious human rights abuses and to breach international humanitarian law. Violations committed by Russian forces during 2001 included arbitrary detention in secret detention centres and pits in the ground, torture and ill-treatment,

scientists (such as Igor Sutyagin) for espionage,¹⁵ and the arrest of Garry Kasparov during a “dissenters’ march” in Moscow.¹⁶ More generally, the Kremlin increasingly cracked down on NGOs, protests, and dissent.¹⁷

From 2008 to 2012, Dmitry Medvedev formally served as President, though it was widely understood that Putin, who was then Prime Minister, remained the “real ruler.”¹⁸ During this time, the “climate of growing

‘disappearances’, and extrajudicial executions.”); and REPORT 2001, AMNESTY INT’L, 2001, at 198, *available at* <https://www.amnesty.org/download/Documents/POL1000012001ENGLISH.PDF> (“Russian federal forces were responsible for gross human rights violations against the civilian population of Chechnya [T]here were widespread reports of torture, incommunicado detention and summary executions.”).

¹⁵ 2008 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: RUSSIA, U.S. DEP’T OF STATE, Feb. 25, 2009, *available at* <https://www.state.gov/j/drl/rls/hrrpt/2008/eur/119101.htm> (“Human rights organizations and activists identified the following individuals as political prisoners . . . Igor Sutyagin”) and WORLD REPORT 2003: RUSSIAN FEDERATION, HUMAN RIGHTS WATCH, *accessed* Mar. 3, 2019, *available at* <https://www.hrw.org/legacy/wr2k3/europe11.html> (“Several journalists and scientists remained in custody, charged by the Federal Security Service (FSB) with espionage.”).

¹⁶ REPORT 2008: THE STATE OF THE WORLD’S HUMAN RIGHTS, AMNESTY INT’L, 2008, at 249, *available at* <https://www.amnesty.org/download/Documents/POL100012008ENGLISH.PDF> (“In November opposition leader Garry Kasparov was sentenced to five days’ administrative detention after he had participated in a ‘dissenters’ march’ in Moscow a week before the Duma elections. Amnesty International considered him a prisoner of conscience and called for his immediate release.”).

¹⁷ *Id.*, at 247–49 (“The Russian authorities were increasingly intolerant of dissent or criticism A crackdown on civil and political rights was evident throughout the year Activists and political opponents of the government were also subjected to administrative detention Criminal charges . . . were taken out selectively against human rights defenders and independent journalists In the months prior to the State Duma elections, the authorities became more restrictive of public expressions of dissent. Scores of people, including journalists and monitors, were briefly detained prior to, during and following demonstrations and many were convicted of violations of the Administrative Code in trials which did not always meet international standards of fair trial Police used excessive force on a number of occasions in order to break up demonstrations organized by opposition parties and antigovernment activists.”); REPORT 2007, AMNESTY INT’L, 2007, Part 2, at 216–17, *available at* <https://www.amnesty.org/download/Documents/POL100012007ENGLISH.PDF> (“Human rights defenders and independent civil society came under increasing pressure. The authorities clamped down on the peaceful exercise of the rights to freedom of expression and assembly Many bans on demonstrations did not appear to be legitimate or proportionate restrictions of freedom of assembly. Peaceful protesters were detained despite informing the authorities of their intention to demonstrate as required in law.”); and REPORT 2006, THE STATE OF THE WORLD’S HUMAN RIGHTS, AMNESTY INT’L, 2006, at 216–17, *available at* <https://www.amnesty.org/download/Documents/POL1000012006ENGLISH.PDF> (“The climate of hostility towards some NGOs grew Human rights defenders, activists and independent journalists working on human rights issues . . . were harassed, prosecuted and in some cases subjected to arbitrary detention and ‘disappearance’. In some cases the prosecution of activists under anti-extremism and anti-racial hatred laws amounted to a violation of the right to the peaceful exercise of freedom of expression.”).

¹⁸ Luke Harding, *WikiLeaks Cables: Dmitry Medvedev ‘Plays Robin to Putin’s Batman,’* THE GUARDIAN, Dec. 1, 2010, *available at* <https://www.theguardian.com/world/2010/dec/01/wikileaks->

intolerance towards independent views” continued.¹⁹ Peaceful protestors were arrested and prosecuted,²⁰ including opposition leader and former Deputy Prime Minister Boris Nemtsov, who, ironically, was subjected to administrative arrest for participating in a rally calling for freedom of assembly.²¹ In addition, thousands of protestors were arrested during the peaceful demonstrations following the December 2011 parliamentary elections.²² In other high profile cases, Mikhail Khodorkovsky and Platon Lebedev were tried and convicted for a second time in proceedings that were “deeply flawed and politically motivated,”²³ and whistleblower Sergei Magnitsky was imprisoned and killed.²⁴ NGOs were also targeted with baseless accusations,²⁵ and legal attacks against religious minorities began to increase.²⁶

cables-medvedev-putin-russia (“US diplomats consider Vladimir Putin to be the real ruler of Russia despite handing over presidency to Dmitry Medvedev”); *see also* CONTENDING WITH PUTIN’S RUSSIA: A CALL FOR AMERICAN LEADERSHIP, FREEDOM HOUSE, 2013, at 2, *available at* <https://freedomhouse.org/sites/default/files/Contending%20with%20Putin%27s%20Russia.pdf> (noting that “former president and then prime minister Vladimir Putin remained the dominant force in government”).

¹⁹ REPORT 2009: THE STATE OF THE WORLD’S HUMAN RIGHTS, AMNESTY INT’L, 2009, at 273, *available at* <https://www.amnesty.org/download/Documents/48000/pol100012009en.pdf>.

²⁰ REPORT 2011: THE STATE OF THE WORLD’S HUMAN RIGHTS, AMNESTY INT’L, 2011, at 271, *available at* <https://www.amnesty.org/download/Documents/32000/pol100012011en.pdf> (“Several peaceful demonstrations in Moscow and St. Petersburg were declared unauthorized and forcibly dispersed resulting in scores of demonstrators being held for several hours in police custody. Some demonstrators were sentenced to several days of detention solely for exercising their right to freedom of assembly.”) and REPORT 2010: THE STATE OF THE WORLD’S HUMAN RIGHTS, AMNESTY INT’L, 2010, at 271, *available at*

<https://www.amnesty.org/download/Documents/40000/pol100012010en.pdf> (“The Moscow authorities repeatedly denied requests to hold demonstrations in support of the right to freedom of assembly, and arrested and fined dozens of people who attempted to demonstrate publicly.”).

²¹ *Russian Activists Jailed over Freedom of Assembly Protest*, AMNESTY INT’L, Jan. 4, 2011, *available at* <https://web.archive.org/web/20110106092501/http://www.amnesty.org/en/news-and-updates/russian-activists-jailed-over-freedom-assembly-protest-2011-01-04>.

²² REPORT 2012: THE STATE OF THE WORLD’S HUMAN RIGHTS, AMNESTY INT’L, 2012, at 280, *available at* <https://www.amnestyusa.org/files/air12-report-english.pdf>.

²³ *Russian Businessmen Declared Prisoners of Conscience After Convictions Are Upheld*, AMNESTY INT’L, May 24, 2011, *available at* <https://web.archive.org/web/20111013071109/http://www.amnesty.org/en/for-media/press-releases/russian-businessmen-declared-prisoners-conscience-after-convictions-are-uph>.

²⁴ *Q&A: The Magnitsky Affair*, BBC NEWS, July 11, 2013, *available at* <https://www.bbc.com/news/world-europe-20626960>.

²⁵ AMNESTY INT’L REPORT 2010, *supra* 20, at 271 (“Officials accused human rights defenders and NGOs of supporting ‘extremism’ or working for foreign secret services.”).

²⁶ *See* Roman Lunkin, *Russia’s Crackdown on Jehovah’s Witnesses Hits Critical Milestone*, MOSCOW TIMES, Feb. 7, 2019, *available at* <https://www.themoscowtimes.com/2019/02/07/russias-crackdown-on-jehovahs-witnesses-hits-critical-milestone-op-ed-a64427> (“The campaign against [Jehovah’s Witnesses] has been underway since 2009, when Dmitry Medvedev was president”); Alexey Eremenko, *Jehovah’s Witnesses Labeled ‘Extremist,’ Banned by Russia’s High Court*, NBC NEWS, Apr. 20, 2017, *available at* <https://www.nbcnews.com/news/world/jehovah-s->

Upon Putin's formal return to the presidency in 2012, the Kremlin "unleashed an unprecedented crackdown"²⁷ on civil society, dissenting voices, and regime opponents, which has continued unabated for the past six years.²⁸ Key aspects of this persecution are discussed below.

A. *Repressive Laws*

Under Putin's leadership, the Kremlin has engaged in a systematic campaign of legal reform that has enabled it to more effectively target and punish its opponents. Specifically, the Government has created new crimes and offenses, broadened existing ones (at times, to the point of absurdity), and consistently increased the severity of punishments.

witnesses-labeled-extremist-banned-russia-s-high-court-n749036 ("Eight regional chapters of Jehovah's Witnesses have been banned in Russia as 'extremist' since 2009."); AMNESTY INT'L REPORT 2012, *supra* note 22, at 281 ("[S]everal followers of the Turkish theologian Said Nursi were charged with membership of the organization Nurdzhular, which is considered to be extremist and banned in Russia. Some were sentenced to imprisonment."); and AMNESTY INT'L REPORT 2011, *supra* note 20, at 272 ("A member of the Jehovah's Witnesses faced trial at the end of the year in the Gorny-Altai region on charges of inciting hatred after he distributed leaflets of his religious denomination.").

²⁷ *World Report 2013: Russia*, HUMAN RIGHTS WATCH, accessed Mar. 5, 2019, available at <https://www.hrw.org/world-report/2013/country-chapters/russia#>; see also *CONTENDING WITH PUTIN'S RUSSIA*, *supra* note 18, at 2 ("Russia moved abruptly in a more repressive direction following [Putin's] return to the presidency in May 2012.").

²⁸ *World Report 2014: Russia*, HUMAN RIGHTS WATCH, accessed Mar. 5, 2019, available at <https://www.hrw.org/world-report/2014/country-chapters/russia> ("Russian authorities continued the crackdown on civil society and government critics that began in 2012."); *World Report 2015: Russia*, HUMAN RIGHTS WATCH, accessed Mar. 5, 2019, available at <https://www.hrw.org/world-report/2015/country-chapters/russia> ("The Kremlin took another leap backward in 2014 by intensifying its crackdown on civil society, media, and the Internet . . ."); *Russia: Events of 2015*, HUMAN RIGHTS WATCH, accessed Mar. 5, 2019, available at <https://www.hrw.org/world-report/2016/country-chapters/russia> ("The Kremlin's crackdown on civil society, media, and the Internet took a more sinister turn in 2015 as the government further intensified harassment and persecution of independent critics. For the fourth year in a row, parliament adopted laws and authorities engaged in repressive practices that increasingly isolated the country."); *Russia: Events of 2016*, HUMAN RIGHTS WATCH, accessed Mar. 5, 2019, available at <https://www.hrw.org/world-report/2017/country-chapters/russia> ("The government in 2016 further tightened control over the already-shrinking space for free expression, association, and assembly and intensified persecution of independent critics. Parliament adopted laws expanding the power of law enforcement and security agencies, including to control online speech."); and *Russia: Events of 2017*, HUMAN RIGHTS WATCH, accessed Mar. 5, 2019, available at <https://www.hrw.org/world-report/2018/country-chapters/russia> ("As the March 2018 presidential election approached, the government increased its crackdown against political opposition and peaceful protesters and took new steps to stifle independent voices online. In the first six months of 2017 alone, the number of people administratively punished by Russian authorities for supposedly violating the country's regulations on public gatherings was two-and-a-half times higher than throughout 2016.").

For example, since 2012, the following offenses and crimes have been added to the Criminal Code and Code of Administrative Offenses: mass simultaneous presence in public causing a violation of public order;²⁹ criminal defamation³⁰ (decriminalized in 2011; recriminalized in 2012³¹); illegal receipt of a state secret;³² insulting the religious feelings of believers (as a criminal offense);³³ promotion of “non-traditional” sexual relations among minors;³⁴ public calls for actions violating Russia’s territorial integrity;³⁵ deliberate dissemination of false information regarding the

²⁹ Federal Law on Amendments to the Code of Administrative Offenses of the Russian Federation and Federal Law on Meetings, Rallies, Demonstrations, Processions, and Pickets, No. 65-FZ, June 8, 2012, at Art. 1(8), *available at* <http://www.consultant.ru/cons/cgi/online.cgi?rnd=8A89711331F136D65FE5ABED1A4850D1&req=doc&base=LAW&n=130936&dst=100040&fld=134&REFFIELD=134&REFDST=1000004383&REFDOC=164629&REFBASE=LAW&stat=refcode%3D19827%3Bdstident%3D100040%3Bindex%3D7838#2j79phnz3jo> (adding Administrative Code Article 20.2.2) [in Russian].

³⁰ Federal Law on Amendments to the Criminal Code of Russian Federation and Certain Legislative Acts of the Russian Federation, No. 141-FZ, July 28, 2012, at Art. 1(2), *available at* <http://www.consultant.ru/cons/cgi/online.cgi?rnd=9877EEF488A791CDE3B35CEA7A55AEB7&req=doc&base=LAW&n=133284&dst=100011&fld=134&REFFIELD=134&REFDST=1000001039&REFDOC=315095&REFBASE=LAW&stat=refcode%3D19827%3Bdstident%3D100011%3Bindex%3D1892#2oxn28a7kos> (creating Criminal Code Article 128.1) [in Russian].

³¹ Virab Khachatryan and Peter Roudik, *Russia: Defamation is Criminalized Again*, LIBRARY OF CONGRESS, Aug. 20, 2012, *available at* <http://www.loc.gov/law/foreign-news/article/russia-defamation-is-criminalized-again/>.

³² Federal Law on Amendments to the Criminal Code of the Russian Federation and to Article 151 of the Criminal Procedure Code of the Russian Federation, No. 190-FZ, Nov. 12, 2012, at Art. 1(5), *available at*

<http://www.consultant.ru/cons/cgi/online.cgi?rnd=9877EEF488A791CDE3B35CEA7A55AEB7&req=doc&base=LAW&n=137651&dst=100015&fld=134&REFFIELD=134&REFDST=1000003175&REFDOC=315095&REFBASE=LAW&stat=refcode%3D19827%3Bdstident%3D100015%3Bindex%3D5836#2atswn99zwc> (adding Criminal Code Article 283.1) [in Russian].

³³ Federal Law on Amendments to Article 148 of the Criminal Code of the Russian Federation and Certain Legislative Acts of the Russian Federation in Order to Counteract the Insult of Religious Belief and Feelings of Citizens, No. 136-FZ, June 29, 2013, at Art. 1, *available at* <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=148270&fld=134&dst=100008,0&rnd=0.4935200439881231#015731393573100116> (amending Criminal Code Article 148) [in Russian].

³⁴ Federal Law on Amendments to Article 5 of the Federal Law on Protecting Children from Information Harmful to Their Health and Development and Certain Legislative Acts of the Russian Federation in Order to Protect Children from Information that Promotes Denial of Traditional Family Values, No. 135-FZ, June 29, 2013, at Art. 3(2)(b), *available at* <http://www.consultant.ru/cons/cgi/online.cgi?rnd=8A89711331F136D65FE5ABED1A4850D1&req=doc&base=LAW&n=148269&dst=100019&fld=134&REFFIELD=134&REFDST=1000001167&REFDOC=317659&REFBASE=LAW&stat=refcode%3D19827%3Bdstident%3D100019%3Bindex%3D1797#1q8rx11riw0> (adding Administrative Code Article 6.21) [in Russian].

³⁵ Federal Law on Amending the Criminal Code of the Russian Federation, No. 433-FZ, Dec. 28, 2013, at Art. 1, *available at* <http://www.consultant.ru/cons/cgi/online.cgi?rnd=9877EEF488A791CDE3B35CEA7A55AEB7&req=doc&base=LAW&n=156577&dst=100009&fld=134&REFFIELD=134&REFDST=100000310>

USSR's activities during World War II;³⁶ public desecration of the symbols of Russia's military glory;³⁷ spreading information about Russia's military or memorial commemorative dates that is "disrespectful of society";³⁸ recruiting someone for an extremist community;³⁹ training a person for mass riot;⁴⁰ financing an extremist community;⁴¹ repeated violation of the procedures for holding public events;⁴² recruiting a person for mass riot;⁴³

4&REFDOC=315095&REFBASE=LAW&stat=refcode%3D19827%3Bdstident%3D100009%3Bindex%3D5719#1n1cxaztd8 (creating Criminal Code Article 280.1) [in Russian].

³⁶ Federal Law on Amendments to Separate Legislative Acts of the Russian Federation, No. 128-FZ, May 5, 2014, at Art. 1, *available at* <http://www.consultant.ru/cons/cgi/online.cgi?rnd=9877EEF488A791CDE3B35CEA7A55AEB7&req=doc&base=LAW&n=162575&dst=100009&fld=134&REFFIELD=134&REFDST=1000003770&REFDOC=315095&REFBASE=LAW&stat=refcode%3D19827%3Bdstident%3D100009%3Bindex%3D6980#3kv18js2bz> (adding Criminal Code Article 354.1) [in Russian].

³⁷ *Id.*

³⁸ *Id.*

³⁹ Federal Law on Amendments to Certain Legislative Acts of the Russian Federation, No. 130-FZ, May 5, 2014, at Art. 2(17)(b), *available at*

<http://www.consultant.ru/cons/cgi/online.cgi?rnd=9877EEF488A791CDE3B35CEA7A55AEB7&req=doc&base=LAW&n=201257&dst=100064&fld=134&REFFIELD=134&REFDST=1000003132&REFDOC=315095&REFBASE=LAW&stat=refcode%3D19827%3Bdstident%3D100064%3Bindex%3D5771#1uygyh27znj> (adding Criminal Code Article 282.1(1.1)) [in Russian].

⁴⁰ *Id.*, at Art. 2(16)(b) (adding Criminal Code Article 212(4)).

⁴¹ Law on Amendments to Certain Legislative Acts of the Russian Federation, No. 179-FZ, June 28, 2014, at Art. 1(6), *available at*

<http://www.consultant.ru/cons/cgi/online.cgi?rnd=9877EEF488A791CDE3B35CEA7A55AEB7&req=doc&base=LAW&n=165926&dst=100013&fld=134&REFFIELD=134&REFDST=1000003098&REFDOC=315095&REFBASE=LAW&stat=refcode%3D19827%3Bdstident%3D100013%3Bindex%3D5712#6jzficknz9> (adding Criminal Code Article 282.3) [in Russian].

⁴² Federal Law on Amendments to Certain Legislative Acts on the Russian Federation Regarding the Improvement of Legislation on Public Events, No. 258-FZ, July 21, 2014, at Art. 1, *available at* <http://www.consultant.ru/cons/cgi/online.cgi?rnd=994403E1D3DAB0FB02972D40937F0FBD&req=doc&base=LAW&n=165926&dst=100009&fld=134&REFFIELD=134&REFDST=1000002246&REFDOC=315095&REFBASE=LAW&stat=refcode%3D19827%3Bdstident%3D100009%3Bindex%3D4132#1eq1ff2w7me> (adding Criminal Code Article 212.1) [in Russian].

⁴³ Federal Law on Amendments to the Criminal Code of the Russian Federation and the Criminal Procedure Code of the Russian Federation Regarding the Establishment of Additional Measures to Counter Terrorism and Ensure Public Safety, No. 375-FZ, July 6, 2016, at Art. 1(21), *available at* <http://www.consultant.ru/cons/cgi/online.cgi?rnd=994403E1D3DAB0FB02972D40937F0FBD&req=doc&base=LAW&n=201087&dst=100088&fld=134&REFFIELD=134&REFDST=1000003167&REFDOC=315095&REFBASE=LAW&stat=refcode%3D19827%3Bdstident%3D100088%3Bindex%3D5823#1mx7gcdp6r0> (adding Criminal Code Article 212 (1.1)) [in Russian].

illegal missionary activities;⁴⁴ dissemination of inaccurate information;⁴⁵ and disrespecting society, the state, state bodies, official state symbols, or the Constitution.⁴⁶

Two laws deserve a more detailed discussion. First, in July 2012, the now-famous Foreign Agent Law came into effect; it requires organizations to register as “foreign agents” with the Ministry of Justice if they receive any foreign funding and engage in broadly-defined “political activity.”⁴⁷ It also created the new criminal offense of “malicious” failure to comply with the law’s requirements.⁴⁸ Subsequent amendments gave the Ministry of Justice the authority to unilaterally designate organizations as “foreign agents” without their consent,⁴⁹ and expanded the definition of “political activity” so that “almost any advocacy or research activity by an independent group constitutes political activity if it is aimed at somehow influencing the government or public opinion,” including “legal or policy analysis, monitoring the work of government institutions, public opinion

⁴⁴ Federal Law on Amendments to the Federal Law on Countering Terrorism and Certain Legislative Acts of the Russian Federation in Terms of Establishing Additional Measures to Counter Terrorism and Ensure Public Safety, No. 374-FZ, July 6, 2016, at Art. 11(1)(b), *available at*

<http://www.consultant.ru/cons/cgi/online.cgi?rnd=8A89711331F136D65FE5ABED1A4850D1&req=doc&base=LAW&n=201078&dst=100135&fld=134&REFFIELD=134&REFDST=1000000749&REFDOC=317659&REFBASE=LAW&stat=refcode%3D19827%3Bdstident%3D100135%3Bindex%3D1104#2toctnfv6y> (adding Administrative Code Article 5.26(4)) [in Russian].

⁴⁵ Federal Law on Amendments to the Code of Administrative Offenses of the Russian Federation, No. 27-FZ, Mar. 18, 2019, at Art. 1(4)(a), *available at*

<http://www.consultant.ru/cons/cgi/online.cgi?req=doc&cacheid=1049D664E20D94C90DD862A967DC9C10&mode=backrefs&div=LAW&opt=1&SORTTYPE=0&BASENODE=1-1&ts=386015530129186609&base=LAW&n=320399&rnd=B8C57F567712671E0A3EC72F870CB4B4#1ff6xp6aiz0> (adding Administrative Code Article 13.15(9)–(11)).

⁴⁶ Federal Law on Amendments to the Code of Administrative Offenses of the Russian Federation, No. 28-FZ, Mar. 18, 2019, *available at*

<http://www.consultant.ru/cons/cgi/online.cgi?req=doc&cacheid=1049D664E20D94C90DD862A967DC9C10&mode=backrefs&div=LAW&opt=1&SORTTYPE=0&BASENODE=1-1&ts=386015530129186609&base=LAW&n=320403&rnd=B8C57F567712671E0A3EC72F870CB4B4#bqsq1wnn660> (adding Administrative Code Article 20.1(3)–(5)).

⁴⁷ Federal Law on Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of the Activities of Non-Commercial Organizations Acting as a Foreign Agent, No. 121-FZ, July 20, 2012, *available at*

<http://www.consultant.ru/cons/cgi/online.cgi?rnd=8A89711331F136D65FE5ABED1A4850D1&req=doc&base=LAW&n=163972&dst=100086&fld=134&REFFIELD=134&REFDST=1000003661&REFDOC=315095&REFBASE=LAW&stat=refcode%3D19827%3Bdstident%3D100086%3Bindex%3D6724#2b4som1orb5> [in Russian].

⁴⁸ *Id.*, at Art. 3(2) (adding Criminal Code Article 330.1).

⁴⁹ *Russia: Government vs. Rights Groups*, HUMAN RIGHTS WATCH, June 18, 2018, *available at* <https://www.hrw.org/russia-government-against-rights-groups-battle-chronicle>.

surveys, research, and petitioning government officials.”⁵⁰ Second, the 2015 Undesirable Organizations Law allows the Prosecutor General to designate a foreign or international NGO as “undesirable” and ban its activities if it poses a threat to Russia’s defense, security, or constitutional system⁵¹ (a standard that an expert with Human Rights Watch called “deliberately vague”⁵²). This law also created the new administrative offense of involvement in the activities of an undesirable organization, and a new criminal offense for repeated involvement with such organizations.⁵³

In addition to creating new crimes and offenses, the Government has also expanded the scope of existing ones. For example, in 2012, the definition of “treason” was significantly expanded⁵⁴ – so much so that, according to one Russian organization, it now applies “to anyone who helps a foreigner”⁵⁵ – and in 2014, the definition of “terrorism” was broadened.⁵⁶ Also in 2014, two offenses commonly used to punish anti-government speech – public calls for extremist activity and actions inciting hatred or enmity – were amended to explicitly apply to internet posts.⁵⁷

Finally, both administrative and criminal punishments have been increased, in some cases quite significantly. When defamation was recriminalized in 2012, offenses that were previously punishable with an

⁵⁰ *Russia: Sham Upgrade for ‘Foreign Agents’ Law*, HUMAN RIGHTS WATCH, May 27, 2016, available at <https://www.hrw.org/news/2016/05/27/russia-sham-upgrade-foreign-agents-law>.

⁵¹ Federal Law on Amendments to Certain Legislative Acts of the Russian Federation, No. 129-FZ, May 23, 2015, at Art. 5(2), available at <http://www.consultant.ru/cons/cgi/online.cgi?rnd=8A89711331F136D65FE5ABED1A4850D1&req=doc&base=LAW&n=179979&dst=100009&fld=134&REFFIELD=134&REFDST=1000003187&REFDOC=315095&REFBASE=LAW&stat=refcode%3D19827%3Bdstident%3D100009%3Bindex%3D5863#146chx1176k> [in Russian].

⁵² *Russia: Punished Over Hyperlinks*, HUMAN RIGHTS WATCH, Nov. 30, 2017, available at <https://www.hrw.org/news/2017/11/30/russia-punished-over-hyperlinks>.

⁵³ Federal Law No. 129-FZ, *supra* note 51, at Arts. 1 (adding Criminal Code Article 284.1), 4(2) (adding Administrative Code Article 20.33).

⁵⁴ Federal Law 190-FZ, *supra* note 32, at Art. 1(2) (amending Criminal Code Article 275).

⁵⁵ THE HISTORY OF HIGH TREASON, ESPIONAGE AND STATE SECRET IN TODAY’S RUSSIA, TEAM 29, 2018, at 6, available at <https://spy.team29.org/report.pdf>.

⁵⁶ Federal Law No. 130-FZ, *supra* note 39, at Art. 2(9) (amending Criminal Code Article 205(1)).

⁵⁷ Federal Law No. 179-FZ, *supra* note 41, at Art. 1(2) (amending Criminal Code Article 280), (3) (amending Criminal Code Article 282).

administrative fine of up to 2,000 rubles⁵⁸ (US \$30⁵⁹) could now be punished with a criminal fine of up to 500,000 rubles (US \$7,692)⁶⁰ – an extraordinary amount given that the per capita, average monthly income at that time was about 20,702 rubles⁶¹ (US \$318). Similarly, in 2013, insulting religious feelings was changed from an administrative offense with a maximum fine of 1,000 rubles⁶² (US \$15) to a criminal offense punishable by up to three years' imprisonment (if committed in a place of religious worship).⁶³ A February 2014 law increased the penalty for several offenses – public calls for extremist activities, incitement to hatred or enmity, and creating or participating in an extremist community⁶⁴ – and in some cases, the maximum prison term was doubled.⁶⁵ The punishment for mass riot was also increased from four to 10 years in prison to eight to 15 years.⁶⁶ The Code of Administrative Offenses was also amended to allow for administrative arrest (in some cases, up to 20 days) as a punishment for offenses where no form of detention was previously allowed.⁶⁷

⁵⁸ CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, Dec. 30, 2001 (as amended on August 3, 2012), at Art. 5.60(1), *available at* <http://www.consultant.ru/cons/cgi/online.cgi?rnd=8A89711331F136D65FE5ABED1A4850D1&req=doc&base=LAW&n=131375&dst=3274&fld=134&REFFIELD=134&REFDST=100039&REFDOC=133284&REFBASE=LAW&stat=refcode%3D10677%3Bdstident%3D3274%3Bindex%3D61#igypcsmz1> [in Russian].

⁵⁹ All conversions assume an exchange rate of \$1 = 65 rubles.

⁶⁰ Federal Law No. 141-FZ, *supra* note 30, at Art. 1(2).

⁶¹ RUSSIA 2012 STATISTICAL POCKETBOOK, FEDERAL STATE STATISTICS SERVICE, 2012, at 11, *available at* http://www.gks.ru/free_doc/doc_2012/rus-eng12.pdf.

⁶² CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, Dec. 30, 2001 (as amended on June 29, 2013), at Art. 5.26(2), *available at* <http://www.consultant.ru/cons/cgi/online.cgi?rnd=DE40DC74D924EC262A131D793676EB28&req=doc&base=LAW&n=148345&dst=100261&fld=134&REFFIELD=134&REFDST=100024&REFDOC=148270&REFBASE=LAW&stat=refcode%3D10677%3Bdstident%3D100261%3Bindex%3D43#2q83cj5gz6w> [in Russian].

⁶³ Federal Law No. 136-FZ, *supra* note 33, at Art. 1 (amending Criminal Code Article 148) [in Russian].

⁶⁴ Federal Law on Amendments to the Criminal Code of the Russian Federation and Article 31 of the Criminal Procedure Code of the Russian Federation, No. 5-FZ, Feb. 3, 2014, at Art. 1, *available at* <http://www.consultant.ru/cons/cgi/online.cgi?rnd=9877EEF488A791CDE3B35CEA7A55AEB7&req=doc&base=LAW&n=158406&dst=100010&fld=134&REFFIELD=134&REFDST=1000003096&REFDOC=315095&REFBASE=LAW&stat=refcode%3D19827%3Bdstident%3D100010%3Bindex%3D5709#rmxna1hhju> (amending Criminal Code Articles 280, 282, 282.1, and 282.2) [in Russian].

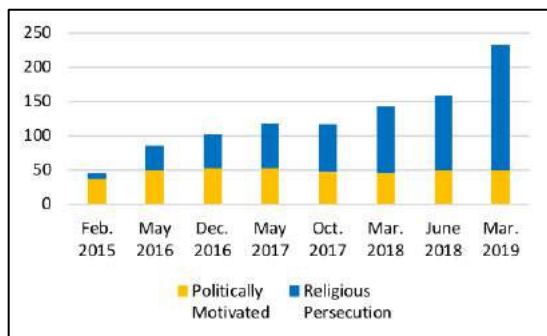
⁶⁵ *Id.*, at Art. 1(4)(b) (increasing the maximum prison time under Criminal Code Article 282.2(2) – participating in the activities of an extremist organization – from two years to four years).

⁶⁶ Federal Law No. 130-FZ, *supra* note 39, at Art. 2(16)(a) (amending Criminal Code Article 212(1)).

⁶⁷ Federal Law No. 258-FZ, *supra* note 42, at Art. 3(4)(a) (amending Administrative Code Article 20.2(2) to allow for administrative arrest up to 10 days), (4)(b) (amending Administrative Code Article 20.2(3) to allow for administrative arrest up to 15 days), (4)(c) (amending Administrative

B. Increasing Persecution

The trend over the past several years is clear – the Kremlin is detaining an increasing number of political prisoners, and they are receiving increasingly harsh sentences. In the past four years alone, the number of documented political prisoners⁶⁸ has increased by approximately 400%:



Source: Political prisoner lists by Memorial Human Rights Centre.

As this table indicates, there has been a dramatic increase in religious persecution, with Jehovah's Witnesses and members of certain Muslim groups particularly at risk.

At the same time, there has been a steady increase in the average length of the criminal sentences imposed on political prisoners:

Code Article 20.2(4) to allow for administrative arrest up to 20 days), (4)(d) (amending Administrative Code Article 20.2(6) to allow for administrative arrest up to 15 days), (5)(a) (amending Administrative Code Article 20.2.2(1) to allow for administrative arrest up to 15 days), (5)(b) (amending Administrative Code Article 20.2.2(2) to allow for administrative arrest up to 20 days).

⁶⁸ As discussed in more detail in Section III ("Process for Identifying Political Prisoners"), Memorial HRC's lists of political prisoners are necessarily incomplete. However, as Memorial HRC has explained, the lists are nonetheless useful for identifying overall trends, such as increases in overall numbers. See SERGEI DAVIDIS, RUSSIAN POLITICAL PRISONERS IN THE YEAR OF 2018: THE SITUATION AND ITS TRENDS, at 2, available at <https://www.osce.org/odihr/397598?download=true> ("Most likely the total number of political prisoners exceeds the lists . . . by 2–3 times. Nevertheless, these lists provide us with an opportunity of getting an idea about what the situation is like, its trends and the changes happening within it. . . . In the recent years we have observed that the number of political prisoners has been steadily on the rise.").

*The Average Imprisonment Sentence
in Political Prisoner Cases (Years)*

	Politically Motivated	Religious Persecution
2016	5.3	6.6
2017	6.2	8.6
2018	6.8	9.1

Source: SERGEI DAVIDIS, RUSSIAN POLITICAL PRISONERS IN THE YEAR OF 2018: THE SITUATION AND ITS TRENDS.⁶⁹

Of course, some political prisoners receive much longer sentences – for example, Alexey Pichugin (life imprisonment),⁷⁰ Rinat Nurlygayanov (24 years),⁷¹ and Oleg Sentsov (20 years).⁷²

C. A Controlled Judiciary

It is widely recognized that Russia’s judiciary “lacks independence from the executive branch.”⁷³ This has particularly serious implications for political prisoners, whose prosecutions are driven by the executive. As political scientist Maria Popova has explained, “Russia’s politically pliable judiciary is an effective instrument for suppressing political opposition. The Kremlin has already used it to threaten, jail, or force into exile numerous political opponents: from credible competitors to far-fetched ones, from declared oppositionists to potential ones, from dissidents with high name recognition to the regular citizen protester.”⁷⁴ In high profile cases, “legal outcomes . . . are entirely predictable if one knows the preferences of the political sovereign: the Kremlin always wins.”⁷⁵ But even if the Kremlin’s preference is unclear in a given case, “lower-level

⁶⁹ Available at <https://www.osce.org/odihr/397598?download=true>.

⁷⁰ Pichugin Alexey Vladimirovich, MEMORIAL HUMAN RIGHTS CTR., accessed Mar. 5, 2019, available at <https://memohrc.org/ru/defendants/pichugin-aleksey-vladimirovich> [in Russian].

⁷¹ *Ufa Case of Twenty-Six*, MEMORIAL HUMAN RIGHTS CTR., accessed Mar. 5, 2019, available at <https://memohrc.org/ru/special-projects/ufimskoe-delo-dvadcati-shesti> [in Russian].

⁷² *Sentsov Oleg G.*, MEMORIAL HUMAN RIGHTS CTR., accessed Mar. 5, 2019, available at <https://memohrc.org/ru/defendants/sencov-oleg-gennadevich> [in Russian].

⁷³ *Freedom in the World 2018: Russia*, FREEDOM HOUSE, accessed Mar. 6, 2019, available at <https://freedomhouse.org/report/freedom-world/2018/russia>; see also Olga Romanova, *The Problem With the Russian Judiciary*, CARNEGIE MOSCOW CENTER, Jan. 22, 2018, available at <https://carnegie.ru/commentary/75316> and Nils Miužnieks, Thomas Hammarberg and Álvaro Gil-Robles, *As Long As the Judicial System of the Russian Federation Does Not Become More Independent, Doubts About Its Effectiveness Remain*, KOMMERSANT, Feb. 25, 2016, available at <https://www.coe.int/en/web/commissioner/-/as-long-as-the-judicial-system-of-the-russian-federation-does-not-become-more-independent-doubts-about-its-effectiveness-remain>.

⁷⁴ Maria Popova, *Putin-Style “Rule of Law” & the Prospects for Change*, 146(2) DAEDALUS 64, 69 (2017), available at https://www.mitpressjournals.org/doi/pdf/10.1162/DAED_a_00435.

⁷⁵ *Id.*, at 68.

political actors, the prosecution, and judges try to guess the politically correct outcome.”⁷⁶ Political influence on the judiciary is facilitated through both the hiring process – the President nominates judges to the highest courts and appoints other federal judges⁷⁷ – and the promotion process, as career advancement within the judiciary “is effectively tied to compliance with Kremlin preferences,”⁷⁸ and several judges have been dismissed for not following the prosecution’s instructions.⁷⁹

D. Lack of Due Process

Criminal defendants in Russia (and Russia-occupied Crimea) – especially those who oppose or are perceived as threatening to the authorities – are not afforded basic due process protections.⁸⁰ For example, the “presumption of innocence is not consistently respected in practice,” the defense is not given equal access to case materials, and defense lawyers “sometimes face insurmountable difficulties” in representing their clients.⁸¹ Moreover, “judges order pretrial detention as a rule rather than an exception,” and in some cases, an accused is held in pretrial detention longer than the maximum sentence they might receive if convicted.⁸² Russia also has an extraordinarily low acquittal rate – according to government statistics, it was 0.3% in 2017.⁸³

⁷⁶ *Id.*

⁷⁷ *Overview of the Judicial System of the Russian Federation*, SUPREME COURT OF THE RUSSIAN FEDERATION, accessed Mar. 12, 2019, available at http://www.supcourt.ru/en/judicial_system/overview/.

⁷⁸ *Freedom in the World 2018: Russia*, *supra* note 73.

⁷⁹ Gabriela Knaul, REPORT OF THE SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS, U.N. Doc. A/HRC/26/32/Add.1, Apr. 30, 2014, at ¶ 68, available at <https://undocs.org/A/HRC/26/32/Add.1>.

⁸⁰ *Freedom in the World 2018: Russia*, *supra* note 73 (“[A]ccess to due process is not guaranteed, particularly for those who oppose or are perceived as threatening to authorities.”).

⁸¹ REPORT OF THE SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS, *supra* note 79, at ¶¶ 45, 47, 79.

⁸² *Id.*, at ¶¶ 41–42.

⁸³ *Russian Courts Acquit 0.3% of People at Trials in 2017*, MOSCOW TIMES, Feb. 21, 2018, available at <https://www.themoscowtimes.com/2018/02/21/russian-courts-acquit-03-people-trials-2017-a60592>.

E. *Mistreatment of Detainees*

Abuse of detainees by government officials is “widespread and systematic,”⁸⁴ including for the purpose of extracting confessions.⁸⁵ In August 2018, *Meduza* reported 56 documented cases of torture up to that point in that year alone.⁸⁶ These included beatings, electric shock, rape, suffocation, stress positions, waterboarding, and deprivation of food, water, sleep, and access to a bathroom.⁸⁷ In six cases, the victims died (either from torture or suicide).⁸⁸ While valuable, such reporting is almost certainly not exhaustive – victims are afraid to report mistreatment, and even when they do, authorities often refuse to open a criminal investigation.⁸⁹ As a result, perpetrators are rarely held accountable: for example, while the FSB is one of the worst perpetrators of torture,⁹⁰ reporters did not find a single sentence imposed on an FSB officer for torture from 2011 to 2017.⁹¹ More generally, even where perpetrators are found to have mistreated a detainee, they often

⁸⁴ REPORT 2016/2017: THE STATE OF THE WORLD’S HUMAN RIGHTS, AMNESTY INT’L, 2017, at 308, available at <https://www.amnesty.org/download/Documents/POL1048002017ENGLISH.PDF>; see also RUSSIA 2017 HUMAN RIGHTS REPORT, U.S. DEP’T OF STATE, Apr. 20, 2018, at 8, available at <https://www.state.gov/documents/organization/277455.pdf> (“Physical abuse by prison guards was systemic.”).

⁸⁵ *Concluding Observations on the Sixth Periodic Report of the Russian Federation*, U.N. COMMITTEE AGAINST TORTURE, U.N. Doc. CAT/C/RUS/CO/6, Aug. 28, 2018, at ¶ 12, available at <https://undocs.org/CAT/C/RUS/CO/6> (“The Committee is deeply concerned at numerous reliable reports of the practice of torture and ill-treatment in the State party, including as a means to extract confessions . . .”) and *Concluding Observations on the Seventh Periodic Report of the Russian Federation*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/RUS/CO/7, Apr. 28, 2015, at ¶ 14, available at <https://undocs.org/CCPR/C/RUS/CO/7> (“[T]he Committee remains concerned about reports that torture and ill-treatment, including for the purpose of eliciting confessions, are still widely practised . . .”).

⁸⁶ *Here Are all the Reported Torture Cases in Russia’s Prison System, So Far This Year*, MEDUZA, Aug. 18, 2018, available at <https://meduza.io/en/feature/2018/08/18/here-are-all-the-reported-torture-cases-in-russia-s-prison-system-so-far-this-year>.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.* (“[I]t’s impossible to say how many people are tortured in Russia – there are no reliable statistics here. Victims are afraid to come forward, and the authorities often refuse to open criminal investigations, even when people speak up.”); Alesya Marokhovskaya & Irina Dolinina, *The Low Price of Torture in Russia*, OCCRP, Oct. 9, 2018, available at <https://www.occrp.org/en/investigations/8715-the-low-price-of-torture-in-russia>; and *Concluding Observations on the Sixth Periodic Report*, *supra* note 85, at ¶ 14 (“[T]he Committee remains concerned at consistent and numerous reports indicating the lack of prompt, impartial and effective investigation into allegations of torture or ill-treatment . . .”).

⁹⁰ *Here Are all the Reported Torture Cases*, *supra* note 86 (“[M]any of the most shocking cases have involved agents in the Federal Security Service.”).

⁹¹ *The Low Price of Torture in Russia*, *supra* note 89 (“One group that is not complained about much are the various branches of Russian intelligence. The data show no sentences handed out to FSB officers at all.”).

avoid any real punishment, instead receiving a suspended sentence or a temporary ban on holding certain positions.⁹²

The torture of detainees by Russian authorities received worldwide condemnation in July 2018, when *Novaya Gazeta* published leaked bodycam footage of an inmate being tortured by guards in a prison colony.⁹³ The video showed the guards beating the inmate until he passed out; he was then reanimated with a bucket of cold water and the torture continued.⁹⁴ When the beatings initially occurred, the authorities refused to investigate – the inspector who reviewed the video said he “did not see any abuses of authority.”⁹⁵ However, after the video was publicly released, 17 prison staff were suspended and eight were arrested on criminal charges.⁹⁶ After the video’s release, the inmate’s lawyer received death threats and fled Russia⁹⁷ – though authorities claimed they did not know why she left.⁹⁸

F. Harsh Prison Conditions

Conditions in Russian prisons and detention centers are “often harsh and life threatening.”⁹⁹ Overcrowding, limited access to health care, food shortages, and inadequate sanitation are common problems.¹⁰⁰ Potable water is, at times, rationed.¹⁰¹ Inmates are not given adequate clothing despite sub-freezing temperatures,¹⁰² and violence between inmates

⁹² *Id.*

⁹³ *Is Russia Generally Being Tried for Torture? Often? What Time Frame Do These People Get?*, MEDUZA, July 26, 2018, available at <https://meduza.io/cards/v-rossii-voobsche-sudyat-za-pytki-chasto-kakie-sroki-poluchayut-eti-lyudi> [in Russian] and *6 Arrested in Wake of Leaked Russian Prison Torture Video*, MOSCOW TIMES, July 23, 2018, available at <https://www.themoscowtimes.com/2018/07/23/6-arrested-wake-leaked-russian-prison-torture-video-a62321>.

⁹⁴ Patrick Reeve, *Outcry in Russia Over Video of Brutal Prison Torture*, ABC NEWS, Aug. 1, 2018, available at <https://abcnews.go.com/International/outcry-russia-video-brutal-prison-torture/story?id=56912794>.

⁹⁵ *Video Leaks Showing Russian Prison Guards Torturing an Inmate in Yaroslavl*, MEDUZA, July 20, 2018, available at <https://meduza.io/en/feature/2018/07/20/video-leaks-showing-russian-prison-guards-torturing-an-inmate-in-yaroslavl>.

⁹⁶ *Outcry in Russia Over Video of Brutal Prison Torture*, *supra* note 94.

⁹⁷ *Id.*

⁹⁸ *Committee Against Torture Examines Russian Federation’s Report*, U.N. HIGH COMM’R FOR HUMAN RIGHTS, July 26, 2018, available at <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23412&LangID=E>.

⁹⁹ RUSSIA 2017 HUMAN RIGHTS REPORT, *supra* note 84, at 7.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*, at 8.

¹⁰² *Inmates In Russia’s Far East Launch Hunger Strike To Protest Prison Conditions*, RADIO FREE EUROPE / RADIO LIBERTY, Dec. 7, 2018, available at <https://www.rferl.org/a/inmates-russia-far-east-hunger-strike-protest-prison-conditions/29642987.html>.

frequently goes unpunished, and is sometimes even encouraged by the authorities.¹⁰³ In a widely circulated 2013 letter written during her detention in a penal colony, Pussy Riot member Nadezhda Tolokonnikova detailed forced labor up 17 hours a day, beatings, and denial of food and water as punishment.¹⁰⁴ Given these poor conditions, an extended sentence in a Russian prison can be a *de facto* death sentence; the mortality rate in Russian penal institutions is twice the average among Council of Europe member states.¹⁰⁵

Conditions can be especially difficult during transport to remote detention centers. “Convicted prisoners are packed into tiny spaces on trains with no ventilation, no natural light, little water, and infrequent access to toilets.”¹⁰⁶ Moreover, transport can last weeks at a time.¹⁰⁷

¹⁰³ RUSSIA 2017 HUMAN RIGHTS REPORT, *supra* note 84, at 8.

¹⁰⁴ *Jailed Pussy Riot Member Starts Hunger Strike In Russia*, RADIO FREE EUROPE / RADIO LIBERTY, Sept. 23, 2013, available at <https://www.rferl.org/a/russia-pussy-riot-hunger-strike/25114546.html>.

¹⁰⁵ ANNUAL PENAL STATISTICS SPACE I – PRISON POPULATIONS SURVEY 2015, COUNCIL OF EUROPE, updated Apr. 25, 2017, at 114–15 tbl. 13, available at http://wp.unil.ch/space/files/2017/04/SPACE_I_2015_FinalReport_161215_REV170425.pdf (inmate mortality rate in Russia is 61.1 per 10,000; the mean is 31, and the median is 27.2).

¹⁰⁶ *Russia: Prisoner Transport Conditions Evoke GULAG Era Legacy*, AMNESTY INT’L, Oct. 25, 2017, available at <https://www.amnesty.org/en/latest/news/2017/10/russia-prisoner-transport-conditions-evoke-gulag-era-legacy/> (quoting Denis Krivosheev, Deputy Director for Europe and Central Asia at Amnesty International); see generally PRISONER TRANSPORTATION IN RUSSIA: TRAVELLING INTO THE UNKNOWN, AMNESTY INT’L, 2017, available at <https://www.amnesty.org/download/Documents/EUR4668782017ENGLISH.PDF>.

¹⁰⁷ *Id.*

III. PROCESS FOR IDENTIFYING POLITICAL PRISONERS

There is no universally-accepted definition of the term “political prisoner.”¹ In fact, even the term itself is disputed, with some human rights organizations avoiding it due to its perceived lack of objectivity.² In an attempt to address this ambiguity, the Parliamentary Assembly of the Council of Europe (PACE) adopted a specific definition in a 2012 resolution based on earlier work by independent experts regarding political prisoners in Armenia and Azerbaijan.³ Memorial Human Rights Centre (Memorial HRC), one of Russia’s oldest and largest human rights organizations,⁴ subsequently promulgated a more detailed definition with explanatory guidelines that “further develop and refine” the criteria in the PACE Resolution.⁵ This definition and its guidelines were developed in collaboration with human rights defenders in Azerbaijan, Belarus, Georgia, Lithuania, Poland, Russia, and Ukraine.⁶

According to Memorial HRC, an individual is a political prisoner if he or she is deprived of liberty and at least one of the following applies:⁷

- (1) the person is deprived of liberty solely because of their political, religious, or other convictions;
- (2) the person is deprived of liberty in connection with the non-violent exercise of their rights and freedoms under the International Covenant on Civil and Political Rights (ICCPR) or European Convention on Human Rights;
- (3) the deprivation of liberty was applied solely because of non-violent activities aimed at protecting human rights and fundamental freedoms; or

¹ *Explainer: What Defines A Political Prisoner?*, RADIO FREE EUROPE / RADIO LIBERTY, Jan. 23, 2013, available at <https://www.rferl.org/a/explainer-political-prisoners/24881810.html> (“There is no single standard for what makes a political prisoner, however, and international bodies and state governments are not always in agreement.”).

² *Id.*

³ *Resolution No. 1900 on the Definition of Political Prisoner*, PARL. ASSEMBLY OF THE COUNCIL OF EUROPE, adopted Oct. 3, 2012, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=19150&lang=en>.

⁴ “*One of the Largest Challenges for Us is of Course The Foreign Agent Law*,” CIVIL RIGHTS DEFENDERS, Apr. 23, 2018, available at <https://crd.org/2018/04/23/one-of-the-largest-challenges-for-us-is-of-course-the-foreign-agent-law/>.

⁵ *Guide to the Definition of “Political Prisoner,”* MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 25, 2019, available at <https://memohrc.org/ru/specials/rukovodstvo-po-opredeleniyu-ponyatiya-politicheskoy-zaklyuchenny-0> [in Russian].

⁶ *Id.*

⁷ *Id.*

(4) there are political motives for the prosecution and (a) there was a violation of the right to a fair trial or other rights and freedoms enshrined in the ICCPR or European Convention on Human Rights; (b) the deprivation of liberty was based on falsified evidence; (c) the duration or conditions of the deprivation of liberty are clearly disproportionate to the offense; or (d) the person was deprived of freedom selectively in comparison with others.

However, even if a person qualifies under this definition, Memorial HRC will not recognize an individual as a political prisoner if the individual (1) committed a violent offense against another, except in cases of necessary defense or extreme necessity, (2) committed a crime against an individual or property motivated by hatred, or (3) has called for violent acts on the basis of nationality, ethnicity, race, religion, or other grounds.⁸

As of March 25, 2019, there were 236 political prisoners on Memorial HRC's list, which included 182 imprisoned for their religion and 54 imprisoned on political grounds.⁹ The complete list is provided in Appendix 1.

As Memorial HRC itself acknowledges, its list of political prisoners is incomplete.¹⁰ The need to thoroughly vet each case prevents immediate recognition of potentially deserving candidates, and this is especially difficult where case documents are classified (*e.g.*, in treason and espionage cases).¹¹ In addition, although persons detained pursuant to administrative convictions can technically qualify as political prisoners, in practice Memorial HRC does not include these persons on their list because the sheer number of people under administrative arrest and their short period of detention makes it difficult to fully review each case in a timely manner.¹²

⁸ *Id.*

⁹ *Current List of Political Prisoners*, MEMORIAL HUMAN RIGHTS CTR., accessed Mar. 25, 2019, available at <https://memohrc.org/ru/pzk-list> [in Russian].

¹⁰ *Id.* ("Our list of political prisoners is not complete.").

¹¹ *Id.* ("We strive to ensure that our position of recognition of a prisoner to political prisoners is convincingly substantiated and as objective as possible. In this regard, the study of any case of deprivation of liberty, in which there is probably a political motive, requires documents and a certain time. The collection of materials on the case in itself often takes a lot of time, especially in cases where the investigation and the court are classified.").

¹² Email from Memorial HRC Representative to Perseus Strategies, Jan. 2, 2019 (on file with author).

As a result, Memorial HRC estimates that the actual number of political prisoners held by the Kremlin is two to three times the number in its list.¹³

This report relies on Memorial HRC's list as the authoritative list of the Kremlin's political prisoners for several reasons. First, each case is thoroughly vetted by a universally respected Russian human rights organization, which allows for broad acceptance. Second, the list uses a clear and narrow definition of "political prisoner." And third, this list is used and cited by a wide array of organizations, governments, and bodies, including the European Parliament,¹⁴ US State Department,¹⁵ US Helsinki Commission,¹⁶ UK Foreign and Commonwealth Office,¹⁷ and Norwegian

¹³ SERGEI DAVIDIS, RUSSIAN POLITICAL PRISONERS IN THE YEAR OF 2018: THE SITUATION AND ITS TRENDS, at 2, *available at* <https://www.osce.org/odihr/397598?download=true> ("Most likely the total number of political prisoners exceeds the lists of those who are kept on the records at the Memorial Human Rights Advocacy Center by 2–3 times.").

¹⁴ *Resolution on Russia, Notably the Case of Ukrainian Political Prisoner Oleg Sentsov*, EUR. PARL., adopted June 14, 2018, *available at* <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2018-0259&language=EN&ring=P8-RC-2018-0288> ("[W]hereas the number of political prisoners in Russia has increased significantly in recent years; whereas the Human Rights Centre Memorial . . . published a list on 29 May 2018 with the names of 158 political prisoners . . .").

¹⁵ RUSSIA 2017 HUMAN RIGHTS REPORT, US DEP'T OF STATE, Apr. 20, 2018, at 15, *available at* <https://www.state.gov/documents/organization/277455.pdf> ("As of October, the Memorial Human Rights Center's updated list of political prisoners included 117 names, including 70 individuals wrongfully imprisoned for their exercise of religious freedom.").

¹⁶ *Political Prisoners in Russia: Illustrative Cases*, U.S. HELSINKI COMM'N, accessed Feb. 26, 2019, *available at* https://www.csce.gov/international-impact/political-prisoners-russia?sort_by=field_date_value&page=36.

¹⁷ *Russia – In-Year Update December 2015*, GOV.UK, Apr. 21, 2016, *available at* <https://www.gov.uk/government/publications/russia-in-year-update-december-2015/russia-in-year-update-december-2015> ("The NGO, Memorial, considers Kashapov and Tyumentsev political prisoners.").

Helsinki Committee.¹⁸ Independent Russian media¹⁹ and other human rights organizations in Russia²⁰ also rely on Memorial HRC's list.

¹⁸ *Updated List of Political Prisoners in the Russian Federation*, NORWEGIAN HELSINKI COMMITTEE, May 30, 2016, available at <https://www.nhc.no/en/updated-list-of-political-prisoners-in-the-russian-federation/>.

¹⁹ See, e.g., *Danish Jehovah's Witness Faces 10-Year 'Extremism' Sentence in Russia*, NGO Warns, MOSCOW TIMES, Apr. 2, 2018, available at <https://themoscowtimes.com/news/danish-jehovahs-witness-faces-10-year-extemism-sentence-russia-ngo-warns-61018> ("The Memorial human rights group declared Christensen, a Jehovah's Witness elder, a political prisoner last year."); Dmitry Kamyshev, *New "Main Political Prisoner,"* VEDOMOSTI.RU, Nov. 6, 2016, available at <https://www.vedomosti.ru/opinion/articles/2016/11/07/663745-novii-glavnii-politizaklyuchennii> (noting Ildar Dadin "has been included by 'Memorial' . . . in the list of political prisoners") [in Russian]; "*Memorial*" *Recognized Sentsov and Kolchenko as Political Prisoners*, COLTA.RU, Aug. 3, 2015, available at <https://www.colta.ru/news/8130-memorial-priznal-sentsova-i-kolchenko-politizaklyuchennymi> [in Russian]; *The Court Acquitted Those Sentenced for Refusing to Sign the Protocol of the Court Secretary*, RBC.RU, Nov. 21, 2018, available at <https://www.rbc.ru/society/21/11/2018/5bf552cb9a794706141b81e7> ("Memorial Society recognized Aleksandr Eyvazov as [a] political prisoner[.].") [in Russian]; "*Memorial*" *Recognized the Defendants in the Case of "New Greatness" as Political Prisoners*, TVRAIN.RU, Sept. 24, 2018, available at <https://tvrain.ru/news/memorial-472078/> [in Russian]; "*Memorial*" *Recognized as Political Prisoners of a St. Petersburg Resident Pavel Zlomnov, Accused of Justifying Terrorism in a Detention Center*, MEDIAZONA, Feb. 22, 2019, available at <https://zona.media/news/2019/02/22/zlomnov-memo> [in Russian]; and *Memorial Human Rights Center Recognized Open Russia Activist Anastasia Shevchenko Political Prisoner*, ECHO MOSCOW, Feb. 9, 2019, available at <https://echo.msk.ru/news/2367715-echo.html> [in Russian].

²⁰ See, e.g., "*Bolotnaya Case*": Dmitry Buchenkov, AGORA, accessed Feb. 26, 2019, available at <https://agora.legal/cases/show/%C2%ABBolotnoe-delo%C2%BB-Dmitriya-Buchenkova/5> ("In January 2016, the Memorial Human Rights Center recognized Dmitry Buchenkov as a political prisoner.") [in Russian]; *Misuse of Anti-Extremism in June 2015*, SOVA CTR. FOR INFO. AND ANALYSIS, July 20, 2015, available at <https://www.sova-center.ru/en/misuse/news-releases/2015/07/d32460/> ("In May, 2015 the 'Memorial' Human Rights Center recognized Rafis Kashapov as a political prisoner and demanded his immediate release."); and *Danish National Christensen Was Sentenced to Six Years in Prison for Membership in Jehovah's Witnesses*, OVD-INFO, Feb. 6, 2019, available at <https://ovdinfo.org/express-news/2019/02/06/poddannogo-danii-kristensena-prigovorili-k-shesti-godam-kolonii-za-chlenstvo> ("In July 2017, the Memorial Human Rights Center recognized Christensen as a political prisoner.") [in Russian].

IV. ILLUSTRATIVE CASES OF COMMONLY TARGETED GROUPS

Armed with an array of repressive laws that criminalize acts of everyday life, and willing to fabricate evidence and charges, the Kremlin can arrest, detain, and imprison anyone it views as a threat. However, certain groups are more frequently targeted than others. This section will discuss some of the most commonly targeted groups, providing specific examples of political prisoners in each category. These groups include political opponents, Ukrainian activists/citizens, civil society activists, journalists, religious minorities, ethnic minorities, alleged spies, and LGBT persons.

A. Political Opponents

As might be expected, political opponents are routinely targeted for persecution. This includes not just opposition candidates, but also anyone who supports them or dares to criticize those in power. Even being associated with opposition leaders, however indirectly, can lead to arrest or imprisonment. Freedom House, for example, recently noted: “Opposition politicians and activists are frequently targeted with fabricated criminal cases and other forms of administrative harassment apparently designed to prevent their participation in the political process.”¹ Amnesty International has similarly reported that “protest leaders and political activists supporting critical voices faced harassment, administrative and criminal proceedings and physical violence.”² In particular, during the lead-up to the March 2018 presidential election, the Government engaged in a “fierce crackdown” against political activists.³ The examples that follow include some individuals who have been released but are subject to reimprisonment at a moment’s notice.

¹ *Freedom in the World 2018: Russia*, FREEDOM HOUSE, accessed Feb. 12, 2019, available at <https://freedomhouse.org/report/freedom-world/2018/russia>.

² REPORT 2017/18: THE STATE OF THE WORLD’S HUMAN RIGHTS, AMNESTY INT’L, 2018, at 311–12, available at <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>.

³ *Russia: Opposition Activists Face Escalating Crackdown as Presidential Election Nears*, AMNESTY INT’L, Mar. 15, 2018, available at <https://www.amnesty.org/en/latest/news/2018/03/russia-opposition-activists-face-escalating-crackdown-as-presidential-election-nears/>.

1. Alexey Pichugin



Alexey Pichugin is the Kremlin's longest serving political prisoner.⁴ At the time of his arrest, Pichugin was a mid-level security manager at Yukos, then one of Russia's biggest and fastest-growing oil companies. Although he was never himself political, Yukos' CEO Mikhail Khodorkovsky was publicly critical of Putin's government and was actively funding opposition parties.⁵ In what was widely seen as politically-motivated retaliation,⁶ a number of Yukos leaders and employees were arrested and charged with various crimes, and Yukos itself was broken up and sold to state-controlled Russian energy firms.

Pichugin was convicted of multiple counts of murder and attempted murder (Criminal Code Article 105), as well as robbery (Article 162), in two trials marred by blatant due process violations. There was no non-hearsay evidence introduced in his trials that linked Pichugin to the underlying crimes – only the statements of jailhouse “confessors” who claimed that they had been told by third parties that Pichugin was behind the crimes. In the first trial, the judge closed the proceedings to the public and prevented the defense from cross-examining the key witness against him – one of the Kremlin's confessors who at one point stated that his future was now in “in the hands of the President of Russia.”⁷ In the second trial, the state developed “expert” reports without participation of the defense, and the court did not allow the defense to introduce an expert report exonerating Pichugin or to cross-examine Pichugin's four co-defendants

⁴ Vladimir Kara-Murza, *For Russia's Longest-Serving Political Prisoner, It's 15 Years and Counting*, WASHINGTON POST, June 19, 2018, available at https://www.washingtonpost.com/news/democracy-post/wp/2018/06/19/for-russias-longest-serving-political-prisoner-its-15-years-and-counting/?noredirect=on&utm_term=.496f480c87b1.

⁵ THE CIRCUMSTANCES SURROUNDING THE ARREST AND PROSECUTION OF LEADING YUKOS EXECUTIVES, RAPORTEUR OF THE PARL. ASSEMBLY OF THE COUNCIL OF EUROPE, Nov. 29, 2004, at § III, ¶ 69, available at <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=10730&lang=EN>.

⁶ *Russian Federation: The Case of Mikhail Khodorkovskii and Other Individuals Associated with YUKOS*, AMNESTY INT'L, Apr. 11, 2005, available at <https://www.amnesty.org/download/Documents/84000/eur460122005en.pdf> (“Amnesty International acknowledges the widespread perception . . . that the cases are politically motivated . . .”).

⁷ *Pichugin v. Russia*, App. No. 38623/03, Eur. Ct. H.R., Oct. 23, 2012, at ¶¶ 185–92, 200–13, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-114074%22%5D%7D> [hereinafter *Pichugin v. Russia* 2012].

(all of whom had originally implicated him but later recanted, explaining that investigators had provided them Pichugin's name).⁸ In addition, Pichugin was arrested without a warrant; interrogated without and denied access to counsel; given limited access to case materials and time to prepare a defense; held in extended pretrial detention; drugged by interrogators; and publicly denounced by government officials before he had been convicted.⁹ Confirming the political nature of the charges against him, Pichugin was also repeatedly pressured to falsely implicate Khodorkovsky and Khodorkovsky's partner, Leonid Nevzlin, in criminal activity.¹⁰

The European Court of Human Rights ruled, in two separate cases, that Pichugin's convictions violated his right to a fair trial.¹¹ In addition, leading organizations, such as the Raoul Wallenberg Centre for Human Rights and the Lantos Foundation, have recognized Pichugin as a prisoner of conscience.¹²

2. Alexey Navalny



Former political prisoner Alexey Navalny is an anti-corruption activist and one of Russia's leading political opposition figures.¹³ He has been called "the only credible opposition

⁸ *Pichugin v. Russia*, App. No. 38958/07, Eur. Ct. H.R., June 6, 2017, at ¶¶ 20–23, 34–38, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-174061%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-174061%22]}) [hereinafter *Pichugin v. Russia 2017*] and Petition to the U.N. Working Group on Arbitrary Detention, *Pichugin v. Russian Federation*, July 31, 2018, at 18, available at <https://www.perseus-strategies.com/wp-content/uploads/2018/08/Alexey-Pichugin-v.-Russian-Federation-7.31.18.pdf>.

⁹ Petition to the U.N. Working Group on Arbitrary Detention, *supra* note 8, at 13–19.

¹⁰ *Pichugin Alexey Vladimirovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 12, 2019, available at <https://memohrc.org/ru/defendants/pichugin-aleksey-vladimirovich> [in Russian].

¹¹ *Pichugin v. Russia 2012*, *supra* note 7 and *Pichugin v. Russia 2017*, *supra* note 8.

¹² Irwin Cotler, *For the Sake of Human Rights, We Must Stand for the Nameless*, THE HILL, Feb. 16, 2018, available at <https://thehill.com/opinion/civil-rights/373756-for-the-sake-of-human-rights-we-must-stand-for-the-nameless> and Katrina Lantos Swett, *Interpol and Pichugin: Unwilling Pawns in Putin's Yukos Game*, HUFFINGTON POST, Nov. 16, 2015, available at https://www.huffingtonpost.com/katrina-lantos-swett/interpol-and-pichugin-unw_b_8483784.html.

¹³ *Russia: Nationwide Assaults on Political Opposition Campaign*, HUMAN RIGHTS WATCH, Sept. 6, 2017, available at <https://www.hrw.org/news/2017/09/06/russia-nationwide-assaults-political-opposition-campaign>.

candidate” to Putin.¹⁴ Navalny has been jailed more than ten times since 2011¹⁵ in what is clearly retaliation for his political activity.

In July 2013, for example, Navalny was convicted of large-scale embezzlement (Criminal Code Article 160(4)) relating to his involvement with the state-owned timber company Kirovles.¹⁶ However, as the European Court of Human Rights later explained, Navalny was convicted for “regular commercial middleman activities.”¹⁷ That is, “the acts described as criminal fell entirely outside the scope of the provision under which [he was] convicted” and “the criminal law was arbitrarily and unforeseeably construed to [his] detriment.”¹⁸ The Court further stated it was “obvious” that there was “a link between [Navalny’s] public activities and the Investigative Committee’s decision to press charges against him” and concluded that his conviction violated his right to fair trial.¹⁹

In December 2014, Navalny and his brother Oleg were convicted of money laundering (Article 174.1(2)) and fraud (Article 159.4, since repealed) relating to business activities they conducted with two companies, MPK and Yves Rocher Vostok.²⁰ Both were sentenced to 3.5 years’ imprisonment, though Alexey’s sentence was suspended.²¹ The European Court of Human Rights later ruled that “the decisions reached by the domestic courts . . . were arbitrary and manifestly unreasonable” and violated their right to a fair trial.²² Both Alexey and Oleg were designated as political prisoners due to their detention in this case²³ (although Alexey

¹⁴ Ian Bond, *Is the West Too Soft on Putin?*, EURONEWS, Mar. 21, 2018, available at <https://www.euronews.com/2018/03/21/is-the-west-too-soft-on-putin-view>.

¹⁵ *In And Out: All The Times Aleksei Navalny Has Been In Jail*, RADIO FREE EUROPE / RADIO LIBERTY, Oct. 18, 2018, available at <https://www.rferl.org/a/in-and-out/29550949.html#>.

¹⁶ *Navalnyy v. Russia*, App. No. 46632/13, Eur. Ct. H.R., Feb. 23, 2016, at ¶ 61, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-161060%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-161060%22]}).

¹⁷ *Id.*, at ¶ 115.

¹⁸ *Id.*

¹⁹ *Id.*, at ¶¶ 119–20.

²⁰ *Navalnyye v. Russia*, App. No. 101/15, Eur. Ct. H.R., Oct. 17, 2017, at ¶ 32, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-177665%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-177665%22]}).

²¹ *Id.*

²² *Id.*, at ¶¶ 83, 85.

²³ *Memorial Human Rights Center Considers Oleg Navalny a Political Prisoner*, MEMORIAL HUMAN RIGHTS CTR., Jan. 22, 2015, available at <https://memohrc.org/ru/news/pravozashchitnyy-centr-memorial-schitaet-olega-navalnogo-politizaklyuchennym> [in Russian] and *Navalny Alexey Anatolyevich*, OLD.MEMO.RU, Apr. 8, 2013, available at <http://old.memo.ru/d/153769.html> [in Russian].

was not sentenced to prison, he was held in pretrial detention, allowing him to qualify as a political prisoner²⁴).

Navalny also spent a significant portion of 2017 and 2018 – the lead up to the recent presidential election, and its aftermath – in jail.²⁵

In November 2018, the European Court of Human Rights ruled on a series of applications filed by Navalny concerning his arrest at seven different public events for disobeying a lawful order (Administrative Code Article 19(3)) and violating the procedures for public gatherings (Administrative Code Article 20(2)).²⁶ The Court held that these arrests violated his right to liberty and security of person; the related administrative proceedings violated his right to a fair trial (with one exception); and Navalny’s right to freedom of assembly had also been violated.²⁷ In a rare move, the Court further held that some of the arrests were aimed specifically at suppressing political pluralism.²⁸

The criminal cases against Navalny are “widely seen as a tool to keep him from running for office.”²⁹ Navalny had been allowed to run in the 2013 Moscow mayoral election and secured a surprising 27% of the vote, nearly forcing a runoff with the Kremlin-backed candidate.³⁰ Determined to prevent a similar grassroots campaign, officials barred Navalny from running in the 2018 presidential election, ostensibly due to his embezzlement conviction – after the European Court of Human Rights ruled that he had not received a fair trial, he was retried and convicted in 2017 on the same charges and same evidence in a similarly flawed trial.³¹

²⁴ *Navalnyye v. Russia*, *supra* note 20, at ¶ 25.

²⁵ Andrew E. Kramer, *Seconds After Release from Jail, Russia Arrests Aleksei Navalny Again*, N.Y. TIMES, Sept. 24, 2018, available at <https://www.nytimes.com/2018/09/24/world/europe/russia-navalny.html> (“Mr. Navalny had spent 110 days in jail since last year on six separate convictions.”).

²⁶ *Navalnyy v. Russia*, App. No. 29580/12, Eur. Ct. H.R., Nov. 15, 2018, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-187605%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-187605%22]}).

²⁷ *Id.*, at Holding.

²⁸ *Id.*, at ¶¶ 174–76.

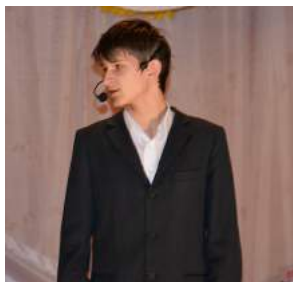
²⁹ Nataliya Vasilyeva, *Russian Officials Bar Navalny From Running for President*, AP NEWS, Dec. 26, 2017, available at <https://www.apnews.com/25f9d52e55f24a098ed4d28cf6db8008>.

³⁰ Kathy Lally, *In Moscow Mayoral Election, Activist Navalny Fails to Force Runoff, But Declares Moral Victory*, WASHINGTON POST, Sept. 9, 2013, available at https://www.washingtonpost.com/world/europe/in-moscow-mayoral-election-activist-navalny-fails-to-force-runoff-but-declares-moral-victory/2013/09/09/497a6088-1996-11e3-80ac-96205cacb45a_story.html?utm_term=.e3f5b6461000.

³¹ Nataliya Vasilyeva and Vladimir Isachenkov, *Court Bars Russian Opposition Leader From Presidential Race*, AP NEWS, Feb. 8, 2017, available at

Moreover, “authorities systematically interfered with [Navalny’s] presidential campaign” by searching his offices and seizing campaign materials and refusing to investigate attacks against campaign offices or meetings.³² His campaign manager, Leonid Volkov, has been repeatedly arrested and detained.³³ His brother’s prison sentence was also seen as an “attempt to limit Navalny’s activities.”³⁴ In 2017, the European Parliament condemned “the constant efforts to silence Alexei Navalny” and his exclusion from “the political arena, [which] further constrains political pluralism in Russia.”³⁵

3. Yan Sidorov and Vladislav Mordasov



On November 5, 2017, Yan Sidorov and Vladislav Mordasov attempted to hold a protest demanding the resignation of the regional government.³⁶ In preparation, they had made two posters and about 30 flyers and purchased a megaphone.³⁷ However, soon before they began protesting, they were arrested.³⁸ They were subsequently charged with attempting to organize and participate in mass riots (Criminal Code

Article 212)³⁹ – punishable by up to 15 years’ imprisonment – and have been detained ever since.

<https://www.apnews.com/aa48d14a47f040278d0c9cbf5108efee> and Stacey Yuen, *Putin Has ‘Lots of Mechanisms’ to Sabotage Foes Following Nationwide Protests*, CNBC, Oct. 17, 2017, available at <https://www.cnbc.com/2017/10/17/putin-control-in-russia-alexey-navalny-saga-shows-kremlin-methods.html>.

³² WORLD REPORT 2018: EVENTS OF 2017, HUMAN RIGHTS WATCH, 2017, at 441, available at https://www.hrw.org/sites/default/files/world_report_download/201801world_report_web.pdf.

³³ *Navalny Aide Jailed for 30 Days for Tweet*, MOSCOW TIMES, Feb. 23, 2018, available at <https://www.themoscowtimes.com/2018/02/23/navalny-aide-handed-30-days-in-prison-after-tweeting-arrest-video-a60614> and *Navalny’s Campaign Chief Volkov Detained Hours After Release, Lawyer Says*, RADIO FREE EUROPE / RADIO LIBERTY, Oct. 5, 2017, available at <https://www.rferl.org/a/navalny-campaign-chief-volkov-released-prison-russia/28775693.html>.

³⁴ *Freedom in the World 2018: Russia*, *supra* note 1.

³⁵ *Resolution on Russia, the Arrest of Alexei Navalny and Other Protestors*, EUR. PARL., Apr. 6, 2017, available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0125&language=EN&ring=B8-2017-0246>.

³⁶ *Sidorov Yan Vladimirovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan 15, 2019, available at <https://memohrc.org/ru/defendants/sidorov-yan-vladimirovich> [in Russian].

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*



During their detention, their rights have been egregiously violated. Both were repeatedly interrogated without a lawyer present, tortured, and forced to confess.⁴⁰ Mordasov, in particular, was struck on the head, stomach, kidneys, and lower abdomen, and investigators twice put a gas mask on his head, suffocating him.⁴¹ Amnesty International has recognized both men as prisoners of conscience.⁴²

B. Ukrainian Activists/Citizens

Since the Kremlin illegally invaded and annexed the Crimean Peninsula in 2014, it has worked actively to silence anyone speaking out or demonstrating support for Ukraine. Amnesty International has reported on the Russian Security Services' "campaign to intimidate critics of the peninsula's occupation," which has included "intimidation, harassment and criminal prosecution."⁴³ Moreover, "[t]he few lawyers willing to take up cases in defence of critical voices in Crimea face[] harassment by the Russian authorities."⁴⁴ Human Rights Watch similarly noted that "Russia . . . continues to perpetrate grave human rights violations against people [in Crimea] expressing pro-Ukrainian views."⁴⁵

⁴⁰ Public Statement, *Russia: Unfounded Criminal Prosecution of Peaceful Protesters in Rostov-on-Don*, AMNESTY INT'L, Nov. 8, 2018, available at <https://www.amnesty.org/download/Documents/EUR4693842018ENGLISH.pdf>.

⁴¹ *Mordasov Vladislav Evgenievich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan 15, 2019, available at <https://memohrc.org/ru/defendants/mordasov-vladislav-evgenievich> [in Russian].

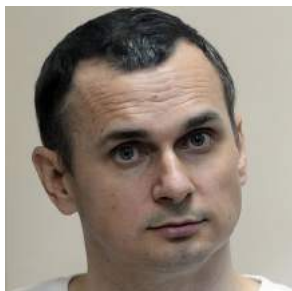
⁴² Public Statement, *supra* note 40.

⁴³ THE STATE OF THE WORLD'S HUMAN RIGHTS, *supra* note 2, at 376, 379.

⁴⁴ *Id.*, at 379.

⁴⁵ WORLD REPORT 2019: EVENTS OF 2018, HUMAN RIGHTS WATCH, 2019, at 610, available at https://www.hrw.org/sites/default/files/world_report_download/hrw_world_report_2019.pdf.

1. Oleg Sentsov



Oleg Sentsov is a Ukrainian film director and outspoken Putin critic who was convicted in August 2015 of organizing a terrorist community (Criminal Code Article 205.4(1)), terrorist acts (Article 205), and possession of weapons and explosives (Article 222).⁴⁶ Sentsov was accused of creating a Crimean branch of the Right Sector, a Ukrainian nationalist group banned in Russia, and helping it commit arson attacks on pro-Kremlin organizations in Crimea.⁴⁷

Sentsov's rights have been violated throughout his arrest, detention, conviction, and imprisonment. Upon his initial detention on the night of May 10, 2014, he was beaten, strangled with a plastic bag, and threatened with rape and murder if he did not confess to committing terrorist acts.⁴⁸ He was denied access to counsel for the first 17 days of his detention,⁴⁹ transferred to Moscow against his will, and investigated and tried there despite being a Ukrainian citizen.⁵⁰ He was again tortured, and even appeared in a court hearing with visible bruising.⁵¹ His trial was widely condemned – Amnesty called it “an extremely cynical show trial”⁵² and PEN International described it as “grossly unfair.”⁵³ The evidence against Sentsov was extremely weak – the key prosecution witness recanted his prior testimony implicating Sentsov, stating that it had been given under torture,⁵⁴ and several significant allegations against Sentsov were not

⁴⁶ *Sentsov Oleg G.*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 12, 2019, available at <https://memohrc.org/ru/defendants/sencov-oleg-gennadevich> [in Russian].

⁴⁷ *Id.* and Sophia Kishkovsky, *Russia Gives Ukrainian Filmmaker Oleg Sentsov a 20-Year Sentence*, N.Y. TIMES, Aug. 25, 2015, available at <https://www.nytimes.com/2015/08/26/world/europe/russian-court-sentences-ukrainian-filmmaker-to-20-years-in-prison.html>.

⁴⁸ *Sentsov Oleg G.*, *supra* note 46.

⁴⁹ *We Stand with Oleg Sentsov*, AMNESTY INT'L, accessed Feb. 13, 2019, available at <https://www.amnesty.org/en/latest/campaigns/2018/07/oleg-sentsov/>.

⁵⁰ *Sentsov Oleg G.*, *supra* note 46.

⁵¹ *Oleg Sentsov*, PEN AMERICA, accessed Jan 24, 2019, available at <https://pen.org/advocacy-case/oleg-sentsov/> (“During a trial hearing on August 25, 2015, Sentsov said he was tortured in an unsuccessful attempt to extract a confession. He had visible bruises on his body.”).

⁵² *We Stand with Oleg Sentsov*, *supra* note 49.

⁵³ *Day of the Imprisoned Writer 2018 – Take Action for Oleg Sentsov*, PEN INT'L, Nov. 12, 2018, available at <https://pen-international.org/news/day-of-the-imprisoned-writer-2018-take-action-for-oleg-sentsov-russia-writer-filmmaker>.

⁵⁴ *Oleg Sentsov*, *supra* note 51.

supported by any evidence at all.⁵⁵ Even the Right Sector itself denies that Sentsov was involved with it.⁵⁶ Despite this, he was convicted and sentenced to 20 years' imprisonment.⁵⁷

Sentsov captured the world's attention in 2018 after engaging in an extended hunger strike demanding that the Kremlin release all Ukrainian political prisoners.⁵⁸ After 145 days, he was forced to end it due to threats of forced feeding by the authorities.⁵⁹

The Kremlin's treatment of Sentsov has been universally condemned. The US State Department called his conviction a "clear miscarriage of justice," noting that he was "targeted by authorities because of [his] opposition to Russia's attempted annexation of Crimea."⁶⁰ The European Parliament awarded Sentsov its 2018 Sakharov Prize for Freedom of Thought, "expressing its solidarity with him and his cause."⁶¹ In its 2018 Concluding Observations, the UN Committee Against Torture insisted that Russia "should take immediate measures to put an end to the practice of torture in Crimea, including for the purpose of pressuring, punishing and/or extracting confessions from political opponents and activists such as Oleg Sentsov."⁶²

2. Vladimir Balukh

Vladimir Balukh is a Ukrainian farmer who was convicted of illegal possession of ammunition (Criminal Code Article 222(1)) and disrupting the activities of a detention center (Article 321(2)).⁶³ In reality, he is being punished for his outspoken pro-Ukraine activism.

⁵⁵ *Sentsov Oleg G.*, *supra* note 46.

⁵⁶ *Oleg Sentsov*, *supra* note 51 ("He is also accused of founding a Crimean branch of a banned Ukrainian nationalist group called Right Sector, which the group, as well as Sentsov, refutes.").

⁵⁷ *Sentsov Oleg G.*, *supra* note 46.

⁵⁸ *Oleg Sentsov*, *supra* note 51.

⁵⁹ *Id.*

⁶⁰ Press Statement, *Sentencing of Oleh Sentsov and Oleksandr Kolchenko*, U.S. DEP'T OF STATE, Aug. 25, 2015, available at <https://2009-2017.state.gov/r/pa/prs/ps/2015/08/246322.htm>.

⁶¹ Press Release, *Oleg Sentsov Awarded the 2018 Sakharov Prize*, EUR. PARL., Oct. 25, 2018, available at <http://www.europarl.europa.eu/news/en/press-room/20181023IPR17126/oleg-sentsov-awarded-the-2018-sakharov-prize>.

⁶² *Concluding Observations on the Sixth Periodic Report of the Russian Federation*, U.N. COMMITTEE AGAINST TORTURE, U.N. Doc. CAT/C/RUS/CO/6, Aug. 28, 2018, at ¶ 49, available at <https://undocs.org/CAT/C/RUS/CO/6>.

⁶³ *Balukh Vladimir Grigorievich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/baluh-vladimir-grigorevich> [in Russian] and *Jailed, Hunger-Striking Ukrainian on Trial Again in Russian-Controlled Crimea*, RADIO FREE EUROPE /



Balukh, who lives in Crimea, was known for opposing the Russian occupation. He had refused Russian citizenship and drawn the attention of local authorities by hanging a Ukrainian flag on his home and participating in pro-Ukrainian actions.⁶⁴ In November 2016, he hung another sign on his house praising the “Heavenly Hundred,”⁶⁵ a reference to the protestors killed by government forces in Kyiv just before Russia-friendly President Viktor Yanukovich was ousted in 2014.⁶⁶ The chairman of the village council and his assistants demanded that he remove the sign and threatened that they would someday “find” weapons or drugs on him.⁶⁷ Soon thereafter, FSB officials searched his house and “found” ammunition.⁶⁸ Balukh was arrested, charged with possession of illegal ammunition, and placed in pretrial detention.⁶⁹ He was convicted in January 2018 (on retrial) and sentenced to three years and five months in prison.⁷⁰ In July 2018, Balukh was sentenced to an additional three years for disrupting the activities of a detention center – he had allegedly struck an officer there.⁷¹

The allegations against Balukh are meritless. As Memorial HRC has explained: “It seems highly unlikely that a well-known regional activist who is subject to constant pressure from law enforcement officials and local government officials, [and] whose house was searched twice in 2015, would store ammunition.”⁷² Furthermore, neither Balukh’s nor his wife’s fingerprints were found on the ammunition allegedly discovered in his home.⁷³ In addition, confirming the political nature of the case, the officials who searched his home tore down the Ukrainian flag hanging on it.⁷⁴

RADIO LIBERTY, May 15, 2018, available at <https://www.rferl.org/a/russia-jailed-hunger-striking-ukrainian-on-trial-again-in-crimea/29228186.html>.

⁶⁴ Balukh Vladimir Grigorievich, *supra* note 63.

⁶⁵ *Id.*

⁶⁶ *Jailed, Hunger-Striking Ukrainian On Trial Again*, *supra* note 63.

⁶⁷ Balukh Vladimir Grigorievich, *supra* note 63.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Halya Coynash, *Crimean Jailed for a Ukrainian Flag Sentenced to Three More Years for Refusing to Be Broken*, KHARKIV HUMAN RIGHTS PROT. GROUP, July 6, 2018, available at <http://khpg.org/en/index.php?id=1530793368>.

Regarding the conviction for disrupting the activities of a detention center, Balukh insists that the officer hit him first on the left shoulder, and he reflexively jerked his elbow back, which hit the officer.⁷⁵ Balukh's lawyer has explained that video recordings of the incident support Balukh's description of the events.⁷⁶

Balukh's detention has been criticized by the European Union, which called him an "illegally-detained Ukrainian citizen,"⁷⁷ and the US State Department, which listed him as one of the "Ukrainians unjustly imprisoned."⁷⁸ The UK's Minister of State for Europe and the Americas also called for Balukh's release, saying that "[n]o one should be imprisoned for opposing the illegal annexation of Crimea."⁷⁹ The UN General Assembly also adopted a resolution in December 2018 "expressing deep concern about the ongoing arbitrary detentions and arrests by the Russian Federation of Ukrainian citizens, including Volodymyr Balukh."⁸⁰

C. *Civil Society Activists*

The Kremlin's "relentless campaign against nongovernmental organizations"⁸¹ is well-documented.⁸² The Foreign Agent Law and the Undesirable Organizations Law, in particular, give government officials broad authority to harass, impede the work of, and even shut down

⁷⁵ Balukh Vladimir Grigorievich, *supra* note 63.

⁷⁶ *Id.*

⁷⁷ Maja Kocijancic, EU Spokesperson for Foreign Affairs & Sec. Policy/European Neighbourhood Policy and Enlargement Negotiations, Statement on the Human Rights Situation in the Crimean Peninsula, Jan. 19, 2018, *available at* https://eeas.europa.eu/headquarters/headquarters-homepage/38462/statement-spokesperson-human-rights-situation-crimean-peninsula_en.

⁷⁸ Press Statement, *Political and Religious Prisoners Held by the Russian Government*, HEATHER NAUERT, U.S. DEP'T OF STATE SPOKESPERSON, June 18, 2018, *available at* <https://www.state.gov/r/pa/prs/ps/2018/06/283289.htm>.

⁷⁹ *UK's Minister for Europe Calls for Immediate Release of Ukrainian Political Prisoners Held by Russia*, UNIAN, Aug. 21, 2018, *available at* <https://www.unian.info/society/10232844-uk-s-minister-for-europe-calls-for-immediate-release-of-ukrainian-political-prisoners-held-by-russia.html>.

⁸⁰ *Resolution on the Situation of Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol, Ukraine*, U.N. GENERAL ASSEMBLY, U.N. Doc. A/RES/73/263, *adopted* Dec. 22, 2018, at 2, *available at* http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/263.

⁸¹ *Freedom in the World 2018: Russia*, *supra* note 1.

⁸² *See generally* SASKIA BRECHENMACHER, CIVIL SOCIETY UNDER ASSAULT, CARNEGIE ENDOWMENT FOR INT'L PEACE, 2017, at 7–35, *available at* https://carnegieendowment.org/files/Civil_Society_Under_Assault_Final.pdf; *Russia: Government vs. Rights Groups*, HUMAN RIGHTS WATCH, June 18, 2018, *available at* <https://www.hrw.org/russia-government-against-rights-groups-battle-chronicle>; and *Briefing on Shrinking Space for Civil Society in Russia*, HUMAN RIGHTS WATCH, Feb. 24, 2017, *available at* <https://www.hrw.org/news/2017/02/24/briefing-shrinking-space-civil-society-russia>.

disfavored organizations.⁸³ For example, at least 31 organizations designated as “foreign agents” have shut down.⁸⁴ However, the Kremlin is not just targeting organizations – it is also imprisoning their employees and members. Examples of this are discussed below.

1. Anastasia Shevchenko



Anastasia Shevchenko is an activist with the Open Russia movement⁸⁵ and one of the Kremlin’s newest political prisoners (designated as such on February 8, 2019).⁸⁶ She was the first person to be charged under Criminal Code Article 284.1.⁸⁷

Founded by outspoken Kremlin critic Mikhail Khodorkovsky,⁸⁸ Open Russia seeks to promote democratic values and the rule of law in Russia.⁸⁹

A British NGO with the same name was banned as an “undesirable” organization by the Russian Prosecutor General’s Office in 2017,⁹⁰ and prosecutors in Russia have improperly used this to bring administrative charges against anyone involved with the Russian organization.⁹¹ However, under Criminal Code Article 284.1, repeated involvement with an undesirable organization is a criminal offense punishable by two to six

⁸³ *Id.*

⁸⁴ *Russia: Government vs. Rights Groups*, *supra* note 82.

⁸⁵ *Russia: First Criminal Case Under “Undesirable Organizations” Law Marks a New Level of Repression*, AMNESTY INT’L, Jan. 21, 2019, available at <https://www.amnesty.org/en/latest/news/2019/01/russia-the-first-criminal-case-under-the-undesirable-organizations-law-marks-a-new-level-of-repression/>.

⁸⁶ “Memorial” Recognized an Activist of “Open Russia” Anastasia Shevchenko as a Political Prisoner, MEMORIAL HUMAN RIGHTS CTR., Feb. 8, 2019, available at https://memohrc.org/ru/news_old/memorial-priznal-aktivistku-otkrytoy-rossii-anastasiyu-shevchenko-politicheskoy [in Russian].

⁸⁷ *Russia: First Criminal Case Under “Undesirable Organizations” Law*, *supra* note 85.

⁸⁸ *Shevchenko Anastasia Nukzarievna*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 13, 2019, available at <https://memohrc.org/ru/defendants/shevchenko-anastasiya-nukzarievna> [in Russian].

⁸⁹ *The Open Russia Movement*, OPEN RUSSIA, accessed Feb. 15, 2019, available at <https://en.openrussia.org/movement/>.

⁹⁰ *Russian Authorities Ban Khodorkovsky’s Organization Open Russia as ‘Undesirable,’* AMNESTY INT’L, Apr. 26, 2017, available at <https://www.amnesty.org/en/latest/news/2017/04/russian-authorities-ban-khodorkovskys-organization-open-russia-as-undesirable/>.

⁹¹ CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, Dec. 30, 2001, at Art. 20.33, available at <http://www.consultant.ru/cons/cgi/online.cgi?from=317659-0&rnd=C69E70D8A104ABA957C97FC30D900B61&req=doc&base=LAW&n=319688&REFDOC=317659&REFBASE=LAW#1d8iwzsqqxb> [in Russian].

years' imprisonment.⁹² Shevchenko had previously been administratively sanctioned for her involvement with Open Russia on January 19 and July 6, 2018,⁹³ so for the third alleged offense, officials charged her under Article 284.1. She is currently under house arrest.⁹⁴ In a particularly cruel move, the authorities initially denied Shevchenko's requests to visit her hospitalized daughter, and she was finally allowed to visit mere hours before her daughter died.⁹⁵

Shevchenko's arrest came amidst an intensifying crackdown on Open Russia. On January 17, 2019, Liya Milushkina, an Open Russia Coordinator, and her husband were arrested on fabricated drug charges.⁹⁶ On January 18, Yana Antonova, another Open Russia coordinator, was charged with an administrative offense for "participation in the activities of an undesirable organization" – she had posted a video about the shortage of schools in the region.⁹⁷ On January 21, police raided the homes of six Open Russia activists (including Shevchenko).⁹⁸ As of February 2019, 53 Open Russia activists across the country had been charged with administrative offenses for "participation in the activities of an undesirable organization."⁹⁹

The European Union condemned Shevchenko's arrest, noting its "strong concern over the use of this legislation to criminalise the actions of civil society and human rights defenders in Russia."¹⁰⁰ It reiterated: "We expect that the charges will be dropped immediately and Ms Shevchenko's house arrest will be brought to an end."¹⁰¹ The US called for her immediate release, noting that "[t]he charges against Ms. Shevchenko demonstrate that

⁹² CRIMINAL CODE OF THE RUSSIAN FEDERATION, June 13, 1996, at Art. 284.1, *available at* <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=315095&div=LAW&rnd=0> [in Russian].

⁹³ *Shevchenko Anastasia Nukzarievna*, *supra* note 88.

⁹⁴ *Id.*

⁹⁵ *Russia: Heartless Charges Against Activist Who Supported Detained Colleague*, AMNESTY INT'L, Jan. 31, 2019, *available at* <https://www.amnesty.org/en/latest/news/2019/01/russia-heartless-charges-against-activist-who-supported-detained-colleague/>.

⁹⁶ *Russia: First Criminal Case Under "Undesirable Organizations" Law*, *supra* note 85.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ Marina Muratova, *Unwillingness as a Habit: Open Russia Activists About New Persecution*, OVD-INFO, Feb. 5, 2019, *available at* <https://ovdinfo.org/articles/2019/02/05/nezhelatelnost-kak-privychka-aktivisty-otkrytoy-rossii-o-novyh-presledovaniyah> [in Russian].

¹⁰⁰ *EU Statement on the Application of Criminal Charges Against Anastasia Shevchenko Under the Law on 'Undesirable Organisations' in Russia*, EUR. UNION, Feb. 8, 2019, *available at* <https://www.osce.org/permanent-council/411518?download=true>.

¹⁰¹ *Id.*

the Russian Federation is now willing to use the law's most repressive provisions in its efforts to exert pressure on independent civil society and punish those citizens who seek to maintain connections with organizations in other participating States."¹⁰² Amnesty International has designated her as a prisoner of conscience.¹⁰³

2. Oyub Titiev



Oyub Titiev is the head of the Grozny representative office of Memorial HRC.¹⁰⁴ He was convicted in March 2019 on fabricated drug charges (Criminal Code Article 228(2)) and sentenced to four years in prison. According to authorities, marijuana was found during a search of Titiev's car.¹⁰⁵ However, Titiev insists that the drugs were planted – he is an observant Muslim.¹⁰⁶

There have been numerous irregularities and rights violations throughout Titiev's detention. First, he was held incommunicado and denied access to his lawyer for the first seven hours of his detention.¹⁰⁷ During that time, he was pressured to confess – investigators even threatened his family¹⁰⁸ – and officials took biological samples from his hands.¹⁰⁹ Later that same day, armed men arrived at Titiev's home looking for his brother and son.¹¹⁰ When they could not find them, the armed men forced his female relatives to leave the house, locked the door, and

¹⁰² Harry R. Kamian, Chargé d'Affaires, U.S. Mission to the OSCE, Statement on the Criminal Charges Filed by Russia under its "Undesirable Organization" Legislation, Feb. 7, 2018, *available at* <https://osce.usmission.gov/on-russias-undesirable-organization-legislation/>.

¹⁰³ *Russian Federation: Human Rights Defender Under House Arrest: Anastasia Shevchenko*, AMNESTY INT'L, Jan. 24, 2019, *available at* <https://www.amnesty.org/en/documents/eur46/9737/2019/en/>.

¹⁰⁴ *Titiev Oyub Salmanovich*, MEMORIAL HUMAN RIGHTS CTR., *accessed Jan 25, available at* <https://memohrc.org/ru/defendants/titiev-oyub-salmanovich> [in Russian].

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Russia: Rights Defender Arbitrarily Arrested in Chechnya*, HUMAN RIGHTS WATCH, Jan. 10, 2018, *available at* <https://www.hrw.org/news/2018/01/11/russia-rights-defender-arbitrarily-arrested-chechnya>.

¹⁰⁸ *Oyub Titiev Detained and Facing Criminal Investigation*, FRONTLINE DEFENDERS, *accessed Feb. 15, 2019, available at* <https://www.frontlinedefenders.org/en/case/oyub-titiev-detained-and-facing-criminal-investigation>.

¹⁰⁹ *Titiev Oyub Salmanovich*, *supra* note 104.

¹¹⁰ *Id.*

confiscated the keys.¹¹¹ After this incident, the family fled from the Chechen Republic.¹¹²

Suspiciously, all 15 video cameras located between the area where Titiev was stopped and the local police station were offline the day of his arrest.¹¹³ Moreover, several weeks into his detention, officials brought in an alleged witness (a man who claimed he had seen Titiev use drugs) to make an official identification.¹¹⁴ However, the alleged witness could not pick Titiev out of the group of people shown to him.¹¹⁵ This result was reflected in the protocol drawn up by investigators.¹¹⁶ However, the next day, the investigators claimed that the officer who had written the protocol mistakenly wrote that the witness failed to identify Titiev, and they “corrected” it to reflect a positive identification.¹¹⁷ The “witness” also began insisting that he had correctly identified Titiev.¹¹⁸

In addition, Ramzan Kadyrov, Head of the Chechen Republic, made several prejudicial statements regarding Titiev before he was convicted. In one speech, while he did not refer to Titiev by name, Kadyrov noted that “one drug addict” was caught by the Ministry of Internal Affairs and that the UN and the US State Department had called for his release¹¹⁹ (clearly referring to Titiev). In another interview, Kadyrov stated that Titiev’s son

¹¹¹ *Id.*

¹¹² *Oyub Titiev Detained and Facing Criminal Investigation*, *supra* note 108.

¹¹³ *One Year Ago, Oyub Titiev Was Arrested for Drug Possession Five Facts About the Case Against a Key Human Rights Activist in Chechnya*, MEDUZA, Jan. 9, 2019, available at <https://meduza.io/en/feature/2019/01/09/one-year-ago-oyub-titiev-was-arrested-for-drug-possession>.

¹¹⁴ *What is Wrong with the Case of Oyub Titiyev: 13 Facts*, MEMORIAL HUMAN RIGHTS CTR., Nov. 19, 2018, available at <https://memohrc.org/ru/monitorings/chto-ne-tak-s-delom-oyuba-titieva-13-faktov> (discussing the witness Amadi Baskhanov) [in Russian].

¹¹⁵ *Only Three Weeks After His Arrest, Oyub Titiyev Was Provided with Medical Assistance. Witness Investigation Games*, MEMORIAL HUMAN RIGHTS CTR., Nov. 19, 2018, available at https://memohrc.org/ru/news_old/lish-cherez-tri-nedeli-posle-aresta-oyubu-titievu-okazali-medicinskuyu-pomoshch-igry [in Russian].

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Chechnya: In the Plot on Chgtrk “Grozny” Ramzan Kadyrov Made It Clear What He Was Imprisoned for Human Rights Activist Oyub Titiyev, and What Happened to the Abducted Singer Zelimkhan Bakayev*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 5, 2019, available at https://memohrc.org/ru/news_old/chechnya-v-syuzhete-na-chgtrk-groznyy-ramzan-kadyrov-dal-chetko-ponyat-za-chto-posadili#sdfootnote1sym [in Russian].

was a “drug addict” and that there were witnesses who had seen Titiev use drugs.¹²⁰

Hugh Williamson, the Europe and Central Asia Director at Human Rights Watch, explained that “Titiev’s arrest is a clear signal that authorities . . . are trying to force Memorial out of Chechnya.”¹²¹ The UN Special Rapporteur on Human Rights Defenders similarly noted that there are “strong reasons to believe” that Titiev’s arrest and detention “are motivated by his peaceful human rights activities.”¹²² Numerous other individuals, organizations, bodies, and countries have denounced the charges as fabricated, including Frontline Defenders, the European Parliament, the UK, the US, and the Council of Europe Commissioner for Human Rights.¹²³ Amnesty International has recognized Titiev as a prisoner of conscience.¹²⁴

D. Journalists

A series of laws, enacted since 2012, has significantly expanded the Government’s ability to criminally prosecute independent journalists.¹²⁵

¹²⁰ Kadyrov: *Human Rights Activist Titiyev Smoked Anasha, and His Son Is a Drug Addict*, MEDIAZONA, Jan. 25, 2018, available at https://zona.media/news/2018/01/25/kadyrov_narkoman [in Russian].

¹²¹ *Russia: Rights Defender Arbitrarily Arrested in Chechnya*, *supra* note 107.

¹²² Urgent Appeal from Special Rapporteur on the Situation of Human Rights Defenders to Russia, UA RUS 1/2018, Jan. 10, 2018, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23573>.

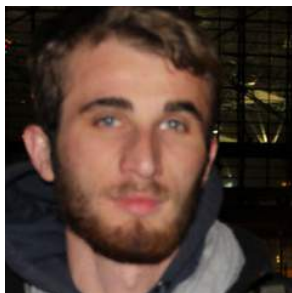
¹²³ *Oyub Titiev Detained and Facing Criminal Investigation*, *supra* note 108 (noting the “trumped up charges of drug possession”); *Resolution on the Situation in Chechnya and the Case of Oyub Titiev*, EUR. PARL., adopted Feb. 14, 2019, available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2019-0115&language=EN&ring=B8-2019-0117> (noting “trumped-up charges of illegal acquisition and possession of narcotics”); Press Release, *Minister for Europe’s Statement on Human Rights in Russia Following the Arrest of Oyub Titiev*, U.K. FOREIGN & COMMONWEALTH OFFICE, Jan. 18, 2018, available at <https://www.gov.uk/government/news/minister-for-europe-statement-on-human-rights-in-russia> (noting that “significant doubts have been raised about the legitimacy of these allegations”); Tweet by U.S. Dep’t. of State Spokesperson Heather Nauert (@statedeptspx), TWITTER, June 21, 2018, 11:10 am, available at <https://twitter.com/statedeptspx/status/1009861134525063171> (noting the “baseless drug charges”); and *Russia: Rights Defender Arbitrarily Arrested in Chechnya*, *supra* note 107 (quoting Nils Muižnieks, Council of Europe Commissioner for Human Rights: “dubious charges that lack credibility”).

¹²⁴ *Russian Federation: Further Information: Defender’s Detention Renewed Again: Oyub Titiev*, AMNESTY INT’L, May 14, 2018, available at <https://www.amnesty.org/en/documents/eur46/8400/2018/en>.

¹²⁵ RUSSIA’S STRIDENT STIFLING OF FREE SPEECH 2012–2018, PEN INT’L, 2018, at 5–9, available at <https://pen-international.org/app/uploads/PEN-Russia-final.pdf> (reviewing laws enacted since 2012).

And government officials are not afraid to use them – in fact, “[c]riminal prosecutions of critical journalists and bloggers are rife.”¹²⁶ Journalists face “huge pressure – legal, physical and economic” – to refrain from covering critical viewpoints.¹²⁷ The Government also uses restrictive laws to punish coverage of and limit publicly-available information about anti-government protests.¹²⁸ Journalists who refuse to censor their writing may find themselves imprisoned on politically-motivated charges.¹²⁹

1. Zhalaudi Geriev



Zhalaudi Geriev is a journalist with the Caucasian Knot, an independent news website widely-known for reporting on abuses by Chechen authorities.¹³⁰ He is currently serving a three-year prison term on fabricated drug charges (Criminal Code Article 228(2)).¹³¹

According to the prosecution, police came across Geriev in a cemetery on April 16, 2016 and, when they searched his backpack, they found marijuana.¹³² In reality, Geriev was forcibly brought there. Earlier that day, he had been on a bus to Grozny, when three armed men entered, forcibly dragged him off and into a car, tied his hands with wire, and drove him to a forest.¹³³ There, they questioned him about his work and threatened him.¹³⁴ Another man eventually arrived, placed a plastic bag over Geriev’s head to suffocate him, and left with Geriev’s backpack.¹³⁵ The remaining kidnappers took Geriev to a cemetery, where they forced him to sign a confession stating that the drugs planted in his backpack belonged to him.¹³⁶ He was then taken into police

¹²⁶ *Id.*, at 12.

¹²⁷ *Id.*, at 13.

¹²⁸ *Id.*

¹²⁹ *Id.*, at 12.

¹³⁰ *Geriev Zhalaudi Nasrudinovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 13, 2019, available at <https://memohrc.org/ru/defendants/geriev-zhalaudi-nasrudinovich> [in Russian] and *Russia: Journalist Punished for Chechnya Reporting*, HUMAN RIGHTS WATCH, Sept. 6, 2016, available at <https://www.hrw.org/news/2016/09/06/russia-journalist-punished-chechnya-reporting>.

¹³¹ *Geriev Zhalaudi Nasrudinovich*, *supra* note 130.

¹³² *Id.*

¹³³ *Russia: Journalist Punished for Chechnya Reporting*, *supra* note 130.

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *Id.*

custody.¹³⁷ Although Geriev recanted at trial and explained that his confession was made under duress, the court refused to take this into consideration.¹³⁸ He was convicted and sentenced to three years' imprisonment.¹³⁹

There are several aspects of this case that demonstrate that the charges are fabricated. First, on the day Geriev was arrested, he had a plane ticket from Grozny to Moscow (he was planning to attend a journalism seminar there).¹⁴⁰ In fact, the airline confirmed that he had purchased a ticket and had even checked in online.¹⁴¹ Despite having clear plans to fly to Moscow, the prosecution claimed that he went instead to a rural cemetery to use drugs. Moreover, Geriev allegedly did so without any matches, lighters, cigarettes, or other paraphernalia needed to smoke or otherwise ingest the marijuana.¹⁴²

In addition, the arresting officers could not explain why, after they allegedly came across Geriev at the cemetery, they searched his backpack. When asked about this, one officer replied that Geriev had a beard, which is an administrative offense (this, of course, is not true), and that this gave them grounds for a search.¹⁴³ Also, the two witnesses who testified that they saw the drugs removed from Geriev's backpack are "full-time witnesses" – they have served as witnesses in more than 15 criminal cases under nearly identical circumstances.¹⁴⁴ In fact, in all of the indictments that rely on these two witnesses, their testimonies coincided word-for-word.¹⁴⁵

It is widely recognized that Geriev was imprisoned in retaliation for his reporting. Tanya Lokshina, Russia Program Director at Human Rights Watch, said there is "no doubt that Geriev is being punished for his work as a journalist,"¹⁴⁶ and Memorial HRC stated that it is "confident that Zhalaudi Geriev has suffered for his professional activities as a journalist."¹⁴⁷

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Geriev Zhalaudi Nasrudinovich*, *supra* note 130.

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Geriev: Gave Testimony Under Pressure*, CAUCASIAN KNOT, Sept. 5, 2016, available at <https://www.kavkaz-uzel.eu/articles/288756/>.

¹⁴⁴ *Geriev Zhalaudi Nasrudinovich*, *supra* note 130.

¹⁴⁵ *Id.*

¹⁴⁶ *Russia: Journalist Punished for Chechnya Reporting*, *supra* note 130.

¹⁴⁷ *Geriev Zhalaudi Nasrudinovich*, *supra* note 130.

Similarly, “PEN International, PEN Moscow and St. Petersburg PEN believe the charges against Zhalaudi Geriev to be connected to his reporting on corruption and other abuses by the Chechen authorities.”¹⁴⁸ Finally, the Norwegian Helsinki Committee and International Federation for Human Rights (FIDH) “consider the criminal prosecution and sentencing of Mr. Zhalaudi Guriev to be connected with his professional journalistic work.”¹⁴⁹

2. Igor Rudnikov



Igor Rudnikov is a prominent opposition politician in the Kaliningrad region and was the editor of *Noviye Kolyosa*, a now-closed independent newspaper renowned for its investigative journalism, particularly on government corruption.¹⁵⁰ Rudnikov has been in custody since November 1, 2017, awaiting trial on extortion charges (Criminal Code Article 163(3)).

In 2017, *Noviye Kolyosa* published a story questioning how Viktor Ledenyov, a member of the powerful Investigative Committee (which answers directly to Vladimir Putin), had acquired a lakeside luxury home.¹⁵¹ Soon thereafter, Rudnikov was arrested by the FSB – it was alleged that he tried to extort \$50,000 from Ledenyov in exchange for ending the negative reporting about him.¹⁵² The arresting officials forced handcuffs on Rudnikov so violently that they broke his arm,¹⁵³ and they later beat him so badly that he had cracked ribs and a severe concussion and lost consciousness.¹⁵⁴ In a video, members of the FSB can be heard telling their

¹⁴⁸ RUSSIA’S STRIDENT STIFLING OF FREE SPEECH, *supra* note 125, at 13.

¹⁴⁹ *Free Caucasian Knot Journalist Zhalaudi Geriev!*, NORWEGIAN HELSINKI COMMITTEE, Sept. 16, 2016, available at <https://www.nhc.no/en/free-caucasian-knot-journalist-zhalaudi-geriev-3/>.

¹⁵⁰ Rudnikov Igor Petrovich, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 14, 2019, available at <https://memohrc.org/ru/defendants/rudnikov-igor-petrovich> [in Russian] and Marc Bennetts, *Did the Trump Administration Help Russia Silence a Putin Critic?*, NEWSWEEK, July 16, 2018, available at <https://www.newsweek.com/igor-rudnikov-trump-administration-help-russia-silence-putin-critic-1025097>.

¹⁵¹ *Did the Trump Administration Help Russia Silence a Putin Critic?*, *supra* note 150.

¹⁵² Rudnikov Igor Petrovich, *supra* note 150 and Igor Rudnikov, Kaliningrad, AMNESTY INT’L, June 5, 2018, available at <https://www.amnesty.org/en/latest/campaigns/2018/06/igor-rudnikov-human-rights-defender-russia/>.

¹⁵³ *Russian Police Violently Arrest Critical Newspaper Editor*, HUMAN RIGHTS WATCH, Nov. 7, 2017, available at <https://www.hrw.org/news/2017/11/07/russian-police-violently-arrest-critical-newspaper-editor>.

¹⁵⁴ *Did the Trump Administration Help Russia Silence a Putin Critic?*, *supra* note 150.

superior that they had given Rudnikov a “good beating.”¹⁵⁵ Yet the violence against him was never investigated.¹⁵⁶

The charges against Rudnikov are highly implausible. As another opposition politician in Kaliningrad explained: “Only an idiot would try and blackmail a general in the Investigative Committee. It would be like attempting to blackmail Putin himself and hoping he would pay up. And Igor Rudnikov is certainly no idiot.”¹⁵⁷ Similarly, Memorial HRC noted: “It is difficult to imagine a situation in which an opposition MP and a journalist who was persecuted in connection with his public activities would extort money from the head of the regional administration of the [Investigative Committee].”¹⁵⁸

Leading experts and organizations have connected Rudnikov’s detention to his reporting. The OSCE Representative on Freedom of the Media stated that “there are reasons to believe that Igor Rudnikov’s detention is related to his journalistic work,”¹⁵⁹ and Reporters Without Borders has described the charges as “clearly trumped-up”¹⁶⁰ and “an act of political revenge.”¹⁶¹

E. Religious Minorities

The Kremlin “views independent religious activity as a major threat to social and political stability.”¹⁶² Because of this, freedom of religion in Russia is “respected unevenly,” with government officials harassing “nontraditional” groups.¹⁶³ This persecution is only getting worse – in 2017, the US Commission on International Religious Freedom (USCIRF)

¹⁵⁵ *RSF Asks UN to Look at Case of Russian Editor Held for Past Year*, REPORTS WITHOUT BORDERS, Nov. 1, 2018, available at <https://rsf.org/en/news/rsf-asks-un-look-case-russian-editor-held-past-year>.

¹⁵⁶ *Rudnikov Igor Petrovich*, *supra* note 150 (noting “the absence of an investigation into the beating of a journalist during his arrest”).

¹⁵⁷ *Did the Trump Administration Help Russia Silence a Putin Critic?*, *supra* note 150.

¹⁵⁸ *Rudnikov Igor Petrovich*, *supra* note 150.

¹⁵⁹ *OSCE Representative on Freedom of the Media Expresses Concern on Detention and Situation of Russian Journalist Igor Rudnikov*, ORG. FOR SEC. & CO-OPERATION IN EUROPE, Nov. 3, 2017, available at <https://www.osce.org/fom/354601>.

¹⁶⁰ *RSF Asks UN to Look at Case of Russian Editor Held for Past Year*, *supra* note 155.

¹⁶¹ *Russia: Editor of Local Independent Newspaper Jailed in Kaliningrad*, REPORTERS WITHOUT BORDERS, Nov. 8, 2017, available at <https://rsf.org/fr/node/34683>.

¹⁶² ANNUAL REPORT 2017: RUSSIA, U.S. COMM’N ON INT’L RELIGIOUS FREEDOM, at 2, available at <https://www.uscifr.gov/sites/default/files/Russia.2017.pdf>.

¹⁶³ *Freedom in the World 2018: Russia*, *supra* note 1.

designated Russia as a “country of particular concern” for the first time.¹⁶⁴ In fact, USCIRF noted that “Russia represents a unique case” because “it is the sole state to have . . . continually intensified its repression of religious freedom since USCIRF commenced monitoring it.”¹⁶⁵

Russia’s extremism laws are frequently used against religious minorities,¹⁶⁶ and numerous religious texts have been added to the Federal List of Extremist Material, “including many with no apparent connections to militancy.”¹⁶⁷ Religious minorities – and Muslims in particular – are often targeted out of “the need of the security services to stay relevant by fabricating cases when actual crimes are lacking.”¹⁶⁸ Charges of unauthorized missionary activity are also common,¹⁶⁹ and the broad definition of “missionary activity” and the lack of an independent judiciary mean that “any religious speech or activity not explicitly sanctioned by the authorities now has the potential to be criminalized, depending on the whims of local law enforcement and prosecutors.”¹⁷⁰ Registration procedures are also used to selectively shut down disfavored religious organizations – for example, after the Kremlin required all religious groups in occupied Crimea to re-register under Russian law, only 365 of the over 1,300 groups that had legal status under Ukrainian law were re-registered.¹⁷¹

¹⁶⁴ ANNUAL REPORT 2017: RUSSIA, *supra* note 162, at 1.

¹⁶⁵ *Id.*

¹⁶⁶ RUSSIA 2017 INTERNATIONAL RELIGIOUS FREEDOM REPORT, U.S. DEP’T OF STATE, at 10, available at <https://www.state.gov/documents/organization/281196.pdf> (“Authorities continued to detain and fine members of minority religious groups and minority religious organizations for alleged extremism.”).

¹⁶⁷ ANNUAL REPORT 2017: RUSSIA, *supra* note 162, at 3.

¹⁶⁸ *Id.*

¹⁶⁹ RUSSIA 2017 INTERNATIONAL RELIGIOUS FREEDOM REPORT, *supra* note 166, at 1 (“The government prosecuted individuals of many denominations for unauthorized missionary activity . . .”).

¹⁷⁰ ANNUAL REPORT 2017: RUSSIA, *supra* note 162, at 6.

¹⁷¹ *Id.*, at 7–8.

1. Dennis Christensen



Dennis Christensen is a Danish citizen and Jehovah's Witness who was sentenced to six years' imprisonment on extremism charges (Criminal Code Article 282.2) in February 2019.¹⁷² His case has come to represent the ongoing persecution of Jehovah's Witnesses in Russia.

In April 2017, the Russian Supreme Court ruled that the Administrative Center of Jehovah's Witnesses – the head office of the religion in Russia – was an extremist organization, effectively banning all Jehovah's Witnesses' activities in the country.¹⁷³ A lower court had previously banned the local chapter of Jehovah's Witnesses to which Christensen belonged.¹⁷⁴ Christensen was arrested in May 2017 during a police raid on a Jehovah's Witness service and charged with organizing the activities of an extremist organization.¹⁷⁵ His allegedly unlawful actions included giving a sermon, discussing a religious publication, organizing worshipers to help with the upkeep of the building, and persuading other people to attend services.¹⁷⁶ After spending 20 months in pretrial detention, he was convicted in February 2019 and sentenced to six years in prison.¹⁷⁷

Christensen's conviction and the 2017 Supreme Court ruling are only recent high-profile examples of the long-standing persecution of Jehovah's Witnesses in Russia. By some accounts, the Government has treated them as violent fundamentalists since at least 2004.¹⁷⁸ Beginning in 2007, local courts started banning local Jehovah's Witness organizations as extremist and numerous pieces of Jehovah's Witness literature were placed on the Federal List of Extremist Materials.¹⁷⁹ Forum 18, a news service

¹⁷² *Russia: Jehovah's Witness Convicted*, HUMAN RIGHTS WATCH, Feb. 6, 2019, available at <https://www.hrw.org/news/2019/02/06/russia-jehovahs-witness-convicted>.

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ Andrew Brown, *Why Putin's Persecution of Jehovah's Witnesses Should Worry Us*, THE GUARDIAN, Apr. 25, 2017, available at <https://www.theguardian.com/commentisfree/2017/apr/25/jehovahs-witnesses-russia-putin-persecution>.

¹⁷⁹ *Russia: Court Bans Jehovah's Witnesses*, HUMAN RIGHTS WATCH, Apr. 20, 2017, available at <https://www.hrw.org/news/2017/04/20/russia-court-bans-jehovahs-witnesses>.

focused on freedom of religion, has documented more than 120 Jehovah's Witnesses in Russia who are under criminal investigation, on trial, or serving a criminal sentence on extremism-related charges.¹⁸⁰ Those that are detained have been recognized as political prisoners.¹⁸¹ Some of these individuals have been brutally tortured to force them to disclose information about their meetings and leadership.¹⁸²

Christensen's conviction, and the persecution of Jehovah's Witnesses more generally, have been widely criticized. Michelle Bachelet, the UN High Commissioner for Human Rights, declared: "The harsh sentence imposed on Christensen . . . effectively criminalizes the right to freedom of religion . . . for Jehovah's Witnesses in Russia."¹⁸³ The co-rapporteurs of the Parliamentary Assembly of the Council of Europe that monitor Russia said that "Christensen's conviction and imprisonment for nothing more than peacefully practising his faith is an unacceptable violation of the right to freedom of religion."¹⁸⁴ In July 2018, the European Union expressed concern about "reports of continued systematic persecution of Jehovah's Witnesses in Russia, including police raids of private homes, intimidation, arbitrary detentions and criminal prosecution."¹⁸⁵ In September, six UN Special Procedures relayed their "concern at the arrest and detention of members of the Jehovah's Witnesses religious minority on the basis of legislation on counter-extremism, and at the raids against their homes."¹⁸⁶ The UK Foreign Office said that the Supreme Court's 2017 ruling "effectively criminalizes the peaceful worship

¹⁸⁰ *Russia: Jehovah's Witness Criminal Cases – List*, FORUM 18, Feb. 19, 2019, available at http://www.forum18.org/archive.php?article_id=2454.

¹⁸¹ *List of Persecuted on Charges of Belonging to Jehovah's Witnesses (Updated)*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 19, 2019, available at <https://memohrc.org/ru/special-projects/spisok-presleduemyh-po-obvineniyu-v-prinadlezhnosti-k-svidetelyam-iegovy> [in Russian].

¹⁸² *7 Jehovah's Witnesses Brutally Tortured in Russia, Spokesman Says*, MOSCOW TIMES, Feb. 20, 2019, available at <https://www.themoscowtimes.com/2019/02/20/7-jehovahs-witnesses-brutally-tortured-russia-spokesman-says>.

¹⁸³ Michelle Bachelet, U.N. High Comm'r for Human Rights, Comment on Criminalising the Right to Freedom of Religion for Jehovah's Witnesses in Russia, Feb. 7, 2019, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24145&LangID=E>.

¹⁸⁴ *Russia Monitors Express Concern at Sentencing of Jehovah's Witness for 'Extremism'*, PARL. ASSEMBLY FOR THE COUNCIL OF EUROPE, Feb. 7, 2019, available at <http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=7366&lang=2&cat=3>.

¹⁸⁵ *OSCE Permanent Council: EU Statement on the Situation of Jehovah's Witnesses in Russia*, EUR. UNION, July 10, 2018, available at https://eeas.europa.eu/headquarters/headquarters-homepage/48196/osce-permanent-council-eu-statement-situation-jehovahs-witnesses-russia_en.

¹⁸⁶ Allegation Letter from Working Group on Arbitrary Detention et al. to Russia, AL RUS 19/2018, Sept. 14, 2018, at 4, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24004>.

of 175,000 Russian citizens and contravenes the right to religious freedom.”¹⁸⁷ Amnesty International has designated “Dennis Christensen and all Jehovah’s Witnesses deprived of right to liberty solely in connection with the peaceful exercise of their right to religion” as prisoners of conscience.¹⁸⁸

2. Ivan Matsitsky



Ivan Matsitsky is the spiritual leader of the Church of Scientology of St. Petersburg.¹⁸⁹ He has been detained since June 2017, facing criminal charges relating to his involvement with Scientology.

On June 6, 2017, the FSB and riot police searched the St. Petersburg Church of Scientology, as well as the apartments of some of its parishioners.¹⁹⁰

Five individuals who performed administrative functions in the church, including Matsitsky, were arrested and charged with creating an extremist community (Criminal Code Article 282.1(1)), degrading the human dignity of church members (Article 282(2)(c)), and illegal business activities (Article 171(2)).¹⁹¹ The extremism charge was based on a prior court ruling that certain works by L. Ron Hubbard (the founder of Scientology) were extremist.¹⁹² The human dignity charge was based on sanctions issued against parishioners who violated the church’s ethical rules; however, as Memorial HRC has pointed out, such practices are common in many religions.¹⁹³ Finally, by offering paid courses and programs without registering as a legal entity, the defendants allegedly engaged in illegal business activities.¹⁹⁴ However, the group had repeatedly

¹⁸⁷ Press Release, *Minister for Human Rights Criticises Russian Supreme Court Ruling for Labelling Jehovah’s Witnesses as ‘Extremist,’* GOV.UK, Apr. 21, 2017, available at <https://www.gov.uk/government/news/minister-for-human-rights-criticises-russian-supreme-court-ruling-for-labelling-jehovahs-witnesses-as-extremist>.

¹⁸⁸ *Russia: The Authorities Must Release Dennis Christensen, Danish Prisoner of Conscience and Jehovah’s Witness*, AMNESTY INT’L, Feb. 5, 2019, available at <https://www.amnesty.org/en/latest/news/2019/02/russia-the-authorities-must-release-danish-prisoner-of-conscience-jehovahs-witness-dennis-christensen/>.

¹⁸⁹ *Matsitsky Ivan Vladimirovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 18, 2019, available at <https://memohrc.org/ru/defendants/macickiy-ivan-vladimirovich> [in Russian].

¹⁹⁰ *St. Petersburg Scientology Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 18, 2019, available at <https://memohrc.org/ru/special-projects/delo-peterburgskih-saentologov> [in Russian].

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.*

tried to register but was denied each time, and the European Court of Human Rights held that those denials violated the group's right to freedom of religion.¹⁹⁵ In fact, Matsitsky and two of the other St. Petersburg Scientologists currently facing charges were applicants in that case before European Court of Human Rights.¹⁹⁶

Like Jehovah's Witnesses, Scientologists in Russia have faced long-standing persecution. For example, courts in Russia banned local Scientology organizations in 2007, 2008, and 2009.¹⁹⁷ More recently, in November 2015, the Moscow City Court banned the activities of the Moscow Scientology branch,¹⁹⁸ and this decision was upheld by the Supreme Court in 2016.¹⁹⁹

Matsitsky has been recognized as prisoner of conscience by the US Commission on International Religious Freedom, with Vice Chair Kristina Arriaga describing his case as "emblematic of the Russian government's complete disregard for religious freedom."²⁰⁰ More generally, the European Court of Human Rights has ruled, in at least three cases, that government officials violated the rights of Scientologists by refusing to grant them legal recognition.²⁰¹

¹⁹⁵ *Church of Scientology of St. Petersburg v. Russia*, App. No. 47191/06, Eur. Ct. H.R., Oct. 2, 2014, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-146703%22%5D%7D>.

¹⁹⁶ *Id.*, at ¶ 5 (the other two applicants were Anastasiya Gennadyevna Terentyeva and Galina Petrovna Shurinova).

¹⁹⁷ *St. Petersburg Court Shuts Down Scientology Center*, INTERFAX-RELIGION.COM, July 13, 2007, available at <http://www.interfax-religion.com/print.php?act=news&id=3328> ("The St. Petersburg City Court has closed down the city's Scientology Center . . ."); *Hubbard Center Closed Up in Samara*, INTERFAX-RELIGION.COM, Nov. 20, 2008, available at <http://www.interfax-religion.com/?act=news&div=5395> ("The Samara city court has banned work of Dianetics Center as its staff-members worked without license and practiced hypnotherapy and Ron Hubbard teaching."); and *The Court Closed the Center of Dianetics in Naberezhnye Chelny*, INTERFAX-RELIGION.COM, Dec. 11, 2009, available at <https://www.interfax.ru/russia/114579> ("By a court decision, according to the prosecutor's office of Tatarstan, the activities of the non-commercial partnership 'Humanitarian Center of Dianetics' in Naberezhnye Chelny were terminated.") [in Russian].

¹⁹⁸ *Russian Court Bans Moscow Branch of the Church of Scientology*, THE GUARDIAN, Nov. 23, 2015, available at <https://www.theguardian.com/world/2015/nov/23/russian-court-bans-moscow-branch-church-of-scientology>.

¹⁹⁹ *Russian Supreme Court Upholds Ban on Church of Scientology Moscow*, RUSSIAN LEGAL INFORMATION AGENCY, June 29, 2016, available at http://www.rapsinews.com/judicial_news/20160629/276413434.html.

²⁰⁰ *Vice Chair Arriaga Adopts Two Religious Prisoners of Conscience*, U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, Sept. 26, 2018, available at <https://www.uscirf.gov/news-room/press-releases-statements/vice-chair-arriaga-adopts-two-religious-prisoners-conscience>.

²⁰¹ *Church of Scientology Moscow v. Russia*, App. 18147/02, Eur. Ct. H.R., Apr. 5, 2007, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-80038%22%5D%7D> (denial of re-registration

F. Ethnic Minorities: Crimean Tatars

The Crimean Tatars are “a Muslim ethnic minority indigenous to the Crimean Peninsula.”²⁰² They have been among the most vocal critics of the Russian occupation of Crimea,²⁰³ and as a result, the Russian authorities have “relentlessly persecuted” them.²⁰⁴ This has included harassment, intimidation, threats, intrusive and unlawful searches, physical attacks, and enforced disappearances.²⁰⁵ Russian authorities have also banned Tatar media and organizations that criticized the occupation, including the Mejlis, the Tatar’s self-governing body.²⁰⁶ Crimean Tatars are also frequently subjected to baseless criminal charges resulting in arbitrary detention – usually separatism, for criticizing Russia’s actions in Crimea; extremism, for political activity; or terrorism, for associating with the religious/political organization Hizb ut-Tahrir al Islami (Hizb ut-Tahrir).²⁰⁷



Emir-Usein Kuku, for example, is a Tatar human rights activist and Chair of the Crimean Contact Group, which monitors human rights violations, provides legal assistance, and reports politically-motivated enforced disappearances.²⁰⁸ On the morning of February 11, 2016, investigators and armed officials smashed down the front door of his home, conducted a five-hour search, and arrested him.²⁰⁹ He was charged with

participating in a terrorist organization (Criminal Code Article 205.5(2))

of the Moscow branch of the church); *Kimlya v. Russia*, App. No. 76836/01, Eur. Ct. H.R., Oct. 1, 2009, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-94565%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-94565%22]}) (refusal to register branches in Nizhnekamsk and Surgut); and *Church of Scientology of St. Petersburg v. Russia*, App. No. 47191/06, Eur. Ct. H.R., Oct. 2, 2014, available at [https://hudoc.echr.coe.int/eng#{%22languageisocode%22:\[%22ENG%22\],%22documentcollectionid%22:\[%22JUDGMENTS%22\],%22itemid%22:\[%22001-146703%22\]}](https://hudoc.echr.coe.int/eng#{%22languageisocode%22:[%22ENG%22],%22documentcollectionid%22:[%22JUDGMENTS%22],%22itemid%22:[%22001-146703%22]}) (denial of legal recognition to St. Petersburg group).

²⁰² *Crimea: Persecution of Crimean Tatars Intensifies*, HUMAN RIGHTS WATCH, Nov. 14, 2017, available at <https://www.hrw.org/news/2017/11/14/crimea-persecution-crimean-tatars-intensifies>.

²⁰³ *Crimean Tatar: Never Silent in the Face of Injustice*, AMNESTY INT’L, accessed Feb. 19, 2019, available at <https://www.amnesty.org/en/latest/campaigns/2018/02/crimean-tatar-hrd-emir-usein-kuku/>.

²⁰⁴ *Crimea: Persecution of Crimean Tatars Intensifies*, *supra* note 202.

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ *Emir Usein Kuku*, FRONTLINE DEFENDERS, accessed Feb. 19, 2019, available at <https://www.frontlinedefenders.org/en/profile/emir-usein-kuku>.

²⁰⁹ *Crimean Tatar: Never Silent in the Face of Injustice*, *supra* note 203.

and preparing for the violent seizure of power (Article 278) due to his alleged involvement with Hizb ut-Tahrir, and has been detained ever since.²¹⁰

Kuku denies any involvement with Hizb ut-Tahrir.²¹¹ However, even if he were involved with the group, the charges against him fail to allege any criminal action beyond mere association. As Memorial HRC has explained, Kuku is “not charged with preparing any terrorist act or voicing terrorist threats: just finding and convincing new supporters, holding meetings with [the] reading and discussing [of Hizb ut-Tahrir] literature, and discussing the international situation.”²¹² Nor is Kuku accused of taking any specific actions in order to violently seize power (such as collecting weapons).²¹³ When an FSB operative was asked in court what preparations Kuku had made to seize power, the operative simply replied that, once Hizb ut-Tahrir has convinced 50% of the population to follow it, it will immediately seize power.²¹⁴

Kuku’s detention and prosecution are clearly related to his human rights work. In July 2018, four UN Special Procedures expressed “[s]erious concern . . . over the ongoing detention of Mr. Kuku and the charges he is facing for reasons seemingly linked to his peaceful and legitimate work in defence of human rights.”²¹⁵ They also expressed concern about “the use of counter-terrorism legislation to criminalise Mr. Kuku’s work in defence of human rights in Crimea.”²¹⁶ The Director of Amnesty International Ukraine described Kuku as “a brave human rights defender who has already spent three years in prison for standing up for the rights of Crimean Tatars.”²¹⁷ The US State Department has recognized Kuku as a political

²¹⁰ *Yalta Case on Membership in a Banned Hizb ut-Tahrir*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 19, 2019, available at <https://memohrc.org/ru/special-projects/yaltinskoe-delo-ochlenstve-v-zapreshchyonnoy-hizb-ut-tahrir> [in Russian].

²¹¹ *Crimean Tatar: Never Silent in the Face of Injustice*, *supra* note 203.

²¹² *Yalta Case on Membership in a Banned Hizb ut-Tahrir*, *supra* note 210.

²¹³ *Id.*

²¹⁴ *Hizb ut-Tahrir as a Reason: Why Crimean Muslims Are Persecuted*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 19, 2019, available at <https://memohrc.org/ru/monitorings/hizb-ut-tahrir-kak-povod-pochemu-presleduyut-krymskih-musulman> [in Russian].

²¹⁵ Urgent Appeal from Working Group on Arbitrary Detention et al. to Russia, UA RUS 17/2018, July 18, 2018, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23964>.

²¹⁶ *Id.*

²¹⁷ *Crimea: YouTube Must Not Cooperate with Russia’s Persecution of Activists*, AMNESTY INT’L, Feb. 7, 2019, available at <https://www.amnesty.org/en/latest/news/2019/02/crimea-youtube-must-not-cooperate-with-russias-persecution-of-activists/>.

prisoner and demanded his release.²¹⁸ Amnesty International has also designated Kuku as a prisoner of conscience.²¹⁹

G. *Alleged Spies*

According to Memorial HRC, the Kremlin has a “conscious state policy” to create “an atmosphere of wartime in society,” with an accompanying search for “enemies of the state.”²²⁰ This is reflected in the “sharp increase” in “spy” charges – treason, espionage, etc. – brought over the past few years.²²¹ Team 29, an association of independent lawyers and journalists in Russia, recently published an exhaustive analysis of such cases, which explained in detail why such prosecutions are problematic.²²²

First, jury trials were abolished in treason and espionage cases in 2008.²²³ This may have contributed to the increase in such charges because investigators “are sure that a professional judge – unlike jurors – will always be on the side of the prosecution.”²²⁴ Second, court sessions are closed to the public, depriving the public of oversight.²²⁵ Third, charges are sometimes based on classified documents that are not made available to the defense²²⁶ (though a 2017 ruling by the Constitutional Court may change this²²⁷). Fourth, the criminal provisions on treason and espionage were amended and broadened in 2012.²²⁸ A former prosecutorial investigator, commenting on the amendments, said that now “virtually anything” could be interpreted as treason.²²⁹ And fifth, once a person is charged with treason or espionage, their conviction is a foregone conclusion – going back to 1997, Team 29 found only one case involving treason or espionage charges

²¹⁸ *Joint Statement on U.S.–Ukraine Strategic Partnership*, U.S. DEP’T OF STATE, Nov. 16, 2018, available at <https://www.state.gov/r/pa/prs/ps/2018/11/287421.htm>.

²¹⁹ *Crimea: YouTube Must Not Cooperate with Russia’s Persecution of Activists*, *supra* note 217.

²²⁰ *Kravtsov Gennady Nikolaevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 19, 2019, available at <https://memohrc.org/ru/defendants/kravcov-gennadiy-nikolaevich> [in Russian].

²²¹ *Id.*

²²² THE HISTORY OF HIGH TREASON, ESPIONAGE AND STATE SECRET IN TODAY’S RUSSIA, TEAM 29, 2018, available at <https://spy.team29.org/report.pdf>.

²²³ *Id.*, at 5.

²²⁴ *Spy Mania 2.0: The Rise in ‘Crimes Against the State’ in Russia*, THE GUARDIAN, Feb. 24, 2016, available at <https://www.theguardian.com/world/2016/feb/24/spy-mania-rise-in-crimes-against-state-treason-russia-ukraine>.

²²⁵ THE HISTORY OF HIGH TREASON, *supra* note 222, at 4.

²²⁶ *Id.*, at 15.

²²⁷ *Id.*, at 20 (“The Constitutional Court made another ruling in 2017 . . . that a party to a criminal case is entitled to review the elements of the case file that constitute a state secret.”).

²²⁸ *Id.*, at 21–24.

²²⁹ *Spy Mania 2.0*, *supra* note 224.

that ended in an acquittal (although two other cases were discontinued before they went to trial).²³⁰

1. Svyatoslav Bobyshev



Svyatoslav Bobyshev is a professor and scientist at Baltic State Technical University.²³¹ He was arrested in March 2010 and charged with treason (Criminal Code Article 275) for allegedly selling information about the Bulava missile system to China during an academic collaboration with a Chinese polytechnic institute.²³² The information, which was included in a report prepared by Bobyshev and others, was not secret at the time it was shared, but was declared secret retroactively.²³³ Despite this, he was convicted and sentenced to 12 years' imprisonment.²³⁴ As Bobyshev's lawyer pointed out, the prosecution's claim that a professional like Bobyshev would sell state secrets and risk an extended prison term for only \$7,000 defies common sense: "Considering the scope of the charges and the severity of the punishment, the compensation that the researchers allegedly received for allegedly transferring classified information is astonishing."²³⁵ Moreover, the chairman of the department in which Bobyshev worked said that his research did not involve any information that could lead to his arrest.²³⁶ Bobyshev's co-defendant in the treason case, Yevgeny Afanasyev (also a professor at Baltic State Technical University), died in prison in 2015.²³⁷

²³⁰ THE HISTORY OF HIGH TREASON, *supra* note 222, at 4.

²³¹ Bobyshev Svyatoslav Vasilyevich, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 5, 2019, available at <https://memohrc.org/ru/defendants/bobyshev-svyatoslav-vasilevich> [in Russian].

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.*

²³⁵ Moscow's Spy Ring, TEAM 29, accessed Feb. 19, 2019, available at <https://spy.team29.org/agents/>.

²³⁶ Alexandra Taranova, 2 Scientists Held in Murky Spy Case, MOSCOW TIMES, Sept. 21, 2010, available at <https://www.themoscowtimes.com/2010/09/21/2-scientists-held-in-murky-spy-case-a1622>.

²³⁷ Russian Professor Convicted of Treason Dies in Prison, RADIO FREE EUROPE / RADIO LIBERTY, Apr. 15, 2015, available at <https://www.rferl.org/a/russian-professor-convicted-of-treason-dies-in-prison/26957328.html>.

2. Petr Parpulov

Petr Parpulov is an air traffic controller who was convicted of treason (Criminal Code Article 275) in 2016 and sentenced to 12 years in prison.²³⁸ He allegedly shared state secrets with individuals in Georgia, who then shared them with the Georgian Government.²³⁹



However, the information he is accused of sharing with relatives there was publicly available – it was even on the website of the Russian Ministry of Defense’s official newspaper.²⁴⁰ Thus, he had no reason to believe that the information constituted a state secret. At trial, the secrecy of the information was established by reference to a secret Ministry of Defense decree that the defense was not allowed to review.²⁴¹ In addition, the court did not demonstrate any motive for Parpulov to share the “state secrets.”²⁴² The real purpose of his conviction appears to be “to create the image of a Russia besieged by enemies.”²⁴³

²³⁸ *Parpulov Petr Ivanovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 5, 2019, available at <https://memohrc.org/ru/defendants/parpulov-petr-ivanovich> [in Russian].

²³⁹ *Id.*

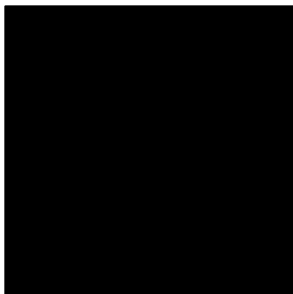
²⁴⁰ *Id.*

²⁴¹ *Memorial Considers Petr Parpulov a Political Prisoner*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 5, 2019, available at https://memohrc.org/sites/default/files/parpulov_source.pdf.

²⁴² *Id.*

²⁴³ LIST OF INDIVIDUALS RECOGNIZED AS POLITICAL PRISONERS BY THE MEMORIAL HUMAN RIGHTS CENTRE (WITH THE EXCEPTION OF THOSE PERSECUTED IN CONNECTION WITH THE REALIZATION OF THEIR RIGHT TO FREEDOM OF RELIGION) AS OF 01 APRIL 2018, MEMORIAL HUMAN RIGHTS CTR., available at http://conservativehumanrights.com/news/2018/Russia/Submissions/Memorial_List_of_Political_Prisoners.pdf.

H. *LGBT Persons in Chechnya*



In April 2017, *Novaya Gazeta* made a shocking report – “[t]he Chechen authorities were arresting and killing gay men.”²⁴⁴ This was apparently retaliation for attempts to hold gay pride parades in four cities in Russia’s predominantly Muslim North Caucasus region, of which Chechnya is a part (a Moscow-based rights group had filed permit applications for the parades).²⁴⁵

Subsequent reporting confirmed that Chechnya’s law enforcement and security officials “rounded up dozens of men on suspicion of being gay, held them in unofficial detention facilities for days, [and] humiliated, starved, and tortured them.”²⁴⁶ Several reportedly died as a result.²⁴⁷ While the Chechen authorities flatly denied this mistreatment, even claiming that there are no gay persons in Chechnya,²⁴⁸ it is clear that the roundups were sanctioned by the authorities.²⁴⁹ In fact, Chechen officials, including two high-level ones, visited the detention facilities and humiliated the detainees.²⁵⁰

In December 2018, a new wave of anti-LGBT persecution was reported.²⁵¹ About 40 people – both men and women – were detained, and at least two died after being tortured.²⁵² The police were reportedly working

²⁴⁴ Andrew E. Kramer, *Chechen Authorities Arresting and Killing Gay Men, Russian Paper Says*, N.Y. TIMES, Apr. 1, 2017, available at https://www.nytimes.com/2017/04/01/world/europe/chechen-authorities-arresting-and-killing-gay-men-russian-paper-says.html?_r=1; see also Elena Milashina, *Honor Kill: How the Ambitions of a Famous LGBT Activist Woke a Terrible Ancient Custom in Chechnya*, NOVAYA GAZETA, Apr. 1, 2017, available at <https://www.novayagazeta.ru/articles/2017/04/01/71983-ubiystvo-chesti> [in Russian].

²⁴⁵ *Chechen Authorities Arresting and Killing Gay Men*, *supra* note 244.

²⁴⁶ “THEY HAVE LONG ARMS AND THEY CAN FIND ME”: ANTI-GAY PURGE BY LOCAL AUTHORITIES IN RUSSIA’S CHECHEN REPUBLIC, HUMAN RIGHTS WATCH, May 2017, at 1, available at https://www.hrw.org/sites/default/files/report_pdf/chechnya0517_web.pdf.

²⁴⁷ *Id.*

²⁴⁸ *Chechen Authorities Arresting and Killing Gay Men*, *supra* note 244 (“A spokesman for Chechnya’s leader, Ramzan Kadyrov, denied the report in a statement to Interfax on Saturday, calling the article ‘absolute lies and disinformation.’”).

²⁴⁹ THEY HAVE LONG ARMS AND THEY CAN FIND ME, *supra* note 246, at 1.

²⁵⁰ *Id.*, at 2.

²⁵¹ Nathan Hodge & Darya Tarasova, *Deaths and Detentions in ‘New Wave of Persecution’ in Chechnya, Say LGBT Activists*, CNN, Jan. 14, 2019, available at <https://www.cnn.com/2019/01/14/europe/russian-lgbt-activists-crackdown-chechnya-intl/index.html>.

²⁵² *Id.*

to prevent victims from leaving the region, including by seizing their travel documents.²⁵³ Again, Chechen authorities denied the reporting as “complete lies.”²⁵⁴

While persons detained solely because of their sexual orientation qualify as political prisoners,²⁵⁵ in practice the victims of LGBT persecution in Chechnya have not been designated as such. This is due primarily to a lack of information: the Chechen authorities have worked actively to prevent victims from leaving the region or otherwise accessing justice, including by threatening to initiate criminal proceedings against them or their close relatives.²⁵⁶ Also, many of the victims themselves do not want to be publicly identified. Homophobia in Chechnya is “intense and rampant” and honor killings by family members can occur.²⁵⁷ In fact, several victims of the LGBT persecution in Chechnya told Human Rights Watch that they would not feel safe filing a complaint even while living abroad.²⁵⁸

Although no LGBT Chechens are currently designated as political prisoners, they are included in this report in recognition of their ongoing repression and the fact that, even if their identities are unknown, their persecution and detention are unlawful, and they must be released.

²⁵³ *Id.* and *Chechnya LGBT: Dozens ‘Detained in New Gay Purge,’* BBC NEWS, Jan. 14, 2019, available at <https://www.bbc.com/news/world-europe-46871801>.

²⁵⁴ *Chechnya LGBT: Dozens ‘Detained in New Gay Purge,’* *supra* note 253.

²⁵⁵ *Guidelines on Definition of Political Prisoner*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 12, 2019, at ¶ 3.1(3), available at <https://memohrc.org/en/specials/guidelines-definition-political-prisoner>.

²⁵⁶ *Deaths and Detentions in ‘New Wave of Persecution’ in Chechnya*, *supra* note 251.

²⁵⁷ THEY HAVE LONG ARMS AND THEY CAN FIND ME, *supra* note 246, at 1–2.

²⁵⁸ *Id.*, at 33.

V. KEY DOMESTIC LAWS USED TO PERSECUTE POLITICAL PRISONERS

Memorial HRC describes the Kremlin's political prisoners as "victims of purposeful state lawlessness."¹ Indeed, Government officials deliberately misuse the Criminal Code² and Code of Administrative Offenses³ to harass, intimidate, prosecute, and imprison political prisoners. They do so in several distinct ways. First, fabricated charges are brought for actions that simply did not occur. Alexey Pichugin, who was convicted of several murders that he did not commit, is a well-known example of this phenomenon. Second, individuals are prosecuted for actions that are widely protected under international human rights law, such as posting on social media (see, e.g., the discussion of Rafis Kashapov, Danis Safargali, and Vitaly Shishkin, below). And third, even where a person's actions may legitimately be sanctioned, disproportionately harsh punishments are used to punish and intimidate activists (for example, the prison term given to Vladimir Podrezov, discussed below). Russian authorities use a broad array of specific laws to target opponents; these laws are discussed in detail below.

A. Criminal Code Provisions Used to Persecute Political Prisoners

1. Drug Crimes

Article 228 prohibits the acquisition, storage, transportation, manufacture, or processing of illegal drugs, and carries a maximum punishment of three years' imprisonment (15 years, if done on an especially large scale).⁴ Several current political prisoners have been charged with and/or convicted of fabricated drug offenses. Oyub Titiev, head of the Grozny representative office of Memorial HRC, was convicted for

¹ *Current List of Political Prisoners*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 3, 2019, available at <https://memohrc.org/ru/pzk-list> [in Russian].

² CRIMINAL CODE OF THE RUSSIAN FEDERATION, June 13, 1996, available at <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=315095&div=LAW&rnd=0.27782972020928964#03780383634932958> [in Russian].

³ CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, Dec. 30, 2001, available at <http://www.consultant.ru/cons/cgi/online.cgi?from=317659-0&rnd=CE1929977E86A961C76304CE2F721973&req=doc&base=LAW&n=319688&REFDOC=317659&REFBASE=LAW#1tvu9medwcj> [in Russian].

⁴ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 228(1), (3).

marijuana allegedly found in his car during a traffic stop.⁵ Titiev, however, insists that the drugs were planted by the police,⁶ and Amnesty International described the charges as “clearly fabricated.”⁷ Mikhail Savostin, an outspoken political activist, was arrested in April 2018 during a traffic stop after police allegedly found a bag of marijuana.⁸ Memorial HRC has said that it believes the evidence against him “is falsified in order to [force him to] voluntarily cease his public activities.”⁹ Vladimir Prisich was convicted in May 2017 for allegedly having half a kilogram of marijuana in his truck; he was sentenced to three years in prison.¹⁰ The drug charges were brought only after the FSB tried, but failed, to implicate him in espionage.¹¹ Zhalaudi Geriev, a journalist for the *Caucasian Knot*, an independent news website known for reporting on abuses by Chechen authorities, was sentenced in 2016 to three years on what Human Rights Watch called “dubious drug charges.”¹² In June 2016, Andrey Kolomiets was convicted of possession of hashish (and other charges).¹³

Former political prisoners (*i.e.*, individuals recognized as political prisoners before their release) Sergey Reznikov and Ruslan Kutaev were also convicted on false drug charges. In April 2017, Reznikov, a prominent opposition activist, was sentenced to three years’ imprisonment for possessing cocaine; he insists the drugs were planted.¹⁴ In 2014, Kutaev publicly criticized an order by Chechen leader Ramzan Kadyrov; two days later, he was arrested for possession of heroin.¹⁵ He was later convicted and

⁵ Titiev Oyub Salmanovich, MEMORIAL HUMAN RIGHTS CTR., accessed Mar. 19, 2019, <https://memohrc.org/ru/defendants/titiev-oyub-salmanovich> [in Russian].

⁶ *Id.*

⁷ Russia: Chechnya’s Leading Rights Defender Facing 10 Years in Jail, AMNESTY INT’L, May 4, 2018, available at <https://www.amnesty.org/en/latest/news/2018/05/russia-chechnyas-leading-rights-defender-facing-10-years-in-jail/>.

⁸ Savostin Mikhail Olegovich, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/savostin-mihail-olegovich> [in Russian].

⁹ *Id.*

¹⁰ Prisich Vladimir Sergeevich, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/prisich-vladimir-sergeevich> [in Russian].

¹¹ *Id.*

¹² Russia: Journalist Punished for Chechnya Reporting, HUMAN RIGHTS WATCH, Sept. 6, 2016, available at <https://www.hrw.org/news/2016/09/06/russia-journalist-punished-chechnya-reporting>.

¹³ Kolomiets Andrey Vladimirovich, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/kolomiec-andrey-vladimirovich> [in Russian].

¹⁴ Civil Activist Sergei Reznikov Was Released, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at https://memohrc.org/ru/news_old/grazhdanskiy-aktivist-sergey-reznikov-vyshel-na-svobodu (he was released on November 20, 2018) [in Russian].

¹⁵ Russia: Chechen Activist Leader Arrested, Beaten, HUMAN RIGHTS WATCH, July 8, 2014, available at <https://www.hrw.org/news/2014/07/08/russia-chechen-activist-leader-arrested-beaten>.

sentenced to four years in prison.¹⁶ Human Rights Watch described the charges against Kutaev as “politically motivated” and said that there is “no doubt that Kutaev is being punished for his activism.”¹⁷

2. Murder

Article 105 prohibits murder and allows for six to 15 years’ imprisonment.¹⁸ Where there are aggravating circumstances – e.g., murder of more than one person or extreme cruelty – the perpetrator can be given life imprisonment.¹⁹ Several political prisoners have been framed for murder. Alexey Pichugin was convicted in 2005 and 2007 on multiple counts of murder and attempted murder.²⁰ In reality, his only crime was refusing to falsely implicate prominent Putin critics Mikhail Khodorkovsky and Leonid Nevzlin in criminal activity (at the time of his arrest, Pichugin worked at Yukos, an oil company formerly controlled by Khodorkovsky and Nevzlin).²¹ The European Court of Human Rights issued separate decisions finding that each of Pichugin’s trials was unfair.²²

Rasul Kudaev was sentenced to life imprisonment in 2014 on a variety of charges, including murder, for his alleged role in a series of attacks on government institutions in the city of Nalchik in 2005.²³ However, the witnesses who originally implicated him recanted at trial, explaining that they had given their prior testimony under torture, and several other witnesses provided Kudaev an alibi throughout the day of the attacks.²⁴

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 105(1).

¹⁹ *Id.*, at Art. 105(2).

²⁰ *Pichugin Alexey Vladimirovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/pichugin-aleksey-vladimirovich> [in Russian].

²¹ Vladimir Kara-Murza, *For Russia’s Longest-Serving Political Prisoner, It’s 15 Years and Counting*, WASHINGTON POST, June 19, 2018, available at https://www.washingtonpost.com/news/democracy-post/wp/2018/06/19/for-russias-longest-serving-political-prisoner-its-15-years-and-counting/?utm_term=.7afc240743a7 (“What prosecutors want from Pichugin is incriminating (false) evidence against Khodorkovsky and former Yukos vice president Leonid Nevzlin, both now living in exile.”).

²² *Pichugin v. Russia*, App. No. 38623/03, Eur. Ct. H.R., Oct. 23, 2012, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-114074%22%5D%7D> [hereinafter *Pichugin v. Russia 2012*] and *Pichugin v. Russia*, App. No. 38958/07, Eur. Ct. H.R., June 6, 2017, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-174061%22%7D%7D> [hereinafter *Pichugin v. Russia 2017*].

²³ *Kudaev Rasul Vladimirovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/kudaev-rasul-vladimirovich> [in Russian].

²⁴ *Id.*

Mykola Karpyuk and Stanislav Klykh were both convicted in May 2016 of several charges, including murder and attempted murder, for allegedly fighting against Russian forces during the First Chechen War.²⁵ However, after a thorough review of the facts and the charges against them, Memorial HRC concluded that they were, in fact, innocent and that their convictions were based on falsified evidence of their involvement in the hostilities in Chechnya.²⁶ Their persecution is likely related to the Kremlin's ongoing anti-Ukraine campaign.²⁷

In an earlier high-profile case, former political prisoner Daniil Konstantinov was arrested on murder charges in March 2012.²⁸ Konstantinov, a nationalist politician, lawyer and human rights activist, was held in pretrial detention for over two years despite the fact that he had “a cast iron alibi”²⁹ – several witnesses placed him at his mother's birthday party at the time of the killing.³⁰ In October 2014, he was convicted of hooliganism, not murder, but was immediately amnestied.³¹ He fled Russia soon thereafter, and received political asylum in Lithuania.³²

3. Weapons Crimes

Several provisions relating to weapons have been used against political prisoners. *Article 222* punishes the illegal acquisition, transfer, sale, storage, transportation, or carrying of firearms or ammunition with up to four years' imprisonment.³³ *Article 222.1* prohibits the same acts for

²⁵ They were both convicted under Article 102 (Murder) of the prior version of the Criminal Code. See Karpyuk Nikolay Andronovich, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/karpyuk-nikolay-andronovich> [in Russian]; Klykh Stanislav Romanovich, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/klyh-stanislav-romanovich> [in Russian]; and In Grozny, The Court Sentenced Nikolai Karpyuk and Stanislav Klykh, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/news/v-groznom-sud-vynes-prigovor-nikolayu-karpyuku-i-stanislavu-klyhu> [in Russian].

²⁶ Karpyuk Nikolay Andronovich, *supra* note 25 and Klykh Stanislav Romanovich, *supra* note 25.

²⁷ *Id.*

²⁸ Konstantinov Daniil Ilyich, OLD.MEMO.RU, July 14, 2012, available at <http://old.memo.ru/d/121786.html> [in Russian].

²⁹ *A Guide to Political Persecution in Russia*, OPENDEMOCRACY, Mar. 13, 2015, available at <https://www.opendemocracy.net/en/odr/guide-to-political-persecution-in-russia/>.

³⁰ Oleg Sukhov, *Pussy Riot Yes, Khodorkovsky No*, MOSCOW TIMES, Dec. 18, 2013, available at <https://www.themoscowtimes.com/2013/12/18/pussy-riot-yes-khodorkovsky-no-a30640>.

³¹ *Id.*

³² *Russian Activist Plans to Learn Lithuanian, Teach at University After Getting Asylum*, DELFI, June 29, 2018, available at <https://en.delfi.lt/lithuania/foreign-affairs/russian-activist-plans-to-learn-lithuanian-teach-at-university-after-getting-asylum.d?id=78441821>.

³³ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 222(1).

explosives, with a maximum of five years' imprisonment.³⁴ *Article 223* and *Article 223.1* further criminalize the illegal manufacture of firearms/ammunition and explosives, providing for three to five years and three to six years in prison, respectively.³⁵ All of these articles allow for greater punishment where violations are committed as a part of a conspiracy or organized group.³⁶

Vladimir Balukh, discussed above in Section IV(B), was convicted in 2018 of illegal possession of firearms and ammunition under *Article 222*.³⁷ It appears that this contraband was planted and that the criminal prosecution was a direct result of his pro-Ukraine activism.³⁸ He was sentenced to three years and five months in prison.³⁹ Oleg Sentsov, also discussed in Section IV(B), was sentenced in 2015 to 20 years' imprisonment on various charges, including unlawful acquisition and storage of weapons under *Article 222*.⁴⁰ He was likely also targeted due to his pro-Ukraine activism and his (peaceful) resistance to the occupation of Crimea.⁴¹ Memorial HRC further noted his case is “[o]bviously . . . part of a political campaign to create a tangible and primitive image of the enemy”: that is, Ukrainian nationalists and terrorists from the Right Sector (a far-right Ukrainian political party).⁴²

Four additional political prisoners – Alexander Orshulevich, Igor Ivanov, Alexander Mamaev, and Nikolai Sentsov – are currently facing weapons (and other) charges relating to their alleged involvement with Baltic Avant-Garde of Russian Resistance (BARS), a nationalist/opposition group that has participated in anti-Putin actions.⁴³ The weapons charges are specifically for illegal possession of firearms and ammunition (*Article 222*) and explosive devices (*Article 222.1*).⁴⁴ While Nikolai Sentsov admits

³⁴ *Id.*, at Art. 222.1(1).

³⁵ *Id.*, at Arts. 223(1), 223.1(1).

³⁶ *Id.*, at Arts. 222(2)–(3), 222.1(2)–(3), 223(2)–(3), 223.1(2)–(3).

³⁷ *Balukh Vladimir Grigorievich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/baluh-vladimir-grigorevich> [in Russian].

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Sentsov Oleg G.*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/sencov-oleg-gennadevich> [in Russian].

⁴¹ *We Stand with Oleg Sentsov*, AMNESTY INT'L, accessed Jan. 15, 2019, available at <https://www.amnesty.org/en/latest/campaigns/2018/07/oleg-sentsov/>.

⁴² *Sentsov Oleg G.*, *supra* note 40.

⁴³ *The BARS Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/special-projects/delo-bars> [in Russian].

⁴⁴ *Id.*

having certain weapons, they were inoperative and used for reenactments only.⁴⁵ The others – a rocket-propelled grenade, etc. – were planted during a search of his house.⁴⁶ An additional political prisoner – Gleb Shabliy – was sentenced to five years’ imprisonment under *Articles 222.1* and *223.1* for an explosive device allegedly found in the safe of the office where he worked.⁴⁷ However, according to Memorial HRC, “[t]here is reason to believe” the case was fabricated, the explosive device was planted, and the initial guilty plea was made under torture by the FSB.⁴⁸ In reality, Shabliy was targeted because he was a reserve officer with the Ukrainian armed forces.⁴⁹

4. Sexual Crimes

Under *Article 132*, violent acts of a sexual nature are punishable by three to six years in prison (eight to 15 years, if committed against a minor).⁵⁰ *Article 135* prohibits depraved actions with a minor below 16 and allows for up to three years’ imprisonment.⁵¹ *Article 242.2* punishes child pornography with three to 10 years’ imprisonment.⁵²

Political prisoner Yuri Dmitriev is a renowned historian who has worked for decades to uncover Soviet-era executions and mass graves.⁵³ He is also the chairman of the Karelian branch of the Russian Historical, Educational, and Human Rights Society Memorial (which is related to, but legally distinct from, Memorial HRC).⁵⁴ In December 2016, Dmitriev was arrested and subsequently charged under *Articles 132*, *135*, and *242.2*, relating to nine photographs he took of his adopted daughter.⁵⁵ She was malnourished when Dmitriev and his wife took her in, and the photos documented the child’s health and development to avoid any issues with

⁴⁵ *Sentsov Nikolay Aleksandrovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/sencov-nikolay-aleksandrovich> [in Russian].

⁴⁶ *Id.*

⁴⁷ *Shabliy Gleb Fedorovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/shabliy-gleb-fyodorovich> [in Russian].

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 132(1), (3).

⁵¹ *Id.*, at Art. 135(1).

⁵² *Id.*, at Art. 242.2(1).

⁵³ Alec Luhn, *Gulag Grave Hunter Unearths Uncomfortable Truths in Russia*, THE GUARDIAN, Aug. 3, 2017, available at <https://www.theguardian.com/world/2017/aug/03/gulag-grave-hunter-yury-dmitriyev-unearts-uncomfortable-truths-russia>.

⁵⁴ *Dmitriev Yuri Alekseevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/dmitriev-yuriy-alekseevich> [in Russian].

⁵⁵ *Id.*

social services.⁵⁶ Moreover, each photograph had a note about the child's height, weight, and general health.⁵⁷ Dmitriev was acquitted of the sexual offenses in April 2018. A higher court overturned the acquittal and sent the case back for retrial;⁵⁸ in June 2018, additional criminal charges were filed against Dmitriev, this time under *Article 132(4)(b)* (violent acts of a sexual nature committed against a person under fourteen).⁵⁹ His prosecution comes amidst the Government's efforts to rehabilitate the image of Soviet-era Russia. Putin himself said in June 2017 that the "excessive demonisation" of Stalin is a "means of attacking the Soviet Union and Russia."⁶⁰ Memorial HRC has stated that, in its opinion, Dmitriev's prosecution is a direct result of his work highlighting the victims of Stalinist repression.⁶¹

5. Property/Financial Crimes

Article 163 penalizes extortion with up to four years' imprisonment, and up to 15 years if committed in order to obtain property on a large scale.⁶² Igor Rudnikov, a well-known opposition politician and editor of an independent newspaper,⁶³ was arrested in November 2017 for allegedly extorting money from a member of the Investigative Committee in the Kaliningrad region.⁶⁴ Because he is charged with extortion "to obtain property on a large scale," he faces up to 15 years in prison if convicted.⁶⁵

Article 171 prohibits illegal business activities, and allows for up to five years' imprisonment if committed by an organized group or for large-

⁵⁶ *Gulag Grave Hunter Unearths Uncomfortable Truths in Russia*, *supra* note 53.

⁵⁷ *Id.*

⁵⁸ Atle Staalesen, *Supreme Court Overturns Acquittal of Yuri Dmitriev*, THE BARENTS OBSERVER, June 15, 2018, available at <https://thebarentsobserver.com/en/civil-society-and-media/2018/06/supreme-court-overturns-acquittal-yuri-dmitriev>.

⁵⁹ *Dmitriev Yuri Alekseevich*, *supra* note 54.

⁶⁰ *Gulag Grave Hunter Unearths Uncomfortable Truths in Russia*, *supra* note 53.

⁶¹ *Dmitriev Yuri Alekseevich*, *supra* note 54 ("We have reason to believe that he became disliked by virtue of his professional activities (recalling the memory of the victims of Stalinist repression), his independent political views, and attracting the international community to the annual International Memorial Days for the Victims of Great Terror at the Sandarmoch International Cemetery.").

⁶² CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 163(1), (3).

⁶³ *Rudnikov Igor Petrovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/rudnikov-igor-petrovich> [in Russian].

⁶⁴ Press Release, *One Year after Arrest of Russian Journalist Igor Rudnikov*, OSCE Representative Reiterates Call for His Release, ORG. FOR SEC. & CO-OPERATION IN EUROPE, Nov. 6, 2018, available at <https://www.osce.org/representative-on-freedom-of-media/402110>.

⁶⁵ *Rudnikov Igor Petrovich*, *supra* note 63.

scale income generation.⁶⁶ Five Scientologists in St. Petersburg (all recognized by Memorial HRC as political prisoners⁶⁷) are currently facing charges of illegal business activities for providing paid courses and programs without being legally registered.⁶⁸ However, as mentioned above, the St. Petersburg Church of Scientology had repeatedly tried to register as a legal entity with the government – at least six times – but was denied each time,⁶⁹ and the European Court of Human Rights ruled that these denials violated the European Convention on Human Rights.⁷⁰

Former political prisoners Mikhail Khodorkovsky and Platon Lebedev⁷¹ were convicted in 2005 and 2010 of a variety of trumped-up financial crimes: fraud (*Article 159*), embezzlement (*Article 160*), pecuniary damage (*Article 165*), tax evasion (*Articles 198 and 199*), and money laundering (*Article 174.1*).⁷² During their detention, Amnesty International declared the two businessmen to be prisoners of conscience⁷³ and the US government described the case as a “failure” to respect the rule of law.⁷⁴

In December 2014, Alexey and Oleg Navalny were convicted of money laundering (*Article 174.1(2)*) and fraud (*Article 159.4*, since

⁶⁶ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 171(1)–(2).

⁶⁷ All were recognized as political prisoners, but one of them – Galina Shurinova – was released on bail in June 2018 and therefore is no longer considered a political prisoner. *St. Petersburg Scientology Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/special-projects/delo-peterburgskih-saentologov> [in Russian].

⁶⁸ *Id.*

⁶⁹ *Church of Scientology of St Petersburg v. Russia*, App. No. 47191/06, Eur. Ct. H.R., Feb. 16, 2015, at ¶¶ 7–22, available at <https://hudoc.echr.coe.int/eng#%7B%22languageisocode%22%3A%22ENG%22%22%22documentcollectionid%22%3A%22JUDGMENTS%22%22itemid%22%3A%22001-146703%22%7D>.

⁷⁰ *Id.*, at ¶ 48 (finding a violation of Article 9 of the Convention, interpreted in the light of Article 11).

⁷¹ *Memorial’s Full List of Political Prisoners in Russia*, KHODORKOVSKY.COM, Nov. 4, 2013, available at <https://www.khodorkovsky.com/memorials-full-list-of-political-prisoners-in-russia/>.

⁷² *Case: Platon Leonidovich Lebedev*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/special-projects/delo-lebedev-platon-leonidovich> [in Russian]; *Khodorkovsky Mikhail Borisovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/defendants/hodorkovskiy-mihail-borisovich> [in Russian]; and *Memorial’s Full List of Political Prisoners in Russia*, *supra* note 71.

⁷³ *Russian Businessmen Declared Prisoners of Conscience After Convictions Are Upheld*, AMNESTY INT’L, May 24, 2011, available at <https://www.amnesty.org/en/latest/news/2011/05/russian-businessmen-declared-prisoners-of-conscience-after-convictions-are-upheld/>.

⁷⁴ Catherine Belton and Isabel Gorst, *US Attacks Khodorkovsky Guilty Verdict*, FINANCIAL TIMES, Dec. 27, 2010, available at <https://www.ft.com/content/dc23d410-119b-11e0-92d0-00144feabdc0>.

repealed).⁷⁵ Both were sentenced to 3.5 years' imprisonment, though Alexey's sentence was suspended.⁷⁶ Memorial HRC noted that "[t]he circumstances of the prosecution and sentencing . . . allow us to say that Oleg Navalny was *de facto* taken hostage solely in connection with the public activities of his brother."⁷⁷

6. Expression Crimes

Article 128.1 criminalizes defamation – that is, the dissemination of knowingly false information discrediting the honor or dignity of another person or undermining his or her reputation.⁷⁸ The punishment is a fine of up to 500,000 rubles (US \$7,692); if slander is contained in a public speech, a publicly displayed work, or in the media, the fine can go up to 1,000,000 rubles (US \$15,384).⁷⁹

This overbroad provision is used to silence critical voices. In October 2018, government officials informed opposition leader Alexey Navalny (through his lawyer) that he would be charged under this provision relating to a 2016 report in which Navalny's organization accused Pavel Karpov, an Interior Ministry investigator, of playing a role in the death of Sergei Magnitsky.⁸⁰ However, it is widely recognized that Karpov did just that, and consequently he has been subjected to Magnitsky sanctions by several countries, including the US, Canada, and Estonia.⁸¹ Going further back, Mikhail Anshakov, President of the Society for Consumer Rights Protection, was fined 100,000 rubles (US \$1,538) in 2013 for stating during an interview that Christ the Savior Cathedral in Moscow had been turned

⁷⁵ *Navalnyye v. Russia*, App. No. 101/15, Eur. Ct. H.R., Oct. 17, 2017, at ¶ 32, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-177665%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-177665%22]}).

⁷⁶ *Id.*

⁷⁷ *Mail Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 15, 2019, available at <https://memohrc.org/ru/special-projects/pochtovoe-delo> [in Russian].

⁷⁸ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 128.1(1).

⁷⁹ *Id.*, at Art. 128.1(1)–(2).

⁸⁰ *Good Egg for Christ's Day, and the Criminal Case – to the Exit*, NAVALNY.COM, Oct. 15, 2018, available at <https://navalny.com/p/5973/> [in Russian] and *Kremlin Foe Navalny Summoned to Police Again*, RADIO FREE EUROPE / RADIO LIBERTY, Oct. 15, 2018, available at <https://www.rferl.org/a/kremlin-foe-navalny-summoned-to-police-again/29544649.html>.

⁸¹ *Karpov, Pavel*, OFFICE OF FOREIGN ASSETS CONTROL, accessed Jan. 1, 2019, available at <https://sanctionssearch.ofac.treas.gov/Details.aspx?id=3732>; *Justice for Victims of Corrupt Foreign Officials – Case 3*, GLOBAL AFFAIRS CANADA, accessed Jan. 1, 2019, available at https://www.canada.ca/en/global-affairs/news/2017/11/case_3.html; and *Magnitsky List to Take Effect in Estonia on Tuesday*, EESTI RAHVUSRINGHÄÄLING, Apr. 2, 2018, available at <https://news.err.ee/693542/magnitsky-list-to-take-effect-in-estonia-on-tuesday>.

into a “business center.”⁸² More generally, this provision has been used against journalists for criticizing regional elites.⁸³

Article 148 prohibits, among other things, public acts expressing “obvious disrespect for society” or that “insult religious feelings”;⁸⁴ as a practical matter, it is used to prosecute perceived blasphemy. These acts are punishable by up to one year in prison,⁸⁵ while committing such acts in a place of worship is punishable by up to three years’ imprisonment.⁸⁶ Because the law does not define “religious feelings” or describe what constitutes “insulting” them, it allows “prosecutors and courts tremendous discretion to target critical speech.”⁸⁷

In May 2017, former political prisoner Ruslan Sokolovsky, a popular video-blogger, was convicted of seven counts under *Article 148*, all relating to videos he had posted on his YouTube channel.⁸⁸ One of the videos – perhaps the most well-known – depicted him playing Pokémon Go in a church.⁸⁹ He was given a suspended sentence of three years (reduced to two years and three months on appeal).⁹⁰ That same month, a woman was convicted of blasphemy and fined 15,000 rubles (US \$230) for publishing photos showing her lighting a cigarette from a candle in an

⁸² XENOPHOBIA, FREEDOM OF CONSCIENCE AND ANTI-EXTREMISM IN RUSSIA IN 2013, SOVA CTR. FOR INFO. & ANALYSIS, 2014, at 84–85, *available at* <https://www.sova-center.ru/files/books/pe14-text.pdf> and Anna Dolgov, *Russian Consumer Rights Activist Anshakov Arrested in Moscow*, MOSCOW TIMES, Oct. 2, 2015, *available at* <https://themoscowtimes.com/news/russian-consumer-rights-activist-anshakov-arrested-in-moscow-50024>.

⁸³ *Business: Kalinichenko Stanislav Yuryevich*, MEMORIAL HUMAN RIGHTS CTR., *accessed* Jan. 15, 2019, *available at* <https://memohrc.org/ru/special-projects/delo-kalinichenko-stanislav-yurevich> (noting that, in the Kemerovo Region, there have been “numerous lawsuits against journalists filed in recent years by representatives of the regional elite” under a variety of criminal provisions, including Article 128.1) [in Russian].

⁸⁴ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 148(1).

⁸⁵ *Id.*, at Art. 148(1).

⁸⁶ *Id.*, at Art. 148(2).

⁸⁷ ONLINE AND ON ALL FRONTS – RUSSIA’S ASSAULT ON FREEDOM OF EXPRESSION, HUMAN RIGHTS WATCH, July 18, 2017, at 20, *available at* https://www.hrw.org/sites/default/files/report_pdf/russiafoe0717_web_2.pdf; *see also* 2018 ANNUAL REPORT, U.S. COMM’N ON INT’L RELIGIOUS FREEDOM, Apr. 2018, at 76, *available at* <https://www.uscifr.gov/sites/default/files/2018USCIRFAR.pdf> (“There is some evidence of the blasphemy laws being used to punish political dissent.”) [hereinafter USCIRF 2018 ANNUAL REPORT].

⁸⁸ *The Case of Ruslan Sokolovsky*, GLOBAL FREEDOM OF EXPRESSION, *accessed* Jan. 16, 2019, *available at* <https://globalfreedomofexpression.columbia.edu/cases/case-ruslan-sokolovsky/>.

⁸⁹ *Id.*

⁹⁰ *Id.*

Orthodox church.⁹¹ In 2016, there were several problematic blasphemy convictions: Konstantin Kazantsev and Rustem Shaydullin were sentenced to 230 hours of mandatory labor for placing a homemade scarecrow with an insulting inscription on a cross; Sergei Lazarov was convicted for sharing online an article (written by another) that used strong language to critique the image of Christ the Pantocrator; and Anton Simakov was sentenced to mandatory mental health treatment for posting a video online of him using Christian symbols in a voodoo ritual.⁹² In addition, anarchist Dmitry Litvin was prosecuted for blasphemy in 2018;⁹³ he allegedly posted a photo on his social media account of him making a profane gesture at a church.⁹⁴

Article 280 prohibits public appeals for extremist activities, and allows for imprisonment up to four years (five years, if done through the mass media or internet).⁹⁵ The definition of “extremist activities” under Russian law is incredibly broad and includes: “stirring up” social, racial, ethnic or religious discord; propaganda on the superiority or deficiency of certain groups; violating someone’s human rights or lawful interests in connection with their social, racial, ethnic, religious, or linguistic affiliation; mass dissemination of “extremist” material; and false accusations of “extremism” against a public official.⁹⁶

Article 280 is “used to prosecute and sometimes imprison opposition activists who are involved in public demonstrations,”⁹⁷ and is also commonly used to “prosecute citizens for expressing ‘undesirable’ opinions,” especially on the internet.⁹⁸ For example, in 2016, former

⁹¹ Olga Sibireva, *Freedom of Conscience in Russia: Restrictions and Challenges in 2017*, SOVA CTR. FOR INFO. & ANALYSIS, May 18, 2018, available at <https://www.sova-center.ru/en/religion/publications/2018/05/d39381/>.

⁹² Maria Kravchenko, *Inappropriate Enforcement of Anti-Extremist Legislation in Russia in 2016*, SOVA CTR. FOR INFO. & ANALYSIS, Apr. 21, 2017, available at <https://www.sova-center.ru/en/misuse/reports-analyses/2017/04/d36857/>.

⁹³ *Misuse of Anti-Extremism in October 2018*, SOVA CTR. FOR INFO. & ANALYSIS, Nov. 9, 2018, available at <https://www.sova-center.ru/en/misuse/news-releases/2018/11/d40270/>.

⁹⁴ USCIRF 2018 ANNUAL REPORT, *supra* note 87, at 76.

⁹⁵ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 280(1)–(2).

⁹⁶ Federal Law on Countering Extremist Activities, No. 114-FZ, July 25, 2002, at Art. 1(1), available at <http://ivo.garant.ru/#/document/12127578/paragraph/6:0> [in Russian] (unofficial English translation available at <https://www.legislationline.org/documents/id/16862>).

⁹⁷ *Vladivostok Court Arrests Navalny Supporter For ‘Extremism’ After Telegram Re-Post*, KHODORKOVSKY.COM, Apr. 5, 2018, available at <https://www.khodorkovsky.com/vladivostok-court-arrests-navalny-supporter-extremism-telegram-re-post/>.

⁹⁸ *Navalny Volunteer Sentenced to Two Years for Social Media Post*, KHODORKOVSKY.COM, Sept. 18, 2017, available at <https://www.khodorkovsky.com/navalny-volunteer-sentenced-two-years-social-media-post/>; see also Urgent Action, *Trial Against Government Critic Continues*, AMNESTY INT’L, Jan. 12, 2016, available at

political prisoner Andrei Bubeev⁹⁹ was convicted under *Article 280* for sharing a cartoon on social media saying Russia needed to be “squeezed out” of Ukraine, as though from a toothpaste tube, along with text saying that the only slogan should be that “Russia should not exist.”¹⁰⁰ He was sentenced to two years and three months in a prison colony.¹⁰¹ In 2015, former political prisoner Daria Polyudova was convicted on the basis of two social media posts.¹⁰² The first was a picture of her holding a poster that said, “No war in Ukraine but a revolution in Russia!” but did not advocate for violence.¹⁰³ The second one discussed how Russians needed to follow Ukraine’s Maidan activists and take to the streets in order to bring down the Government; again, there was no specific call for violence.¹⁰⁴

Article 280.1 prohibits separatism (i.e., public calls for actions violating Russia’s territorial integrity) and carries a maximum punishment of four years in prison (five years, if done using the mass media or internet).¹⁰⁵ This provision has been used to penalize discussion regarding the illegal annexation of the Crimean Peninsula. For example, in September 2017, Ilmi Umerov was sentenced to two years under this provision after he decried the annexation of Crimea during a television interview¹⁰⁶ (though he was pardoned soon after his conviction¹⁰⁷). In 2015, former political prisoner Rafis Kashapov was sentenced to three years in prison under *Article 280.1* (and *Article 282*) for posting messages on social media criticizing the annexation of Crimea and aggression in eastern Ukraine.¹⁰⁸ Former political prisoners Daria Polyudova and Andrei Bubeev, mentioned

<https://www.amnesty.org/download/Documents/EUR4631792016ENGLISH.pdf> (noting that Article 280 is “being increasingly used to silence dissent”).

⁹⁹ *Memorial Considers Tver Resident Andrei Bubeyev a Political Prisoner*, MEMORIAL HUMAN RIGHTS CTR., Mar. 29, 2016, available at

https://memohrc.org/sites/default/files/bubeev_source.pdf.

¹⁰⁰ Halya Coynash, *Russian Gets 2 Years for Reposting That Crimea Should Be Returned to Ukraine*, KHARKIV HUMAN RIGHTS PROT. GROUP, July 26, 2016, available at

<http://khpg.org/en/index.php?id=1469135311>.

¹⁰¹ *Id.*

¹⁰² *Polyudova Darya Vladimirovna*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 18, 2019, available at <https://memohrc.org/ru/defendants/polyudova-darya-vladimirovna> [in Russian].

¹⁰³ Tanya Lokshina, *Dispatches: The Crime of Speaking Up in Russia*, HUMAN RIGHTS WATCH, Dec. 22, 2015, available at <https://www.hrw.org/news/2015/12/22/dispatches-crime-speaking-russia>.

¹⁰⁴ *Id.*

¹⁰⁵ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 280.1(1)–(2).

¹⁰⁶ *Umerov Ilmi Rustemovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 18, 2019, available at <https://memohrc.org/ru/defendants/umerov-ilmi-rustemovich> [in Russian].

¹⁰⁷ *Id.* (noting his pardon).

¹⁰⁸ *Kashapov Rafis Rafailovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 18, 2019, available at <https://memohrc.org/ru/defendants/kashapov-rafis-rafailovich> [in Russian].

above, were also convicted under *Article 280.1* – Polyudova for reposting an article on social media, and Bubeev for making pro-Ukraine statements.¹⁰⁹

Article 282 proscribes incitement of hatred or enmity and allows for imprisonment between two and five years.¹¹⁰ The Supreme Court clarified in 2011 that this provision applies to statements vindicating and/or affirming the necessity of genocide, mass repressions, deportations and other illegal actions, including the use of violence in a discriminatory manner (*i.e.*, against certain protected groups).¹¹¹ Criticism of political organizations, ideological and religious associations, political, ideological and religious convictions, or national and religious customs is not prohibited.¹¹² In 2018, the Court further ruled that merely liking or reposting material on the internet does not alone constitute a crime; a person's "actual motives" must be considered.¹¹³ In December 2018, *Article 282(1)* was amended such that it applies only to a person's second offense within one year: the first offense will be administratively (not criminally) punished.¹¹⁴

Like *Article 280* (public appeals for extremist activities), *Article 282* is routinely used to target and punish critical or opposition speech. In 2017, political prisoner Danis Safargali, a leader in the Tatar national movement, was convicted for posting on social media about Russia, the media, the Orthodox Church, foreign policy, and Vladimir Putin,¹¹⁵ even though none

¹⁰⁹ Polyudova Darya Vladimirovna, *supra* note 102 and Memorial Considers Tver Resident Andrei Bubeyev a Political Prisoner, *supra* note 99.

¹¹⁰ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 282(1).

¹¹¹ Supreme Court Resolution on Judicial Practice Relating to Criminal Cases on Crimes of Extremist Nature, No. 11, June 28, 2011, at ¶ 7, available at http://supcourt.ru/Show_pdf.php?Id=7315 [in Russian]; see also *Dmitriyevskiy v. Russia*, App. No. 42168/06, Eur. Ct. H.R., Oct. 3, 2017, at ¶ 53, available at <http://www.cir-onlus.org/wp-content/uploads/2017/12/CASE-OF-DMITRIYEVSKIY-v.-RUSSIA.pdf> (discussing the Resolution).

¹¹² *Id.*

¹¹³ Lyubov Chizhova et al., *Only A Few 'Likes' for Putin's Softening of Controversial Meme Law*, RADIO FREE EUROPE / RADIO LIBERTY, Oct. 5, 2018, available at <https://www.rferl.org/a/russia-putin-meme-laws-softening-critics-stifling-dissent-freedom-speech/29527682.html>.

¹¹⁴ Halya Coynash, *Russia 'Decriminalizes' Pro-Ukraine Social Media Reposts in Occupied Crimea. But Only the First*, KHARKIV HUMAN RIGHTS PROT. GROUP, Jan. 2, 2019, available at <http://khpg.org/en/index.php?id=1546123219>.

¹¹⁵ *Safargali Danis Vildanovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 18, 2019, available at <https://memohrc.org/ru/defendants/safargali-danis-vildanovich> [in Russian] and *In Tatarstan, the Investigation of the Criminal Case of the Leader of the Movement "Altyn Urda,"* SOVA CTR. FOR INFO. & ANALYSIS, Jan. 26, 2017, available at https://www.sova-center.ru/racism-xenophobia/news/counteraction/2017/01/d36237/#__utmzi__1__=1 [in Russian].

of the posts called for violence or represented a significant public danger.¹¹⁶ That same year, former political prisoner Ruslan Sokolovsky was convicted under *Article 282* based on two videos he posted to YouTube that criticized Muslims and the Russian Orthodox Church.¹¹⁷ While the videos contained foul language and disparaging statements, they did not call for violence.¹¹⁸ In 2015, former political prisoner Vitaly Shishkin, an opposition Russian nationalist, was sentenced to four years in prison under *Article 282* (and one other charge) for posting a series of videos online;¹¹⁹ while the videos made nationalistic statements, none of them called for violence or incited hatred against a particular ethnic or religious group.¹²⁰

Article 319 prohibits insulting a government official and carries a fine of up to 40,000 rubles (US \$615), and can also be punished with compulsory work.¹²¹ Former political prisoner Sergei Reznik was convicted under this provision in November 2013 for a series of blog posts accusing a judge of corruption and nepotism.¹²² He was sentenced (on this, and other charges) to 18 months in prison.¹²³ In January 2015, just a few months before he was due to be released, he was convicted of additional crimes, including two more counts under *Article 319*, for allegedly insulting a Deputy Prosecutor and a deputy department head in the Ministry of Internal Affairs.¹²⁴ This time, he was given three years in prison.¹²⁵ The

¹¹⁶ In Tatarstan, the Investigation of the Criminal Case of the Leader of the Movement “Altyn Urda,” *supra* note 115 (analyzing some of the posts and explaining why they do not fall under Article 282).

¹¹⁷ Sokolovsky Ruslan Gennadyevich, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 18, 2019, available at <https://memohrc.org/ru/defendants/sokolovskiy-ruslan-gennadevich> [in Russian].

¹¹⁸ “Pokemon Catcher” Ruslan Sokolovsky Was Sentenced to a Suspended Sentence, MEMORIAL HUMAN RIGHTS CTR., May 11, 2017, available at <https://memohrc.org/ru/news/lovca-pokemonov-ruslana-sokolovskogo-prigovorili-k-uslovnomu-sroku> [in Russian].

¹¹⁹ Shishkin Vitaly Viktorovich, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 18, 2019, available at <https://memohrc.org/ru/defendants/shishkin-vitaliy-viktorovich> [in Russian].

¹²⁰ Press Release, *Memorial Considers Vitaly Shishkin a Political Prisoner*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 18, 2019, available at <https://memohrc.org/sites/all/themes/memo/templates/pdf.php?pdf=/sites/default/files/shishkin.pdf>.

¹²¹ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 319.

¹²² Reznik Sergey Eduardovich, OLD.MEMO.RU, accessed Jan. 18, 2019, available at <http://old.memo.ru/d/182431.html> [in Russian] and 20 April – Sergei Reznik, Russia, Jailed Since November 2013,

WORLD ASS’N OF NEWSPAPERS & NEWS PUBLISHERS, Apr. 20, 2014, available at <http://www.wanifra.org/articles/2014/04/20/20-april-sergei-reznik-russia-jailed-since-november-2013>.

¹²³ *Id.*

¹²⁴ Reznik Sergey Eduardovich, *supra* note 122.

¹²⁵ *Id.*

alleged insults included calling the Deputy Prosecutor a “feathered donkey,” “urban crocodile,” “tractor driver,” and “scoundrel.”¹²⁶

Political prisoner Vladimir Balukh was convicted under *Article 319* in June 2016 for allegedly using “foul, insulting language” when speaking with an officer involved in searching his home.¹²⁷ He was sentenced to 320 hours of compulsory work.¹²⁸ Anecdotally, prosecutions for insulting the police are “frequently used against activists.”¹²⁹

Article 354.1 criminalizes “rehabilitation of Nazism,” i.e., public denial of facts established by the Nuremberg Tribunal, approval of those crimes, or deliberate dissemination of false information regarding the USSR’s activities during World War II.¹³⁰ Such acts are punishable by up to three years in prison (up to five years, if done through the media).¹³¹ Furthermore, publicly desecrating the symbols of Russia’s military glory, or spreading information about Russia’s military or memorial commemorative dates that is “clearly disrespectful of society,” is punishable by correctional work for up to one year.¹³²

In 2016, Vladimir Luzgin was convicted under *Article 354.1* for posting an article¹³³ on the social network Vkontakte, stating that the Soviet Union and Germany “actively collaborated” and “attacked Poland together,

¹²⁶ *Id.*

¹²⁷ *Crimean Farmer and Political Prisoner Vladimir Balukh Has Been on Hunger Strike for 104 Days*, THE RUSSIAN READER, July 1, 2018, available at <https://therussianreader.com/2018/07/01/balukh-hunger-strike-104-days/> and Halya Coynash, *Ukrainian Activist Arrested on Fabricated Charges in Russian-Occupied Crimea*, KHARKIV HUMAN RIGHTS PROT. GROUP, Dec. 12, 2016, available at <http://khpg.org/en/index.php?id=1481329725>.

¹²⁸ *Crimean Farmer and Political Prisoner Vladimir Balukh Has Been on Hunger Strike for 104 Days*, *supra* note 127.

¹²⁹ RUSSIA 2012–2013: ATTACK ON FREEDOM, INT’L FED’N FOR HUMAN RIGHTS, Feb. 2014, at 31, available at http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/RUS/INT_CCPR_ICO_RUS_17417_E.pdf.

¹³⁰ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 354.1(1), (3).

¹³¹ *Id.*, at Art. 354.1(1)–(2).

¹³² *Id.*, at Art. 354.1(3); see also Ivan Kurilla, *The Implications of Russia’s Law Against the “Rehabilitation of Nazism,”* PONARS EURASIA POLICY MEMO NO. 331, Aug. 2014, at 2, available at http://www.ponarseurasia.org/sites/default/files/policy-memos-pdf/Peprm331_Kurilla_August2014_0.pdf (providing English translation).

¹³³ The article he reposted is available at <http://zapretno.info/statya-15-faktov-pro-banderovtsev-ili/> [in Russian].

unleashing World War II.”¹³⁴ He was fined 200,000 rubles (US \$3,076).¹³⁵ His case is currently pending before the European Court of Human Rights.¹³⁶ At least nine other people have been convicted under this article.¹³⁷

7. Association/Assembly Crimes

Article 282.1 prohibits creating, leading, recruiting people for, or participating in an extremist community, with punishment ranging from two to 10 years’ imprisonment.¹³⁸ *Article 282.2* is similar; it prohibits organizing or participating in an extremist organization after a court has liquidated it or banned its activities due to extremist activity, and carries similar penalties.¹³⁹ *Article 282.3* criminalizes knowingly financing extremist activities and allows for three to eight years’ imprisonment.¹⁴⁰

Several political prisoners have been charged and convicted under *Article 282.2* for associating with Right Sector, a Ukrainian nationalist organization that was banned by the Russian Supreme Court in November 2014. For example, Roman Ternovsky was sentenced to 27 months’ imprisonment in June 2018 for a variety of activities with the organization,¹⁴¹ and in May, Nikolai (Mikola) Dadeu was sentenced to 18 months for providing funds to it.¹⁴² Denis Bakholdin was convicted and

¹³⁴ Carl Schreck, *Czechs Deny Asylum to Russian Convicted for Saying U.S.S.R. Collaborated With Nazis*, RADIO FREE EUROPE / RADIO LIBERTY, May 15, 2018, available at <https://www.rferl.org/a/czechs-deny-asylum-russian-luzgin-convicted-u-s-s-r-collaborated-nazis/29228081.html>.

¹³⁵ ONLINE AND ON ALL FRONTS, *supra* note 87, at 70.

¹³⁶ *Luzgin v. Russian Federation*, App. No. 17942/17, Eur. Ct. H.R., lodged on Feb. 28, 2017, available at <https://hudoc.echr.coe.int/eng#%7B%22appno%22%3A%2217942%2F17%22%2C%22itemid%22%3A%22001-178086%22%7D>.

¹³⁷ *Official Statistics of the Department of the Supreme Court in the Fight Against Extremism for the First Half of 2018*, MEMORIAL HUMAN RIGHTS CTR., Oct. 18, 2018, available at <https://memohrc.org/ru/monitorings/officialnaya-statistika-departamenta-verhovnogo-suda-v-sfere-borby-s-ekstremizmom-za> (in the first half of 2018, two people were sentenced under Art. 354.1, and in 2017, eight people were convicted) [in Russian].

¹³⁸ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 282.1(1), (1.1), (2).

¹³⁹ *Id.*, at Art. 282.2(1), (2).

¹⁴⁰ *Id.*, at Art. 282.3(1).

¹⁴¹ *Ternovsky Roman Leonidovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/ternovskiy-roman-leonidovich> [in Russian].

¹⁴² *Dadeu Nikolai (Mikola) Petrovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/dadeu-nikolay-mikola-petrovich> [in Russian].

sentenced to three years and six months in prison¹⁴³ and Alexander Shumkov was sentenced to four years' imprisonment,¹⁴⁴ both in December 2018.

Authorities have also used these extremism provisions to persecute religious minorities. As of February 27, 2019, at least 78 Jehovah's Witnesses were facing criminal charges under *Article 282.2* or *282.3*, although some were not recognized as political prisoners because they were not detained.¹⁴⁵ The charges are based on their involvement with the religion after the Supreme Court's April 2017 decision declaring the Administrative Center of Jehovah's Witnesses in Russia to be an extremist organization.¹⁴⁶ Five Scientology leaders in St. Petersburg (all recognized as political prisoners) are currently facing charges under *Article 282.1*¹⁴⁷ based on, among other things, a similar (lower court) ruling that certain Scientology texts are extremist because, *e.g.*, they strive to form an isolated social group that sits in opposition and views itself as superior to the rest of the world.¹⁴⁸ However, as the SOVA Center has pointed out, this would apply to almost any religion.¹⁴⁹ Many people have been convicted under these provisions for being associated with the religious and political organization Hizb ut-Tahrir, which was banned by the Russian Supreme Court in 2003.¹⁵⁰ In the Hizb ut-Tahrir cases, the only activities imputed to the accused were religious classes, political discussions, tea drinking, and reading and storing religious literature.¹⁵¹ Since the Supreme Court ruled

¹⁴³ *Bakholdin Denis Igorevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/baholdin-denis-igorevich> [in Russian].

¹⁴⁴ *Shumkov Alexander Sergeevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/shumkov-aleksandr-sergeevich> [in Russian].

¹⁴⁵ *List of Persecuted on Charges of Belonging to Jehovah's Witnesses (Updated)*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 27, 2019, available at <https://memohrc.org/ru/special-projects/spisok-presleduemyh-po-obvineniyu-v-prinadlezhnosti-k-svidetelyam-iegovy> [in Russian].

¹⁴⁶ *Id.*

¹⁴⁷ *St. Petersburg Scientology Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/delo-peterburgskih-saentologov> [in Russian].

¹⁴⁸ *Id.*

¹⁴⁹ Maria Kravchenko, *Inappropriate Enforcement of Anti-Extremist Legislation in Russia in 2017*, SOVA CTR. FOR INFO. & ANALYSIS, Apr. 24, 2018, available at <https://www.sova-center.ru/en/misuse/reports-analyses/2018/04/d39253/> ("Adherents of any religion view their creed as exceptional, and prosecutions for such assertions are absurd.").

¹⁵⁰ *Dyurtyulinsky Case on Membership in the Banned "Hizb ut-Tahrir,"* MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/dyurtyulinskoe-delo-o-chlenstve-v-zapreshchyonnoy-hizb-ut-tahrir> [in Russian].

¹⁵¹ *Kazan Case 8 on Membership in the Banned "Hizb Ut-Tahrir,"* MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/kazanskoe-delo-8-o-chlenstve-v-zapreshchyonnoy-hizb-ut-tahrir> [in Russian]; *Chelyabinsk Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special->

in 2008 that the religious association Nurdzhular, based on the teachings of Turkish Islamic scholar Said Nursi, was extremist, several followers have been prosecuted under *Articles 282 and 282.2*.¹⁵² Followers of the international Islamic movement Tablighi Jamaat have been similarly prosecuted.¹⁵³

Article 284.1 imposes criminal penalties for repeated participation in the activities of an “undesirable” foreign NGO. Specifically, if a person has already been administratively sanctioned for such activities twice in one year, the third offense is a crime and is punishable with imprisonment between two and six years.¹⁵⁴ Anastasia Shevchenko, a Coordinator with Mikhail Khodorkovsky’s Open Russia movement, became the first person charged under this provision in January 2019¹⁵⁵ (she is currently under house arrest¹⁵⁶). *Article 284.1* is particularly troubling in light of the administrative convictions that have occurred for participating in the activities of an “undesirable” NGO (which can serve as predicate offenses for *Article 284.1*). For example, at least 10 organizations have been administratively sanctioned for “participating” in the activities of an

projects/chelyabinskoe-delo [in Russian]; *Ufa Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/ufinskoe-delo> [in Russian]; *The Case of the Banned Hizb Ut-Tahrir in Salavat*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/delo-zapreshchyonnoy-hizb-ut-tahrir-v-salavate> [in Russian]; *The Hizb ut-Tahrir-Kazan 2013 Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/delo-hizb-ut-tahrir-kazan-2013> [in Russian]; and *The Moscow Case of Membership in the Banned “Hizb ut-Tahrir,”* MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/moskovskoe-delo-o-chlenstve-v-zapreshchyonnoy-hizb-ut-tahrir> [in Russian].

¹⁵² *Makhachkala Case Followers Said Nursi*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/makhachkalinskoe-delo-posledovatelye-saida-nursi> [in Russian] and *Kim Evgeny Lvovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/kim-evgeniy-lvovich> [in Russian].

¹⁵³ *Moscow Business “Tablighi Jamaat,”* MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 27, 2019, available at <https://memohrc.org/ru/special-projects/moskovskoe-delo-tabligi-dzhamaat> (eight followers convicted under Article 282.2 were recognized as political prisoners) [in Russian].

¹⁵⁴ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 284.1.

¹⁵⁵ *Russia: First Criminal Case under “Undesirable Organizations” Law Marks a New Level of Repression*, AMNESTY INT’L, Jan. 21, 2019, available at <https://www.amnesty.org/en/latest/news/2019/01/russia-the-first-criminal-case-under-the-undesirable-organizations-law-marks-a-new-level-of-repression/>.

¹⁵⁶ *Russian Court Orders House Arrest for Activist Charged Under ‘Undesirable’ Law*, RADIO FREE EUROPE / RADIO LIBERTY, Jan. 23, 2019, available at <https://www.rferl.org/a/russian-court-orders-house-arrest-for-activist-charged-under-undesirable-law/29726932.html>.

“undesirable” NGO simply for posting a link to the website of a foreign “undesirable” organization.¹⁵⁷

Article 330.1 punishes the “malicious” failure to register an NGO under the Foreign Agent Law with up to two years’ imprisonment.¹⁵⁸ No one has been convicted under this law – Valentina Cherevatenko was charged in June 2017,¹⁵⁹ but the case was dismissed after a civil society campaign exposing the prosecution.¹⁶⁰ By imposing criminal liability on individuals, this provision serves as a means to intimidate NGO leaders¹⁶¹ and has a chilling effect on their work.¹⁶² In addition, it exacerbates the widely-recognized problems with the Foreign Agent Law, including that its registration requirements are notoriously vague¹⁶³ and it is used selectively to target human rights NGOs.¹⁶⁴

¹⁵⁷ *Russia: Punished Over Hyperlinks*, HUMAN RIGHTS WATCH, Nov. 30, 2017, available at <https://www.hrw.org/news/2017/11/30/russia-punished-over-hyperlinks>.

¹⁵⁸ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 330.1.

¹⁵⁹ *Russia: Rights Activist Facing Charges*, HUMAN RIGHTS WATCH, June 5, 2017, available at <https://www.hrw.org/news/2017/06/05/russia-rights-activist-facing-charges>.

¹⁶⁰ TABLE ILLUSTRATING LEGISLATIVE CRACKDOWN ON RIGHTS AND FREEDOMS OF THE CIVIL SOCIETY IN RUSSIA SINCE 2012, INT’L FED’N FOR HUMAN RIGHTS, July 20, 2012, at 5, available at https://www.fidh.org/IMG/pdf/tableau_russie_web_paysage_v2-2.pdf.

¹⁶¹ *Id.*

¹⁶² LEGISLATION AND PRACTICE IN THE RUSSIAN FEDERATION ON NON-COMMERCIAL ORGANISATIONS IN LIGHT OF COUNCIL OF EUROPE STANDARDS: AN UPDATE, COUNCIL OF EUROPE COMM’R FOR HUMAN RIGHTS, July 9, 2015, at ¶ 48, available at <https://rm.coe.int/opinion-of-the-commissioner-for-human-rights-on-the-legislation-and-pr/16806da772>.

¹⁶³ *Concluding Observations on the Seventh Periodic Report of the Russian Federation*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/RUS/CO/7, Apr. 28, 2015, at ¶ 22, available at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/RUS/CO/7&Lang=En (“[T]he definition of ‘political activity’ in the law is very broadly construed”); OPINIONS NO. 716–717/2013, EUROPEAN COMM’N FOR DEMOCRACY THROUGH LAW, June 27, 2014, at ¶¶ 81-82, available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)025-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)025-e) (the term “political activities” in the Foreign Agent Law is so vague that its restrictions “cannot be considered to be ‘prescribed by law’”); Third Party Intervention by the Council of Europe Commissioner for Human Rights, *Ecodefence v. Russia*, App. No. 9988/13, Eur. Ct. H.R., July 5, 2017, at ¶ 19, available at <https://rm.coe.int/third-party-intervention-by-the-council-of-europe-commissioner-for-hum/1680731087> (“[M]any international and Russian actors have expressed concerns regarding the overly-broad and vague concept of ‘political activity’ in the Law on Foreign Agents.”); and *The Standing Committee on Case Law Prepared an Expert Opinion on the Case of Valentina Cherevatenko*, PRESIDENT’S COUNCIL ON THE DEV. OF CIVIL SOC’Y & HUMAN RIGHTS, July 18, 2016 available at <http://president-sovet.ru/presscenter/news/read/3337/> (noting that the terms “political activities” and “malicious” in the Foreign Agent Law are vague) [in Russian].

¹⁶⁴ Third Party Intervention by the Council of Europe Commissioner for Human Rights, *supra* note 163, at ¶ 21 (“[I]t is striking that human rights defenders constituted the largest single category of NCO registered as foreign agents (44, or 30%).”).

8. Disorder Crimes

Article 212 prohibits organizing, recruiting persons for, participation in, public calls for, or training others for mass riots, with punishment ranging from three to 15 years' imprisonment.¹⁶⁵

Several political prisoners are facing charges for mass riots. Yan Sidorov and Vladislav Mordasov, for example, are accused of attempting to organize and participate in a mass riot on November 5, 2017. However, all they did was plan to organize a small picket demanding the resignation of the regional government.¹⁶⁶ They had made two posters and about 30 flyers and purchased a megaphone.¹⁶⁷ According to Memorial HRC, the “notion that riots could begin as a result of the holding of an ordinary picket with quite ordinary demands is absurd.”¹⁶⁸ In June 2018, two other political prisoners – Ali Asanov and Mustafa Degermendzhi – were each sentenced to 4.5 years in prison under *Article 212* for their involvement in clashes between the participants of pro-Russian and pro-Ukrainian rallies in Simferopol on February 26, 2014.¹⁶⁹ Going further back, a number of former political prisoners were prosecuted under *Article 212* for their participation in the May 2012 Bolotnaya Square protest.¹⁷⁰

Article 213 makes “hooliganism” – that is, a gross violation of the public order showing a clear disrespect for society – punishable by up to five years' imprisonment.¹⁷¹ However, it must be committed with a weapon or with a discriminatory motive (*i.e.*, targeting a specific, protected group).¹⁷² Memorial HRC has described this provision as a “universal tool for politically motivated prosecution” because it can be “applied to virtually any actions.”¹⁷³

¹⁶⁵ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 212(1)–(4).

¹⁶⁶ *Sidorov Yan Vladimirovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/sidorov-yan-vladimirovich> [in Russian].

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Case February 26*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/delo-26-fevralya> [in Russian].

¹⁷⁰ *The Case of Events on Bolotnaya Square on May 6, 2012*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/delo-o-sobytiyah-na-bolotnoy-ploshchadi-6-maya-2012-goda> [in Russian].

¹⁷¹ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 213(1).

¹⁷² There is a third, less common, category: hooliganism committed by means of public transport. *Id.*, at Art. 213(1)(c).

¹⁷³ *Highrise Case*, OLD.MEMO.RU, accessed Jan. 19, 2019, available at <http://old.memo.ru/d/231447.html> [in Russian].

In 2012, three members of Pussy Riot – all recognized as prisoners of conscience by Amnesty International¹⁷⁴ – were convicted of hooliganism motivated by religious hatred for their anti-Putin performance in a Moscow cathedral.¹⁷⁵ They were sentenced to two years in prison¹⁷⁶ (though one was later released on probation, and the two others given amnesty in 2013¹⁷⁷). In June 2015, three former political prisoners – Oleg Savvin, Mikhail Feldman, and Dmitry Fonarev – were convicted of hooliganism and sentenced to over a year in prison for placing a German flag on an FSB building.¹⁷⁸

Article 214 punishes vandalism with a fine of up to 40,000 rubles (US \$615).¹⁷⁹ If committed by a group or with discriminatory intent, however, it can be punished with imprisonment for up to three years.¹⁸⁰ In September 2015, former political prisoner Vladimir Podrezov was convicted of vandalism for allegedly repainting a yellow star on the spire of a tall building in blue and hanging a Ukrainian flag on it.¹⁸¹ Completely disproportionate to the underlying conduct, he was then sentenced to two years' imprisonment (though his sentence was later commuted after he had been imprisoned for 16 months).¹⁸²

Article 321 prohibits disrupting the work of a detention center (*i.e.*, using violence or threats against another detainee or prison official) and allows for up to five years' imprisonment.¹⁸³ This article is used against already-detained persons to punish them for making a complaint, or simply

¹⁷⁴ *Fear for Safety of "Missing" Pussy Riot Member*, AMNESTY INT'L BLOG, Nov. 6, 2013, available at <https://www.amnesty.org.uk/blogs/urgent-action-network/fear-safety-missing-pussy-riot-member>.

¹⁷⁵ *Pussy Riot Members Jailed for Two Years for Hooliganism*, BBC News, Aug. 17, 2012, available at <https://www.bbc.com/news/world-europe-19297373>.

¹⁷⁶ *Id.*

¹⁷⁷ *Pussy Riot: The Story so Far*, BBC News, Dec. 23, 2013, available at <https://www.bbc.com/news/world-europe-25490161> and Doug Stanglin, *Freed Pussy Riot Members Call Russia Amnesty a PR Stunt*, USA TODAY, Dec. 23, 2013, available at <https://www.usatoday.com/story/news/world/2013/12/23/pussy-riot-member-released/4173379/>.

¹⁷⁸ *Kaliningrad Flag Case*, OLD.MEMO.RU, accessed Jan. 19, 2019, available at <http://old.memo.ru/d/203002.html> [in Russian].

¹⁷⁹ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 214(1).

¹⁸⁰ *Id.*, at Art. 214(2).

¹⁸¹ *Highrise Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/vysotnoe-delo> [in Russian].

¹⁸² *Id.* and *Rufer Vladimir Podrezov Released in the Courtroom*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 4, 2019, available at <https://memohrc.org/ru/monitorings/rufer-vladimir-podrezov-osvobozhden-v-zale-suda> [in Russian].

¹⁸³ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at 321(1)–(2).

to prolong their detention.¹⁸⁴ For example, in July 2018, political prisoner Vladimir Balukh, who was already serving a sentence on fabricated weapons charges, was convicted under *Article 321* for getting into a fight with a prison official, despite the fact that CCTV footage clearly showed that the prison official started the fight.¹⁸⁵ He was sentenced to an additional three years' imprisonment.¹⁸⁶

9. Crimes Against the State

The Criminal Code contains several articles relating to terrorism that are misapplied to political dissenters. *Article 205* punishes acts of terrorism with 10 to 15 years' imprisonment;¹⁸⁷ if these acts are committed by an organized group, the sentence increases to 12 to 20 years.¹⁸⁸ *Article 205.1* prohibits recruiting or training others for terrorist activity (5 to 15 years), aiding terrorism (10 to 20 years), and organizing terrorism (up to life imprisonment).¹⁸⁹ *Article 205.2* prohibits public calls for or justification of terrorism (two to five years).¹⁹⁰ If these acts are committed via mass media or the internet, the sentence is increased (five to seven years).¹⁹¹ *Article 205.3* bans training for terrorist activities (15 to 20 years),¹⁹² and *Article 205.4* prohibits creating (15 to 20 years) or participating in (five to 10 years) a terrorist community.¹⁹³ Finally, *Article 205.5* criminalizes organizing the

¹⁸⁴ Anna Kozkina, *321. Article for Those Who Can Not Sit*, MEDIAZONA, Aug. 5, 2016, available at <https://zona.media/article/2016/05/08/codex-321> [in Russian] and *Typical Cases of Fabrication of Criminal Cases on Convicted Under Art. 319, 321, 306, 129 of the Criminal Code of the Russian Federation*, CIVIL RIGHTS COMMITTEE, Nov. 25, 2009, available at <http://zagr.org/450.html> [in Russian].

¹⁸⁵ Tetiana Bezruk, *How the Russian Authorities Fabricated Criminal Charges Against Crimean Farmer Volodymyr Balukh*, OPENDEMOCRACY, July 11, 2018, available at <https://www.opendemocracy.net/od-russia/tetiana-bezruk/volodymyr-balukh-crimea-fabricated-case>.

¹⁸⁶ Halya Coynash, *Crimean Jailed for a Ukrainian Flag Sentenced to Three More Years for Refusing to Be Broken*, KHARKIV HUMAN RIGHTS PROT. GROUP, July 6, 2018, available at <http://khpg.org/en/index.php?id=1530793368>.

¹⁸⁷ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 205(1). An "act of terror" is defined to include the threat or use of explosions, arson, or other acts that frighten the population and create a risk of death, significant property damage, or other serious consequences, in order to destabilize or influence the decisions of the authorities or international organizations. *Id.*

¹⁸⁸ *Id.*, at Art. 205(2).

¹⁸⁹ *Id.*, at Art. 205.1(1), (3)–(4).

¹⁹⁰ *Id.*, at Art. 205.2(1).

¹⁹¹ *Id.*, at Art. 205.2(2).

¹⁹² *Id.*, at Art. 205.3.

¹⁹³ *Id.*, at Art. 205.4(1)–(2).

activities of a terrorist organization (15 to 20 years) and participating in a terrorist organization (10 to 20 years).¹⁹⁴

These terrorism provisions are often used against non-violent political activists based on fabricated cases.¹⁹⁵ In August 2015, political prisoner Oleg Sentsov, a Ukrainian activist and filmmaker, was sentenced to 20 years' imprisonment for, among other things, committing a terrorist act (*Article 205(2)(a)*) and organizing a terrorist community (*Article 205.4*).¹⁹⁶ He was accused of creating a branch of the alleged terrorist group Right Sector and leading it in committing an arson attack in Crimea.¹⁹⁷ He was also allegedly planning a series of explosions.¹⁹⁸ Sentsov's case is currently pending before the European Court of Human Rights.¹⁹⁹ In December 2016, blogger and former political prisoner Alexey Kungurov was sentenced to 2.5 years' imprisonment under *Article 205.2(1)* (public justification of terrorism) for a blog post titled *Who are Putin's Falcons Actually Bombing*, in which he criticized Russian military operations in Syria.²⁰⁰ Memorial HRC designated him as a political prisoner and noted "he is being persecuted solely for criticizing Russian foreign policy."²⁰¹ Human Rights Watch described his conviction as "a case of officials attempting to shut down public debate on an important foreign policy issue under the pretext of 'combating terrorism'" and "part and parcel of Russia's ongoing crackdown on free speech, especially online."²⁰²

¹⁹⁴ *Id.*, at Art. 205.5(1)–(2).

¹⁹⁵ *Concluding Observations on the Sixth Periodic Report of the Russian Federation*, U.N. COMMITTEE AGAINST TORTURE, U.N. Doc. CAT/C/RUS/CO/6, Aug. 28, 2018, at ¶ 34, available at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/RUS/CO/6&Lang=En (noting "consistent reports that provisions of the Criminal Code on combating terrorism are often used against civil activists").

¹⁹⁶ *Sentsov Oleg G.*, *supra* note 40.

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *Sentsov and Kolchenko v. Russia (Communicated Case)* – 29627/16, Eur. Ct. H.R., Dec. 2018, available at <https://hudoc.echr.coe.int/eng#%7B%22appno%22%3A%2229627/16%22%2C%22itemid%22%3A%22002-12243%22%7D>.

²⁰⁰ Yulia Gorbunova, *Crossing the Red Line – Criticizing Russian Airstrikes in Syria Lands Blogger in Jail*, HUMAN RIGHTS WATCH, Dec. 22, 2016, available at <https://www.hrw.org/news/2016/12/22/crossing-red-line> and Alexey Kungurov: *Russia*, PEN AMERICA, accessed Jan. 19, 2019, available at <https://pen.org/advocacy-case/alexey-kungurov/>. Kungurov's blog post dates back to 2015. In 2016, Article 205.2(2) was amended: public calls for terrorism committed via the Internet are now punished by a minimum of 5 years' imprisonment.

²⁰¹ *Memorial Recognizes Tyumen Blogger Alexei Kungurov Political Prisoner*, MEMORIAL HUMAN RIGHTS CTR., July 11, 2016, available at <https://memohrc.org/ru/news/memorial-priznal-tyumenskogo-blogera-alekseya-kungurova-politzaklyuchennym> [in Russian].

²⁰² Yulia Gorbunova, *Crossing the Red Line*, *supra* note 200.

Terrorism charges are also frequently brought against members of Hizb ut-Tahrir, an Islamist organization designated as “terrorist” by the Russian Supreme Court in 2003.²⁰³ It appears that such individuals are being prosecuted solely for their membership in the group, studying literature, and holding and attending meetings. For example, six men in Yalta are currently detained and facing charges under *Article 205.5(2)* (participation in the activities of a terrorist organization) for their involvement with Hizb ut-Tahrir.²⁰⁴ However, they “are not charged with preparing any terrorist act or voicing terrorist threats: just finding and convincing new supporters, holding meetings with reading and discussing of [Hizb ut-Tahrir] literature and discussing international politics.”²⁰⁵ There are many similar cases in other parts of Russia and Russia-occupied Crimea.²⁰⁶

²⁰³ Supreme Court of the Russian Federation, Judgment No. GKPI 03-116, Feb. 14, 2003, *available at* <https://web.archive.org/web/20160108040711/http://nac.gov.ru/content/3934.html> [in Russian].

²⁰⁴ *Yalta Case of Membership in the Banned Hizb ut-Tahrir*, MEMORIAL HUMAN RIGHTS CTR., *accessed* Jan. 19, 2019, *available at* <https://memohrc.org/ru/special-projects/yaltinskoe-delo-o-chlenstve-v-zapreshchyonnoy-hizb-ut-tahrir> [in Russian].

²⁰⁵ *Id.*; *see also Misuse of Anti-Extremism in May 2018*, SOVA CTR. FOR INFO. & ANALYSIS, June 14, 2018, *available at* <https://www.sova-center.ru/en/misuse/news-releases/2018/06/d39544/> (“We believe that the radical ideology of Hizb ut-Tahrir gives no grounds for banning the party as terrorist, and that accusing its members of advocating terrorism only on the basis of their party activities (holding meetings, reading literature, etc.) and prosecuting them under anti-terrorist articles is inappropriate.”).

²⁰⁶ *Bakhchisarai Case of Membership in the Banned Hizb Ut-Tahrir*, MEMORIAL HUMAN RIGHTS CTR., *accessed* Jan. 19, 2019, *available at* <https://memohrc.org/ru/special-projects/bahchisarayskoe-delo-o-chlenstve-v-zapreshchyonnoy-hizb-ut-tahrir> [in Russian]; *The Case of the Banned Hizb Ut-Tahrir in Salavat*, *supra* note 151; *Ufa Case of Twenty-Six*, MEMORIAL HUMAN RIGHTS CTR., *accessed* Jan. 19, 2019, *available at* <https://memohrc.org/ru/special-projects/ufinskoe-delo-dvadcati-shesti> [in Russian]; *Kazan Case 5 on Membership in the Banned “Hizb Ut-Tahrir,”* MEMORIAL HUMAN RIGHTS CTR., *accessed* Jan. 19, 2019, *available at* <https://memohrc.org/ru/special-projects/kazanskoe-delo-5-o-chlenstve-v-zapreshchyonnoy-hizb-ut-tahrir> [in Russian]; *Sevastopol Case of Membership in a Banned Hizb Ut-Tahrir*, MEMORIAL HUMAN RIGHTS CTR., *accessed* Jan. 19, 2019, *available at* <https://memohrc.org/ru/special-projects/sevastopolskoe-delo-o-chlenstve-v-zapreshchyonnoy-hizb-ut-tahrir> [in Russian]; *Five Moscow Case on Membership of the Banned Hizb Ut-Tahrir*, MEMORIAL HUMAN RIGHTS CTR., *accessed* Jan. 19, 2019, *available at* <https://memohrc.org/ru/special-projects/moskovskoe-delo-pyatelyh-o-chlenstve-v-zapreshchyonnoy-hizb-ut-tahrir> [in Russian]; *Kazan Case on Membership in the Banned “Hizb Ut-Tahrir,”* MEMORIAL HUMAN RIGHTS CTR., *accessed* Jan. 19, 2019, *available at* <https://memohrc.org/ru/special-projects/kazanskoe-delo-o-chlenstve-v-zapreshchyonnoy-hizb-ut-tahrir> [in Russian]; and *The Case of the Preparation of the Terrorist Attack in the Moscow Cinema “Kyrgyzstan,”* MEMORIAL HUMAN RIGHTS CTR., *accessed* Jan. 19, 2019, *available at* <https://memohrc.org/ru/special-projects/delo-o-podgotovke-terakta-v-moskovskom-kinoteatre-kirgiziya> (“Imprisonment was applied to them solely on the basis of religion – they are all Muslims.”) [in Russian].

Article 275 criminalizes treason and allows for 12 to 20 years' imprisonment.²⁰⁷ *Article 276* prohibits espionage and allows for 10 to 20 years' imprisonment.²⁰⁸ Both of these crimes are defined extremely broadly. Treason covers (1) sharing state secrets with a foreign state, an international or foreign organization, or their representatives, and (2) providing financial, logistical, consulting, or other assistance to a foreign state, an international or foreign organization, or their representatives in activities directed against Russia's security. Espionage includes (1) transferring, collecting, stealing, or storing state secrets for the purpose of transferring them to a foreign state, an international or foreign organization, or their representatives, and (2) transferring or collecting other information on the instructions of foreign intelligence, or a person acting in their interest, for use against Russia's security. The reference, in both, to "state secrets" is particularly problematic because the definition of "state secret" is quite vague: "protected information in the sphere of . . . military, foreign policy, economic, intelligence, counter-intelligence and crime detection operations, the spread of which might be prejudicial to the security of the Russian Federation."²⁰⁹ Treason and espionage charges are increasingly used as part of a deliberate state policy to prove that there are "enemies of the state" and create "an atmosphere of wartime."²¹⁰ These charges are particularly prone to abuse because defendants are tried by a judge (instead of a jury), court sessions are closed to the public, and charges are often based on classified materials that are not available to the defense.²¹¹ In fact, the number of convictions for high treason has tripled since 2014.²¹²

Several political prisoners were convicted of treason for sharing information that was already publicly available. For example, Svyatoslav Bobyshev, a professor at a technical university, is currently serving a 12-year sentence for allegedly giving information about a certain missile

²⁰⁷ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 275.

²⁰⁸ *Id.*, at Art. 276.

²⁰⁹ Federal Law on State Secrets, No. 5485-1, July 21, 1993, at Art. 2, *available at* <https://wipo.lex.wipo.int/en/text/471051>.

²¹⁰ Kravtsov Gennady Nikolaevich, MEMORIAL HUMAN RIGHTS CTR., *accessed* Jan. 19, 2019, *available at* <https://memohrc.org/ru/defendants/kravcov-gennadiy-nikolaevich> [in Russian].

²¹¹ THE HISTORY OF HIGH TREASON, ESPIONAGE AND STATE SECRET IN TODAY'S RUSSIA, TEAM 29, 2018, at 12, 14–15, *available at* <https://spy.team29.org/report.pdf>.

²¹² Vera Chelishcheva, *Spy Mania 2.0: The Rise in 'Crimes Against the State' in Russia*, THE GUARDIAN, Feb. 24, 2016, *available at* <https://www.theguardian.com/world/2016/feb/24/spy-mania-rise-in-crimes-against-state-treason-russia-ukraine> (noting that the number of sentences for high treason has tripled since 2014).

system to China during an academic collaboration in 2009.²¹³ However, the “secret” information was not secret at the time he handed it over, but rather was classified as “secret” retroactively.²¹⁴ Gennady Kravtsov, a lead designer in an IT company, was convicted for sharing information about the Tselina-1 spacecraft.²¹⁵ However, the characteristics of this spacecraft can be found on the internet, and detailed information about it was declassified by its designer in the early 2000s.²¹⁶ Vladimir Lapygin, a professor, was convicted of providing to China software relating to the aerodynamic properties of certain aircraft.²¹⁷ However, numerous experts have explained that the software contained publicly-available information and could not be considered a state secret.²¹⁸ Petr Parpulov was sentenced to 12 years’ imprisonment for sharing allegedly secret information with persons in Georgia in 2010.²¹⁹ However, he learned the information from public sources: it was even published on a newspaper’s website.²²⁰

Espionage charges are frequently equally baseless. Former political prisoner Yekaterina Kharebava was convicted of espionage in 2014 and sentenced to six years’ imprisonment for sending a text message to a friend in Georgia; the message simply noted that she saw a train moving Russian military equipment towards Georgia.²²¹ The message was sent in 2008, but she was not arrested or charged until 2013.²²² She was pardoned in March 2017.²²³

Article 278 prohibits actions aimed at the violent seizure of power or violent change of the constitutional order, and allows for imprisonment between 12 and 20 years.²²⁴ This provision has principally been used

²¹³ *Bobyshev Svyatoslav Vasilyevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/bobyshev-svyatoslav-vasilevich> [in Russian].

²¹⁴ *Id.*

²¹⁵ *Kravtsov Gennady Nikolaevich*, *supra* note 210.

²¹⁶ *Id.*

²¹⁷ *Lapygin Vladimir Ivanovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/lapygin-vladimir-ivanovich> [in Russian].

²¹⁸ *Id.*

²¹⁹ *Parpulov Petr Ivanovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/parpulov-petr-ivanovich> [in Russian].

²²⁰ *Id.*

²²¹ *Harebava Ekaterina Zhorzhievna*, OLD.MEMO.RU, May 13, 2015, available at <http://old.memo.ru/d/235051.html> [in Russian].

²²² *Id.*

²²³ *Putin Pardons Oksana Sevastidi, Sentenced for Sending an SMS in 2008*, MEDUZA, Mar. 7, 2017, available at <https://meduza.io/en/feature/2017/03/07/putin-pardons-oksana-sevastidi-sentenced-for-sending-an-sms-in-2008>.

²²⁴ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 278.

against members (or alleged members) of Hizb ut-Tahrir²²⁵ because it asserts that secular governments should be replaced by Islamic ones.²²⁶ However, no violent acts, or even calls for violent acts, have been alleged against Hizb ut-Tahrir members charged under *Article 278*.²²⁷ For example, the indictment against two Hizb ut-Tahrir members in Chelyabinsk alleges only that they read together, discussed religious/political texts, talked with the general public, and hosted tea parties.²²⁸ They did not possess firearms, weapons, or explosives, and did not take any action to acquire them.²²⁹

Article 318 prohibits the use or threat of violence against a public official in connection with his or her official duties and carries a maximum punishment of five years in prison.²³⁰ The use of violence that is dangerous to the health or life of an official is punishable by up to 10 years' imprisonment.²³¹ This provision is commonly used against peaceful protestors. For example, several of the March 2017 anti-corruption protestors were charged and convicted under *Article 318*, including Dmitri Krepkina, Alexey Politikov, Zimovets Stanislav, and Alexander Shpakov.²³² They were sentenced to 18 months, 18 months, 30 months, and 18 months of prison time, respectively (and were recognized as political prisoners).²³³ In another case, political prisoner Mikhail Tsakunov was convicted under *Article 318* for allegedly punching a police officer in the face during anti-

²²⁵ *Bakhchisarai Case of Membership in the Banned Hizb Ut-Tahrir*, *supra* note 206; *Yalta Case of Membership in the Banned Hizb ut-Tahrir*, *supra* note 205; *Ufa Case of Twenty-Six*, *supra* note 206; *Chelyabinsk Case*, *supra* note 151; *Ufa Case*, *supra* note 151; and *The Moscow Case of Membership in the Banned "Hizb ut-Tahrir,"* *supra* note 151.

²²⁶ *Bakhchisarai Case of Membership in the Banned Hizb ut-Tahrir*, *supra* note 206.

²²⁷ *Id.* (“[N]o specific action of the accused is described that would lead to the seizure of power in Russia or Ukraine, [and] there are no indications of the relevant (specific) plans.”); *Yalta Case of Membership in the Banned Hizb ut-Tahrir*, *supra* note 205 (“No plans to seize power in Russia or Ukraine at these meetings were voiced.”); and *Ufa Case*, *supra* note 151 (“This group not only did not have firearms or . . . weapons, explosives, but also did not take any action with a view to their acquisition or theft.”).

²²⁸ *Chelyabinsk Case*, *supra* note 151.

²²⁹ *Id.*

²³⁰ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 318(1).

²³¹ *Id.*, at Art. 318(2).

²³² *Krepkin Dmitry Mikhailovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/krepkin-dmitriy-mihaylovich> [in Russian]; *Politikov Alexey Vladimirovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/politikov-aleksey-vladimirovich> [in Russian]; *Zimovets Stanislav Sergeevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/zimovec-stanislav-sergeevich> [in Russian]; and *Shpakov Alexander Y.*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/shpakov-aleksandr-yurevich> [in Russian].

²³³ *Id.*

Putin protests in May 2018.²³⁴ However, publicly available video footage of his arrest demonstrates that this never happened;²³⁵ in fact, the video shows that the officers were wearing helmets.²³⁶ This provision is also used against detainees who complain about beatings by prison officials.²³⁷

10. Regulatory Crimes

Article 212.1 imposes criminal liability for repeated violation of the authorization procedures for public meetings, rallies, or demonstrations.²³⁸ Specifically, if a person has been administratively sanctioned for violating the authorization procedures three times within 180 days, the fourth violation is a crime and can be punished with up to five years' imprisonment.²³⁹ The Constitutional Court later interpreted this provision to apply only to unauthorized assemblies that were not peaceful or carried a substantial risk of causing harm.²⁴⁰

Ildar Dadin was the first person convicted under *Article 212.1* in December 2015; he was sentenced to three years in prison.²⁴¹ However, the Supreme Court overturned his conviction on appeal because two of the

²³⁴ *Tsakunov Mikhail Sergeevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/cakunov-mihail-sergeevich> [in Russian].

²³⁵ Urgent Action, *Mikhail Tsakunov*, AMNESTY INT'L, May 10, 2018, available at <https://www.amnesty.org/en/documents/EUR46/8381/2018/en/> (noting that "the charges against him contravene publicly available video footage").

²³⁶ *Memorial Human Rights Centre: Mikhail Tsakunov from St. Petersburg, Charged with Using Violence Against a Police Officer, Is a Political Prisoner*, RIGHTS IN RUSSIA, July 16, 2018, available at <http://www.rightsinrussia.info/rights-groups-in-russia/memorialhumanrightscentre-68>.

²³⁷ *Help ATS-Info: Beatings of Detainees and the Practice of Intimidating Activists*, OVD-INFO, Sept. 11, 2012, available at <https://ovdinfo.org/documents/2012/09/11/spravka-ovd-info-izbieniya-zaderzhannyh-i-praktika-zapugivaniya-aktivistov> ("[D]etainees who complain of beatings are often prosecuted under Article 318 of the Criminal Code . . .") [in Russian] and *The 26 March Case: How Russia Is Cracking down on Freedom of Assembly*, OPENDEMOCRACY, Dec. 19, 2017, available at <https://opendemocracy.net/od-russia/ovd-info/26-march-russia-protest> ("Opening a case under Article 318 (or threatening to) in order to frighten or punish people who complain of police brutality is a common practice in Russia.").

²³⁸ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 212.1.

²³⁹ *Id.*

²⁴⁰ Dimitriy Mednikov, *Taking Some Human Rights Back: The Case of Ildar Dadin*, OXFORD HUMAN RIGHTS HUB, May 22, 2017, available at <http://ohrh.law.ox.ac.uk/taking-some-human-rights-back-the-case-of-ildar-dadin/>.

²⁴¹ Press Release, *First Sentence under the New Anti-Protest Legislation in Russia: Three Years for Ildar Dadin While Two More Activists Face Conviction*, INT'L FED'N FOR HUMAN RIGHTS, Dec. 11, 2015, available at <https://www.fidh.org/en/issues/human-rights-defenders/first-sentence-under-the-new-anti-protest-legislation-in-russia-three>.

underlying administrative convictions against him had not come into force at the time the criminal charges were brought.²⁴²

In January 2019, charges under *Article 212.1* were initiated against Vyacheslav Egorov, an environmental activist who had been administratively sanctioned three times in 2018 for participating in peaceful protests.²⁴³ Prosecutors claim, for the fourth alleged offense, that he organized an unsanctioned rally at a courthouse.²⁴⁴ In reality, he simply attempted to attend, and encouraged others to attend, a court hearing involving two politicians (Gennady and Dmitry Gudkov).²⁴⁵ However, when he arrived at the court the morning of the hearing, there was a crowd of people gathered outside who could not get in.²⁴⁶ This, according to prosecutors, constituted an illegal “rally,” and in clear violation of the Constitutional Court’s interpretation, he was subsequently charged under *Article 212.1*.²⁴⁷

B. Administrative Code Provisions Used to Persecute Political Prisoners

The Code of Administrative Offenses allows for a variety of punishments, including administrative arrest for up to 30 days.²⁴⁸ Although persons under administrative arrest can technically qualify as political prisoners, as a practical matter, Memorial HRC does not include such persons on their list because the sheer number of people under administrative arrest and their short period of detention make it difficult to fully vet each case.²⁴⁹

Nevertheless, it is important to include administrative offenses in a discussion on political prisoners for several reasons. First, political prisoners are often charged under both the Criminal Code and the Code of Administrative Offenses. Indeed, because defendants’ procedural rights are

²⁴² *Taking Some Human Rights Back*, *supra* note 240.

²⁴³ Egorov Vyacheslav Valerievich, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 27, 2019, available at <https://memohrc.org/ru/defendants/egorov-vyacheslav-valerevich> [in Russian].

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, *supra* note 3, at Art. 3.9(1).

²⁴⁹ Email from Memorial HRC Representative to Perseus Strategies, Jan. 2, 2019 (on file with author).

“significantly less well protected” in administrative proceedings,²⁵⁰ administrative charges offer a quicker and easier way to send a message to regime opponents. Second, some of the criminal offenses discussed above are predicated on repeated administrative violations (for example, Criminal Code *Articles 212.1* and *284.1*). Finally, and more generally, understanding how government officials misuse the Code of Administrative Offenses provides a more complete picture of the harassment and persecution that activists, human rights defenders, and political prisoners face in Russia (and Russia-occupied Crimea).

1. Expression Offenses

Article 5.26 of the Code of Administrative Offenses prohibits, among other things, damaging or desecrating religious items and objects, implementing religious activities without specifying the organization’s full name, and carrying out missionary activities in violation of law (specifically, in violation of *Articles 24.1* and *24.2* of the Federal Law on Freedom of Conscience and Religious Associations).²⁵¹

In September 2018, Igor Markov was fined 15,000 rubles (US \$230) for desecration for sharing eight atheist memes.²⁵² In September 2017, musician Daniil Sukachev was fined 30,000 rubles (US \$461) for desecrating religious items; he had posted a video created by someone else on social media, which showed Orthodox worship with music and various effects added in (*e.g.*, flames and smoke).²⁵³ The Jehovah’s Witness community in Khabarovsk was fined in November 2016 for implementing religious activities without specifying the organization’s name because its name was not displayed on its building.²⁵⁴ Another Jehovah’s Witness group was fined 30,000 rubles for not using its full name: the sign on the building read “Jehovah’s Witnesses’ Kingdom Hall” instead of its legal

²⁵⁰ A RIGHT, NOT A CRIME: VIOLATIONS OF THE RIGHT TO FREEDOM OF ASSEMBLY IN RUSSIA, AMNESTY INT’L, 2014, at 22, *available at* https://amnesty.org.pl/wp-content/uploads/2016/01/4347_Russia-A-RIGHT-not-a-crime_2014.pdf. In particular, there is no automatic right to free legal representation, the police officers who initiated the administrative proceedings are not required to be present, and courts “routinely” deny defense motions to call witnesses and present evidence on material issues. *Id.*

²⁵¹ CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, *supra* note 3, at Art. 5.26(2)–(5).

²⁵² *Misuse of Anti-Extremism in October 2018*, *supra* note 93.

²⁵³ *Inappropriate Enforcement of Anti-Extremist Legislation in Russia in 2017*, *supra* note 149.

²⁵⁴ Victoria Arnold, *Russia: Religious Freedom Survey, January 2017*, FORUM 18, Jan. 13, 2017, *available at* http://www.forum18.org/archive.php?article_id=2246.

name, “Local Religious Organisation of Jehovah’s Witnesses of the Town of Sharypovo.”²⁵⁵

Several minority religious groups have been sanctioned for illegal missionary activities. For example, in October 2016, Hare Krishna devotee Andrei Puchkov held a street procession in Tver involving music, chanting, and dancing.²⁵⁶ He had submitted prior notification to the local authorities and there were no issues during the event.²⁵⁷ However, a few weeks after, he was charged with illegal missionary activity.²⁵⁸ An expert report, relied upon by prosecutors, made the troubling assertion that *all* Hare Krishna events are missionary acts.²⁵⁹ Thus, Puchkov was convicted and fined 5,000 rubles (US \$76), despite the fact that video footage of the event, shown to the court, showed that the participants were only singing, not discussing the religion with the public or distributing literature.²⁶⁰ In August 2016, a Baptist preacher was fined 5,000 rubles for missionary activities. He was giving a sermon in a prayer hall, but there was a playground outside and, according to prosecutors, children using the playground might have been able to hear the sermon and access religious literature.²⁶¹

Article 6.21 prohibits “propaganda of non-traditional sexual relations among minors” and allows for a fine of 4,000 to 5,000 rubles (US \$61 to \$76) (on individuals).²⁶² Where this is done using mass media, including the internet, the fine is increased to 50,000 to 100,000 rubles (US \$769 to \$1,538).²⁶³ This provision has been used to punish any reporting on LGBT issues. For example, in 2014, the editor of a newspaper was fined 50,000 rubles after publishing an article on the firing of a gay teacher.²⁶⁴ In 2017, an activist was fined that same amount for reposting news articles on

²⁵⁵ Victoria Arnold, *Russia: Inconsistency of “Anti-Missionary” Punishments*, FORUM 18, Dec. 20, 2016, available at http://forum18.org/archive.php?article_id=2242.

²⁵⁶ *Id.*

²⁵⁷ *Id.*

²⁵⁸ *Id.*

²⁵⁹ *Id.*

²⁶⁰ *Id.*

²⁶¹ *Id.*

²⁶² CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, *supra* note 3, at Art. 6.21(1).

²⁶³ *Id.*, at Art. 6.21(2).

²⁶⁴ *Editor to Appeal Guilty Verdict and Fine for Gay Propaganda over Newspaper Interview*, SIBERIAN TIMES, Feb. 1, 2014, available at <http://siberiantimes.com/other/others/news/editor-to-appeal-guilty-verdict-and-fine-for-gay-propaganda-over-newspaper-interview/>.

Facebook that discussed, among other things, Ireland's same sex marriage referendum and an LGBTI exhibition in St Petersburg.²⁶⁵

Article 13.15 was amended in March 2019 to prohibit the dissemination of deliberately inaccurate information.²⁶⁶ The baseline punishment is a fine of 30,000 to 100,000 rubles (US \$461 to \$1,538) on individuals, and 200,000 to 500,000 rubles (US \$3,076 to 7,692) on organizations, with higher fines in certain specific circumstances.²⁶⁷ Critics allege that this provision will “increase control over the Internet and stifle dissent.”²⁶⁸

Article 20.1 was amended in March 2019 to prohibit disseminating information expressing “clear disrespect” for society, the state, state bodies, official state symbols, or the Constitution.²⁶⁹ Violations can be punished with a fine of 30,000 to 100,000 rubles (US \$461 to \$1,538), while repeated violations are punishable with a fine of 100,000 to 200,000 rubles (US \$1,538 to \$3,076) or administrative arrest for up to 15 days.²⁷⁰

Article 20.3 outlaws propaganda or public demonstration of Nazi or extremist paraphernalia or symbols; violations can be punished with administrative arrest for up to 15 days.²⁷¹

On December 7, 2018, human rights lawyer Emil Kurbedinov was sentenced to five days' administrative arrest for publicly disseminating an extremist symbol.²⁷² The charge related to a photo of a Hizb ut-Tahrir rally

²⁶⁵ *Russia: Homophobic Legislation Used to Persecute Activist Who Shared LGBTI Articles on Facebook*, AMNESTY INT'L, Oct. 18, 2017, available at <https://www.amnesty.org/en/latest/news/2017/10/russia-homophobic-legislation-used-to-persecute-activist-who-shared-lgbti-articles-on-facebook/>.

²⁶⁶ CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, *supra* note 3, at Art. 13.15(9) (added by Federal Law on Amendments to the Code of Administrative Offenses of the Russian Federation, No. 27-FZ, Mar. 18, 2019).

²⁶⁷ *Id.*, at Art. 13.15(9)–(11) (added by Federal Law No. 27-FZ, Mar. 18, 2019).

²⁶⁸ *Russian Bills Banning 'Fake News,' Insults Head To Putin For Signature*, RADIO FREE EUROPE / RADIO LIBERTY, Mar. 13, 2019, available at <https://www.rferl.org/a/russian-bills-banning-fake-news-insults-head-to-putin-for-signature/29819238.html>.

²⁶⁹ CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, *supra* note 3, at Art. 20.1(3) (added by Federal Law on Amendments to the Code of Administrative Offenses of the Russian Federation, No. 28-FZ, Mar. 18, 2019).

²⁷⁰ *Id.*, at Art. 20.1(4) (added by Federal Law No. 28-FZ, Mar. 18, 2019).

²⁷¹ *Id.*, at Art. 20.3(1).

²⁷² *Russian Federation: Human Rights Defender Emil Kurbedinov Arrested Today on Extremism Charges*, WORLD ORG. AGAINST TORTURE, Dec. 6, 2018, available at <http://www.omct.org/human-rights-defenders/urgent-interventions/russia/2018/12/d25149/>.

he posted on Facebook in 2013, in which the organization's flags were visible.²⁷³ Other activists have been sanctioned under *Article 20.3* for using Nazi symbols as an artistic device to denounce opponents.²⁷⁴ This provision has also been used against those posting historical photos on social media showing the Nazi occupation of Russia during World War II.²⁷⁵ Political activist Vitold Filippov was convicted of Nazi propaganda in 2012 simply for liking a picture on social media; the picture was a still shot from the movie *American History X* showing a character's swastika tattoo.²⁷⁶

Article 20.29 prohibits mass distribution of extremist materials, as well as their production or storage for mass distribution, and allows individuals to be fined 1,000 to 3,000 rubles (US \$15 to \$46) or administratively arrested for up to 15 days.²⁷⁷ Legal entities can be fined up to 1,000,000 rubles (US \$15,384) or have their activities suspended for up to 90 days (and also have their equipment confiscated).²⁷⁸ As of January 19, 2019, the Federal List of Extremist Materials contained 4,811 entries,²⁷⁹ so few people would understand exactly what is banned and what is not.

Members of disfavored religions are routinely targeted under this provision, particularly Muslims and Jehovah's Witnesses.²⁸⁰ In some cases, charges under *Article 20.29* are clearly political. In 2017, a viral image of Putin wearing makeup was added to the Federal List of Extremist Materials. Activist Gennady Makarov was given five days of administrative arrest for posting this image on social media (alongside a discussion of the fact that it had been banned).²⁸¹ In 2013, a district court banned a video criticizing the United Russia political party, and a separate court fined opposition activist

²⁷³ *Id.*

²⁷⁴ *Inappropriate Enforcement of Anti-Extremist Legislation in Russia in 2015*, SOVA CTR. FOR INFO. & ANALYSIS, June 3, 2016, available at <https://www.sova-center.ru/en/misuse/reports-analyses/2016/06/d34694/>.

²⁷⁵ *Id.*

²⁷⁶ 'There's No Such Thing as an Accidental Repost': How Russia Punishes People for Likes, Retweets, and Selfies, MEDUZA, Feb. 9, 2015, available at <https://meduza.io/en/feature/2015/02/09/there-s-no-such-thing-as-an-accidental-repost>.

²⁷⁷ CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, *supra* note 3, at Art. 20.29.

²⁷⁸ *Id.*

²⁷⁹ *Federal List of Extremist Materials*, MINISTRY OF JUSTICE OF THE RUSSIAN FEDERATION, accessed Jan. 19, 2019, available at <http://minjust.ru/ru/extremist-materials> [in Russian].

²⁸⁰ *Inappropriate Enforcement of Anti-Extremist Legislation in Russia in 2017*, *supra* note 149 (in 2017, several communities of Jehovah's Witnesses and at least six individual members were fined under Article 20.29) and *Inappropriate Enforcement of Anti-Extremist Legislation in Russia in 2016*, *supra* note 92 (in 2016, at least 16 Muslims and at least 18 Jehovah's Witnesses were fined under Article 20.29).

²⁸¹ *Inappropriate Enforcement of Anti-Extremist Legislation in Russia in 2017*, *supra* note 149.

Andrei Teslenko 1,000 rubles (US \$15) under *Article 20.29* for posting that video on social media.²⁸²

2. Association/Assembly Offenses

Article 20.2.2 prohibits “mass simultaneous presence and/or movement of citizens in a public place” that, among other things, causes a breach of public order or impedes pedestrian or vehicular traffic.²⁸³ It also prohibits public calls for such meetings.²⁸⁴ Violators can be fined 10,000 to 20,000 rubles (US \$153 to \$307) or administratively arrested for up to 15 days.²⁸⁵ If harm to health or property results, the punishment is increased – up to 300,000 rubles (US \$4,615), or 20 days.²⁸⁶ Lawmakers enacted this provision in 2012 to target “protest walks.”²⁸⁷ However, as civil society has pointed out, this provision could apply to the most routine gatherings – birthday parties, shopping trips, and even metro journeys.²⁸⁸

In March 2017, Alexey Navalny was fined 20,000 rubles (US \$307) under *Article 20.2.2* after organizing a rally in downtown Moscow.²⁸⁹ In 2016, two music students were arrested under this provision for a street performance in St. Petersburg.²⁹⁰

Under *Article 20.28*, participating in the activities of a public or religious association that was suspended is punishable by a fine of up to 1,000 rubles (US \$15); organizing such activities is punishable by a fine of up to 2,000 rubles (US \$30).²⁹¹ Participating in or organizing the activities

²⁸² *Inappropriate Enforcement of Anti-Extremist Legislation in Russia in 2013*, SOVA CTR. OF INFO. & ANALYSIS, June 4, 2014, available at <https://www.sova-center.ru/en/misuse/reports-analyses/2014/06/d29660/>.

²⁸³ CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, *supra* note 3, at Art. 20.2.2(1).

²⁸⁴ *Id.*

²⁸⁵ *Id.*

²⁸⁶ *Id.*, at Art. 20.2.2(2).

²⁸⁷ Alexandr Litoy, *A Guide to Political Persecution in Russia*, OPENDEMOCRACY, Mar. 13, 2015, available at <https://www.opendemocracy.net/od-russia/alexandr-litoy/guide-to-political-persecution-in-russia>.

²⁸⁸ *Id.*

²⁸⁹ *Opposition Figure Navalny Fined \$350 for Unauthorized Rally in Downtown Moscow*, RUSSIAN NEWS AGENCY, Mar. 27, 2017, available at <http://tass.com/politics/937744>.

²⁹⁰ Alexander Artemyev, *Killing the Music: Buskers Ensnared by Russian Protest Laws*, AMNESTY INT’L, Aug. 10, 2016, available at <https://www.amnesty.org/en/latest/news/2016/08/killing-the-music-buskers-ensnared-by-russian-protest-laws/>.

²⁹¹ CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, *supra* note 3, at Art. 20.28(1).

of a non-profit that was suspended as a “foreign agent” carries a heightened penalty – a fine of 3,000 to 5,000 rubles (US \$46 to \$76) for participants and 30,000 to 50,000 rubles (US \$461 to \$769) for organizers.²⁹²

Since the Supreme Court banned Jehovah’s Witness organizations as “extremist” in 2017, several individual members have been prosecuted under *Article 20.28*.²⁹³ One leader was fined for giving a short television interview about the Supreme Court proceedings to liquidate all Jehovah’s Witness organizations.²⁹⁴ Similarly, after authorities in Russia-occupied Crimea declared that the Crimea Tatar Mejlis was an “extremist” organization in 2016, several of its members (including Ilmi Umerov) were fined under *20.28* after holding private meetings.²⁹⁵

Article 20.3.1, added in December 2018, was enacted to make the first offense of inciting hatred or enmity an administrative, rather than criminal, offense. This provision provides for administrative arrest for up to 15 days or a fine of 10,000 to 20,000 rubles (US \$153 to \$307).²⁹⁶

Article 20.33 prohibits participating in the activities of an NGO that was declared “undesirable.”²⁹⁷ The punishment is a fine of up to 15,000 rubles (US \$230) for individuals, and up to 100,000 rubles (US \$1,538) for legal entities.²⁹⁸ Several individuals and organizations have been sanctioned under *Article 20.33* for posting links to “undesirable” organizations.²⁹⁹ For example, two academic institutions were fined in 2016 because they had links to “undesirable” American foundations on their own websites (in the section listing research grants and fellowship opportunities).³⁰⁰

²⁹² *Id.*, at Art. 20.28(2).

²⁹³ Victoria Arnold, *Russia: Fines, Vandalism Follow Jehovah’s Witness Liquidation*, FORUM 18, May 26, 2017, available at http://www.forum18.org/archive.php?article_id=2282.

²⁹⁴ *Id.*

²⁹⁵ Public Statement, *Crimea: Rapidly Deteriorating Human Rights Situation in the International Blind Spot*, AMNESTY INT’L, Mar. 17, 2017, at 2–4, available at <https://www.amnesty.org/download/Documents/EUR5058862017ENGLISH.pdf> and ALTERNATIVE REPORT TO THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION, CRIMEAN HUMAN RIGHTS GROUP, July 20, 2017, at 2, available at https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/RUS/INT_CERD_NGO_RUS_28205_E.pdf.

²⁹⁶ CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, *supra* note 3, at Art. 20.3.1.

²⁹⁷ *Id.*, at Art. 20.33.

²⁹⁸ *Id.*

²⁹⁹ *Russia: Punished Over Hyperlinks*, *supra* note 157.

³⁰⁰ *Id.*

3. Disorder Offenses

Article 19.3 prohibits disobeying a lawful order from a police officer, military officer, or similar government official, and allows for administrative arrest for up to 15 days.³⁰¹ Repeated violations by someone at a public gathering can be punished with up to 30 days.³⁰² *Article 19.3* is often used against protestors,³⁰³ and in many such cases, “courts accept police testimony without question and without giving equal consideration to contrary evidence presented by the defence.”³⁰⁴

A number of former political prisoners have been convicted for disobeying a lawful order, including Ildar Dadin, Konstantin Saltykov, and Evgeny Vitishko.³⁰⁵ Alexey Navalny was convicted of disobeying police orders during a protest of the verdicts in the Bolotnaya Square case, even though the court’s account of Navalny’s actions was contradicted by video footage.³⁰⁶ In a more recent example, lawyer Mikhail Benyash, who represents peaceful protestors who have been arrested, was himself arrested

³⁰¹ CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, *supra* note 3, at Art. 19.3(1).

³⁰² *Id.*, at Art. 19.3(6).

³⁰³ A RIGHT, NOT A CRIME, *supra* note 250, at 26 (“[M]any of those arrested during street protest are routinely accused of violating police’s legitimate orders (Article 19.3 of the Code of Administrative Offences) – often unjustly, on the sole basis of police’s reports which misrepresent the facts . . . and sentenced to up to 15 days of detention (the current maximum under this Article.)”); see also *Russia: Hundreds Detained in Anti-Corruption Protests*, ARTICLE 19, June 13, 2017, available at <https://www.article19.org/resources/russia-hundreds-detained-in-anti-corruption-protests/> (noting that participants in the June 2017 anti-corruption protests were charged under Article 19.3).

³⁰⁴ A RIGHT, NOT A CRIME, *supra* note 250, at 27 and *Butkevich v. Russia*, App. No. 5865/07, Eur. Ct. H.R., Feb. 13, 2018, at ¶ 102, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-180832%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-180832%22]}) (“The Court has previously examined applications in respect of Russia concerning administrative proceedings against people charged with breaching rules of conduct of public events or with failing to obey police orders to disperse. In those proceedings the trial courts had accepted the submissions of the police readily and unequivocally and had denied the applicants any possibility of adducing any proof to the contrary.”).

³⁰⁵ *Dadin Ildar Ildusovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/dadin-ildar-ildusovich> [in Russian]; *Saltykov Konstantin Matveyevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/saltykov-konstantin-matveyevich> [in Russian]; and *Case Vitishko*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/delo-vitishko> [in Russian].

³⁰⁶ A RIGHT, NOT A CRIME, *supra* note 250, at 27–28.

under *Article 19.3* during a pension-reform protest in September 2018.³⁰⁷ He was sentenced to 14 days' administrative arrest.³⁰⁸

Article 20.1 provides for up to 15 days of administrative arrest for disorderly conduct (*i.e.*, violation of the public order, expressing obvious disrespect for society, accompanied by swearing in public places, insulting harassment, or destruction or damage to property).³⁰⁹ Both *Articles 19.3* and *20.1* are used when police "detain people first and then decide back at the station what to charge them with."³¹⁰ *Article 20.1* has specifically been used against political prisoners, including Nikolai Dadeu and Vyacheslav Shashmin.³¹¹ In another case, the rapper Husky was given 12 days' administrative arrest for disorderly conduct for an improvised performance on the roof of a car.³¹²

4. Regulatory Offenses

Article 20.2 penalizes the failure to follow the procedures for holding a public event.³¹³ For example, failure to file a notice of the event is punishable by up to 10 days of administrative arrest (20 days, if harm to a person or property results).³¹⁴ In addition, participation in an unauthorized public event that causes harm to health or property, or that interferes with pedestrian or vehicular traffic (which will often be the case, at least to some degree), is punishable with up to 15 days' administrative

³⁰⁷ Public Statement, *Russia*, LAW SOCIETY OF ONTARIO, Dec. 2018, available at <https://lso.ca/about-lso/initiatives/human-rights-monitoring-group/public-statement-russia-november-2018>. Memorial HRC recognized this as an example of the "politically motivated prosecution of lawyers." *Memorial Demands to Stop Pressure on Lawyers of Benyash and Ozhmegov*, MEMORIAL HUMAN RIGHTS CTR., Sept. 10, 2018, available at https://memohrc.org/ru/news_old/memorial-trebut-prekratit-davlenie-na-advokatov-benyasha-i-ozhmegova [in Russian].

³⁰⁸ Urgent Action, *Lawyer Assaulted and Arbitrarily Detained*, AMNESTY INT'L, Sept. 12, 2018, available at www.amnesty.org/download/Documents/EUR4690692018ENGLISH.pdf.

³⁰⁹ CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, *supra* note 3, at Art. 20.1(1).

³¹⁰ *A Guide to Political Persecution in Russia*, *supra* note 287.

³¹¹ *Dadeu Nikolai (Mikola) Petrovich*, *supra* note 142 and *Shashmin Vyacheslav Vitalyevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/shashmin-vyacheslav-vitalevich> [in Russian].

³¹² *Rapper Husky Arrested for 12 Days*, CRIME RUSSIA, Nov. 22, 2018, available at <https://en.crimerrussia.com/gromkie-dela/rapper-husky-arrested-for-12-days/>.

³¹³ The procedures are set forth in the Federal Law on Meetings, Rallies, Demonstrations, Processions and Picketing, No. 54-FZ, June 19, 2004, available at <https://www.legislationline.org/documents/id/19988>.

³¹⁴ CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, *supra* note 3, at Art. 20.2(2), (4).

arrest.³¹⁵ If someone commits repeated violations of *Article 20.2*, they can be fined up to 300,000 rubles (US \$4,615) or subject to administrative arrest for up to 30 days³¹⁶ (and can also be punished under Criminal Code *Article 212.1*). A new subsection, added in 2018, makes involving a minor in an unauthorized public event punishable with a fine of 30,000 to 50,000 rubles (US \$461 to \$769) or administrative arrest for up to 15 days.³¹⁷

Protestors and protest organizers are commonly accused of violating *Article 20.2*. In December 2018, Lev Ponomarev, Executive Director of For Human Rights, was convicted of “organizing” an unauthorized rally because he reposted on Facebook a public call encouraging people to attend a peaceful rally in Moscow.³¹⁸ He was given 16 days’ administrative arrest because he had repeatedly violated *Article 20.2*.³¹⁹ In May 2018, Alexey Navalny was arrested while protesting Putin’s inauguration and was given 30 days’ administrative arrest for repeated violations.³²⁰ In October 2016, activist Roman Roslovtshev was convicted for carrying a poster that read: “I’m not afraid of 212.1”; he was sentenced to 20 days’ administrative arrest for repeated violations of *Article 20.2*.³²¹ This provision has also frequently been used against public displays of religion, especially minority religions.³²²

C. Other Problematic / Commonly Misused Provisions

Criminal Code *Article 110.2* prohibits disseminating information about methods of suicide or calling for persons to commit suicide, and allows for imprisonment between five and 10 years (up to 15 years if done

³¹⁵ *Id.*, at Art. 20.2(6), (6.1).

³¹⁶ *Id.*, at Art. 20.2(8).

³¹⁷ *Id.*, at Art. 20.2(1.1).

³¹⁸ Urgent Appeal, *Russia: Sentencing and Arbitrary Detention of Lev Ponomarev*, “For Human Rights” Movement’s Director, INT’L FED’N FOR HUMAN RIGHTS, Dec. 11, 2018, available at <https://www.fidh.org/en/issues/human-rights-defenders/russia-sentencing-and-arbitrary-detention-of-lev-ponomarev-for-human>.

³¹⁹ *Id.*

³²⁰ Daniel Uria, *Russian Court Sentences Alexei Navalny to 30 Days in Prison*, UPI.COM, May 15, 2018, available at https://www.upi.com/Top_News/World-News/2018/05/15/Russian-court-sentences-Alexei-Navalny-to-30-days-in-prison/9341526418846/.

³²¹ *Activist Roman Roslovtshev Arrested for 20 Days*, OVD-INFO, Oct. 14, 2016, available at <https://ovdinfo.org/express-news/2016/10/14/aktivista-Romana-roslovceva-arestovali-na-20-sutok> [in Russian].

³²² Victoria Arnold, *Russia: Changing Administrative Punishments for Public Events*, FORUM 18, July 5, 2017, available at http://www.forum18.org/archive.php?article_id=2293 (describing specific cases).

through public speaking, the media, or the internet).³²³ While this provision has not yet been used against political prisoners, several warnings have been issued to the media simply for reporting on suicides in detention facilities.³²⁴ Given that political prisoners engage in hunger strikes to protest their unlawful detention – Oleg Sentsov and Oleksandr Kolchenko are recent examples of this³²⁵ – this provision could be used to restrict information about political prisoners.

Proposed Criminal Code *Article 284.2* would make it a criminal offense for any Russian citizen to “intentionally enable foreign states, unions of foreign states, or international organizations to impose restrictive measures on Russian persons and public entities.”³²⁶ This new crime would be punishable by up to three years in prison.³²⁷ Commenting on the proposal, State Duma Deputy Speaker Andrei Isayev, a member of President Putin’s United Russia party, said that Vladimir Kara-Murza, a prominent opposition activist who has successfully advocated for Magnitsky legislation in several Western countries, would be indicted under the new provision.³²⁸ In May 2018, the State Duma unanimously passed the bill on the first reading.³²⁹

Articles 97 to 100 of the Criminal Procedure Code allow a court to impose pretrial detention on a criminal suspect.³³⁰ However, *Article 108(1)* explains that pretrial detention can be imposed only “if it is impossible to

³²³ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 2, at Art. 110.2(1)–(2).

³²⁴ TABLE ILLUSTRATING LEGISLATIVE CRACKDOWN, *supra* note 160, at 21.

³²⁵ Oliver Carroll, *Ukrainian Filmmaker Oleg Sentsov Ends 145-Day Hunger Strike in Russian Jail*, INDEPENDENT, Oct. 5, 2018, available at <https://www.independent.co.uk/news/world/europe/oleg-sentsov-hunger-strike-end-russian-jail-ukraine-filmmaker-siberia-a8569901.html> and *Ukrainian Activist Kolchenko Stops Hunger Strike In Russian Prison*, RADIO FREE EUROPE / RADIO LIBERTY, June 7, 2018, available at <https://www.rferl.org/a/ukraine-activist-kolchenko-stops-hunger-strike-in-russian-prison/29278406.html>.

³²⁶ The bill proposing Article 284.2 is available at http://asozd2c.duma.gov.ru/addwork/scans.nsf/ID/2825CD7D23D89B834325828D00249129/%24FILE/464757-7_14052018_464757-7.PDF?OpenElement [in Russian]; see also Vladimir Kara-Murza, *The Kremlin Revives a Soviet-Style Law Against Dissent*, WASHINGTON POST, May 18, 2018, available at <https://www.newsru.com/russia/14may2018/sanctions.html> (discussing the proposed law).

³²⁷ *Id.*

³²⁸ *The Kremlin Revives a Soviet-Style Law Against Dissent*, *supra* note 326.

³²⁹ *Id.*

³³⁰ CRIMINAL PROCEDURE CODE OF THE RUSSIAN FEDERATION, No. 174-FZ, Dec. 18, 2001, at Arts. 97–100, available at <http://www.consultant.ru/cons/cgi/online.cgi?base=LAW&n=315093&dst=4294967295&cacheid=D86B0A02D63B9BA0F053B756AE5E4DE7&mode=rubr&req=doc&rnd=D43CE2FA3ABA16B94B18DB5428935C05#02592976047238946> [in Russian].

apply a different, milder measure of restriction.”³³¹ Despite this limitation, activists, human rights defenders, and political prisoners are routinely subjected to pretrial detention. For example, as of February 27, 2019, at least 22 Jehovah’s Witnesses were in custody in pretrial detention, and another 26 were under house arrest, pending trial on extremism charges.³³² Four political prisoners in the “New Greatness” case have been in pretrial detention since March 15, 2018.³³³ Political prisoners Alexander Mamaev, Alexander Orshulevich, and Nikolay Sentsov have been in pretrial detention since May 27, 2017, facing charges relating to their alleged involvement with Baltic Avant-Garde of Russian Resistance.³³⁴ Alexey Pichugin’s unlawful pretrial detention was determined by the European Court of Human Rights to have violated international law.³³⁵ Numerous other political prisoners were kept, or are currently in, pretrial detention.³³⁶

³³¹ *Id.*, at Art. 108(1).

³³² *List of Persecuted on Charges of Belonging to Jehovah's Witnesses*, *supra* note 145.

³³³ *The Case of “New Greatness,”* MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 22, 2019, available at <https://memohrc.org/ru/special-projects/delo-novogo-velichiya> (Ruslan Kostylenkov, Petr Karamzin, Vyacheslav Kryukov, and Dmitry Poletaev have been in custody since March 15, 2018) [in Russian].

³³⁴ *The BARS Case*, *supra* note 43.

³³⁵ *Pichugin v. Russia*, App. No. 38623/03, Eur. Ct. H.R., Oct. 23, 2012, at ¶¶ 142–43, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-114074%22%7D>.

³³⁶ See, e.g., *Tsakunov Mikhail Sergeevich*, *supra* note 234 (pretrial detention since May 5, 2018); *Tretyakov Dmitry Alexandrovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 22, 2019, available at <https://memohrc.org/ru/defendants/tretyakov-dmitriy-aleksandrovich> (pretrial detention since March 14, 2018) [in Russian]; *Shatrovsky Vyacheslav Robertovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 22, 2019, available at <https://memohrc.org/ru/defendants/shatrovskiy-vyacheslav-robertovich> (detained on November 5, 2017; convicted on May 24, 2018) [in Russian]; *Shabliy Gleb Fedorovich*, *supra* note 47 (detained on November 15, 2016; convicted on October 23, 2017); and *Shumkov Alexander Sergeevich*, *supra* note 144 (detained on September 6, 2017; convicted on December 4, 2018).

VI. INTERNATIONAL LAW ANALYSIS

The Russian Federation's Constitution, Criminal Procedure Code, and Code of Administrative Offenses all explicitly state that Russia's international law obligations supersede any conflicting domestic law. Under Article 15(4) of the Constitution: "[i]f an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied."¹ Article 1(3) of the Criminal Procedure Code and Article 1.1(2) of the Code of Administrative Offenses reiterate this.² The Criminal Code similarly states that it is "based on the Constitution of the Russian Federation and the generally recognized principles and norms of international law."³ While a 2015 Constitutional Court decision and 2015 statute (discussed in more detail in Section VIII(C)(3)(d)) purportedly allow the Kremlin to ignore decisions by international human rights bodies and courts, they did not alter the incorporation of international treaties into domestic law, and regardless, the decision and statute violate bedrock principles of international law (as discussed in Section VI(E)).

As set forth below, by arresting, prosecuting, convicting, sentencing, and imprisoning political prisoners, the Kremlin is violating three key multilateral human rights treaties to which the Russian Federation is a state party – the International Covenant on Civil and Political Rights,⁴

¹ CONSTITUTION OF THE RUSSIAN FEDERATION, Dec. 25, 1993, Art. 15(4), *available at* <http://www.constitution.ru/en/10003000-01.htm> ("If an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied.").

² CRIMINAL PROCEDURE CODE OF THE RUSSIAN FEDERATION, No. 174-FZ, Dec. 18, 2001, at Art. 1(3), *available at* <http://www.consultant.ru/cons/cgi/online.cgi?base=LAW&n=315093&dst=4294967295&cacheid=D86B0A02D63B9BA0F053B756AE5E4DE7&mode=ru&req=doc&rnd=D43CE2FA3ABA16B94B18DB5428935C05#02592976047238946> ("If an international treaty of the Russian Federation establishes other the rules than those provided for by this Code, the rules of the international treaty shall apply.") [in Russian] and CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, No. 195-FZ, Dec. 30, 2001, at Art. 1.1(2), *available at* <http://www.consultant.ru/cons/cgi/online.cgi?from=131375-1172&rnd=CE1929977E86A961C76304CE2F721973&req=doc&base=LAW&n=319688&REFD OC=131375&REFBASE=LAW#1lqolaa3h2m> ("If an international treaty of the Russian Federation establishes other rules than those provided for by the legislation on administrative offences, then the rules of the international treaty shall apply.") [in Russian].

³ CRIMINAL CODE OF THE RUSSIAN FEDERATION, No. 63-FZ, June 13, 1996, at Art. 1(2), *available at* <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=315095&div=LAW&rnd=0.27782972020928964#03780383634932958> [in Russian].

⁴ *International Covenant on Civil and Political Rights*, G.A. Res 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316, at 52 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23,

European Convention on Human Rights,⁵ and Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment⁶ – and therefore its own Constitution and domestic law as well.

A. *The Kremlin's Political Prisoners Are Being Detained for Exercising Their Fundamental Rights and Freedoms*

1. Freedom of Expression

Article 19(2) of the ICCPR provides that “[e]veryone shall have the right to freedom of expression,” which includes the “freedom to seek, receive and impart information and ideas of all kinds . . . either orally, in writing or in print, in the form of art, or through any other media of his choice.”⁷ The European Convention on Human Rights also protects this right.⁸ Restrictions on the freedom of expression must be necessary for a legitimate purpose, and the principle of proportionality must be respected not only in the law that allows the restriction, but also by the administrative and judicial authorities in applying it.⁹ Several of the laws that the Kremlin uses to persecute political prisoners violate the right to freedom of expression.

Criminal Code Article 128.1 criminalizes defamation. As a threshold matter, criminal defamation laws are disfavored, if not completely prohibited, under international law. In a joint 2002 statement, the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, and the OAS Special Rapporteur on Freedom of Expression explained that “[c]riminal defamation is not a

1976 [hereinafter *ICCPR*]. The Soviet Union signed the ICCPR on March 18, 1968, and ratified the treaty on October 16, 1973. The Russian Federation assumed responsibility for adhering to the treaty under the rules for state succession.

⁵ *Convention for the Protection of Human Rights and Fundamental Freedoms*, 213 U.N.T.S. 221, entered into force Sept. 3, 1953 [hereinafter *European Convention on Human Rights*]. The Russian Federation signed the European Convention on Human Rights on February 28, 1996, and ratified the treaty on May 5, 1998.

⁶ *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 1465 U.N.T.S. 85, entered into force June 26, 1987 [hereinafter *Convention Against Torture*]. The Soviet Union signed the Convention Against Torture on December 10, 1985, and ratified the treaty on March 3, 1987. The Russian Federation assumed responsibility for adhering to the treaty under the rules for state succession.

⁷ *ICCPR*, *supra* note 4, at Art. 19(2).

⁸ *European Convention on Human Rights*, *supra* note 5, at Art 10(1).

⁹ *General Comment No. 34 on Article 19: Freedoms of Opinion and Expression*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/34, Sept. 12, 2011, at ¶¶ 33–34, available at <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> [hereinafter *General Comment No. 34*].

justifiable restriction on freedom of expression; all criminal defamation laws should be abolished.”¹⁰ The UN Human Rights Committee, the treaty body that oversees state compliance with the ICCPR, has similarly insisted that “[s]tates parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases.”¹¹

The Kremlin’s use of criminal defamation in specific cases also violates international law. *Article 128.1* is routinely used against those who criticize government officials or other public figures. Alexey Navalny, for example, is currently being criminally investigated for defaming Interior Ministry investigator Pavel Karpov.¹² But as the Human Rights Committee has explained, “all public figures, including those exercising the highest political authority . . . are legitimately subject to criticism” and “the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties.”¹³

Newly added subsections (3), (4), and (5) of *Administrative Code Article 20.1* – which prohibit disseminating information expressing “clear disrespect” for society, the state, state bodies, official state symbols, or the Constitution – are also invalid. As the UN Special Rapporteur on Freedom of Opinion and Expression has explained, defamation laws “may not be used to protect abstract or subjective notions or concepts, such as the State, national symbols, national identity, [or] cultures.”¹⁴

Criminal Code Article 148 prohibits “public actions expressing disrespect for society and committed in order to insult the religious feelings of believers”; in practice, it is often used to prosecute blasphemy. *Administrative Code Article 5.26* similarly prohibits desecration of religious

¹⁰ Joint Declaration, *International Mechanisms for Promoting Freedom of Expression*, U.N. SPECIAL RAPPORTEUR ON FREEDOM OF OPINION AND EXPRESSION, OSCE REPRESENTATIVE ON FREEDOM OF THE MEDIA & OAS SPECIAL RAPPORTEUR ON FREEDOM OF EXPRESSION, Dec. 10, 2002, available at <https://www.osce.org/fom/39838?download=true>.

¹¹ *General Comment No. 34*, *supra* note 9, at ¶ 47.

¹² *Here We Go Again: Navalny Is Being Sued for Defamation Once More, This Time by the Official Who Wanted to Beat Him Up*, MEDUZA, Dec. 11, 2018, available at <https://meduza.io/en/news/2018/12/11/here-we-go-again-navalny-is-being-sued-for-defamation-once-more-this-time-by-the-official-who-wanted-to-beat-him-up> (Navalny was interrogated in October 2018 in this case).

¹³ *General Comment No. 34*, *supra* note 9, at ¶ 38.

¹⁴ Frank La Rue, REPORT OF THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION, U.N. Doc. A/HRC/14/23, Apr. 20, 2010, at ¶ 84, available at <https://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/a.hrc.14.23.pdf>.

objects or symbols. It is widely recognized that blasphemy laws violate the right to freedom of expression. The Human Rights Committee, for example, has expressly stated that, “Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the [ICCPR].”¹⁵ The UN Special Rapporteur on Freedom of Opinion and Expression – together with the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression, and the African Commission’s Special Rapporteur on Freedom of Expression and Access to Information – similarly noted in 2008: “The concept of ‘defamation of religions’ does not accord with international standards regarding defamation” and that restrictions on freedom of expression “should never be used to protect particular institutions, or abstract notions, concepts or beliefs, including religious ones.”¹⁶

Criminal Code Article 280 prohibits public appeals for “extremist” activities. *Administrative Code Articles 20.29* and *20.3* prohibit mass distribution of “extremist materials” and public demonstration of “extremist paraphernalia or symbols,” respectively. To be permissible, a law restricting expression must be “formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly.”¹⁷ However, the definition of “extremism” under Russian law is notoriously vague – in fact, in General Comment 34, the Human Rights Committee specifically cited Russia’s prohibition on “extremist activity” as an example of a vague law that could “lead to unnecessary or disproportionate interference with freedom of expression.”¹⁸ The European Commission for Democracy Through Law (Venice Commission),¹⁹ after a thorough analysis of Russia’s extremism laws, found that the “broad and imprecise wording” of terms such as “extremism,” “extremist actions,” “extremist

¹⁵ *General Comment No. 34*, *supra* note 9, at ¶ 48. There is an exception that is not relevant here – speech that falls under ICCPR Art. 20(2) (advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence). *See id.*

¹⁶ Joint Declaration, *Defamation of Religions, and Anti-Terrorism and Anti-Extremism Legislation*, U.N. SPECIAL RAPPORTEUR ON FREEDOM OF OPINION AND EXPRESSION, OSCE REPRESENTATIVE ON FREEDOM OF THE MEDIA, OAS SPECIAL RAPPORTEUR ON FREEDOM OF EXPRESSION & ACHPR SPECIAL RAPPORTEUR ON FREEDOM OF EXPRESSION AND ACCESS TO INFORMATION, Dec. 15, 2008, available at <https://www.osce.org/fom/35639?download=true>.

¹⁷ *General Comment No. 34*, *supra* note 9, at ¶ 25.

¹⁸ *Id.*, at ¶ 46 (including footnote 109).

¹⁹ The Venice Commission “is the Council of Europe’s advisory body on constitutional matters” and “provide[s] legal advice to its member states . . . to bring their legal and institutional structures into line with European standards.” *Venice Commission*, COUNCIL OF EUROPE, accessed Apr. 1, 2019, available at https://www.venice.coe.int/WebForms/pages/?p=01_Presentation&lang=EN.

organisations,” and “extremist materials” “gives too wide discretion in its interpretation and application, thus leading to arbitrariness.”²⁰

In addition, *Article 280* is used to punish clearly protected expression. Former political prisoner Daria Polyudova, for example, was convicted for two social media posts calling for “revolution in Russia” and protests to bring down the government, though neither called for violence.²¹ The Johannesburg Principles on National Security, Freedom of Expression, and Access to Information²² – which were endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression and have been regularly referenced by the UN Human Rights Council²³ – specifically recognize that calling for a peaceful change of the government is protected speech.²⁴

Criminal Code Article 280.1 – separatism – is used, in practice, to punish discussion of the Kremlin’s illegal annexation of the Crimean Peninsula. Former political prisoner Rafis Kashapov, for example, was convicted for social media posts criticizing the annexation of Crimea and aggression in eastern Ukraine.²⁵ Andrei Bubeev, another former political prisoner, was convicted for reposting an article by Boris Stomakhin entitled “Crimea is Ukraine!” The article argued that the return of Crimea to Ukraine should be a unifying idea for Russians who have anti-imperial views and that the return of Crimea will only be possible if the Russian Federation is dissolved (an inevitable outcome, in Stomakhin’s view).²⁶ These convictions violate international law. The Human Rights Committee has explained that right to freedom of expression includes political

²⁰ OPINION ON THE FEDERAL LAW ON COMBATING EXTREMIST ACTIVITY OF THE RUSSIAN FEDERATION, EUROPEAN COMM’N FOR DEMOCRACY THROUGH LAW (VENICE COMM’N), June 20, 2012, at ¶ 74, *available at*

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2012\)016-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2012)016-e); *see also id.* at ¶¶ 32–50 (analyzing the definitions of “extremism” and similar terms).

²¹ Tanya Lokshina, *Dispatches: The Crime of Speaking Up in Russia*, HUMAN RIGHTS WATCH, Dec. 22, 2015, *available at* <https://www.hrw.org/news/2015/12/22/dispatches-crime-speaking-russia>.

²² Abid Hussain, REPORT OF THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION, U.N. Doc. E/CN.4/1996/39, Mar. 22, 1996, at Annex, *available at* http://ap.ohchr.org/documents/alldocs.aspx?doc_id=700 [hereinafter *Johannesburg Principles*].

²³ REPORT ON THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION IN SOUTH SUDAN SINCE THE JULY 2016 CRISIS, U.N. MISSION IN SOUTH SUDAN & OHCHR, Feb. 2018, at 9 n.40, *available at* <https://www.ohchr.org/Documents/Countries/SS/UNMISSFeb2018.pdf>.

²⁴ *Johannesburg Principles*, *supra* note 22, at Principle 7(a)(i).

²⁵ *Kashapov Rafis Rafailovich*, MEMORIAL HUMAN RIGHTS CTR., *accessed* Jan. 18, 2019, *available at* <https://memohrc.org/ru/defendants/kashapov-rafis-rafailevich> [in Russian].

²⁶ Press Release, *Memorial Considers Tver Resident Andrei Bubeev a Political Prisoner*, MEMORIAL HUMAN RIGHTS CTR., *accessed* Jan. 26, 2019, *available at* https://memohrc.org/sites/default/files/bubeev_source.pdf.

discourse and commentary on public affairs,²⁷ and the Venice Commission has stated that “advocacy of the right to self-determination of peoples or peacefully advocating a different territorial arrangement within a country are generally not considered to be criminal actions, and may on the contrary be seen as a legitimate expression of a person’s views.”²⁸

Criminal Code Article 282 proscribes incitement of hatred or enmity and is routinely used to target speech critical of the government. Political prisoner Danis Safargali was convicted for posting on social media about Russia, the media, the Orthodox Church, foreign policy, and Vladimir Putin;²⁹ political prisoner Vitaly Shishkin for making nationalistic statements (though he did not incite violence, or even mention any ethnic groups other than Russians);³⁰ and former political prisoner Ruslan Sokolovsky for two videos he posted to YouTube that criticized Muslims and the Russian Orthodox Church.³¹ Under international law, the fact that speech is critical of the government is never sufficient grounds for punishment.³² Since October 2017, the European Court of Human Rights has ruled – in at least three separate cases – that a conviction under *Article 282* violated the accused’s right to freedom of expression.³³

Criminal Code Article 319 – insulting a government official – is facially invalid. As noted above, “the mere fact that forms of expression

²⁷ *General Comment No. 34*, *supra* note 9, at ¶ 11.

²⁸ OPINION ON THE FEDERAL LAW ON COMBATING EXTREMIST ACTIVITY, *supra* note 20, at ¶ 33.

²⁹ *Safargali Danis Vildanovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 18, 2019, available at <https://memohrc.org/ru/defendants/safargali-danis-vildanovich> [in Russian] and *In Tatarstan, the Investigation of the Criminal Case of the Leader of the Movement “Altyn Urda,”* SOVA CTR. FOR INFO. & ANALYSIS, Jan. 26, 2017, available at https://www.sova-center.ru/racism-xenophobia/news/counteraction/2017/01/d36237/#_utmzi_1__=1 [in Russian].

³⁰ *Shishkin Vitaly Viktorovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 18, 2019, available at <https://memohrc.org/ru/defendants/shishkin-vitaliy-viktorovich> [in Russian].

³¹ *Sokolovsky Ruslan Gennadyevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 18, 2019, available at <https://memohrc.org/ru/defendants/sokolovskiy-ruslan-gennadevich> [in Russian].

³² *General Comment No. 34*, *supra* note 9, at ¶¶ 38 (“States parties should not prohibit criticism of institutions, such as the army or the administration.”), 42 (“The penalization of a media outlet, publishers or journalist solely for being critical of the government . . . can never be considered to be a necessary restriction of freedom of expression.”), 43 (“It is also inconsistent with paragraph 3 to prohibit a site or an information dissemination system from publishing material solely on the basis that it may be critical of the government or the political social system espoused by the government.”).

³³ *Stomakhin v. Russia*, App. No. 52273/07, Eur. Ct. H.R., May 9, 2018, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-182731%22%5D%7D>; *Dmitriyevskiy v. Russia*, App. No. 42168/06, Eur. Ct. H.R., Oct. 3, 2017, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-177214%22%5D%7D>; and *Terentyev v. Russia*, App. No. 10692/09, Eur. Ct. H.R., Oct. 3, 2017, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-185307%22%5D%7D>.

are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties.”³⁴ Despite this, political prisoner Vladimir Balukh was convicted for using “foul, insulting language” when speaking with an officer³⁵ and former political prisoner Sergei Reznik was convicted under this provision in November 2013 and January 2015 for blog posts accusing a judge of corruption and nepotism and calling a Deputy Prosecutor, e.g., “feathered donkey,” “urban crocodile,” “tractor driver,” and “scoundrel.”³⁶ In 2016, the European Court of Human Rights held that the conviction of a Russian newspaper editor for insulting a local mayor (by accusing him of corruption) violated the editor’s right to freedom of expression.³⁷

Criminal Code Article 354.1 prohibits, among other things, spreading information about Russia’s military or memorial commemorative dates that is “disrespectful of society” or disseminating false information regarding the USSR’s activities during World War II. While laws punishing the denial of the Holocaust or other “clearly established historical facts” are permissible under international law,³⁸ the Kremlin uses *Article 354.1* to punish *opinions* about Russia’s history. Vladimir Luzgin was convicted for posting an article stating that the Soviet Union and Germany “actively collaborated” and “attacked Poland together, unleashing World War II.”³⁹ This is impermissible: “Laws that penalize the expression of opinions about historical facts are incompatible with the obligations that the [ICCPR] imposes on States parties in relation to the respect for freedom of opinion and expression.”⁴⁰ Although Luzgin’s post was “essentially, factually

³⁴ *General Comment No. 34*, *supra* note 9, at ¶ 38.

³⁵ *Crimean Farmer and Political Prisoner Vladimir Balukh Has Been on Hunger Strike for 104 Days*, THE RUSSIAN READER, July 1, 2018, *available at* <https://therussianreader.com/2018/07/01/balukh-hunger-strike-104-days/>.

³⁶ *Reznik Sergey Eduardovich*, OLD.MEMO.RU, *accessed* Jan. 18, 2019, *available at* <http://old.memo.ru/d/182431.html> [in Russian] and *20 April – Sergei Reznik, Russia, Jailed Since November 2013*, WORLD ASS’N OF NEWSPAPERS & NEWS PUBLISHERS, Apr. 20, 2014, *available at* <http://www.wan-ifra.org/articles/2014/04/20/20-april-sergei-reznik-russia-jailed-since-november-2013>.

³⁷ *Nadtoka v. Russia*, App. No. 38010/05, Eur. Ct. H.R., May 31, 2016, *available at* [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-163327%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-163327%22]}) [in French].

³⁸ *Lehideux and Isorni v. France*, App. No. 24662/94, Eur. Ct. H.R., Sept. 23, 1998, at ¶ 47, *available at* [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-58245%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-58245%22]}) (noting that Holocaust denial is “removed from the protection of Article 10 by Article 17”).

³⁹ Carl Schreck, *Czechs Deny Asylum To Russian Convicted For Saying U.S.S.R. Collaborated With Nazis*, RADIO FREE EUROPE / RADIO LIBERTY, May 15, 2018, *available at* <https://www.rferl.org/a/czechs-deny-asylum-russian-luzgin-convicted-u-s-s-r-collaborated-nazis/29228081.html>.

⁴⁰ *General Comment No. 34*, *supra* note 9, at ¶ 49.

correct,”⁴¹ it would be protected under international law even if it was mistaken – the ICCPR “does not permit general prohibition of expressions of an erroneous opinion or an incorrect interpretation of past events.”⁴² The Human Rights Committee further noted during its 2015 review of Russia that *Article 354.1* “appear[s] to be incompatible with” the ICCPR because it “create[s] a substantial chilling effect on freedom of speech and expression of dissenting political opinions.”⁴³

The Kremlin uses *Criminal Code Article 213* and *Administrative Code Article 20.1* – both relating to “hooliganism” – to punish expressive acts and non-dangerous speech. Three members of Pussy Riot, for example, were convicted in 2012 of criminal hooliganism motivated by religious hatred for their anti-Putin performance in a Moscow cathedral.⁴⁴ However, the European Court of Human Rights later held that their performance did not constitute incitement to religious hatred and that the criminal sentences imposed violated their right to freedom of expression.⁴⁵ Former political prisoners Oleg Savvin, Mikhail Feldman, and Dmitry Fonarev were also convicted of criminal hooliganism for placing a German flag on an FSB building.⁴⁶ In 2015, the Human Rights Committee held that Philippe Kostenko’s administrative punishment for hooliganism – he had allegedly used “foul language” in public – violated his right to freedom of expression.⁴⁷

Article 214 – prohibiting vandalism – has been used to criminalize expressive acts. Former political prisoner Vladimir Podrezov was

⁴¹ Jacob Mchangama, *First They Came for the Holocaust Deniers, and I Did Not Speak Out*, FOREIGN POLICY, Oct. 2, 2016, available at <https://foreignpolicy.com/2016/10/02/first-they-came-for-the-holocaust-deniers-and-i-did-not-speak-out/>.

⁴² *General Comment No. 34*, *supra* note 9, at ¶ 49.

⁴³ *Concluding Observations on the Seventh Periodic Report of the Russian Federation*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/RUS/CO/7, Apr. 28, 2015, at ¶ 19, available at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/RUS/CO/7&Lang=En.

⁴⁴ *Pussy Riot Members Jailed for Two Years for Hooliganism*, BBC NEWS, Aug. 17, 2012, available at <https://www.bbc.com/news/world-europe-19297373>.

⁴⁵ *Alekhina v. Russia*, App. No. 38004/12, Eur. Ct. H.R., July 17, 2018, at ¶¶ 225, 228–230, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-184666%22%5D%7D>.

⁴⁶ Hayla Coynash, *7 Years For Raising Flag in Protest at Russian Invasion of Crimea*, KHARKIV HUMAN RIGHTS PROT. GROUP, Mar. 23, 2015, available at <http://khpg.org/en/index.php?id=1426894376>.

⁴⁷ *Kostenko v. Russian Federation*, Communication No. 2141/2012, U.N. Doc. CCPR/C/115/D/2141/2012, U.N. HUMAN RIGHTS COMMITTEE, *adopted* Oct. 23, 2015, available at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F115%2FD%2F2141%2F2012&Lang=en.

sentenced to over two years' imprisonment for allegedly repainting a yellow star on the spire of a tall building in blue and hanging a Ukrainian flag on it⁴⁸ (his sentence was later commuted after approximately 16 months in prison⁴⁹). However, such expressive acts cannot be punished with harsh sentences such as imprisonment. In *Murat Vural v. Turkey*, the European Court of Human Rights considered an application from a man who had been sentenced to 13 years in prison for pouring paint on several statues of Mustafa Kemal Atatürk, the first President of Turkey.⁵⁰ Vural undertook this act of civil disobedience to protest the Ministry of Education's decision not to appoint him as a teacher.⁵¹ On review, the Court began by noting that the European Convention on Human Rights "protects not only the substance of the ideas and information expressed, but also the form in which they are conveyed," and that "there is little scope under Article 10 § 2 of the Convention for restrictions on political speech."⁵² While the Court acknowledged "the applicant's acts involved a physical attack on property," it held that these actions were not "of a gravity justifying a custodial sentence."⁵³ Thus, the Court concluded that the prison term was "grossly disproportionate" and not necessary in a democratic society and violated his right to freedom of expression.⁵⁴ For these same reasons, the Kremlin violated Vladimir Podrezov's right to freedom of expression by imprisoning him for relatively harmless actions that were clearly a form of political protest.

A number of political prisoners have been prosecuted under *Criminal Code Articles 275 and 276* – treason and espionage – for sharing information that was already publicly available. These include Svyatoslav Bobyshev, Gennady Kravtsov, Vladimir Lapygin, Petr Parpulov, and Yekaterina Kharebava.⁵⁵ However, the Human Rights Committee has

⁴⁸ *Highrise Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/vysotnoe-delo> [in Russian].

⁴⁹ *Rufer Vladimir Podrezov Released in the Courtroom*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 4, 2019, available at <https://memohrc.org/ru/monitorings/rufer-vladimir-podrezov-osvobozhden-v-zale-suda> [in Russian].

⁵⁰ *Murat Vural v. Turkey*, App. No. 9540/07, Eur. Ct. H.R., Oct. 21, 2014, at ¶¶ 7–9, 13, 20, available at [https://hudoc.echr.coe.int/eng#%7B%22itemid%22:\[%22001-147284%22%22%7D](https://hudoc.echr.coe.int/eng#%7B%22itemid%22:[%22001-147284%22%22%7D)].

⁵¹ *Id.*, at ¶ 20.

⁵² *Id.*, at ¶¶ 44, 52.

⁵³ *Id.*, at ¶ 66.

⁵⁴ *Id.*, at ¶ 68.

⁵⁵ *Bobyshev Svyatoslav Vasilyevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/bobyshev-svyatoslav-vasilevich> (the "secret" information he handed over was not secret at the time when he handed it over, but rather was classified as secret retroactively) [in Russian]; *Kravtsov Gennady Nikolaevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/kravcov->

explicitly stated that treason and other national security laws cannot be used “to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information.”⁵⁶ Given that these political prisoners shared information that was already publicly available, their actions could not have harmed national security. The Johannesburg Principles further state that “[o]nce information has been made generally available . . . any justification for trying to stop further publication will be overridden by the public’s right to know.”⁵⁷

2. Freedom of Association

Both the ICCPR and the European Convention on Human Rights protect the right to freedom of association.⁵⁸ Any restriction on this right must be necessary in a democratic society and prescribed by a law that is sufficiently clear to allow individuals and associations to ensure that their activities comply with the restriction.⁵⁹ “A restriction that is too general in nature is not permissible . . .”⁶⁰ In addition, “dissolution of an association shall always be a measure of last resort” and can only be used in the most serious cases, “such as when an association has engaged in conduct that creates an imminent threat of violence or other grave violation of the law, and shall never be used to address minor infractions.”⁶¹ The Kremlin’s use

gennadiy-nikolaevich (he shared information about a spacecraft, but the characteristics of the spacecraft can be found on the Internet and detailed information about it was declassified by its designer in the early 2000s) [in Russian]; *Lapygin Vladimir Ivanovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/lapygin-vladimir-ivanovich> (numerous experts explained that the software he shared contained publicly-available information and could not be considered a state secret) [in Russian]; *Parpulov Petr Ivanovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/parpulov-petr-ivanovich> (the “secret” information he allegedly shared was learned from a public source, and it was even published on a newspaper’s website) [in Russian]; and *Harebava Ekaterina Zhorzhievna*, UNION OF SOLIDARITY WITH POLITICAL PRISONERS, May 14, 2015, available at <https://www.politzeky.ru/drugie-dela/7873/harebava-ekaterina-zhorzhievna> (convicted for sending a text message to a friend in Georgia noting that she saw a train moving Russian military equipment towards Georgia) [in Russian].

⁵⁶ *General Comment No. 34*, *supra* note 9, at ¶ 30.

⁵⁷ *Johannesburg Principles*, *supra* note 22, at Principle 17.

⁵⁸ ICCPR, *supra* note 4, at Art. 22(1) and *European Convention on Human Rights*, *supra* note 5, at Art. 11(1).

⁵⁹ GUIDELINES ON FREEDOM OF ASSOCIATION, OSCE OFFICE FOR DEMOCRATIC INST. & HUMAN RIGHTS, 2015, at ¶ 109, available at <https://www.osce.org/odihr/132371?download=true>.

⁶⁰ OPINION ON THE FEDERAL LAW ON COMBATING EXTREMIST ACTIVITY, *supra* note 20, at ¶ 64.

⁶¹ GUIDELINES ON FREEDOM OF ASSOCIATION, *supra* note 59, at ¶ 35.

of vague laws to ban disfavored organizations, punish their members, and criminalize mere association violates international law.

Criminal Code Articles 282.1, 281.2, and 282.3 prohibit various forms of involvement with an “extremist community” or “extremist organization.” As discussed earlier, and as the Venice Commission has noted, the definition of “extremism” and related terms is vague and gives authorities “too wide discretion in . . . interpretation and application, thus leading to arbitrariness.”⁶² This is evident in the prosecutions that have taken place so far. For example, several political prisoners have been charged and/or convicted under *Article 282.2* for associating with Right Sector, a Ukrainian nationalist organization that was banned as extremist by the Russian Supreme Court in November 2014. However, Memorial HRC has explained that the Supreme Court’s decision banning Right Sector “does not hold water, and the decision is based on . . . unverified facts.”⁶³ Numerous Jehovah’s Witnesses are currently being prosecuted under *Articles 282.2 and 282.3* as a result of the Supreme Court’s April 2017 decision declaring the Administrative Center of Jehovah’s Witnesses in Russia to be an extremist organization.⁶⁴ The Supreme Court’s decision was based primarily on prior lower court decisions banning local Jehovah’s Witness organizations as extremist and adding religious materials published by Jehovah’s Witnesses to the federal list of extremist materials.⁶⁵ However, Memorial HRC insists that all these prior decisions were “groundless,”⁶⁶ and the United States Commission on International Religious Freedom asked the Kremlin to “re-examine recent court rulings deeming publications of the Jehovah’s Witnesses . . . extremist.”⁶⁷ Similarly, although Scientologists and followers of Said Nursi have been prosecuted for associating with their “extremist” groups, the banning of Scientology books “took place with gross procedural violations”⁶⁸ and the

⁶² OPINION ON THE FEDERAL LAW ON COMBATING EXTREMIST ACTIVITY, *supra* note 20, at ¶ 74.

⁶³ Dadeu Nikolai (Mikola) Petrovich, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/defendants/dadeu-nikolay-mikola-petrovich> [in Russian].

⁶⁴ A copy of the Supreme Court’s decision in Russian, along with a summary in English, is available at <https://globalfreedomofexpression.columbia.edu/cases/ministry-justice-v-jehovahs-witnesses-management-center-russia/>.

⁶⁵ *List of Persecuted on Charges of Belonging to Jehovah’s Witnesses (Updated)*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 27, 2019, available at <https://memohrc.org/ru/special-projects/spisok-presleduemih-po-obvineniyu-v-prinadlezhnosti-k-svidetelyam-igovy> [in Russian].

⁶⁶ *Id.*

⁶⁷ ANNUAL REPORT 2010, U.S. COMM’N ON INT’L RELIGIOUS FREEDOM, May 2010, at 286, available at <https://www.uscirf.gov/sites/default/files/resources/annual%20report%202010.pdf>.

⁶⁸ *St. Petersburg Scientology Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/delo-peterburgskih-saentologov> [in Russian].

European Court of Human Rights held in 2018 that the ban on Said Nursi books as extremist violated the European Convention on Human Rights.⁶⁹

Criminal Code Article 284.1 and *Administrative Code Article 20.33* punish participation in the activities of an NGO that has been designated as “undesirable” by the Prosecutor General’s Office. The grounds on which an NGO may be declared “undesirable” are vague⁷⁰ – so vague, in fact, that the Venice Commission declared that they do not constitute restrictions “prescribed by law.”⁷¹ Exacerbating this, the Prosecutor General’s Office is not required to explain the reasons why it declares a given organization “undesirable” (nor does it do so in practice). It is also not clear what actions constitute “participation in the activities” of a prohibited NGO. The lack of specified criteria “could qualify virtually any action as falling under the scope of this law.”⁷² In addition, the Kremlin has clearly targeted human rights and democracy-promoting organizations under this law. The current list of 15 “undesirable” organizations includes the National Endowment for Democracy, Open Society Foundations, National Democratic Institute for International Affairs, International Republican Institute, Institute of Modern Russia, Open Russia, and the European Platform for Democratic Elections.⁷³ However, as the OSCE has pointed out, “associations should not be treated differently for reasons such as imparting information or ideas that contest the established order or advocate for a change of the constitution or legislation, [or] for defending human rights.”⁷⁴

⁶⁹ *Ibragim Ibragimov v. Russia*, App. No. 1413/08, Eur. Ct. H.R., Aug. 28, 2018, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-185293%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-185293%22]}).

⁷⁰ The grounds are listed in Article 3.1 of the Federal Law on Sanctions for Individuals Violating Fundamental Human Rights and Freedoms of the Citizens of the Russian Federation, No. 272-FZ, Dec. 28, 2012 (added by the Federal Law on Amending Certain Legislative Acts, No. 129-FZ, May 19, 2015, at Art. 5, available at <https://www.legislationline.org/documents/id/22067>).

⁷¹ OPINION ON FEDERAL LAW NO. 129-FZ ON AMENDING CERTAIN LEGISLATIVE ACTS, EUROPEAN COMM’N FOR DEMOCRACY THROUGH LAW (VENICE COMM’N), June 13, 2016, at ¶¶ 62–63, available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)020-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)020-e).

⁷² LEGISLATION AND PRACTICE IN THE RUSSIAN FEDERATION ON NON-COMMERCIAL ORGANISATIONS IN LIGHT OF COUNCIL OF EUROPE STANDARDS: AN UPDATE, COUNCIL OF EUROPE COMM’R FOR HUMAN RIGHTS, July 9, 2015, at ¶ 19, available at <https://rm.coe.int/opinion-of-the-commissioner-for-human-rights-on-the-legislation-and-pr/16806da772>.

⁷³ *List of Foreign and International Non-Governmental Organizations Whose Activities Are Considered Undesirable in the Territory of the Russian Federation*, MINISTRY OF JUSTICE OF THE RUSSIAN FEDERATION, accessed Jan. 27, 2019, available at <https://minjust.ru/ru/activity/nko/unwanted> [in Russian].

⁷⁴ GUIDELINES ON FREEDOM OF ASSOCIATION, *supra* note 59, at ¶ 127; see also *id.* at ¶ 89 (“Associations are entitled to promote changes to the law or to the constitutional order so long as they do so by employing peaceful means . . .”).

Criminal Code Article 278 prohibits actions aimed at the violent seizure of power and has been used primarily against members (or alleged members) of Hizb ut-Tahrir. While members of this organization support the creation of a worldwide caliphate, “it has never practiced or advocated violence on the Russian territory in order to achieve this theoretical goal.”⁷⁵ Many charges under *Article 278* are based solely on alleged membership or involvement with Hizb ut-Tahrir – as Memorial HRC has explained, in all the cases, “not a single concrete action of the accused is described that would lead to the seizure of power in Russia or Ukraine.”⁷⁶ For example, the indictment against two Hizb ut-Tahrir members in Chelyabinsk alleged only that they read together, discussed religious/political texts, talked with the general public, and hosted tea parties.⁷⁷ But as the OSCE has made clear, “[s]imply holding views or beliefs that are considered radical or extreme, as well as their peaceful expression, should not be considered crimes.”⁷⁸

Criminal Code Article 330.1 – malicious failure to register an NGO as a “foreign agent” – suffers from some of same defects described above. NGOs are required to register as a foreign agent when they receive funding from abroad and participate in “political activities.”⁷⁹ However, according to the Venice Commission, “it is difficult for [NGOs] to know which specific actions on their part could be qualified as ‘political activities’” and therefore “the restrictions on the freedom of association cannot be

⁷⁵ *Misuse of Anti-Extremism in December 2018*, SOVA CTR. FOR INFO. & ANALYSIS, Jan. 9, 2019, available at <https://www.sova-center.ru/en/misuse/news-releases/2019/01/d40490/>.

⁷⁶ *Bakhchisarai Case of Membership in the Banned Hizb Ut-Tahrir*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/bahchisarayskoe-delo-o-chlenstve-v-zapreshchyonnoy-hizb-ut-tahrir> [in Russian]; see also *Yalta Case of Membership in the Banned Hizb ut-Tahrir*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/yaltinskoe-delo-o-chlenstve-v-zapreshchyonnoy-hizb-ut-tahrir> (“No plans to seize power in Russia or Ukraine at these meetings were voiced.”) [in Russian] and *Ufa Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/ufimskoe-delo> (“This group not only did not have firearms or . . . weapons, explosives, but also did not take any action with a view to their acquisition or theft.”) [in Russian].

⁷⁷ *Chelyabinsk Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 19, 2019, available at <https://memohrc.org/ru/special-projects/chelyabinskoe-delo> [in Russian].

⁷⁸ GUIDEBOOK ON PREVENTING TERRORISM AND COUNTERING VIOLENT EXTREMISM AND RADICALIZATION THAT LEAD TO TERRORISM, ORG. FOR SEC. & CO-OPERATION IN EUROPE, Feb. 2014, at 42, available at <https://www.osce.org/secretariat/111438?download=true>.

⁷⁹ Federal Law on Non-Profit Organisations of the Russian Federation, No. 7-FZ, Jan. 12, 1996, at Art. 2(6), available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2013\)037-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2013)037-e).

considered to be ‘prescribed by law.’”⁸⁰ Moreover, like the Undesirable Organizations Law, the Foreign Agent Law is used to target human rights organizations.⁸¹ Finally, *Article 330.1* allows for up to two years’ imprisonment for failing to register as a foreign agent. As the Council of Europe’s Commissioner for Human Rights has argued, imprisonment as a punishment for even deliberate non-registration as a foreign agent is neither proportional to the offense, nor necessary in a democratic society.⁸²

Administrative Code Article 20.28 prohibits organizing or participating in the activities of a public or religious association that was suspended under any one of several laws.⁸³ The grounds for suspension are incredibly broad and include extremist activity⁸⁴ or violating the Constitution or any other Russian law.⁸⁵ Jehovah’s Witnesses have been prosecuted under *Article 20.28* simply for holding religious services,⁸⁶ as have members of the Crimean Tatar Mejlis (including Ilmi Umerov) simply

⁸⁰ OPINION NO. 716-717/2013, EUROPEAN COMM’N FOR DEMOCRACY THROUGH LAW, June 27, 2014, at ¶ 81, *available at* [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)025-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)025-e); *see also* Third Party Intervention by the Council of Europe Commissioner for Human Rights, *Ecodefence v. Russia*, App. No. 9988/13, Eur. Ct. H.R., July 5, 2017, at ¶ 19, *available at* <https://rm.coe.int/third-party-intervention-by-the-council-of-europe-commissioner-for-hum/1680731087> (“[M]any international and Russian actors have expressed concerns regarding the overly-broad and vague concept of ‘political activity’ in the Law on Foreign Agents.”).

⁸¹ Third Party Intervention by the Council of Europe Commissioner for Human Rights, *supra* note 80, at ¶ 21 (“[I]t is striking that human rights defenders constituted the largest single category of NCO registered as foreign agents (44, or 30%).”).

⁸² *Id.*, at ¶ 36.

⁸³ Those laws are: Federal Law on Freedom of Conscience and Religious Associations, No. 125-FZ, Sept. 26, 1997, at Art. 14, *available at* <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&cacheid=288C5F010BB5E3A3680F35FB6C9C6B3F&mode=multiref&div=LAW&opt=1&SORTTYPE=0&BASENODE=1&ts=18812154860720611719&base=LAW&n=289869&dst=100139&rnd=A0FF3FE17AAF44FC96C4AE7202E23BDE#008987951557647111> (allowing courts to liquidate religious organizations in certain circumstances) [in Russian]; Federal Law on Public Associations, No. 82-FZ, May 19, 1995, at Art. 42, *available at* <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&cacheid=288C5F010BB5E3A3680F35FB6C9C6B3F&mode=multiref&div=LAW&opt=1&SORTTYPE=0&BASENODE=1&ts=18812154860720611719&base=LAW&n=285678&dst=100260&rnd=A0FF3FE17AAF44FC96C4AE7202E23BDE#01406113353830154> (allowing government officials to suspend a public association for a variety of reasons) [in Russian]; and Federal Law on Countering Extremist Activities, No. 114-FZ, July 25, 2002, at Art. 10, *available at* <https://www.legislationline.org/documents/id/16862> (allowing government officials to suspend a public or religious association for a variety of reasons).

⁸⁴ Federal Law on Freedom of Conscience and Religious Associations, *supra* note 83, at Art. 14(2) and Federal Law on Countering Extremist Activities, *supra* note 83, at Art. 10.

⁸⁵ Federal Law on Public Associations, *supra* note 83, at Art. 42.

⁸⁶ Victoria Arnold, *Russia: Fines, Vandalism Follow Jehovah’s Witness Liquidation*, FORUM 18, May 26, 2017, *available at* http://www.forum18.org/archive.php?article_id=2282.

for holding private meetings.⁸⁷ The suspension of an organization is usually a temporary, interim measure, pending a final ban on an organization. Once a ban has come into force, members can be criminally (rather than just administratively) prosecuted.

3. Freedom of Assembly

Article 21 of the ICCPR and Article 11(1) of the European Convention on Human Rights protect the right to peaceful assembly.⁸⁸ The Kremlin is violating this right by misusing the law to punish peaceful public gatherings.

Administrative Code Article 20.2 punishes the failure to follow the procedures for holding a public event. *Criminal Code Article 212.1* imposes criminal penalties for repeated violations. The European Court of Human Rights has ruled in several cases that government officials in Russia violated the right to freedom of assembly by arresting peaceful protestors under *Article 20.2* simply because their demonstration was “unauthorized.”⁸⁹ The Court explained that “the staging of a demonstration without prior authorisation, does not necessarily justify an interference with a person’s right to freedom of assembly” and that “where demonstrators do not engage in acts of violence the Court has required that the public authorities show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of all substance.”⁹⁰ Despite this, the Kremlin continues to arrest and detain peaceful protestors – in May 2018, Alexey Navalny was

⁸⁷ Public Statement, *Crimea: Rapidly Deteriorating Human Rights Situation in the International Blind Spot*, AMNESTY INT’L, Mar. 17, 2017, available at <https://www.amnesty.org/download/Documents/EUR5058862017ENGLISH.pdf> and ALTERNATIVE REPORT TO THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION, CRIMEAN HUMAN RIGHTS GROUP, July 20, 2017, at 2, available at https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/RUS/INT_CERD_NGO_RUS_28205_E.pdf.

⁸⁸ *ICCPR*, *supra* note 4, at Art. 21 and *European Convention on Human Rights*, *supra* note 5, at Art. 11(1).

⁸⁹ *Kasparov v. Russia*, App. No. 51988/07, Eur. Ct. H.R., Dec. 13, 2016, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-169473%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-169473%22]}); *Kasparov v. Russia*, App. No. 21613/07, Eur. Ct. H.R., Oct. 3, 2013, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-126541%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-126541%22]}); and *Lashmankin v. Russia*, App. No. 57818/09, Eur. Ct. H.R., Feb. 7, 2017, available at [https://hudoc.echr.coe.int/eng#{%22tabview%22:\[%22document%22\],%22itemid%22:\[%22001-170857%22\]}](https://hudoc.echr.coe.int/eng#{%22tabview%22:[%22document%22],%22itemid%22:[%22001-170857%22]}).

⁹⁰ *Kasparov v. Russia*, App. No. 51988/07, *supra* note 89, at ¶ 29.

arrested while protesting Putin's inauguration and sentenced to 30 days' administrative arrest for violating *Article 20.2*.⁹¹

The Venice Commission has also noted that *Administrative Code Article 20.2* allows for fines up to 300,000 rubles to be imposed on individuals and that this constitutes 14.5 times the average monthly salary in Russia.⁹² Such fines are "excessive for administrative offences with no violence involved" and "will undoubtedly have a considerable chilling effect on potential organisers and participants in peaceful public events."⁹³

Criminal Code Article 318 – the use or threat of violence against a public official – is frequently used against protestors in questionable prosecutions. For example, political prisoner Mikhail Tsakunov was convicted for allegedly punching a police officer in the face during anti-Putin protests in May 2018; however, as Amnesty International has noted, "the charges against him contravene publicly available video footage."⁹⁴ By criminalizing the act of protesting through fabricated charges, the Government is violating the right to freedom of assembly.

Administrative Code Article 19.3 (disobeying a lawful order) and *Article 20.1* (disorderly conduct) are both used in a similar manner. They are employed when police "detain people first and then decide back at the station what to charge them with."⁹⁵ Russian opposition leader and former Deputy Prime Minister Boris Nemtsov was arrested twice under *Article 19.3* while at peaceful opposition rallies in Moscow. The first arrest, in December 2010, occurred during a demonstration in support of the freedom of assembly; the second, in February 2014, happened while he was demonstrating in support of the political prisoners convicted as part of the "Bolotnaya Square case."⁹⁶ In the first instance, he was jailed for 15 days;

⁹¹ Daniel Uria, *Russian Court Sentences Alexei Navalny to 30 Days in Prison*, UPI.COM, May 15, 2018, available at https://www.upi.com/Top_News/World-News/2018/05/15/Russian-court-sentences-Alexei-Navalny-to-30-days-in-prison/9341526418846/.

⁹² OPINION ON FEDERAL LAW NO. 65-FZ OF 8 JUNE 2012 OF THE RUSSIAN FEDERATION, EUROPEAN COMM'N FOR DEMOCRACY THROUGH LAW (VENICE COMM'N), Mar. 11, 2013, at ¶ 52(c), available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)003-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)003-e).

⁹³ *Id.*, at ¶ 54.

⁹⁴ Urgent Action, *Peaceful Protester in Pre-Trial Detention*, AMNESTY INT'L, May 10, 2018, available at <https://www.amnesty.org/download/Documents/EUR4683812018ENGLISH.pdf>.

⁹⁵ Alexandr Litoy, *A Guide to Political Persecution in Russia*, OPENDEMOCRACY, Mar. 13, 2015, available at <https://www.opendemocracy.net/od-russia/alexandr-litoy/guide-to-political-persecution-in-russia>.

⁹⁶ *Nemtsov v. Russia*, App. No. 1774/11, Eur. Ct. H.R., July 31, 2014, at ¶¶ 7, 20, available at <https://hudoc.echr.coe.int/eng?i=001-145784#%7B%22itemid%22:%5B%22001-145784%22%5D%7D>; *Mass*

in the second, for 10 days.⁹⁷ Governments, parliamentarians, and NGOs in Europe and North America condemned Nemtsov's politically motivated arrests,⁹⁸ and the European Court of Human Rights ruled that, during the 2010 demonstration, Nemtsov was "was arrested . . . without having received any orders or having disobeyed them" and therefore his "arbitrary arrest and detention" violated the European Convention on Human Rights.⁹⁹ Participants in unauthorized demonstrations are also charged under *Article 19.3* when they fail to disperse following police orders. But, as mentioned above, "the staging of a demonstration without prior authorisation, does not necessarily justify an interference with a person's right to freedom of assembly,"¹⁰⁰ and the European Court of Human Rights has found violations of the right to freedom of assembly where peaceful protestors were arrested under *Article 19.3* in such situations.¹⁰¹

Administrative Code Article 20.2.2 – mass simultaneous presence and/or movement of citizens in a public place – could apply to almost any public gathering. While liability under this provision requires some sort of harm, the types of harms recognized are so broad as to be limitless – for example, harm to greenery or interference with the movement of pedestrians or vehicles. The Venice Commission, noting that *Article 20.2.2* punishes the "almost inevitable consequences of a mass presence of people," found that it "amounts to a disproportionate interference with the

Arrest of Protesters at Rallies in Russia, BBC NEWS, Feb. 25, 2014, available at <https://www.bbc.com/news/world-europe-26337693>; and *Clampdown on Russian Opposition: Liveblog*, THE INTERPRETER, Feb. 24, 2014, available at <http://www.interpretermag.com/clampdown-on-russian-opposition-liveblog/>.

⁹⁷ *Nemtsov v. Russia*, *supra* note 96, at ¶ 41 and Public Statement, *The Russian Authorities Accelerate Their Assault on Freedom of Assembly*, AMNESTY INT'L, Mar. 5, 2014, available at <https://www.refworld.org/pdfid/531997e64.pdf>.

⁹⁸ See, e.g., *Cardin Outraged by Continued Imprisonment of Nemtsov*, U.S. HELSINKI COMM'N, Jan. 13, 2011, available at https://www.csce.gov/international-impact/press-and-media/press-releases/cardin-outraged-continued-imprisonment-nemtsov?&&&&sort_by=field_date_value&page=7.

⁹⁹ *Nemtsov v. Russia*, *supra* note 96, at ¶ 76, Holding.

¹⁰⁰ *Kasparov v. Russia*, App. No. 51988/07, *supra* note 89, at ¶ 29.

¹⁰¹ *Navalnyy and Yashin v. Russia*, App. No. 76204/11, Eur. Ct. H.R., Dec. 4, 2014, at ¶ 70, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-148286%22%7D> ("The applicants were found guilty of having disobeyed a lawful order of the police on account of their failure to stop the march following instructions to do so. They were punished with fifteen days' administrative detention under Article 19.3 of the Code of Administrative Offences.") and *Kasparov v. Russia*, App. No. 51988/07, *supra* note 83, at ¶ 31 (noting that "the applicants' march was dispersed and the applicants were arrested and sentenced to five days' administrative detention without any assessment of the disturbance they had caused, merely because they had marched without authorisation and had allegedly ignored the police's orders to stop").

right to freedom of assembly.”¹⁰² Moreover, it appears that even just two people can constitute a “mass simultaneous presence,” as two music students were arrested under this provision in 2016 for a street performance in St. Petersburg.¹⁰³

4. Freedom of Religion and Belief

Article 18(1) of the ICCPR and Article 9 of the European Convention on Human Rights guarantee the right to freedom of religion.¹⁰⁴ This right includes “the freedom to prepare and distribute religious texts or publications”¹⁰⁵ and to “solicit and receive voluntary financial and other contributions from individuals and institutions.”¹⁰⁶ Restrictions on the freedom to manifest religion must be prescribed by law and be necessary to protect public safety, order, health, morals, or the fundamental rights and freedoms of others.¹⁰⁷ The Kremlin is violating political prisoners’ right to freedom of religion by punishing peaceful religious activities.

Members of minority religions are routinely targeted under *Criminal Code Articles 282.1 and 282.2* and *Administrative Code Article 20.29*, all relating to extremism. The allegedly wrongful behavior is often nothing more than holding or attending a religious service, distributing religious materials, or helping to finance the religious community.¹⁰⁸ Former political prisoner Evgeny Kim, for example, who was a follower of the banned Islamic scholar Said Nursi, was charged with extremism

¹⁰² OPINION ON FEDERAL LAW NO. 65-FZ, *supra* note 92, at ¶ 57.

¹⁰³ Alexander Artemyev, *Killing the Music: Buskers Ensnared by Russian Protest Laws*, AMNESTY INT’L, Aug. 10, 2016, available at <https://www.amnesty.org/en/latest/news/2016/08/killing-the-music-buskers-ensnared-by-russian-protest-laws/>.

¹⁰⁴ ICCPR, *supra* note 4, at Art. 18(1) and *European Convention on Human Rights*, *supra* note 5, at Art. 9.

¹⁰⁵ *General Comment No. 22 on Article 18: Freedom of Thought, Conscience or Religion*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/21/Rev.1/Add.4, July 30, 1993, at ¶ 4, available at <http://undocs.org/CCPR/C/21/Rev.1/Add.4>.

¹⁰⁶ GUIDELINES ON THE LEGAL PERSONALITY OF RELIGIOUS OR BELIEF COMMUNITIES, ORG. FOR SEC. & CO-OPERATION IN EUROPE, 2014, at ¶ 15, available at <https://www.osce.org/odihr/139046?download=true>.

¹⁰⁷ ICCPR, *supra* note 4, at Art. 18(3) and *European Convention on Human Rights*, *supra* note 5, at Art. 9(2).

¹⁰⁸ *List of Persecuted on Charges of Belonging to Jehovah’s Witnesses (Updated)*, *supra* note 65; *Kazan Case 8 on the Membership of the Banned “Hizb ut-Tahrir,”* MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 29, 2019, available at <https://memohrc.org/ru/special-projects/kazanskoe-delo-8-o-chlenstve-v-zapreshchyonnoy-hizb-ut-tahrir> [in Russian]; and *Makhachkala Case Followers Said Nursi*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 29 2019, available at <https://memohrc.org/ru/special-projects/mahachkalinskoe-delo-posledovatelye-saida-nursi> [in Russian].

“exclusively [for] participation in religious meetings, their conduct, [and] the collective reading of the Nursi books.”¹⁰⁹ The international community has repeatedly expressed concern over the Kremlin’s use of extremism laws for such activities. In a 2012 resolution, the Parliamentary Assembly of the Council of Europe called for the Kremlin to “refrain from applying the law on extremist activities against all religious communities”¹¹⁰ and the Human Rights Committee expressed concern in 2015 “about numerous reports indicating that the law is increasingly used to curtail . . . freedom of religion, targeting, *inter alia*, Jehovah’s Witnesses.”¹¹¹

Charges under *Criminal Code Articles 205 to 205.5* (relating to terrorism) and *Article 278* (violent seizure of power) are principally brought against members of Hizb ut-Tahrir, with little basis. For example, six political prisoners in Yalta are currently facing terrorism charges simply for their involvement with Hizb ut-Tahrir – they “are not charged with preparing any terrorist act or voicing terrorist threats: just finding and convincing new supporters, holding meetings with [the] reading and discussing of [Hizb ut-Tahrir] literature and discussing international politics.”¹¹² Similarly, three other political prisoners involved with Hizb ut-Tahrir are accused of preparing for a violent seizure of power even though, in the indictment, “not a single concrete action . . . is described that would lead to the seizure of power in Russia.”¹¹³

Several legal provisions – particularly *Criminal Code Articles 205.5* and *282.2*, and *Administrative Code Article 20.28* – prohibit involvement with organizations that have been banned (for any one of a number of reasons). Despite the requirement that “withdrawing the legal personality status of a religious or belief organization . . . should be a matter of last resort” and imposed only for “grave and repeated violations endangering public order,”¹¹⁴ the Government has banned religious organizations (and entire religions) with little (or no) evidence to support the ban. In 2010, the

¹⁰⁹ Kim Evgeny Lvovich, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 29, 2019, available at <https://memohrc.org/ru/defendants/kim-evgeniy-lvovich> [in Russian].

¹¹⁰ Resolution 1896: *The Honouring of Obligations and Commitments by the Russian Federation*, PARL. ASSEMBLY OF THE COUNCIL OF EUROPE, adopted Oct. 2, 2012, at ¶ 25.10 (under “With regard to human rights and fundamental freedoms”), available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=19116&lang=EN>.

¹¹¹ *Concluding Observations*, *supra* note 43, at ¶ 20.

¹¹² *Yalta Case of Membership in the Banned Hizb ut-Tahrir*, *supra* note 76.

¹¹³ *Bakhchisarai Case of Membership in the Banned Hizb Ut-Tahrir*, *supra* note 76.

¹¹⁴ GUIDELINES ON THE LEGAL PERSONALITY OF RELIGIOUS OR BELIEF COMMUNITIES, *supra* note 106, at ¶ 33.

European Court of Human Rights held that the domestic courts “did not adduce ‘relevant and sufficient’ reasons” to dissolve the Moscow branch of Jehovah’s Witnesses, and therefore the dissolution violated the members’ right to freedom of religion.¹¹⁵ In 2018, the European Court of Human Rights held that the designation of several books by Said Nursi as “extremist” – which served as the basis for a later ban on the organization Nurdzhular (based on Nursi’s teachings)¹¹⁶ – was improper because, again, the domestic courts did not provide “relevant and sufficient” reasons.¹¹⁷

Finally, the prohibition on “illegal missionary activities” in *Administrative Code Article 5.26* violates international law. The right to freedom of religion includes the right to distribute religious texts or publications¹¹⁸ and to try and convince others of one’s religious beliefs.¹¹⁹

5. Right to Political Participation

Article 25(a) of the ICCPR guarantees the right to take part in the conduct of public affairs.¹²⁰ This right requires “a free press and other media able to comment on public issues without censorship” and “full enjoyment and respect for” the rights to freedom of expression, association, and assembly.¹²¹ More specifically, individuals must be free to engage in political activity, debate public affairs, hold peaceful demonstrations and meetings, criticize and oppose, and publish political material.¹²²

As should already be clear, the Kremlin routinely punishes individuals for engaging in precisely these activities. Journalists (Igor Rudnikov), peaceful protestors (Zimovets Stanislav), political activists (Mikhail Savostin), and individuals discussing sensitive issues (Rafis

¹¹⁵ *Jehovah’s Witnesses of Moscow v. Russia*, App. No. 302/02, Eur. Ct. H.R., June 10, 2010, at ¶ 160, available at [https://hudoc.echr.coe.int/eng#%7B%22itemid%22:\[%22001-99221%22\]%7D](https://hudoc.echr.coe.int/eng#%7B%22itemid%22:[%22001-99221%22]%7D).

¹¹⁶ RELIGION AND VIOLENCE IN RUSSIA: CONTEXT, MANIFESTATIONS, AND POLICY, CTR. FOR STRATEGIC & INT’L STUDIES, June 2018, at 31–32, available at <https://www.csis.org/analysis/religion-and-violence-russia>.

¹¹⁷ *Ibragim Ibragimov v. Russia*, App. No. 1413/08, *supra* note 69, at ¶¶ 110, 123.

¹¹⁸ *General Comment No. 22*, *supra* note 105, at ¶ 4.

¹¹⁹ *See, e.g., Kokkinakis v. Greece*, App. No. 14307/88, Eur. Ct. H.R., May 25, 1993, at ¶ 31, available at [https://hudoc.echr.coe.int/eng#%7B%22itemid%22:\[%22001-57827%22\]%7D](https://hudoc.echr.coe.int/eng#%7B%22itemid%22:[%22001-57827%22]%7D) (“According to Article 9 (art. 9), freedom to manifest one’s religion . . . includes in principle the right to try to convince one’s neighbour, for example through ‘teaching’ . . .”).

¹²⁰ ICCPR, *supra* note 4, at Art. 25(a).

¹²¹ *General Comment No. 25 on Article 25: Participation in Public Affairs and the Right to Vote*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/21/Rev.1/Add.7, July 12, 1996, at ¶ 25, available at <https://undocs.org/CCPR/C/21/Rev.1/Add.7>.

¹²² *Id.*

Kashapov) or criticizing the government (Danis Safargali) have been charged and prosecuted. In November 2018, the European Court of Human Rights held that it was “beyond reasonable doubt” that Alexey Navalny was arrested twice specifically to suppress political pluralism.¹²³

B. The Kremlin is Violating Political Prisoners’ Due Process Rights

1. Right to a Fair Trial

Article 14 of the ICCPR and Article 6 of the European Convention on Human Rights guarantee the right to a fair trial.¹²⁴ However, political prisoners are frequently convicted in unfair trials marred by serious due process violations.

For example, Alexey Pichugin, the Kremlin’s longest-serving political prisoner, is currently imprisoned despite the fact that the European Court of Human Rights held that both of his trials were fundamentally unfair. Pichugin was convicted in 2005 on four counts of murder and attempted murder.¹²⁵ This conviction was based primarily on the testimony of one witness – “Mr. K” – a serial killer selected by the Kremlin who, in 2003, suddenly “recalled” Pichugin’s involvement in the crimes (to which Mr. K now confessed), despite having been interrogated multiple times before and never mentioning those crimes or Pichugin. In fact, the European Court of Human Rights described Mr. K’s testimony as the “decisive evidence against” Pichugin.¹²⁶ At trial, Mr. K refused to answer cross-examination questions relating to the circumstances in which the alleged offenses had been committed.¹²⁷ He did not invoke his right against self-incrimination, nor provide any other reason for this refusal – he just stated that “he did not wish to reply to the questions.”¹²⁸ When Pichugin’s defense counsel asked the trial judge to remind Mr. K that he had a legal obligation to answer the questions, the judge replied that Mr. K was entitled

¹²³ *Navalnyy v. Russia*, App. No. 29580/12, Eur. Ct. H.R., Nov. 15, 2018, at ¶ 175, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-187605%22%7D%7D>.

¹²⁴ *ICCPR*, *supra* note 4, at Art. 14 and *European Convention on Human Rights*, *supra* note 5, at Art. 6.

¹²⁵ *Pichugin v. Russia*, App. No. 38623/03, Eur. Ct. H.R., Oct. 23, 2012, at ¶ 72, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-114074%22%5D%7D%7D> [hereinafter *Pichugin v. Russia 2012*].

¹²⁶ *Id.*, at ¶ 200.

¹²⁷ *Id.*, at ¶ 201.

¹²⁸ *Id.*, at ¶ 203.

not to answer (but did not give an explanation or refer to any legal authority supporting this contention).¹²⁹ Furthermore, the judge prohibited the defense from asking Mr. K about his criminal record, why he had not implicated Pichugin during prior interrogations, and whether prosecutors had pressured him to change his testimony,¹³⁰ saying that the defense was “not allowed to cast doubts on witness statements” and that the jury did not need to know Mr. K’s motivation for testifying.¹³¹ After analyzing these events, the European Court of Human Rights held that the judge violated the principle of “equality of arms,” which ensures each side’s right to present its evidence, and therefore Pichugin’s right to a fair trial.¹³²

Pichugin was tried and convicted for three additional murders and three additional attempted murders in 2007.¹³³ During that trial, when the defense attempted to introduce an expert report that rebutted the prosecution’s evidence, the court refused to admit the defense report into evidence and similarly refused a defense request that an independent expert be appointed.¹³⁴ The European Court of Human Rights held that this selective and “unfair taking and examination of evidence” violated Pichugin’s right to fair trial.¹³⁵

Leading human rights organizations have highlighted the unfair trials of numerous other current political prisoners, including Oleg Sentsov, Oleksandr Kolchenko, Rasul Kudaev, Stanislav Klykh, Mykola Karpyuk, and Zhalaudi Geriev, to name some high-profile examples.¹³⁶

¹²⁹ *Id.*, at ¶ 204.

¹³⁰ *Id.*, at ¶ 210.

¹³¹ *Id.*

¹³² *Id.*, at ¶¶ 212–13.

¹³³ *Pichugin v. Russia*, App. No. 38958/07, Eur. Ct. H.R., June 6, 2017, at ¶ 24, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-174061%22%5D%7D> [hereinafter *Pichugin v. Russia 2017*].

¹³⁴ *Id.*, at ¶¶ 22–23.

¹³⁵ *Id.*, at Holding ¶ 2.

¹³⁶ Urgent Action, *Ukrainian Activists Sentenced after Unfair Trial*, AMNESTY INT’L, Aug. 25, 2015, available at <https://www.amnesty.org/download/Documents/EUR4623252015ENGLISH.pdf> (Oleg Sentsov and Aleksandr Kolchenko); *Guilty Verdicts in Landmark Nalchik Trial Expose Horrors of Russian Criminal Justice System*, AMNESTY INT’L, Dec. 23, 2014, available at <https://www.amnesty.org/en/latest/news/2014/12/guilty-verdicts-landmark-nalchik-trial-expose-horrors-russian-criminal-justice-system/> (Rasul Kudaev); Urgent Action, *Appeal of Two Ukrainian Men Rejected*, AMNESTY INT’L, Oct. 27, 2016, available at <https://www.amnesty.org/download/Documents/EUR4650622016ENGLISH.pdf> (Stanislav Klykh and Mykola Karpyuk); and *Russia: Events of 2016*, HUMAN RIGHTS WATCH, accessed Feb. 1, 2019, available at <https://www.hrw.org/world-report/2017/country-chapters/russia> (Zhalaudi Geriev).

2. Right Against Self-Incrimination

Article 14(3) of the ICCPR and Article 6 of the European Convention on Human Rights protect the right against self-incrimination.¹³⁷ Government officials are prohibited from exerting “any direct or indirect physical or undue psychological pressure . . . with a view to obtaining a confession of guilt.”¹³⁸ This includes, of course, torture and cruel, inhuman, or degrading treatment.¹³⁹ However, such treatment is systemically used against political prisoners to force them to confess.

Rasul Kudaev, for example, signed a confession only after being beaten so badly that, according to Amnesty International, “he hardly look[ed] like the same person.”¹⁴⁰ Vladislav Mordasov confessed after being tortured twice – he was beaten on the head, stomach, kidneys, and lower abdomen, and interrogators also put a gas mask on him twice, cutting off his air supply.¹⁴¹ Fellow political prisoners Zhalaudi Geriev, Ruslan Kostylenkov, Nikolai Karpyuk, Stanislav Klykh, Roman Maryan, and Vladimir Prisich (and many others) also confessed after being mistreated/tortured.¹⁴²

¹³⁷ ICCPR, *supra* note 4, at Art. 14(3)(g) and *European Convention on Human Rights*, *supra* note 5, at Art. 6. Although Article 6 of the European Convention does not explicitly mention this right, the European Court of Human Rights has explained that “the right to silence and the right not to incriminate oneself are generally recognised international standards which lie at the heart of the notion of a fair procedure under Article 6.” *Saunders v. United Kingdom*, App. No. 19187/91, Eur. Ct. H.R., Dec. 17, 1998, at ¶ 68, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-58009%22%7D>].

¹³⁸ *General Comment No. 32 on Article 14: Right to Equality before Courts and Tribunals and to a Fair Trial*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/32, Aug. 23, 2007, at ¶ 41, available at <http://undocs.org/CCPR/C/GC/32>.

¹³⁹ *Id.* (“A fortiori, it is unacceptable to treat an accused person in a manner contrary to article 7 of the Covenant in order to extract a confession.”).

¹⁴⁰ *Torture in Russia: ‘Torture Is a Traditional Component of “Proof.”’* AMNESTY INT’L, June 27, 2013, available at <https://www.amnesty.org/en/latest/news/2013/06/torture-russia-torture-traditional-component-proof/>.

¹⁴¹ *Mordasov Vladislav Evgenievich*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 5, 2019, available at <https://memohrc.org/ru/defendants/mordasov-vladislav-evgenievich> [in Russian].

¹⁴² *Geriev Zhalaudi Nasrudinovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 5, 2019, available at <https://memohrc.org/ru/defendants/geriev-zhalaudi-nasrudinovich> (Zhalaudi Geriev confessed after being beaten, threatened with death, and suffocated) [in Russian]; *The Case of “New Greatness,”* MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 5, 2019, available at <https://memohrc.org/ru/special-projects/delo-novogo-velichiya> (“The allegations that Ruslan Kostylenkov confessed under torture have been confirmed by several sources.”) [in Russian]; *Karpyuk Nikolay Andronovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 5, 2019, available at <https://memohrc.org/ru/defendants/karpyuk-nikolay-andronovich> (“Both [Karpyuk and Klykh] claim that confessions . . . were obtained by the investigation with the use of torture.”) [in Russian]; *Maryan Roman Evgenievich*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 5, 2019, available at <https://memohrc.org/ru/defendants/maryan-roman-evgenievich> (Roman Maryan “later recanted

3. Right to Counsel

Both the ICCPR and the European Convention on Human Rights guarantee the right to counsel in criminal cases.¹⁴³ This requires that an accused be given prompt access to counsel and that lawyers are able to represent their clients “without restrictions, influence, pressure or undue interference from any quarter.”¹⁴⁴ Defense counsel must also be given “adequate time and facilities” to prepare the defense.¹⁴⁵

Violations of the right to counsel in Russia (and Russia-occupied Crimea) are rampant. In August 2018, the UN Committee Against Torture expressed “regret[] that legal counsels are reportedly often denied access to their clients in detention,”¹⁴⁶ and in 2014, the Special Rapporteur on the Independence of Judges and Lawyers noted that “[l]awyers sometimes face insurmountable difficulties in their attempts to meet their clients in private.”¹⁴⁷ As a result, “in too many trials, lawyers have only a cosmetic role to play.”¹⁴⁸

This is especially true in cases involving political prisoners. For example, upon being taken into custody, Oyub Titiev was initially held *incommunicado* for six hours by the Ministry of Internal Affairs and was not allowed to see a lawyer, and during this time, police officials took samples from his skin and nails.¹⁴⁹ Oleg Sentsov was denied access to his Russian lawyer for five days after being transferred from Ukraine (Crimea)

confessions and state[d] that he gave them under pressure”) [in Russian]; and *Prisich Vladimir Sergeevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 5, 2019, available at <https://memohrc.org/ru/defendants/prisich-vladimir-sergeevich> (Vladimir Prisich stated that he signed the confession “after torture and blackmail”) [in Russian].

¹⁴³ ICCPR, *supra* note 4, at Art. 14(3)(b) and *European Convention on Human Rights*, *supra* note 5, at Art. 6(3)(c).

¹⁴⁴ *General Comment No. 32*, *supra* note 138, at ¶ 34.

¹⁴⁵ ICCPR, *supra* note 4, at Art. 14(3)(b) and *European Convention on Human Rights*, *supra* note 5, at Art. 6(3)(b).

¹⁴⁶ *Concluding Observations on the Sixth Periodic Report of the Russian Federation*, U.N. COMMITTEE AGAINST TORTURE, U.N. Doc. CAT/C/RUS/CO/6, Aug. 28, 2018, at ¶ 10, available at <https://undocs.org/CAT/C/RUS/CO/6>.

¹⁴⁷ Gabriela Knaut, REPORT OF THE SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS, U.N. Doc. A/HRC/26/32/Add.1, Apr. 30, 2014, at ¶ 79, available at <http://undocs.org/A/HRC/26/32/Add.1>.

¹⁴⁸ *Id.*, at ¶ 79.

¹⁴⁹ UNDER PRESSURE: INCREASED STATE RESTRICTIONS ON INDEPENDENT CIVIL SOCIETY IN THE RUSSIAN FEDERATION, MEMORIAL HUMAN RIGHTS CTR. & INT’L PARTNERSHIP FOR HUMAN RIGHTS, Mar. 2018, at 7, available at <https://www.refworld.org/pdfid/5acf411b4.pdf>.

to Russia.¹⁵⁰ Svetlana Sidorkina, one Russia's leading human rights lawyers, has been "officially barred from seeing [her] clients" in two political prisoner cases (involving Stanislav Zimovets and Dmitry Buchenkov).¹⁵¹ Alexey Pichugin was repeatedly interrogated outside the presence of counsel, his lawyers' requests to have access to him were repeatedly denied, and his lawyers were given limited access to and time to review the case materials (at one point, they were even prohibited from making copies).¹⁵² In the lead up to his first trial, the defense was allowed to study the case materials, which consisted of over 7,000 documents, for only a few hours per day in a poorly lit room.¹⁵³

In addition, the European Court of Human Rights has ruled, in two cases involving former political prisoners, that the Government violated the accused's right to counsel by breaching lawyer-client confidentiality and failing to ensure legal assistance at the initial stages of police questioning.¹⁵⁴

4. Right to the Presumption of Innocence

Article 14(2) of the ICCPR and Article 6(2) of the European Convention on Human Rights enshrine the right to the presumption of innocence.¹⁵⁵ This "imposes on the prosecution the burden of proving the charge, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, ensures that the accused has the benefit of doubt, and requires that persons accused of a criminal act must be treated in

¹⁵⁰ *Oleg Sentsov*, TOM LANTOS HUMAN RIGHTS COMM'N, accessed Feb. 5, 2019, available at <https://humanrightscommission.house.gov/defending-freedom-project/prisoners-by-country/Russia/Oleg-Sentsov>.

¹⁵¹ Tatyana Dvornikova, Svetlana Sidorkina: "Defending the Innocent Is the Most Difficult Thing of All," OPENDEMOCRACY, Feb. 8, 2018, available at <https://www.opendemocracy.net/od-russia/tatyana-dvornikova/svetlana-sidorkina>.

¹⁵² Petition to the U.N. Working Group on Arbitrary Detention, *Pichugin v. Russian Federation*, July 31, 2018, at 16–17, available at <https://www.perseus-strategies.com/wp-content/uploads/2018/08/Alexey-Pichugin-v.-Russian-Federation-7.31.18.pdf>.

¹⁵³ *Id.*, at 8.

¹⁵⁴ *Khodorkovskiy and Lebedev v. Russia*, App. No. 11082/06, Eur. Ct. H.R., July 25, 2013, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-122697%22%5D%7D>} ("Holds that there has been a violation of Article 6 § 1 of the Convention, taken in conjunction with Article 6 § 3 (c) and (d) on account of the breach of the lawyer-client confidentiality . . .") and *Shishkin v. Russia*, App. No. 18280/04, Eur. Ct. H.R., July 7, 2011, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-105531%22%5D%7D>} ("Holds that there has been a violation of Article 6 § 3 (c) of the Convention on account of lack of legal assistance at the initial stages of police questioning . . .").

¹⁵⁵ ICCPR, *supra* note 4, at Art. 14(2) and *European Convention on Human Rights*, *supra* note 5, at Art. 6(2).

accordance with this principle.”¹⁵⁶ In particular, public authorities must “refrain from prejudging the outcome of a trial, *e.g.*, by abstaining from making public statements affirming the guilt of the accused.”¹⁵⁷

As a general point, and as noted by the Special Rapporteur on the Independence of Judges and Lawyers, the “extremely low acquittal rate” for criminal offenses in Russia “would suggest that the presumption of innocence is not consistently respected in practice.”¹⁵⁸ Political prisoners in particular are almost never acquitted at trial – one expert noted “it would [be] a miracle if one or two of them are acquitted. But even this is highly unlikely.”¹⁵⁹ For example, as explained in a prior section, treason charges are increasingly being used in politically motivated prosecutions – the number of convictions for high treason has tripled since 2014.¹⁶⁰ But as documented by Team 29 in its 2018 report, there has been only *one* case since 1997 involving treason or espionage charges that ended in an acquittal.¹⁶¹

Government officials also violate the presumption of innocence by declaring that political prisoners are guilty before they have been tried in a court of law. In 2017, the European Court of Human Rights held that both the prosecutor and the investigator violated Alexey Pichugin’s presumption of innocence by stating that he was guilty in television interviews. The Court noted that these officials “unequivocally implicated [Pichugin] in several assassinations” and that their statements “could not but have encouraged the public to believe [him] guilty before he had been proved guilty according to law.”¹⁶²

Similarly, Ramzan Kadyrov, Head of the Chechen Republic, made several statements regarding Oyub Titiev’s guilt (for drug offenses). In one speech, while he did not refer to Titiev by name, Kadyrov noted that “one drug addict” was caught by the Ministry of Internal Affairs and that the UN

¹⁵⁶ *General Comment No. 32*, *supra* note 138, at ¶ 30.

¹⁵⁷ *Id.*, at ¶ 30.

¹⁵⁸ REPORT OF THE SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS, *supra* note 147, at ¶ 45.

¹⁵⁹ Email from Russian Human Rights Lawyer to Perseus Strategies, Feb. 3, 2019 (on file with author).

¹⁶⁰ Vera Chelishcheva, *Spy Mania 2.0: The Rise in ‘Crimes Against the State’ in Russia*, THE GUARDIAN, Feb. 24, 2016, available at <https://www.theguardian.com/world/2016/feb/24/spy-mania-rise-in-crimes-against-state-treason-russia-ukraine>.

¹⁶¹ THE HISTORY OF HIGH TREASON, ESPIONAGE AND STATE SECRET IN TODAY’S RUSSIA, TEAM 29, 2018, at 4, available at <https://spy.team29.org/report.pdf>.

¹⁶² *Pichugin v. Russia 2017*, *supra* note 133, at ¶ 41.

and the US State Department had called for his release¹⁶³ (clearly referring to Titiev). In another interview, Kadyrov stated that Titiev's son was a "drug addict" and that there were witnesses who had seen Titiev use drugs.¹⁶⁴

5. Right to the Presumption of Bail

International law contains a presumption against pretrial detention. Article 9(3) of the ICCPR states: "[it] shall not be the general rule that persons awaiting trial shall be detained in custody."¹⁶⁵ The Human Rights Committee, interpreting this provision, has explained that "[d]etention pending trial must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime."¹⁶⁶ Pretrial detention cannot be based solely on the severity of the charges or the potential sentence an accused could receive.¹⁶⁷ The European Convention on Human Rights enshrines a similar standard.¹⁶⁸

The Kremlin's overuse of pretrial detention is a long-standing and well-documented problem. In 2014, after a visit to Russia, the Special Rapporteur on the Independence of Judges and Lawyers wrote that she was "highly concerned about reports that judges order pretrial detention as a rule rather than an exception," and that "[c]ases of prolonged pretrial detention

¹⁶³ *Chechnya: In the Plot on Chgtrk "Grozny" Ramzan Kadyrov Made It Clear What He Was Imprisoned for Human Rights Activist Oyub Titiyev, and What Happened to the Abducted Singer Zelimkhan Bakayev*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 5, 2019, available at https://memohrc.org/ru/news_old/chechnya-v-syuzhete-na-chgtrk-groznyy-ramzan-kadyrov-dal-chetko-ponyat-za-chto-posadili#sdfootnote1sym [in Russian].

¹⁶⁴ *Kadyrov: Human Rights Activist Titiyev Smoked Anasha, and His Son Is a Drug Addict*, MEDIAZONA, Jan. 25, 2018, available at https://zona.media/news/2018/01/25/kadyrov_narkoman [in Russian].

¹⁶⁵ ICCPR, *supra* note 4, at Art. 9(3).

¹⁶⁶ *General Comment 35 on Article 9: Liberty and Security of Person*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/35, Dec. 16, 2014, at ¶ 38, available at <https://undocs.org/CCPR/C/GC/35>.

¹⁶⁷ *Id.*, at ¶ 38 ("Neither should pretrial detention be ordered for a period based on the potential sentence for the crime charged, rather than on a determination of necessity.").

¹⁶⁸ GUIDE ON ARTICLE 5 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS, EUROPEAN COURT OF HUMAN RIGHTS, 2018, at ¶¶ 195 ("The Convention case-law has developed four basic acceptable reasons for refusing bail: (a) the risk that the accused will fail to appear for trial; (b) the risk that the accused, if released, would take action to prejudice the administration of justice, or (c) commit further offences, or (d) cause public disorder. Those risks must be duly substantiated, and the authorities' reasoning on those points cannot be abstract, general or stereotyped.") (citations omitted), 196 ("The danger of absconding cannot be gauged solely on the basis of the severity of the sentence risked."), available at https://www.echr.coe.int/Documents/Guide_Art_5_ENG.pdf.

are not uncommon, and in some instances persons are held in pretrial detention for longer than the maximum sentence they could receive.”¹⁶⁹ In 2015, the Human Rights Committee noted “with particular concern” the criminal charges brought against the Bolotnaya Square demonstrators and the “lengthy pretrial detention exceeding, in some cases, a year.”¹⁷⁰ In 2016, the European Court of Human Rights observed “it has delivered more than 110 judgments against Russia in which a violation of Article 5 § 3 on account of the excessive length of [pretrial] detention was found” and that there were “approximately 700 applications raising an issue under Article 5 § 3 of the Convention . . . currently pending before the Court.”¹⁷¹ The Court also highlighted that, according to the Government’s own data, “domestic courts grant approximately 90% of all the initial applications for remand in custody lodged by prosecuting authorities” and 93% of the applications for the extension of pre-trial detention.¹⁷² As a result, the Court concluded “for many years numerous cases have demonstrated that an excessive length of pre-trial detention in Russia reveals a structural problem.”¹⁷³

This structural problem is evident in specific political prisoner cases. Alexey Pichugin, for example, was kept in pretrial detention for nearly a year before his case was committed for trial.¹⁷⁴ During this time, he repeatedly challenged his pretrial detention, but each time, the court denied his request, with little reasoning beyond the severity of the charges.¹⁷⁵ Considering this, the European Court of Human Rights held that the Government had violated Pichugin’s right to the presumption of bail under Article 5(3), stating that “the Court considers that by failing to address specific facts or consider alternative ‘preventive measures’ and by relying essentially on the gravity of the charges, the authorities extended the applicant’s detention on grounds which . . . cannot be regarded as ‘sufficient’ for the entire period of detention.”¹⁷⁶ The Court further noted that it has “frequently found a violation of Article 5 § 3 of the Convention in Russian cases where the domestic courts extended an applicant’s

¹⁶⁹ REPORT OF THE SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS, *supra* note 147, at ¶¶ 41–42.

¹⁷⁰ *Concluding Observations*, *supra* note 43, at ¶ 21.

¹⁷¹ *Zherebin v. Russia*, App. No. 51445/09, Eur. Ct. H.R., Mar. 24, 2016, at ¶ 74, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-161542%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-161542%22]}).

¹⁷² *Id.*, at ¶ 76.

¹⁷³ *Id.*, at ¶ 80.

¹⁷⁴ *Pichugin v. Russia 2012*, *supra* note 125, at ¶¶ 7 (he was arrested on June 19, 2003), 44 (case was committed for trial on June 11, 2004).

¹⁷⁵ *Id.*, at ¶¶ 13–33.

¹⁷⁶ *Id.*, at ¶ 142; see also *id.*, at ¶ 143 (finding a violation of Article 5(3)).

detention relying essentially on the gravity of the charges and using stereotyped formulae without addressing specific facts or considering alternative preventive measures.”¹⁷⁷

In addition, as of February 27, 2019, at least 22 Jehovah’s Witnesses were in custody in pretrial detention, and another 26 were under house arrest, pending trial on extremism charges.¹⁷⁸ Four political prisoners in the “New Greatness” case have been in pretrial detention since March 15, 2018.¹⁷⁹ Political prisoners Alexander Mamaev, Alexander Orshulevich, and Nikolay Sentsov have been in pretrial detention since May 27, 2017, facing charges relating to their alleged involvement with the Baltic Avant-Garde of the Russian Resistance.¹⁸⁰ Numerous other political prisoners were kept or are currently in pretrial detention.¹⁸¹ Alleged members of Hizb ut-Tahrir are subjected to particularly long pretrial detention. The defendants in the “Ufa Case of 26,” for example, were detained from February 2015 until their trial began in May 2017.¹⁸² Similarly, the defendants in the “Kazan Case 8” were detained from October 2014 until their trial began in August 2017.¹⁸³

¹⁷⁷ *Id.*, at ¶ 141.

¹⁷⁸ *List of Persecuted on Charges of Belonging to Jehovah’s Witnesses (Updated)*, *supra* note 65.

¹⁷⁹ *The Case of “New Greatness,”* *supra* note 142 (Ruslan Kostylenkov, Petr Karamzin, Vyacheslav Kryukov, and Dmitry Poletaev have been in custody since March 15, 2018).

¹⁸⁰ *The BARS Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 22, 2019, available at <https://memohrc.org/ru/special-projects/delo-bars> [in Russian].

¹⁸¹ See, e.g., *Tsakunov Mikhail Sergeevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 22, 2019, available at <https://memohrc.org/ru/defendants/cakunov-mihail-sergeevich> (pretrial detention since May 5, 2018) [in Russian]; *Tretyakov Dmitry Alexandrovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 22, 2019, available at <https://memohrc.org/ru/defendants/tretyakov-dmitriy-aleksandrovich> (pretrial detention since March 14, 2018) [in Russian]; *Shatrovsky Vyacheslav Robertovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 22, 2019, available at <https://memohrc.org/ru/defendants/shatrovskiy-vyacheslav-robertovich> (detained on November 5, 2017; convicted on May 24, 2018) [in Russian]; *Shabliy Gleb Fedorovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 22, 2019, available at <https://memohrc.org/ru/defendants/shabliy-gleb-fyodorovich> (detained on November 15, 2016; convicted on October 23, 2017) [in Russian]; and *Shumkov Alexander Sergeevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 22, 2019, available at <https://memohrc.org/ru/defendants/shumkov-aleksandr-sergeevich> (detained on September 6, 2017; convicted on December 4, 2018) [in Russian].

¹⁸² *Ufa Case of Twenty-Six*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 25, 2019, available at <https://memohrc.org/ru/special-projects/ufmskoe-delo-dvadcati-shesti> (“In February 2015, all of them were detained . . .”) [in Russian] and *Rustem Latypov and the Ufa Case of 26*, REPRUSSIANS, Oct. 30, 2017, available at <http://reprussians.net/en/2017/10/rustem-latypov-and-the-ufa-case-of-26/> (“The hearing of the case only began in the end of May 2017.”).

¹⁸³ *Kazan Case 8 on the Membership of the Banned “Hizb ut-Tahrir,”* *supra* note 108.

C. *The Kremlin is Subjecting Political Prisoners to Arbitrary Detention*

Article 9 of the ICCPR and Article 5 of the European Convention on Human Rights guarantee the right to liberty and security, which includes the right to freedom from arbitrary detention.¹⁸⁴ The 1990 OSCE Charter of Paris similarly states that “no one will be subject to arbitrary arrest or detention.”¹⁸⁵ The Kremlin is subjecting political prisoners to arbitrary detention in several different ways.

First, as explained above, political prisoners are routinely arrested, detained, and imprisoned for engaging in activities protected under international law. As the UN Human Rights Committee has explained, “Arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the [ICCPR] is arbitrary.”¹⁸⁶ Second, political prisoners are convicted in sham trials marred by egregious due process violations, and “[i]mprisonment after a manifestly unfair trial is arbitrary.”¹⁸⁷ Third, political prisoners are often targeted and detained for discriminatory reasons – *i.e.*, based on their ethnicity, nationality, religion, political activity, human rights advocacy, or occupation. But the Human Rights Committee has emphasized that “[a]rrest or detention on discriminatory grounds . . . is . . . in principle arbitrary.”¹⁸⁸ Finally, the widespread practice of imposing pretrial detention without making an individualized determination of its necessity or considering alternatives to custody violates the prohibition on arbitrary detention.¹⁸⁹

¹⁸⁴ *ICCPR*, *supra* note 4, at Art. 9(1); *European Convention on Human Rights*, *supra* note 5, at Art. 5; and *A v. United Kingdom*, App. No 3455/05, Eur. Ct. H.R., Feb. 19, 2009, at ¶ 162, *available at* [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-91403%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-91403%22]}) (noting that Article 5 of the European Convention on Human Rights protects “the individual against arbitrary interference by the State with his or her right to liberty”).

¹⁸⁵ Charter of Paris for a New Europe, Nov. 21, 1990, at 3–4, *available at* <https://www.osce.org/mc/39516?download=true>.

¹⁸⁶ *General Comment No. 35 on Article 9: Liberty and Security of Person*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/35, Dec. 16, 2014, at ¶ 17, *available at* <https://undocs.org/CCPR/C/GC/35>.

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Teymur Akhmedov v. Kazakhstan*, Opinion No. 62/2017, U.N. Doc. A/HRC/WGAD/2017/62, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Aug. 25, 2017, at ¶ 46, *available at* https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session79/A_HRC_WGAD_2017_62_EN.pdf.

D. Political Prisoners Are Routinely Subjected to Torture and Cruel, Inhuman or Degrading Treatment

Both the ICCPR and the European Convention on Human Rights prohibit torture and inhuman or degrading treatment (with the ICCPR also prohibiting cruel treatment).¹⁹⁰ The Russian Federation is also a party to the Convention Against Torture.¹⁹¹ These treaties require the Kremlin to “ensure that its competent authorities proceed to a prompt and impartial investigation” of any allegations of torture or other mistreatment.¹⁹² Despite this, many of the Kremlin’s political prisoners have been subjected to unlawful mistreatment and Government officials have failed to meaningfully investigate.

Vladislav Mordasov, for example, was beaten on the head, stomach, kidneys, and lower abdomen, and interrogators also put a gas mask on him twice, cutting off his air supply.¹⁹³ Rasul Kudaev was beaten severely. Photos from before and after his detention “are so different from each other, he hardly looks like the same person.”¹⁹⁴ FSB officials beat Oleg Sentsov with batons, suffocated him with a plastic bag, and threatened to rape and kill him.¹⁹⁵ During Igor Rudnikov’s arrest, the officials forced handcuffs on him so aggressively that they broke his arm, and they also beat him as they dragged him into the police vehicle.¹⁹⁶ Rudnikov’s treatment was never investigated even though FSB officials can be heard in a video telling

¹⁹⁰ ICCPR, *supra* note 4, at Art. 7 and European Convention on Human Rights, *supra* note 5, at Art. 3.

¹⁹¹ *Status of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, U.N. TREATY COLLECTION, accessed Feb. 5, 2019, available at https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-9&chapter=4&lang=en.

¹⁹² *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 1465 U.N.T.S. 85, entered into force June 26, 1987, at Art. 12, available at https://treaties.un.org/doc/Treaties/1987/06/19870626%2002-38%20AM/Ch_IV_9p.pdf; see also *id.*, at Art. 16(1) (the obligation to investigate in Article 12 applies to other forms of cruel, inhuman or degrading treatment or punishment) and *General Comment No. 20 on Article 7: Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. HRI/GEN/1/Rev.1, Mar. 10, 1992, at ¶ 14, available at <https://www.refworld.org/docid/453883fb0.html> (“Complaints must be investigated promptly and impartially by competent authorities so as to make the remedy effective.”).

¹⁹³ *Mordasov Vladislav Evgenievich*, *supra* note 141.

¹⁹⁴ *Torture in Russia*, *supra* note 140.

¹⁹⁵ *Sentsov Oleg G.*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan. 22, 2019, available at <https://memohrc.org/ru/defendants/sencov-oleg-gennadevich> [in Russian].

¹⁹⁶ Jane Buchanan, *Russian Police Violently Arrest Critical Newspaper Editor*, HUMAN RIGHTS WATCH, Nov. 7, 2017, available at <https://www.hrw.org/news/2017/11/07/russian-police-violently-arrest-critical-newspaper-editor>.

a superior they gave him a “good beating.”¹⁹⁷ Zhalaudi Geriev, Ruslan Kostylenkov, Nikolai Karpyuk, Stanislav Klykh, and Vladimir Prisich were also tortured.¹⁹⁸

Government officials have also forcibly administered drugs to political prisoners, which violates the prohibition on torture and inhuman or degrading treatment.¹⁹⁹ During his initial detention in FSB custody, Alexey Pichugin was repeatedly administered unlabeled medications that caused him to sleep almost constantly.²⁰⁰ During one interrogation, after Pichugin refused to confess, FSB agents offered him a cup of coffee, which he drank.²⁰¹ Shortly afterwards, Pichugin lost feeling in his legs and felt a pounding in his head.²⁰² He has no memory of the next several hours.²⁰³ After he was returned to his cell that evening, he discovered two injection marks – one between the thumb and forefinger of his right hand, and the other at the inside joint of his left elbow.²⁰⁴ Furthermore, the Government failed to investigate Pichugin’s complaints that illegal interrogation methods were being used; as the Rapporteur for the Parliamentary Assembly of the Council of Europe noted, “despite specific requests of the defence lawyers, tests were not carried out in good time that could have established whether or not Mr Pichugin had been injected with psychotropic drugs.”²⁰⁵

¹⁹⁷ *Russian Editor Igor Rudnikov Has Now Spent One Year in Jail Without Trial*, IFEX.ORG, Nov. 6, 2018, available at <https://www.ifex.org/russia/2018/11/06/editor-igor-rudnikov/>.

¹⁹⁸ *Geriev Zhalaudi Nasrudinovich*, *supra* note 142 (Zhalaudi Geriev confessed after being beaten, threatened with death, and suffocated); *The Case of “New Greatness,” supra* note 142 (“The allegations that Ruslan Kostylenkov confessed under torture have been confirmed by several sources.”); *Karpyuk Nikolay Andronovich*, *supra* note 142 (“Both [Karpyuk and Klykh] claim that confessions . . . were obtained by the investigation with the use of torture.”); *Maryan Roman Evgenievich*, *supra* note 142 (Roman Maryan “later recanted confessions and state[d] that he gave them under pressure”); and *Prisich Vladimir Sergeevich*, *supra* note 142 (Vladimir Prisich stated that he signed the confession “after torture and blackmail”).

¹⁹⁹ *Komarovski v. Turkmenistan*, Communication No. 1450/2006, U.N. Doc. CCPR/C/93/D/1450/2006, U.N. HUMAN RIGHTS COMMITTEE, *adopted* July 24, 2008, at ¶ 7.6, available at

http://www.worldcourts.com/hrc/eng/decisions/2008.07.24_Komarovski_v_Turkmenistan.htm (finding a violation of ICCPR Article 7 where “the author’s specific allegations that he was subjected to severe beatings and intimidation with the purpose of coercing him to confess, and that he was administered unidentified substances against his free will for the same purposes, have not been rebutted by the State party”).

²⁰⁰ Petition to the U.N. Working Group on Arbitrary Detention, *supra* note 152, at 7.

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ THE CIRCUMSTANCES SURROUNDING THE ARREST AND PROSECUTION OF LEADING YUKOS EXECUTIVES, RAPPOREUR OF THE PARL. ASSEMBLY OF THE COUNCIL OF EUROPE, Nov. 29, 2004, at ¶

The European Court of Human Rights has held, in several cases, that the Government treated political prisoners in a manner violating Article 3 of the European Convention on Human Rights.²⁰⁶

E. The Kremlin Cannot Invoke Its Sovereignty to Justify These Violations

The Kremlin frequently invokes its sovereignty when criticized regarding its political prisoners (discussed in more detail in Section VIII(C)). However, as set forth in the Vienna Convention on the Law of Treaties (to which Russia is a state party), a state cannot “invoke the provisions of its internal law as justification for its failure to perform a treaty.”²⁰⁷ Moreover, the Kremlin itself has repeatedly rejected the argument that human rights are an internal matter. During the 1991 meeting of the Conference on the Human Dimension of the CSCE – held in Moscow – the participating states, including the USSR, agreed as follows:²⁰⁸

The participating States emphasize that issues relating to human rights, fundamental freedoms, democracy and the rule of law are of international concern, as respect for these rights and freedoms constitutes one of the foundations of the international order. They categorically and irrevocably declare that the commitments undertaken in the field of the

8(i), available at <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=10730&lang=EN>.

²⁰⁶ *Yaroslav Belousov v. Russia*, App. No. 2653/13, Eur. Ct. H.R., Oct. 4, 2016, at Holding ¶¶ 4–6, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-166937%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-166937%22]}) (finding a violation of article 3 due to the “failure to provide the applicant with the adequate medical assistance,” the “conditions of transfer to and from the court-house,” and “on account of confinement in a glass cabin in hearing room no. 338 of the Moscow City Court”) and *Mariya Alekhina v. Russia*, App. No. 38004/12, Eur. Ct. H.R., July 17, 2018, at ¶ 149, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-184666%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-184666%22]}) (“The Court notes that the applicants’ trial was closely followed by national and international media and they were permanently exposed to public view in a glass dock that was surrounded by armed police, with a guard dog next to it. The above elements are sufficient for the Court to conclude that the conditions in the courtroom at the Khamovnicheskiy District Court attained the minimum level of severity and amounted to degrading treatment in breach of Article 3 of the Convention.”).

²⁰⁷ *Vienna Convention on the Law of Treaties*, 1155 U.N.T.S. 331, entered into force Jan. 27, 1980, at Art. 27, available at <https://treaties.un.org/doc/publication/unts/volume%201155/volume-1155-i-18232-english.pdf>. The Soviet Union acceded to the Vienna Convention on the Law of Treaties on April 29, 1986. The Russian Federation assumed responsibility for adhering to the treaty under the rules for state succession.

²⁰⁸ DOCUMENT OF THE MOSCOW MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION OF THE CSCE, Oct. 3, 1991, at 29, available at <https://www.osce.org/odihr/elections/14310?download=true>.

human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned. They express their determination to fulfil all of their human dimension commitments and to resolve by peaceful means any related issue, individually and collectively, on the basis of mutual respect and co-operation. In this context they recognize that the active involvement of persons, groups, organizations and institutions is essential to ensure continuing progress in this direction.

The Kremlin reiterated this position in 1993 upon the adoption of the Vienna Declaration and Programme of Action, even criticizing its own prior use of sovereignty to avoid human rights obligations:²⁰⁹

The final document has confirmed that every individual belongs to the human family in general and its neither the property nor an instrument of the State and that human rights are therefore not the internal affair of any one country. In the past it was precisely our country, the former Soviet Union, which initiated the sad tendency to evade control or criticism by invoking sovereignty and non-interference in internal affairs. We spread this cunning idea throughout the world, pressing it on many. Unfortunately our resourceful disciples are still numerous and active. We therefore feel a special responsibility and are particularly satisfied that we have been able to record, in the final document, that the defence of all human rights is a subject of legitimate concern to the international community and that, notwithstanding the specific circumstances of different States, every one of them has a responsibility, notwithstanding those specific circumstances, to promote and defend all human rights and fundamental freedoms.

Thus, not only is the Kremlin's reliance on sovereignty wrong as a matter of international law, this position directly contradicts its own statements on the protection of human rights.

²⁰⁹ *Statement of the Russia Federation Upon the Adoption of the Vienna Declaration and Programme of Action*, June 25, 1993, available at <https://www.ohchr.org/EN/AboutUs/Pages/ViennaWCStatements.aspx>.

Moreover, as a practical matter, the Kremlin is detaining political prisoners from several other countries. Among the current political prisoners are 26 Ukrainian citizens²¹⁰ (ignoring the forcible change of Ukrainians to Russian citizenship, which was clearly unlawful²¹¹), as well as citizens of Denmark (Dennis Christensen), Kazakhstan (Bekzod Bakirov), Tajikistan (Sukhrob Ironov, Akmalchon Numonchonov, Alisher Husenov, and Naimdzhon Khodjayev), Kyrgyzstan (Islambek Kamchybekov, Gazybek Kubatov, and Suyunduk Kanybek), and Poland (Andrzej Onischuk).²¹² Thus, the Kremlin's detention of political prisoners is clearly a matter of international concern.

²¹⁰ *Current List of Political Prisoners*, MEMORIAL HUMAN RIGHTS CTR., accessed Mar. 21, 2019, available at <https://memohrc.org/ru/pzk-list> (listing, e.g., Oleg Sentsov, Vladimir Balukh, and Stanislav Klykh) [in Russian] and *An Up-To-Date List of Persons Illegally Deprived of Their Liberty in Connection With the Exercise of the Right to Freedom of Religion*, MEMORIAL HUMAN RIGHTS CTR., accessed Mar. 21, 2019, available at <https://memohrc.org/ru/aktualnyy-spisok-presleduemyyh-v-svyazi-s-realizatsiey-prava-na-svobodu-veroispovedaniya> (listing, e.g., Nariman Memedeminov and Emir-Usein Kuku) [in Russian].

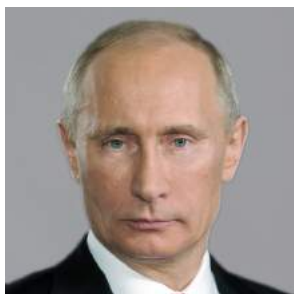
²¹¹ Laura Bingham and Natasha Arnpriester, *Russia's Mass Naturalization of Crimeans Has Had Very Unnatural Effects*, OPEN SOCIETY FOUNDATIONS, June 14, 2018, available at <https://www.opensocietyfoundations.org/voices/russia-s-mass-naturalization-crimeans-has-had-very-unnatural-effects> ("Automatic and unconsented naturalization of an entire population is a flagrant violation of international humanitarian and human rights law.").

²¹² A profile of each of the individuals listed is available at: *An Up-To-Date List of Persons Illegally Deprived of Their Liberty in Connection With the Exercise of the Right to Freedom of Religion*, *supra* note 210.

VII. THE PERPETRATORS – COMMAND AND LINE RESPONSIBILITY

A. Command Responsibility

Although many officials in the Russian Government are involved in the persecution of political prisoners, there are several who, under the principle of command responsibility,¹ may bear direct responsibility for the crimes committed under their authority.



Vladimir Putin has served as **President of the Russian Federation** since 2012, a position he previously held from 2000 to 2008. Between terms, he served as Prime Minister, though it was widely understood that he was still the “real ruler” during this time.²

As President, Putin oversees several of the key bodies used to persecute political prisoners, including the FSB;³ Security Council;⁴ Investigative Committee;⁵ and Ministries of Justice⁶ and Internal Affairs.⁷ Furthermore, Putin’s influence extends beyond his legal authority. From the very beginning of his presidency, he has worked to consolidate power in the executive branch,

¹ While command responsibility is traditionally used in the context of armed conflicts, international courts have also used it to impute responsibility for serious crimes committed by civilian authorities. See *Prosecutor v. Kayishema*, Case No. ICTR-95-I-T, Int’l Crim. Trib. for Rwanda, May 21, 1999, at ¶ 216, available at http://www.worldcourts.com/icttr/eng/decisions/1999.05.21_Prosecutor_v_Kayishema_1.pdf (“[T]he Chamber accepts the submission made by the Prosecution that a civilian in a position of authority may be liable under the doctrine of command responsibility.”) and *Prosecutor v. Delalic*, Case No. IT-96-21-T, Int’l Crim. Trib. for the Former Yugoslavia, Nov. 16, 1998, at ¶ 363, available at http://www.icty.org/x/cases/mucic/tjug/en/981116_judg_en.pdf (command responsibility “extends not only to military commanders but also to individuals in non-military positions of superior authority”).

² Luke Harding, *WikiLeaks Cables: Dmitry Medvedev ‘Plays Robin to Putin’s Batman,’* THE GUARDIAN, Dec. 1, 2010, available at <https://www.theguardian.com/world/2010/dec/01/wikileaks-cables-medvedev-putin-russia>.

³ *Federal Security Service*, RUSSIAN GOVERNMENT, accessed Feb. 6, 2019, available at <http://government.ru/en/department/113/>.

⁴ *Security Council Structure*, PRESIDENT OF RUSSIA, accessed Feb. 6, 2019, available at <http://en.kremlin.ru/structure/security-council/members>.

⁵ *Law on Investigative Committee*, PRESIDENT OF RUSSIA, Dec. 28, 2010, available at <http://en.kremlin.ru/events/president/news/9943>.

⁶ *Ministry of Justice of the Russian Federation*, RUSSIAN GOVERNMENT, accessed Feb. 6, 2019, available at <http://government.ru/en/department/99/events/>.

⁷ *Id.*

and specifically in his own hands.⁸ In practice, Putin dominates the Russian Government, exercising a controlling influence over the security forces, the judiciary, the legislature, and most major media outlets.⁹ He has created and overseen an environment in Russia in which a crackdown on opponents, activists, and critics is encouraged.

The number of political prisoners detained by the Kremlin has increased significantly under Putin's rule. For example, in February 2015, Memorial HRC identified 46 political prisoners,¹⁰ but as of March 25, 2019, there were 236.¹¹ Given Putin's unparalleled control and influence, this persecution could not occur without his direction and approval.



Alexander Bortnikov has served as **Director of the Federal Security Service (FSB)** since 2008.¹² He is also Chairman of the National Anti-Terrorism Committee¹³ and a permanent member of the Security Council of the Russian Federation.¹⁴

The successor to the Soviet-era KGB, the FSB is an executive body with the mandate to protect the national security of the Russian Federation.¹⁵ The FSB is directly involved in investigating, arresting, detaining, and interrogating political prisoners.¹⁶ Detainees frequently report torture and ill-treatment by FSB

⁸ Michael Wines, *Putin's Plan to Centralize Power in the Kremlin Wins a Round*, N.Y. TIMES, June, 1, 2000, available at <https://www.nytimes.com/2000/06/01/world/putin-s-plan-to-centralize-power-in-the-kremlin-wins-a-round.html>.

⁹ *Freedom in the World in 2018: Russia*, FREEDOM HOUSE, accessed Jan. 9, 2019, available at <https://freedomhouse.org/report/freedom-world/2018/russia>.

¹⁰ LIST OF INDIVIDUALS RECOGNIZED AS POLITICAL PRISONERS BY THE HUMAN RIGHTS CENTER "MEMORIAL" AS OF 12 FEBRUARY 2015, MEMORIAL HUMAN RIGHTS CTR. (on file with author).

¹¹ *An Up-To-Date List of Persons Illegally Deprived of Their Freedom in Connection with the Exercise of the Right to Freedom of Religion*, MEMORIAL HUMAN RIGHTS CTR., accessed Mar. 25, 2019, available at <https://memohrc.org/ru/aktualnyy-spisok-presleduemyyh-v-svyazi-s-realizatsiy-prava-na-svobodu-veroispovedaniya> (listing 182 people) [in Russian] and *Current List of Political Prisoners*, MEMORIAL HUMAN RIGHTS CTR., accessed Mar. 25, 2019, available at <https://memohrc.org/ru/pzk-list> (listing 50 people) [in Russian].

¹² *Alexander Bortnikov*, FORUM FREE RUSSIA, accessed Feb. 7, 2019, available at <https://www.forumfreerussia.org/notes/figuranty-spiska-putina/aleksandr-bortnikov/> [in Russian].

¹³ *Russia's FSB Foils Six Terror Plots in 2018*, RUSSIAN NEWS AGENCY, Apr. 10, 2018, available at <http://tass.com/world/998717>.

¹⁴ *Security Council Structure*, *supra* note 4.

¹⁵ *Federal Security Service*, *supra* note 3.

¹⁶ See, e.g., *Resolution 1418 on The Circumstances Surrounding the Arrest and Prosecution of Leading Yukos Executives*, PARL. ASSEMBLY OF THE COUNCIL OF EUROPE, adopted Jan. 25, 2005, at

agents,¹⁷ which occurs with near-total impunity.¹⁸ The FSB has also played a role in promulgating some of the overbroad national security laws used to prosecute political prisoners.¹⁹

Bortnikov has already been sanctioned by a number of countries and bodies for his role in the crisis in Ukraine, including the EU, the UK, Canada, Switzerland, Australia, Liechtenstein, and Ukraine.²⁰ Montenegro,

¶ 8, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17293&lang=en> (noting Alexey Pichugin was held at an FSB prison contrary to a commitment by Russia upon joining the Council of Europe); *We Stand with Oleg Sentsov*, AMNESTY INT'L, accessed Feb. 9, 2019, available at <https://www.amnesty.org/en/latest/campaigns/2018/07/oleg-sentsov/> (noting Oleg Sentsov was arrested, interrogated, and tortured by the FSB); RELIGIOUS DISCRIMINATION DIRECTED AT THE CHURCH OF SCIENTOLOGY AND SCIENTOLOGISTS IN RUSSIA IN CONTRAVENTION OF FUNDAMENTAL HUMAN RIGHTS, OSCE REVIEW CONFERENCE WARSAW, Sept. 2017, available at <https://www.osce.org/odihr/340681?download=true> (noting Scientology leaders were arrested, interrogated, and detained by the FSB); and THE HISTORY OF HIGH TREASON, ESPIONAGE AND STATE SECRET IN TODAY'S RUSSIA, TEAM 29, 2018, at 3, available at <https://spy.team29.org/report.pdf> (cases involving state secrets are investigated by the FSB).

¹⁷ *Former Ukrainian Hostage Kostenko Tells of FSB's Torture to Extract "Confessions,"* EUROMAIDAN PRESS, Dec. 18, 2018, available at <http://euromaidanpress.com/2018/12/18/liberated-crimean-activist-oleksandr-kostenko-i-knew-the-fsb-could-make-me-disappear/> and *Concluding Observations on the Sixth Periodic Report of the Russian Federation*, U.N. COMMITTEE AGAINST TORTURE, U.N. Doc. CAT/C/RUS/CO/6, Aug. 28, 2018, at ¶ 34, available at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/RUS/O/6&Lang=En (noting "consistent reports . . . that members of the Federal Security Service routinely use torture to extract confessions from those accused of terrorist activities").

¹⁸ Alesya Marokhovskaya & Irina Dolinina, *The Low Price of Torture in Russia*, OCCRP, Oct. 9, 2018, available at <https://www.occrp.org/en/investigations/8715-the-low-price-of-torture-in-russia> (noting that there were "no sentences handed out to FSB officers at all" for committing torture).

¹⁹ See, e.g., Peter Roudik, *Russia: Espionage and State Treason Concepts Revised*, LIBRARY OF CONGRESS, Nov. 28, 2012, available at <http://www.loc.gov/law/foreign-news/article/russia-espionage-and-state-treason-concepts-revised/>.

²⁰ LIST OF PERSONS AND ENTITIES UNDER EU RESTRICTIVE MEASURES OVER THE TERRITORIAL INTEGRITY OF UKRAINE, COUNCIL OF THE EUROPEAN UNION, Sept. 14, 2017, at ¶ 75, available at <https://www.consilium.europa.eu/media/21891/20170914-list-of-designated-persons-and-entities.pdf> ("As a member of the Security Council, which provides advice on and coordinates national security affairs, [Bortnikov] was involved in shaping the policy of the Russian Government threatening the territorial integrity, sovereignty and independence of Ukraine."); CONSOLIDATED LIST OF FINANCIAL SANCTIONS TARGETS IN THE UK: UKRAINE (SOVEREIGNTY), UK TREASURY, Jan. 23, 2019, at ¶ 24, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/773113/ukraine_sovereignty.pdf; *Consolidated Canadian Autonomous Sanctions List*, GOV'T OF CANADA, accessed Feb. 10, 2019, available at https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/consolidated-consolide.aspx?lang=eng (search for "Bortnikov"); SANCTIONS PROGRAM: SITUATION IN UKRAINE, SWITZERLAND FEDERAL DEPARTMENT OF ECONOMIC AFFAIRS, EDUCATION AND RESEARCH, Sept. 27, 2018, at 50, available at <https://www.seco.admin.ch/dam/seco/de/dokumente/Aussenwirtschaft/Wirtschaftsbeziehungen/Exportkontrollen/Sanktionen/Verordnungen/Russland,%20Ukraine/Situation%20in%20der%20Ukraine%202018-09-27.pdf.download.pdf/Situation%20in%20der%20Ukraine%202018-09-27.pdf>; THE

Albania, and Norway, following the EU sanctions, have pledged to sanction him as well.²¹ He has not yet been sanctioned by the US.



Nikolai Patrushev has served as **Secretary of the Security Council** of the Russian Federation since 2008.²² He served as Director of the FSB from 1999 to 2008.²³

The Security Council of the Russian Federation is a special consultative body that advises the Presidency on national security issues and assists in formulating state security policy.²⁴ Its primary functions include identifying and addressing security threats and preparing legal acts relating to national security.²⁵ As described earlier, national

CONSOLIDATED LIST, AUSTRALIAN GOV'T DEP'T OF FOREIGN AFFAIRS AND TRADE, Mar. 8, 2019, at # 2956, *available at* <https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx#list>; SIDE-BY-SIDE LIST OF SANCTIONED RUSSIAN AND UKRAINIAN/CRIMEAN ENTITIES AND INDIVIDUALS, BRYAN CAVE, Dec. 22, 2014, at 23, *available at* <https://www.bclplaw.com/images/content/2/2/v2/2258/Bryan-Cave-Side-by-Side-List-of-Ukraine-Related-Sanctions-v14.pdf> (noting that Lichtenstein sanctioned Bortnikov); and ANNEX TO THE DECISION OF THE NATIONAL SECURITY AND DEFENSE COUNCIL OF UKRAINE ON THE APPLICATION OF PERSONAL SPECIAL ECONOMIC AND OTHER RESTRICTIVE MEASURES (SANCTIONS) IN RELATION TO PERSONS INVOLVED IN UNLAWFUL ACTIONS AGAINST HOPE SAVCHENKO, OLEG SENTSOV AND ALEXANDER KOLCHENKO, Mar. 25, 2016, *available at* https://www.president.gov.ua/storage/j-files-storage/00/22/52/56e1fd1cbe951885cff6ce0c289d8ec9_1459346056.pdf (entry # 8 is Bortnikov) [in Ukrainian].

²¹ *Decision (CFSP) 2015/1524*, COUNCIL OF THE EUROPEAN UNION, Sept. 14, 2015, *available at* <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32015D1524&from=EN> (sanctioning Bortnikov) and Press Release, *Declaration by the High Representative on Behalf of the EU on the Alignment of Certain Countries Concerning Restrictive Measures in Respect of Actions Undermining or Threatening the Territorial Integrity, Sovereignty and Independence of Ukraine*, COUNCIL OF THE EUROPEAN UNION, Oct. 2, 2015, *available at* <https://www.consilium.europa.eu/en/press/press-releases/2015/10/02/hr-declaration-on-behalf-of-eu-on-alignment-concerning-restrictive-measures-in-respect-of-ukraine/pdf> (noting that Montenegro, Albania, Liechtenstein, Norway, and Ukraine aligned themselves with Council Decision (CFSP) 2015/1524 and “will ensure that their national policies conform to this Council Decision”).

²² *Vladimir Putin in Control as Russia Names Cabinet*, TIMES OF MALTA, May 14, 2008, *available at* <https://www.timesofmalta.com/articles/view/20080514/world/vladimir-putin-in-control-as-russia-names-cabinet.208041>.

²³ *US Dusted Off Old USSR-Break-Up Strategy for Use in Ukraine – Former FSB Chief*, RT, Oct. 16, 2014, *available at* <https://www.rt.com/russia/196456-russia-fsb-patrushev-global/>.

²⁴ *About Security Council*, PRESIDENT OF RUSSIA, accessed Feb. 6, 2019, *available at* <http://en.kremlin.ru/structure/security-council>.

²⁵ Federal Law on Security, No. 390-FZ, Dec. 28, 2010, at Art.14(1)(3), (2)(6), *available at* <http://www.scrf.gov.ru/security/docs/document111/> [in Russian].

security laws – terrorism, treason, espionage, etc. – are often applied in political prisoner cases.

Patrushev has been sanctioned by a number of countries and entities for his role in the crisis in Ukraine, including the EU, Canada, Switzerland, Australia, Liechtenstein, the UK, and the US.²⁶ Montenegro, Albania, Norway, Norway, and Ukraine, following the EU sanctions, have pledged to sanction him as well.²⁷



Yuri Chaika has served as the **Prosecutor General** of the Russian Federation since 2006.²⁸ He is also a member of the Security Council of the Russian Federation and, from 1999 to 2006, he served as Minister of Justice.²⁹

As the Prosecutor General, Chaika is the head of the entire prosecution system.³⁰ Russian prosecutors play a key role in prosecuting political prisoners. In fact the Prosecutor’s office has been called the “least reformed institution in the Russian Federation.”³¹ In specific cases involving political prisoners, prosecutors have used clearly fabricated evidence,³² withheld

²⁶ LIST OF PERSONS AND ENTITIES UNDER EU RESTRICTIVE MEASURES, *supra* note 20, at ¶ 74; *Consolidated Canadian Autonomous Sanctions List*, *supra* note 20 (search for “Patrushev”); SANCTIONS PROGRAM: SITUATION IN UKRAINE, *supra* note 20, at 15; THE CONSOLIDATED LIST, *supra* note 20, at # 2965; SIDE-BY-SIDE LIST OF SANCTIONED RUSSIAN AND UKRAINIAN/CRIMEAN ENTITIES AND INDIVIDUALS, *supra* note 20, at 32 (noting that Liechtenstein sanctioned Patrushev); CONSOLIDATED LIST OF FINANCIAL SANCTIONS TARGETS IN THE UK: UKRAINE (SOVEREIGNTY), *supra* note 20, at ¶ 108; and *Patrushev, Nikolai Platonovich*, U.S. OFFICE OF FOREIGN ASSETS CONTROL, accessed Mar. 8, 2019, available at <https://sanctionssearch.ofac.treas.gov/Details.aspx?id=6573>.

²⁷ *Decision (CFSP) 2015/1524*, *supra* note 21 (sanctioning Patrushev) and Press Release, *supra* note 21 (noting that Montenegro, Albania, Liechtenstein, Norway, and Ukraine aligned themselves with Council Decision (CFSP) 2015/1524 and “will ensure that their national policies conform to this Council Decision”).

²⁸ *Yuri Chaika*, FORUM FREE RUSSIA, accessed Feb. 7, 2019, available at <https://www.forumfreerussia.org/notes/figuranty-spiska-putina/yurij-chajka/> [in Russian].

²⁹ *Id.*

³⁰ THE PROSECUTOR GENERAL’S OFFICE OF THE RUSSIAN FEDERATION: TASKS, FUNCTIONS AND KEY ACTIVITIES, at 10, available at https://eng.genproc.gov.ru/files/booklet_gp_eng.pdf.

³¹ Gabriela Knaul, REPORT OF THE SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS, U.N. Doc. A/HRC/26/32/Add.1, Apr. 30, 2014, at ¶ 68, available at <http://undocs.org/A/HRC/26/32/Add.1>.

³² *Oyub Titiev: How Absurd a Trial Could Get!*, INT’L FED’N FOR HUMAN RIGHTS, Feb. 5, 2019, available at <https://www.fidh.org/en/issues/human-rights-defenders/oyub-titiev-how-absurd-a-trial-could-get> and *Russia: Journalist Punished for Chechnya Reporting*, HUMAN RIGHTS WATCH, Sept. 6, 2016, available at <https://www.hrw.org/news/2016/09/06/russia-journalist-punished-chechnya-reporting> (discussing the conviction of journalist Zhalaudi Geriev).

case materials from the defense,³³ used confessions resulting from torture as evidence,³⁴ and requested pretrial detention with no basis to do so.³⁵ The Prosecutor General's Office has also designated several NGOs as "undesirable,"³⁶ thereby prohibiting their activities and leading to possible administrative and criminal liability for their employees.

While Chaika has not yet been sanctioned, in 2018, four US Senators recommended that he be sanctioned for acts of significant corruption under the Countering America's Adversaries Through Sanctions Act.³⁷



Gennady Kornienko has served as **Director of the Federal Penitentiary Service (FSIN)** since 2012.³⁸

The FSIN is responsible for running, supervising, and monitoring the prison system.³⁹ This is supposed to include "ensuring the protection of the rights, freedoms and legitimate interests of convicts and persons in custody."⁴⁰

³³ Petition to the U.N. Working Group on Arbitrary Detention, *Pichugin v. Russian Federation*, July 31, 2018, at 8, available at <https://www.perseus-strategies.com/wp-content/uploads/2018/08/Alexey-Pichugin-v.-Russian-Federation-7.31.18.pdf> (noting that Pichugin's lawyers "complained that they had been denied access to a number of documents from Pichugin's case file on the basis that these documents contained 'state secrets'").

³⁴ Halya Coynash, *Tortured and Sentenced to 20 Years in Russia for Being Ukrainian*, KHARKIV HUMAN RIGHTS PROT. GROUP, Sept. 6, 2017, available at <http://khpg.org/en/index.php?id=1503235531> (discussing the cases against Stanislav Klykh and Mykola Karpyuk).

³⁵ *Pichugin v. Russia*, App. No. 38623/03, Eur. Ct. H.R., Oct. 23, 2012, at ¶¶ 8–9, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-114074%22%5D%7D> (noting that the prosecutor asked the court to remand Pichugin in custody but refused to submit materials demonstrating a reasonable suspicion against him).

³⁶ *Khodorkovsky's Otkrytaya Rossia NGO Put on "Undesirable Organizations" List*, RUSSIAN LEGAL INFORMATION AGENCY, Apr. 27, 2017, available at <http://www.rapsinews.com/news/20170427/278406293.html>.

³⁷ *Helsinki Commission Chair, Commissioners Call on Administration to Add Two Putin Cronies to Russia Report*, U.S. HELSINKI COMM'N, Jan. 17, 2018, available at <https://www.csce.gov/international-impact/press-and-media/press-releases/helsinki-commission-chair-commissioners-call/>.

³⁸ *Gennady Kornienko*, FORUM FREE RUSSIA, accessed Feb. 6, 2019, available at <https://www.forumfreerussia.org/notes/figuranty-spiska-putina/gennadij-kornienko/> [in Russian].

³⁹ *Regulations on the Federal Penitentiary Service of Russia*, FEDERAL PENITENTIARY SERVICE OF THE RUSSIAN FEDERATION, accessed Feb. 6, 2019, available at <http://fsin.su/fsin/status/> [in Russian].

⁴⁰ *Id.*

However, the FSIN's prison system is notorious for its gulag-like brutality and inhumane conditions.⁴¹ Physical abuse by prison guards is "systemic,"⁴² and political prisoners are singled out for "particularly harsh conditions" and punished with solitary confinement and stays in psychiatric units.⁴³ Prison guards have repeatedly been accused of threatening, abusing, and torturing prisoners,⁴⁴ and are rarely held accountable.⁴⁵ In some instances, prisoners are "disappeared" within in the prison system, and neither their family nor counsel is told where they have been taken.⁴⁶



Aleksandr Kononov has served as **Minister of Justice** of the Russian Federation since 2008.⁴⁷ He is also a member of the Security Council of the Russian Federation.⁴⁸

The Ministry of Justice is responsible for drafting proposed laws, overseeing the activities of non-profit and religious organizations, and ensuring that courts comply with standard operating

⁴¹ Robert Coalson and Natalya Dzhaneladova, *Heirs of the Gulag? Russia's Prison System Faces Harsh Scrutiny*, RADIO FREE EUROPE / RADIO LIBERTY, Feb. 3, 2019, available at <https://www.rferl.org/a/heirs-of-the-gulag-russia-s-prison-system-faces-harsh-scrutiny/29748646.html>.

⁴² RUSSIA 2017 HUMAN RIGHTS, U.S. DEP'T OF STATE, Mar. 16, 2018, at 8, available at <https://www.state.gov/documents/organization/277455.pdf>.

⁴³ *Id.*, at 9, 14.

⁴⁴ See *New Videos Reveal More Evidence of Torture at Russian Prison*, RADIO FREE EUROPE / RADIO LIBERTY, Aug. 24, 2018, available at <https://www.rferl.org/a/videos-reveal-more-evidence-of-torture-at-russian-prison/29450927.html> and *Heirs of the Gulag?*, *supra* note 41.

⁴⁵ Nick Cumming-Bruce, *Russia Promises to End Prison Torture. U.N. Experts Are Unconvinced.*, N.Y. TIMES, July 26, 2018, available at <https://www.nytimes.com/2018/07/26/world/europe/un-russia-torture.html>.

⁴⁶ *Russian Federation 2017/2018*, AMNESTY INT'L, accessed Feb. 6, 2019, available at <https://www.amnesty.org/en/countries/europe-and-central-asia/russian-federation/report-russian-federation/> ("The conditions during prisoner transports amounted to torture and other ill-treatment, and in many instances, to enforced disappearance During [Ildar Dadin's month-long] transfer, the authorities refused to provide any information on his whereabouts to his family and lawyers until after his arrival at the colony.").

⁴⁷ *Alexander Kononov*, FORUM FREE RUSSIA, accessed Feb. 6, 2019, available at <https://www.forumfreerussia.org/notes/figuranty-spiska-putina/aleksandr-kononov/> [in Russian].

⁴⁸ *Id.*

procedures.⁴⁹ It also coordinates and monitors the activities of the Federal Penitentiary Service.⁵⁰

The Ministry of Justice has drafted many of the restrictive laws used to persecute political prisoners. For example, the Ministry helped write the 2016 amendments to the Foreign Agent Law, which included an extremely broad definition of “political activity,”⁵¹ and drafted amendments “tightening criminal responsibility” for extremism.⁵² It has also attacked civil society and religious groups: the Ministry unilaterally designated numerous organizations as “foreign agents,” and it initiated the proceedings that liquidated the Administrative Center of Jehovah’s Witnesses due to alleged “extremism.”⁵³ In addition, and as discussed earlier, prosecutions involving political prisoners routinely involve egregious due process violations, so the Ministry is clearly failing to supervise the courts adequately.

⁴⁹ Regulations on the Ministry of Justice of the Russian Federation, Oct. 13, 2004, at § 7(1), (30.10), available at <https://minjust.ru/about/regulations> [in Russian] and *Ministry of Justice of the Russian Federation*, RUSSIAN GOVERNMENT, accessed Feb. 11, 2019, available at <http://government.ru/en/departments/99/events/>.

⁵⁰ Regulations on the Ministry of Justice of the Russian Federation, *supra* note 49, at § 2.

⁵¹ *Briefing on Shrinking Space for Civil Society in Russia*, HUMAN RIGHTS WATCH, Feb. 24, 2017, available at <https://www.hrw.org/news/2017/02/24/briefing-shrinking-space-civil-society-russia> (“In 2016, based on a proposal from the Ministry of Justice, the parliament finally amended the law to include a more specific definition, which only increased the vulnerability of concerned NGOs.”) and *Russian Pen: Writers and Academics Speak out against Law on ‘Foreign Agents,’* PEN INT’L, Feb. 1, 2016, available at <https://pen-international.org/news/russian-pen-writers-and-academics-speak-out-against-law-on-foreign-agents> (“On 22 January 2016, the Ministry of Justice of the Russian Federation published draft amendments to the notorious Law 121-FZ of 20 July 2012, commonly known as the Law on Foreign Agents.”).

⁵² *The Government Legislative Commission Has Debated and Approved a Draft Law Aimed at Creating Legal Conditions for Neutralising the Destructive Actions of Religious Organisations in Russia*, RUSSIAN GOVERNMENT, May 28, 2013, available at <http://government.ru/en/news/2120/> (“The federal law On introducing amendments to the Criminal Code of the Russian Federation, was drafted by the Ministry of Justice The bill was prepared to neutralise threats to national security arising from the destructive actions of religious organisations in Russia by tightening criminal responsibility for the crimes set out in Articles 280, 282, 282¹ and 282² of the Criminal Code.”).

⁵³ OPINION OF THE COMMISSIONER FOR HUMAN RIGHTS LEGISLATION AND PRACTICE IN THE RUSSIAN FEDERATION ON NON-COMMERCIAL ORGANISATIONS IN LIGHT OF COUNCIL OF EUROPE STANDARDS: AN UPDATE, COUNCIL OF EUROPE COMM’R FOR HUMAN RIGHTS, July 9, 2015, at ¶ 5, available at <https://rm.coe.int/opinion-of-the-commissioner-for-human-rights-on-the-legislation-and-pr/16806da772> and Chole Farand, *Russian Government Files Lawsuit Against Jehovah’s Witnesses to Declare It an Extremist Group*, INDEPENDENT, Mar. 17, 2017, available at <https://www.independent.co.uk/news/world/europe/russian-government-jehovahs-witnesses-extremist-group-lawsuit-supreme-court-a7634671.html> (“Jehovah’s Witnesses should be declared an extremist organisation, according to Russia’s Ministry of Justice, which asked the country’s Supreme Court to ‘ban it and liquidate it.’”).



Vladimir Kolokoltsev has served as **Minister of Internal Affairs** (alternately, the Minister of the Interior) of the Russian Federation since 2012.⁵⁴ The Ministry of Internal Affairs oversees the work of law enforcement.⁵⁵ It is also in charge of combating extremism.⁵⁶

As detailed in prior sections, police are among the most frequent perpetrators of abuse against political prisoners. Among other violations, officers plant evidence, arrest and detain individuals with no basis to do so, deprive detainees of their right to counsel, and use torture to coerce confessions.

Kolokoltsev is sanctioned under the US Ukraine-related sanctions.⁵⁷ The EU has not yet sanctioned him.



Alexander Bastrykin has served as **Chairman of the Investigative Committee** of the Russian Federation since 2011.⁵⁸ Bastrykin is also a member of the Presidium of the Anti-Corruption Council and the National Anti-Terrorism Committee.⁵⁹

The Investigative Committee has primary responsibility for criminal investigations,⁶⁰ and Bastrykin is well-known for using it to persecute opposition figures.⁶¹ In

⁵⁴ *Minister*, MINISTRY OF INTERNAL AFFAIRS OF THE RUSSIAN FEDERATION, accessed Feb. 9, 2019, available at <https://en.mvd.ru/Ministry/Minister>.

⁵⁵ COUNTRY OF ORIGIN INFORMATION REPORT: RUSSIAN FEDERATION STATE ACTORS OF PROTECTION, EUROPEAN ASYLUM SUPPORT OFFICE, Mar. 2017, at 17, available at <https://www.easo.europa.eu/file/16721/download?token=giAH9JOX>.

⁵⁶ *Id.*

⁵⁷ *Ukraine-/Russia-related Designations and Identification Update*, U.S. DEP'T OF THE TREASURY, Apr. 6, 2018, available at <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20180406.aspx>.

⁵⁸ *Alexander Bastrykin*, FORUM FREE RUSSIA, accessed Feb. 6, 2019, available at <https://www.forumfreerussia.org/notes/figuranty-spiska-putina/aleksandr-bastrykin/> [in Russian].

⁵⁹ *Id.*

⁶⁰ Federal Law on the Investigative Committee of the Russian Federation, No. 403-FZ, Dec. 28, 2010, at Art. 4, available at https://en.sledcom.ru/Legal_information.

⁶¹ Richard Sakwa, *Investigator Bastrykin and the Search for Enemies*, OPENDEMOCRACY, Apr. 10, 2013, available at <https://www.opendemocracy.net/od-russia/richard-sakwa/investigator-bastrykin-and-search-for-enemies> (“Bastrykin’s present notoriety . . . comes above all from his involvement in a number of prosecutions of opposition figures.”); Carl Schreck, *U.S. Sanctions Russia’s*

fact, the Investigative Committee has been described as the place “where criminal cases against members of the Russian opposition are usually concocted.”⁶² For example, Bastrykin controlled the unlawful investigations in the Yukos cases.⁶³ However, the Investigative Committee frequently refuses to bring charges against public authorities or law enforcement officials that commit torture or other violations.⁶⁴ Bastrykin also prevented a meaningful investigation into the 2015 assassination of Russian opposition leader Boris Nemtsov, who was assassinated, by gunshots to the back, as he walked across a bridge near the Kremlin. Bastrykin refused to classify it as a political crime, refused to allow the questioning of key persons of interest, and blocked attempts by his subordinates to indict a potential organizer.⁶⁵ As result, while five people – all of them linked to the Kremlin-backed Head of the Chechen Republic, Ramzan Kadyrov – have been convicted for carrying out the assassination, the organizers and masterminds remain unidentified and at large.⁶⁶

Bastrykin and Alleged Litvinenko Killers, RADIO FREE EUROPE / RADIO LIBERTY, Jan. 10, 2017, available at <https://www.rferl.org/a/russia-bastrykin-lugovoi-magnitsky-sanctions/28222295.html> (“Bastrykin is the head of the federal Investigative Committee, the Russian analogue to the FBI that has directed numerous politically charged criminal cases against opponents of Russian President Vladimir Putin.”); and *Briefing on Individuals Unjustly Imprisoned by Russia*, U.S. DEP’T OF STATE, June 18, 2018, available at <https://www.state.gov/r/pa/prs/ps/2018/06/283307.htm> (noting Bastrykin has “been involved in some of these politically motivated prosecutions and persecutions”).

⁶² Ivan Tsvetkov, *Inside Russian Top Investigator’s Latest Manifesto Against Extremism*, RUSSIA DIRECT, Apr. 22, 2016, available at <https://russia-direct.org/opinion/inside-russian-top-investigators-latest-manifesto-against-extremism>.

⁶³ LIST OF PUBLIC OFFICIALS OF THE RUSSIAN FEDERATION INVOLVED IN THE UNLAWFUL PROSECUTION OF OAO NK YUKOS, ITS EXECUTIVES, EMPLOYEES AND PERSONS LINKED TO THE COMPANY, at 5, included as Appendix II to Testimony of Garry Kasparov to U.S. House Committee on Foreign Affairs, June 16, 2011, available at http://www.theotherussia.org/images/Kasparov_Appendix_2.pdf.

⁶⁴ Marc Bennetts, *Torture and Abuse by Police Is the Norm in Russian Prisons*, NEWSWEEK, Mar. 29, 2016, available at <https://www.newsweek.com/2016/04/08/russia-police-custody-torture-abuse-441489.html> (noting several cases in which the Investigative Committee refused to bring criminal charges against authorities).

⁶⁵ Vladimir Kara-Murza, *The Kremlin is Blocking Scrutiny of its Investigation Into the Murder of Boris Nemtsov*, WASHINGTON POST, Aug. 2, 2018, available at https://www.washingtonpost.com/news/democracy-post/wp/2018/08/02/the-kremlin-is-blocking-scrutiny-of-its-investigation-into-the-murder-of-boris-nemtsov/?utm_term=.c817d154a971; *Investigation of RBC: Where Did the “Nemtsov Case” Lead*, RBC.RU, Jan. 20, 2016, available at <https://www.rbc.ru/politics/20/01/2016/569e4b2a9a794709caff2a9d> [in Russian]; and *Investigation Refused to Interrogate the Commander-In-Chief of the Russian Interior Ministry in the Case of Nemtsov*, RADIO FREE EUROPE / RADIO LIBERTY, Nov. 7, 2015, available at <https://www.svoboda.org/a/27393321.html> [in Russian].

⁶⁶ Vladimir Kara-Murza, *It’s Been Four Years Since the Murder of Boris Nemtsov. Russians Haven’t Forgotten.*, WASHINGTON POST, Mar. 6, 2019, available at https://www.washingtonpost.com/opinions/2019/03/06/its-been-four-years-since-murder-boris-nemtsov-russians-havent-forgotten/?utm_term=.67224792624f.

Bastrykin is sanctioned under the 2012 US Magnitsky Act⁶⁷ and similar legislation in Canada,⁶⁸ Estonia,⁶⁹ Latvia,⁷⁰ Lithuania,⁷¹ and Ukraine.⁷² He has not been sanctioned by the UK or the EU, though 57 members of the European Parliament called for him to be sanctioned in a 2016 joint letter.⁷³

B. Line Responsibility

The Kremlin's persecution of political prisoners depends on the willing participation of countless judges, prosecutors, and investigators. However, a smaller number have demonstrated a particular commitment to victimizing political prisoners through repeated involvement in such cases. The following individuals were identified as being involved in multiple cases.⁷⁴

1. Judges

Vladimir Kobzev is a judge with the Krasnodar Regional Court (as of 2017).⁷⁵ He has presided over several cases involving political prisoners and alleged threats to national security. For example, he sentenced former political prisoners Marina Dzhandzhgava and Annik Kesyana to 12 and eight years in prison respectively for treason, although

⁶⁷ *Bastrykin, Alexander Ivanovich*, U.S. OFFICE OF FOREIGN ASSETS CONTROL, accessed Feb. 7, 2019, available at <https://sanctionssearch.ofac.treas.gov/Details.aspx?id=5424>.

⁶⁸ *Consolidated Canadian Autonomous Sanctions List*, *supra* note 20 (search for "Bastrykin").

⁶⁹ *Estonia Imposes Entry Ban on Individuals on Magnitsky List*, EESTI RAHVUSRINGHÄÄLING, Mar. 29, 2018, available at <https://news.err.ee/692843/estonia-imposes-entry-ban-on-individuals-on-magnitsky-list>.

⁷⁰ *Latvian Ministry of Foreign Affairs Bans Entry to 49 Persons Named in 'Magnitsky List'*, UAWIRE, Feb. 23, 2018, available at <https://uawire.org/latvian-ministry-of-foreign-affairs-bans-entry-to-49-persons-named-in-magnitsky-list>.

⁷¹ *Kremlin Promises to Respond to Publication of 'Magnitsky List' in Lithuania*, UAWIRE, Jan. 18, 2018, available at <http://www.uawire.org/kremlin-promises-to-respond-to-publication-of-magnitsky-list-in-lithuania>.

⁷² ANNEX TO THE DECISION OF THE NATIONAL SECURITY AND DEFENSE COUNCIL OF UKRAINE, *supra* note 20 (Bastrykin is entry 3).

⁷³ Letter from MEPs to Federica Mogherini, High Representative of the European Union for Foreign Affairs and Security Policy / Vice-President of the Commission, Mar. 8, 2016, available at <https://eap-csf.eu/wp-content/uploads/EP-letter-sanctions-Savchenko.pdf>.

⁷⁴ Memorial HRC compiled a list of prosecutors, investigators, and judges in each political prisoner case (where they could be identified). The full list is available upon request from government and multilateral institution sanctions agencies.

⁷⁵ *Memorial Recognizes Three More Sochi Residents, Convicted for Sending Text Messages, as Political Prisoners*, RIGHTS IN RUSSIA, June 5, 2017, available at <http://www.rightsinrussia.info/rights-groups-in-russia/memorialhumanrightscentre-25>.

they had simply sent text messages indicating they saw military equipment on a railway.⁷⁶ In similar cases (also involving text messages), he sentenced former political prisoner Oksana Sevastidi to seven years' imprisonment for treason and former political prisoner Ekaterina Kharebava to six years for espionage.⁷⁷ Judge Kobzev also sentenced former political prisoner Petr Parpulov to 12 years in prison for treason for sharing information that was already publicly available, including on the official website of the Defense Ministry's newspaper (*Krasnaya Zvezda*).⁷⁸

Artur Karpov is a judge with the **Basmany District Court (Moscow)** (as of 2016).⁷⁹ He has been involved in several political prisoner cases, frequently subjecting the accused to pretrial detention or house arrest. This includes current/former political prisoners Igor Rudnikov,⁸⁰ Nadiya Savchenko,⁸¹ several Bolotnaya square demonstrators,⁸² Sergey Udaltsov,⁸³ and Alexey Navalny.⁸⁴ Judge Karpov also helped deny justice to the family of Sergei Magnitsky; he dismissed several appeals challenging the lack of

⁷⁶ *Id.*

⁷⁷ *Sevastidi Oksana Valerievna*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 14, 2019, available at <https://memohrc.org/ru/defendants/sevastidi-oksana-valerevna?page=1> [in Russian] and *Harebava Ekaterina Zhorzhievna*, OLD.MEMO.RU, May 13, 2015, available at <http://old.memo.ru/d/235051.html> [in Russian].

⁷⁸ *Parpulov Petr Ivanovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 14, 2019, available at <https://memohrc.org/ru/defendants/parpulov-petr-ivanovich> [in Russian] and *Memorial Recognizes Three More Sochi Residents*, *supra* note 75 ("All the above cases, except that of Inga Tutisani, were conducted by one and the same FSB investigator Roman Troyan, and the convictions in the cases were handed down by one and the same judge of Krasnodar Regional Court, Vladimir Kobzev.").

⁷⁹ *Sevastidi Oksana Valerievna*, MEMORIAL HUMAN RIGHTS CTR., accessed Mar. 21, 2019, available at <https://memohrc.org/ru/defendants/sevastidi-oksana-valerevna> [in Russian].

⁸⁰ *Rudnikov Igor Petrovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 14, 2019, available at <https://memohrc.org/ru/defendants/rudnikov-igor-petrovich> [in Russian].

⁸¹ *#FreeSavchenko: Faces of the Russian Kangaroo Court*, INFORM NAPALM, Mar. 13, 2016, available at <https://informnapalm.org/en/freesavchenko-faces-russian-kangaroo-court/>.

⁸² *The Case of Events on Bolotnaya Square on May 6, 2012*, OLD.MEMO.RU, July 11, 2012, available at <http://old.memo.ru/d/121776.html> (Karpov placed on pretrial detention, or extended the pretrial detention of, former political prisoners Vladimir Akimenkov Georgievich, Oleg Arkhipenkov Yurevich, Fedor Bahov Nikolaevich, Yaroslav Belousov Gennadyevich, and Dmitry Ishevsky Vyacheslavovich) [in Russian] and *Special Judges*, NEW TIMES, Aug. 15, 2012, available at <https://newtimes.ru/articles/detail/55480> (Karpov extended the arrest of Andrei Barabanov and the house arrest of Alexandra Dukhanina) [in Russian].

⁸³ *The Case of "Anatomy of Protest-2,"* MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 14, 2019, available at <https://memohrc.org/ru/special-projects/delo-anatomii-protesta-2> [in Russian].

⁸⁴ Andrew Roth, *Court Orders House Arrest, and No Internet, for Fierce Critic of Putin*, N.Y. TIMES, Feb. 28, 2014, available at <https://www.nytimes.com/2014/03/01/world/europe/aleksei-navalny.html>.

an investigation into Magnitsky's death.⁸⁵ In addition, Judge Karpov dismissed the complaints of some of the Yukos defendants against the unlawful actions of the investigators.⁸⁶ Although he has not yet been sanctioned, he was listed as a candidate for targeted sanctions in a 2016 joint letter by 57 Members of the European Parliament.⁸⁷

Nataliya Mushnikova is a judge with the Moscow City Court (as of March 2019)⁸⁸ and was formerly a judge with the Basmanny District Court (Moscow). She has helped the Kremlin detain political prisoners. She ordered or extended the pretrial detention of Nadiya Savchenko⁸⁹ and several of the Bolotnaya Square demonstrators⁹⁰ and Yukos defendants (including the extremely ill Vasily Alexanyan, who died after the Kremlin ignored injunctions from the European Court of Human Rights to provide medical treatment).⁹¹ Judge Mushnikova also helped cover up Sergei Magnitsky's death by denying Magnitsky's mother's request for an independent medical examination of his body.⁹² She also upheld, in Alexey Pichugin's case, the investigator's refusal to conduct a medical examination regarding his complaints that psychotropic substances were used on him.⁹³

⁸⁵ *Faces of the Russian Kangaroo Court*, *supra* note 81; see also SUBMISSION OF ALLEGED CANDIDATES UNDER THE SERGEI MAGNITSKY RULE OF LAW ACCOUNTABILITY ACT, OFFICE OF REP. JIM MCGOVERN, at 99, available at <http://www.scribd.com/doc/134085731/Smrule-of-Law-List> ("In his position as judge, [Karpov] refused the application from Mr Magnitsky's mother seeking to compel the investigation of the false arrest, torture and murder of her son.").

⁸⁶ LIST OF PUBLIC OFFICIALS, *supra* note 63, at 24.

⁸⁷ Letter from MEPs to Federica Mogherini, *supra* note 73.

⁸⁸ *Judicial Board on Criminal Cases*, COURTS OF GENERAL JURISDICTION OF THE CITY OF MOSCOW, accessed Mar. 21, 2019, available at <https://www.mos-gorsud.ru/mgs/info/structure/judicial-board/criminal> [in Russian].

⁸⁹ *Faces of the Russian Kangaroo Court*, *supra* note 81.

⁹⁰ *The Case of Events on Bolotnaya Square on May 6, 2012*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 12, 2019, available at <https://memohrc.org/ru/special-projects/delo-o-sobytyiah-na-bolotnoy-ploshchadi-6-maya-2012-goda> (Judge Mushnikova ordered pretrial detention for, or extended the pretrial detention of, Alexander Margolin Evgenievich, Dmitry Rukavishnikov, and Richard Sobolev Yanovich) [in Russian] and *Free Alexey Gaskarov!*, EN.GASKAROV.INFO, Mar. 1, 2014, available at <http://en.gaskarov.info/post/78191058551> (she also extended the detention of Alexey Gaskarov).

⁹¹ LIST OF PUBLIC OFFICIALS, *supra* note 63, at 22–23; Andrew McChesney, *Aleksanyan's Death 'Practically Murder,'* MOSCOW TIMES, Oct. 4, 2011, available at <https://www.themoscowtimes.com/2011/10/04/aleksanyans-death-practically-murder-a9945>; and *Jailed Former Yukos Executive Dies of AIDS*, REUTERS, Oct. 4, 2011, available at <https://www.reuters.com/article/idUSL5E7L40BP20111004>.

⁹² SUBMISSION OF ALLEGED CANDIDATES, *supra* note 85, at 102.

⁹³ Diana Igoshina, *The Judge Fought Off the Hands*, GAZETA.RU, Oct. 17, 2003, available at <https://www.gazeta.ru/2003/10/16/prokuraturug.shtml> [in Russian].

Nataliya Olikhver is a judge of the Moscow City Court (as of March 2019).⁹⁴ She presided over Alexey Pichugin's flawed, closed-door trial (on the first set of charges) and sentenced him to 20 years' imprisonment. The European Court of Human Rights held that Judge Olikhver violated Pichugin's right to a fair trial by conducting the trial in secret and by restricting the defense's questioning of the key witness against him.⁹⁵ Judge Olikhver also upheld a court ruling extending the pretrial detention of Nadiya Savchenko.⁹⁶ Throughout her career, Judge Olikhver has "unhesitatingly followed the instructions of her superiors."⁹⁷

2. Prosecutors

Natalya Poklonskaya was appointed as the **prosecutor of the Republic of Crimea** by Vladimir Putin in May 2014.⁹⁸ She left this post in 2016 after she was elected to the Russian Duma,⁹⁹ but during those two years, she actively persecuted Ukrainian political prisoners. She issued the arrest warrant for Oleg Sentsov,¹⁰⁰ prosecuted the case against Alexander Kostenko,¹⁰¹ brought charges against Andrei Kolomiets,¹⁰² investigated the case against Mykola Semena,¹⁰³ initiated the proceedings

⁹⁴ *Judicial Board on Criminal Cases*, *supra* note 88.

⁹⁵ *Pichugin v. Russia*, App. No. 38623/03, Eur. Ct. H.R., Oct. 23, 2012, at ¶¶ 190–92, 212–13, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-114074%22%5D%7D>.

⁹⁶ "SAVCHENKO LIST": *Persons Involved in the Kidnapping, Unlawful Detention, Frame-up and Discrediting of Ukraine's PACE Delegate and Verkhovna Rada Member Nadiya Savchenko*, Mar. 10, 2016, OPEN DIALOG FOUNDATION, Mar. 10, 2016, available at <http://en.odfoundation.eu/i/fmfiles/raporty/10-03-2016-odf-savchenko-list-redaction-eng.pdf>.

⁹⁷ Bill Bowring, *Judicial Independence in Russia*, EU-RUSSIA REVIEW, No. 1, May 2006, at 35, available at <https://www.files.ethz.ch/isn/48824/Review1.pdf>.

⁹⁸ *Treasury Targets Additional Ukrainian Separatists and Russian Individuals and Entities*, U.S. DEP'T OF THE TREASURY, Dec. 19, 2014, available at <https://www.treasury.gov/press-center/press-releases/Pages/jl9729.aspx>.

⁹⁹ *Crimea's Ex-Prosecutor Poklonskaya Takes Helm at State Duma's Commission on MPs' Income*, RUSSIAN NEWS AGENCY, Oct. 5, 2016, available at <http://tass.com/politics/904400>.

¹⁰⁰ *Sentsov Oleg G.*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 12, 2019, available at <https://memohrc.org/ru/defendants/sencov-oleg-gennadevich> [in Russian].

¹⁰¹ *Crimean Alexander Kostenko, Convicted of Participating in Euromaidan, Was Released*, MEMORIAL HUMAN RIGHTS CTR., Aug. 3, 2018, available at https://memohrc.org/ru/news_old/krymchanin-aleksandr-kostenko-osuzhdyonnyy-za-uchastie-v-evromaydane-vyshel-na-svobodu [in Russian].

¹⁰² Allison Quinn, *Ukrainian Activist Faces Charges in Crimea for 2014 EuroMaidan Participation*, KYIV POST, Jan. 20, 2016, available at <https://www.kyivpost.com/article/content/kyiv-post-plus/ukrainian-activist-faces-charges-in-crimea-for-2014-euromaidan-participation-406294.html>.

¹⁰³ *Mykola Semena: Ukraine*, PEN AMERICA, accessed Feb. 12, 2019, available at <https://pen.org/advocacy-case/mykola-semena/>.

that banned the Crimean Tatar Mejlis, and helped persecute several of the Mejlis' leaders.¹⁰⁴ Poklonskaya was included in the US and EU Ukraine-related sanctions.¹⁰⁵

3. Investigators

Timofey Grachev is a **Senior Investigator of the Investigative Committee of the Russian Federation** (in the Investigation Department of the Directorate to Investigate Crimes Involving the Use of Prohibited Means and Methods of Warfare) (as of 2016).¹⁰⁶ He has been linked to the fabrication of evidence during Nadiya Savchenko's pre-trial investigation¹⁰⁷ and has "become famous for his participation in the investigation" of the Bolotnaya Square demonstrators.¹⁰⁸ He was listed as a candidate for targeted sanctions in the 2016 joint letter by 57 Members of the European Parliament.¹⁰⁹

Roman Troyan is an **FSB investigator** (as of 2014) who has been involved in several national security cases. He investigated former political prisoners Marina Dzhandzhgava, Annik Kesyan, Oksana Sevastidi, Ekaterina Kharebava, and Petr Parpulov, all of whom were convicted of treason or espionage.¹¹⁰

Salavat Karimov is an **Advisor to Prosecutor General Yuri Chaika**¹¹¹ (as of March 2019) and was formerly a **Senior Investigator in the Prosecutor General's Office**.

¹⁰⁴ *Russia Bans Crimean Tatars by Banning the Mejlis*, EUROMAIDAN PRESS, Sept. 29, 2016, available at <http://euromaidanpress.com/2016/09/29/russia-bans-crimean-tatars-by-banning-their-mejlis/> and *Occupied Crimea: Victims and Oppressors*, FREEDOM HOUSE, Aug. 30, 2018, available at <https://freedomhouse.org/blog/occupied-crimea-victims-and-oppressors>.

¹⁰⁵ *Treasury Targets Additional Ukrainian Separatists and Russian Individuals and Entities*, *supra* note 98 and CONSOLIDATED FINANCIAL SANCTIONS LIST, EUROPEAN UNION, updated Mar. 6, 2019, at 332–33, available at <https://webgate.ec.europa.eu/europeaid/fsd/fsf#!/files>.

¹⁰⁶ Letter from MEPs to Federica Mogherini, *supra* note 73.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Memorial Recognizes Three More Sochi Residents*, *supra* note 75 ("All the above cases, except that of Inga Tutisani, were conducted by one and the same FSB investigator Roman Troyan . . .").

¹¹¹ *Karimov, Salavat, Advisor to the Prosecutor General of the Russian Federation*, LENTA.RU, accessed Mar. 6, 2019, available at <https://lenta.ru/lib/14161002/full.htm> [in Russian].

As Senior investigator, Karimov was known as the “Oligarch Killer” for his role in politically-motivated cases against prominent businessmen.¹¹² For example, he coordinated the unlawful criminal prosecution of the Yukos defendants on fabricated charges, including former political prisoners Mikhail Khodorkovsky and Platon Lebedev and current political prisoner Alexey Pichugin.¹¹³ He also personally opened criminal cases against Leonid Nevzlin.¹¹⁴ Karimov was also involved in the torture of Yukos lawyer Vasily Alexanyan – Karimov promised him life-saving anti-retroviral medication if he would only testify against his friends and colleagues.¹¹⁵

Karimov actively persecuted former media tycoon and outspoken Putin critic Vladimir Gusinsky. Karimov twice tried to prosecute Gusinsky for fraud, and during Gusinsky’s brief detention in a Moscow prison, Gusinsky was dubbed “the first political prisoner of Putin’s Russia.”¹¹⁶ Gusinsky ultimately fled from Russia, and though he was detained in Spain and Greece, both countries declined to extradite him, finding that the accusations against him were politically motivated.¹¹⁷

Karimov also investigated businessman Boris Berezovsky for alleged embezzlement.¹¹⁸ Berezovsky fled to the UK, where he was given political asylum.¹¹⁹

¹¹² *Id.*

¹¹³ LIST OF PUBLIC OFFICIALS, *supra* note 63, at 11–12.

¹¹⁴ *Id.*

¹¹⁵ *Remembering Vasily Alexanyan (1971-2011)*, KHODORKOVSKY.COM, Oct. 3, 2012, available at <https://www.khodorkovsky.com/remembering-vasily-alexanyan-1971-2011/>.

¹¹⁶ Ian Traynor, *Russia Turns Against Irreverent Oligarch*, THE GUARDIAN, June 14, 2000, available at <https://www.theguardian.com/world/2000/jun/15/russia.iantraynor>.

¹¹⁷ *Gusinsky, Vladimir, Former Russian Media Tycoon, A Citizen of Russia, Spain and Israel*, LENTA.RU, accessed Mar. 6, 2019, available at <https://lenta.ru/lib/14160571> [in Russian].

¹¹⁸ *Karimov, Salavat*, *supra* note 111.

¹¹⁹ *Id.*

VIII. THE RESPONSE TO THE KREMLIN'S POLITICAL PRISONERS

The international community has spoken out consistently and forcefully regarding the Kremlin's political prisoners. However, it has – so far – taken only limited action to compel their release or otherwise hold Putin or other perpetrators to account.

A. International Response

1. Select Public Statements and Condemnations

A wide array of UN bodies and experts, regional bodies and organizations, individual countries, and civil society groups have reported on the Kremlin's political prisoners and highlighted both groups of cases and individual cases. Below is a brief survey of such statements.

a. UN Bodies and Experts

General Assembly: In December 2018, the UN General Assembly adopted a resolution expressing concern that “torture has reportedly been used by the Russian authorities [in occupied-Crimea] to extract false confessions for politically motivated prosecutions, including in the case of Oleg Sentsov.”¹ The resolution also noted that there were “ongoing arbitrary detentions and arrests by the Russian Federation of Ukrainian citizens, including Volodymyr Balukh and Emir-Usein Kuku.”² Prior resolutions similarly noted “politically motivated prosecutions” and “arbitrary detentions” by Russian authorities in occupied-Crimea.³

Office of the UN High Commissioner for Human Rights (OHCHR): In February 2019, High Commissioner Michelle Bachelet expressed concern about the conviction of political prisoner Dennis Christensen, saying that “The harsh sentence imposed on Christensen . . . effectively

¹ *Situation of Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol, Ukraine*, U.N. GENERAL ASSEMBLY, G.A. Res. 73/263, U.N. Doc. A/RES/73/263, adopted Dec. 22, 2018, available at https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/263.

² *Id.*

³ *Situation of Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol, Ukraine*, U.N. GENERAL ASSEMBLY, G.A. Res. 72/190, U.N. Doc. A/RES/72/190, adopted Dec. 19, 2017, available at <https://undocs.org/A/RES/72/190> and *Situation of Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol (Ukraine)*, U.N. GENERAL ASSEMBLY, G.A. Res. 71/205, U.N. Doc. A/RES/71/205, adopted Dec. 19, 2016, available at <https://undocs.org/A/RES/71/205>.

criminalises the right to freedom of religion or belief for Jehovah's Witnesses in Russia – in contravention of the State's obligations under the International Covenant on Civil and Political Rights.”⁴ In 2017, the OHCHR noted that Russian authorities in Crimea “frequently violated” due process rights and that charges of extremism, terrorism, and territorial integrity violations are “commonly applied against political opponents.”⁵ The OHCHR also highlighted the case of a Crimean Tatar man sentenced to one year and three months in prison for “publicly inciting hatred or enmity” for publishing pro-Ukraine posts on Facebook.⁶ It further called on the Kremlin to “[s]top applying legislation on extremism, terrorism and separatism to criminalize free speech and peaceful conduct, and release all persons arrested and charged for expressing dissenting views.”⁷ During a visit to Russia in 2011, Navi Pillay, then High Commissioner for Human Rights, noted that “Russia currently has the highest number of cases pending before the European Court of Human Rights,” which she described as “a clear indication of endemic problems within Russia's own legal system.”⁸ One of the cases that was pending before the European Court of Human Rights at that time was that of Alexey Pichugin,⁹ who would go on to become the Kremlin's longest-serving political prisoner.¹⁰

Human Rights Committee: In its 2015 Concluding Observations on Russia, the Human Rights Committee – the treaty body overseeing state compliance with the ICCPR – expressed concern about “consistent reports of arbitrary restrictions on the exercise of freedom of peaceful assembly, including . . . arbitrary detentions and imposition of . . . prison sentences for

⁴ Michelle Bachelet, U.N. High Comm'r for Human Rights, Comment on Criminalising the Right to Freedom of Religion for Jehovah's Witnesses in Russia, Feb. 7, 2019, *available at* <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24145&LangID=E>.

⁵ SITUATION OF HUMAN RIGHTS IN THE TEMPORARILY OCCUPIED AUTONOMOUS REPUBLIC OF CRIMEA AND THE CITY OF SEVASTOPOL (UKRAINE), OFFICE OF THE U.N. HIGH COMM'R FOR HUMAN RIGHTS, U.N. Doc. A/HRC/36/CRP.3, Sept. 25, 2017, at ¶¶ 75, 97, *available at* <https://www.ohchr.org/en/hrbodies/hrc/regularsessions/session36/pages/listreports.aspx>.

⁶ *Id.*, at ¶ 160.

⁷ *Id.*, at ¶ 226(m).

⁸ Navi Pillay, U.N. High Comm'r for Human Rights, Opening Remarks at a Press Conference During Her Mission to the Russian Federation, Feb. 17, 2011, *available at* <https://newsarchive.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10734&LangID=E>.

⁹ *Pichugin v. Russia*, App. No. 38623/03, Eur. Ct. H.R., Oct. 23, 2012, *available at* [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-114074%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-114074%22]}) [hereinafter *Pichugin v. Russia* 2012].

¹⁰ Vladimir Kara-Murza, *For Russia's Longest-Serving Political Prisoner, It's 15 Years and Counting*, WASHINGTON POST, June 19, 2018, *available at* https://www.washingtonpost.com/news/democracy-post/wp/2018/06/19/for-russias-longest-serving-political-prisoner-its-15-years-and-counting/?utm_term=.74e5d4d21694.

the expression of political views.”¹¹ It further noted the prosecution of members of Pussy Riot for hooliganism; the criminal charges brought against demonstrators; and the increasing use of extremism laws to “curtail freedom of expression, including political dissent, and freedom of religion.”¹² The Committee also pointed out problematic legal provisions, including Criminal Code Articles 280.1 (public calls for action aimed at violating the territorial integrity of the State) and 212.1 (repeated participation in unauthorized public gatherings), and the Foreign Agent and Undesirable Organizations Laws.¹³ In addition, the Committee also noted allegations that the legal proceedings against Oleg Sentsov failed to meet the minimum guarantees provided in ICCPR Articles 9 and 14.¹⁴

Committee Against Torture: In August 2018, the Committee Against Torture – the treaty body overseeing state compliance with the Convention Against Torture – denounced the “arbitrary detention . . . of human rights defenders, lawyers, journalists and political opponents” in Russia and the “consistent reports that provisions of the Criminal Code on combating terrorism are often used against civil activists.”¹⁵ The Committee specifically expressed concern about “the arrest and detention of Oyub Titiyev . . . on allegedly false drug charges” and the use of torture to “obtain false confession for politically motivated prosecutions, including in the case of Oleg Sentsov.”¹⁶ The Committee also noted that “law enforcement uses involuntary placement in a psychiatric institution as a form of harassment and punishment of political opponents and activists,” specifically highlighting the involuntary hospitalization of Ilmi Umerov in 2016.¹⁷ Finally, the Committee decried the fact that the Foreign Agent Law and the Undesirable Organizations Law are “used as a means of administrative harassment against human rights organizations, forcing them to reduce and eventually cease their activities.”¹⁸

¹¹ *Concluding Observations on the Seventh Periodic Report of the Russian Federation*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/RUS/CO/7, Apr. 28, 2015, at ¶ 21, available at <https://undocs.org/CCPR/C/RUS/CO/7>.

¹² *Id.*, at ¶¶ 19(c), 20–21.

¹³ *Id.*, at ¶¶ 20–22.

¹⁴ *Id.*, at ¶ 23(d).

¹⁵ *Concluding Observations on the Sixth Periodic Report of the Russian Federation*, U.N. COMMITTEE AGAINST TORTURE, U.N. Doc. CAT/C/RUS/CO/6, Aug. 28, 2018, at ¶¶ 28, 34, available at <https://undocs.org/CAT/C/RUS/CO/6>.

¹⁶ *Id.*, at ¶¶ 46, 48(b).

¹⁷ *Id.*, at ¶ 40.

¹⁸ *Id.*, at ¶ 28.

Multiple Special Procedures: A variety of Special Procedures – thematic experts appointed by the UN Human Rights Council – have issued numerous joint statements, urgent appeals, and allegation letters concerning the Kremlin’s political prisoners. In March 2019, two Special Procedures called on Russian authorities to “drop all criminal charges against [Oyub] Titiev and to release him immediately,” noting that “the charges “appear[] to be motivated by his peaceful human rights activities.”¹⁹ In September 2018, six Special Procedures relayed their “concern at the arrest and detention of members of the Jehovah’s Witnesses religious minority on the basis of legislation on counter-extremism,” reiterating their “concerns at the use of Article 282 of the Criminal Code (participating, organizing or financing an ‘extremist’ organization) to persecute individuals for their peaceful worship.”²⁰ In August, three Special Procedures noted that they were concerned that Oleg Sentsov was “detained because of his political expression.”²¹ They further highlighted allegations that the legal proceedings against him “did not comply with international standards on due process and fair trial,” and called for his release.²² On July 26, 2018,

¹⁹ *Russia: Release Human Rights Defender Oyub Titiev, Urge UN Experts*, OFFICE OF THE U.N. HIGH COMM’R FOR HUMAN RIGHTS, Mar. 7, 2019, *available at* <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24276&LangID=E>.

²⁰ Allegation Letter from Working Group on Arbitrary Detention et al. to Russia, AL RUS 19/2018, Sept. 14, 2018, at 4, *available at* <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24004> ; *see also* Allegation Letter from Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to Russia, AL RUS 6/2015, Nov. 11, 2015, at 3, *available at*

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=17733> (“The fact that four [Jehovah’s Witness] ministers were sentenced to five years’ imprisonment for conducting peaceful religious services is a matter of serious concern.”).

²¹ Urgent Appeal from Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to Russia, UA RUS 21/2018, Aug. 10, 2018, at 1, *available at*

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24030>

²² *Id.*; *see also* Urgent Appeal from Working Group on Arbitrary Detention et al. to Russia, UA RUS 16/2018, July 25, 2018, at 2, *available at*

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23960> (“We reiterate our concern at the conviction of Mr. Sentsov, which represents a criminalization of the legitimate exercise of his right to freedom of expression through the use of counter-terrorism legislation and following legal procedures that appear to violate the standards of due process and fair trial.”) and Allegation Letter from Working Group on Arbitrary Detention et al. to Russia, AL RUS 8/2017, Oct. 17, 2017, at 2, *available at*

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23374> (“We express grave concern at the arrest and conviction of Mr. Sentsov which appear to represent a criminalization of his exercise of the right to freedom of expression through the use of counter-terrorism legislation and following legal procedures that appear to violate the standards of due process and fair trial.”).

five Special Procedures asked about political prisoners Anastasia Terentyeva, Ivan Matsitsky, and Konstancia Esaulkova, noting that their extended terms of pre-trial detention “appear to violate the rights to due process and fair trial.”²³ That same month, four Special Procedures inquired about Emir Usein Kuku because his detention and the charges against him were “seemingly linked to his peaceful and legitimate work in defence of human rights.”²⁴ They also expressed concern “over the use of counter-terrorism legislation to criminalise Mr. Kuku’s work in defence of human rights in Crimea.”²⁵ In a separate communication, six Special Procedures conveyed serious concern about the arrest and detention of probable²⁶ political prisoner Server Mustafayev “for reasons seemingly linked to his peaceful and legitimate work in the defence of human rights.”²⁷ Prior years are similar: the Special Procedures issued numerous joint communications regarding the Kremlin’s political prisoners.²⁸

Working Group on Arbitrary Detention: The UN Working Group on Arbitrary Detention has considered only a handful of cases from Russia, but several have involved political prisoners and/or serious rights violations in criminal prosecutions. In 1999, the Working Group held that prisoner of conscience²⁹ Grigory Pasko, a military reporter, was arbitrarily detained on

²³ Allegation Letter from Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression et al. to Russia, AL RUS 15/2018, July 26, 2018, at 3, *available at* <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23941>

²⁴ Urgent Appeal from Working Group on Arbitrary Detention et al. to Russia, UA RUS 17/2018, July 18, 2018, at 2, *available at* <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23964>

²⁵ *Id.*

²⁶ Memorial lists him as a probable political prisoner. See *Unlisted Probable Victims*, MEMORIAL HUMAN RIGHTS CTR., accessed Dec. 20, 2018, *available at* <https://memohrc.org/ru/aktualnyh-spisok-potencialnyh-zhertv> [in Russian].

²⁷ Allegation Letter from Working Group on Arbitrary Detention et al. to Russia, AL RUS 14/2018, July 11, 2018, at 2, *available at* <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23919>

²⁸ *Communication Search*, OFFICE OF THE U.N. HIGH COMM’R FOR HUMAN RIGHTS, accessed Dec. 20, 2018, *available at* <https://spcommreports.ohchr.org/Tmsearch/TMDocuments> (select “Russian Federation” under “State/Entity” and click on “search”; the results are listed in reverse chronological order).

²⁹ *Russian Federation: Grigory Pasko: Prisoner of Conscience*, AMNESTY INT’L, Feb. 15, 1999, *available at* <https://www.amnesty.org/en/documents/eur46/007/1999/en/>.

charges of espionage and disclosing state secrets.³⁰ The charges stemmed from his reporting on the failure of Russian authorities to process radioactive waste material resulting from the breakage of old nuclear submarines, and he was therefore being prosecuted for activity (that is, disseminating information on environmental protection) protected under both domestic and international law.³¹ The Working Group further held that Pasko did not receive a fair trial because the court stripped two of his lawyers of their power of attorney, and information obtained in an illegal manner was used as evidence against him.³² In a 2013 opinion, the Working Group found that activist Denis Matveyev’s detention was arbitrary because his conviction for possession and sale of drugs was the result of police entrapment intended to “punish [him] for his human rights activities.”³³ Most recently, in 2016, the Working Group determined that the detention of Alexandr Klykov was arbitrary and in violation of international law because his confession of murder was obtained through torture.³⁴ The Working Group further noted that he was assigned a public defender “who acted against [his] rights and interests” and that Klykov was denied access to his attorney of choice.³⁵ As of March 2019, the Working Group is also considering a petition challenging the detention of Alexey Pichugin.³⁶

Special Rapporteur on Human Rights Defenders: In January 2018, the Special Rapporteur on Human Rights Defenders noted that he had “strong reasons to believe” that the arrest and detention of Oyub Titiev were “motivated by his peaceful human rights activities and aim[ed] at deterring Mr. Titiev from exercising his legitimate rights to freedom of expression and freedom of association.”³⁷ In a 2017 report, the Special Rapporteur

³⁰ *Grigorii Pasko v. Russian Federation*, Opinion No. 9/1999, U.N. Doc. E/CN.4/2000/4/Add.1, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* May 20, 1999 *available at* <https://undocs.org/en/E/CN.4/2000/4/Add.1>.

³¹ *Id.*, at ¶¶ 5, 7(a).

³² *Id.*, at ¶ 7(b).

³³ *Denis Matveyev v. Russian Federation*, Opinion No. 8/2013, U.N. Doc. A/HRC/WGAD/2013/8, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* May 2, 2013, at ¶ 75, *available at* <https://undocs.org/en/A/HRC/WGAD/2013/8>.

³⁴ *Alexandr Klykov v. Russian Federation*, Opinion No. 14/2016, U.N. Doc. A/HRC/WGAD/2016/14, U.N. WORKING GROUP ON ARBITRARY DETENTION, *adopted* Apr. 21, 2016, at ¶¶ 77, 85, *available at* <https://undocs.org/en/A/HRC/WGAD/2016/14>.

³⁵ *Id.*, at ¶ 79.

³⁶ Petition to the U.N. Working Group on Arbitrary Detention, *Pichugin v. Russian Federation*, July 31, 2018, *available at* <https://www.perseus-strategies.com/wp-content/uploads/2018/08/Alexey-Pichugin-v.-Russian-Federation-7.31.18.pdf>.

³⁷ Urgent Appeal from Special Rapporteur on the Situation of Human Rights Defenders to Russia, UA RUS 1/2018, Jan. 10, 2018, at 2, *available at*

expressed “concern . . . for the continued persecution of defenders in the course of their activities . . . through their arbitrary arrest and detention.”³⁸ He highlighted the case of Valentina Cherevatenko, the first person charged under Criminal Code Article 330.1 for “malicious evasion” of the requirements of the Foreign Agent Law,³⁹ and explained that the conviction of former political prisoner⁴⁰ Sergey Nikiforov for bribery and fraud “appears to be solely aimed at silencing the human right defender and preventing him from defending the legitimate rights of the Evenki indigenous community.”⁴¹ In 2016, the Special Rapporteur expressed “[e]xtreme concern . . . for the continued persecution of defenders in the course of the[ir] work . . . through their arbitrary arrest and detention [and] their judicial harassment and criminalization.”⁴² He also expressed concern that “the arrest, detention and charges against [activist Konstantin] Golava aim at silencing his criticism.”⁴³ In 2015, the Special Rapporteur noted “concern regarding the detention of human rights defenders [in Russia], including their ill treatment and denial of access to family and lawyers.”⁴⁴

Special Rapporteur on Peaceful Assembly and Association: In 2017, the Special Rapporteur on Peaceful Assembly and Association noted “the continued persecution of defenders [in Russia] in the course of their activities . . . through arbitrary arrests and detention.”⁴⁵ He also expressed concern that the conviction of former political prisoner Sergey Nikiforov

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23573>

³⁸ Michel Forst, REPORT OF THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS: ADDENDUM, U.N. Doc. A/HRC/34/52/Add.1, Feb. 20, 2017, at ¶ 559, *available at* http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/52/Add.1.

³⁹ *Id.*, at 561. The case against Ms. Cherevatenko was later dismissed. *See Case History: Valentina Cherevatenko*, FRONT LINE DEFENDERS, *accessed* Nov. 17, 2018, *available at* <https://www.frontlinedefenders.org/en/case/case-history-valentina-cherevatenko>.

⁴⁰ “Memorial” Recognized Political Leader of the Evenki Community Sergei Nikiforov, MEMORIAL HUMAN RIGHTS CTR., Feb. 11, 2016, *available at* <https://memohrc.org/ru/news/memorial-priznal-politizaklyuchennym-lidera-evenkiyskoy-obshchiny-sergeya-nikiforova> [in Russian].

⁴¹ REPORT OF THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS: ADDENDUM, *supra* note 38, at ¶ 565.

⁴² Michel Forst, REPORT OF THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS: ADDENDUM, U.N. Doc. A/HRC/31/55/Add.1, Feb. 22, 2016, at ¶ 441, *available at* <https://undocs.org/en/A/HRC/31/55/Add.1>.

⁴³ *Id.*, at ¶ 443.

⁴⁴ Michel Forst, REPORT OF THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS: ADDENDUM, U.N. Doc. A/HRC/28/63/Add.1, Mar. 4, 2015, at ¶ 429, *available at* <https://www.ohchr.org/Documents/Issues/Defenders/A-HRC-28-63-Add-1.pdf>.

⁴⁵ REPORT OF THE SPECIAL RAPPORTEUR ON THE RIGHTS TO FREEDOM OF PEACEFUL ASSEMBLY AND OF ASSOCIATION: ADDENDUM, U.N. Doc. A/HRC/35/28/Add.3, May 31, 2017, at ¶ 477, *available at* <https://undocs.org/en/A/HRC/35/28/Add.3>.

was related to his public opposition to a mining project.⁴⁶ In addition, the Special Rapporteur denounced the “unprecedented criminal charges” brought against Valentina Cherevatenko.⁴⁷

Special Rapporteur on the Independence of Judges and Lawyers: Gabriela Knaul, then the Special Rapporteur on the Independence of Judges and Lawyers, conducted a country visit to Russia in 2013. Her resulting report highlighted numerous flaws in the legal system that facilitate the detention of political prisoners. For example, she noted “many reported attempts by State authorities and private actors alike to exercise control over the judicial system”; that “judges order pretrial detention as a rule rather than an exception” and that in some cases, defendants are held in “pretrial detention for longer than the maximum sentence they could receive”; and the “extremely low acquittal rate . . . which would suggest that the presumption of innocence is not consistently respected in practice.”⁴⁸ She also expressed concern that defense lawyers are not given equal access to case materials and evidence and are given “very limited time” to examine evidence; investigators are “unlikely” to share exculpatory evidence with the defense; “[i]n most cases, judges condone or directly participate in such violations of lawyers’ rights”; and that lawyers “in politically sensitive cases are also particularly vulnerable to pressure and regularly face security threats.”⁴⁹

b. Regional Bodies/Organizations

European Union: The EU has consistently entreated the Kremlin to release its political prisoners. When Oyub Titiev was arrested in January 2018, the EU called for the Kremlin to “release him swiftly.”⁵⁰ After over 1,000 people were detained by police during May 2018 protests against Putin’s inauguration, the EU insisted that the Kremlin “release without delay [the] peaceful demonstrators and journalists.”⁵¹ A few weeks later,

⁴⁶ *Id.*, at ¶ 483.

⁴⁷ *Id.*, at ¶ 485.

⁴⁸ Gabriela Knaul, REPORT OF THE SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS: ADDENDUM, U.N. Doc. A/HRC/26/32/Add.1, Apr. 30, 2014, at ¶¶ 15, 41–42, 45, available at <https://undocs.org/en/A/HRC/26/32/Add.1>.

⁴⁹ *Id.*, at ¶¶ 47–48, 79, 82.

⁵⁰ *Statement on the Detention of the Director of the Memorial Human Rights Centre in the Chechen Republic*, EUR. UNION, Jan. 11, 2018, available at https://eeas.europa.eu/headquarters/headquarters-homepage/38144/statement-detention-director-memorial-human-rights-centre-chechen-republic_en.

⁵¹ *Statement by the Spokesperson on the Reaction of the Russian Authorities to Peaceful Demonstrations Across the Russian Federation*, EUR. UNION, May 5, 2018, available at

the spokesperson mentioned Oleg Sentsov, Vladimir Balukh, and Server Mustafayev by name and demanded that “all illegally detained Ukrainian citizens . . . be released without delay.”⁵² In a July 2018 statement, the EU noted that it was “deeply concerned by the reports of continued systematic persecution of Jehovah’s Witnesses in Russia, including . . . arbitrary detentions and criminal prosecution.”⁵³ In September, the EU said that it “expects the Russian authorities . . . to release without delay the peaceful demonstrators and the journalists” arrested during the nationwide pension protests.⁵⁴ And in October, the spokesperson announced that the “European Union stands in solidarity with Oleg Sentsov and . . . expects his immediate release, along with all illegally detained Ukrainian citizens in Russia and on the Crimean peninsula.”⁵⁵ Going further back, during a meeting with the Russian Government in 2003, EU officials insisted that the Yukos defendants – who included then political prisoners Alexey Pichugin, Platon Lebedev, and Mikhail Khodorkovsky⁵⁶ – be given a fair chance to defend themselves.⁵⁷

https://eeas.europa.eu/headquarters/headquarters-homepage/44051/statement-spokesperson-reaction-russian-authorities-peaceful-demonstrations-across-russian_en.

⁵² *Statement by the Spokesperson on the Cases of Several Detainees in or from the Illegally-Annexed Crimea and Sevastopol*, EUR. UNION, May 30, 2018, available at

https://eeas.europa.eu/delegations/council-europe/45550/statement-spokesperson-cases-several-detainees-or-illegally-annexed-crimea-and-sevastopol_en.

⁵³ *Statement on the Situation of Jehovah’s Witnesses in Russia*, EUR. UNION, July 5, 2018, available at

https://eeas.europa.eu/sites/eeas/files/pc_no_1191_eu_statement_on_the_situation_of_jehovahs_witnesses_in_russia.pdf.

⁵⁴ *Statement by the Spokesperson on the Reaction to Protests across the Russian Federation*, EUR. UNION, Sept. 10, 2018, available at https://eeas.europa.eu/headquarters/headquarters-homepage/50277/statement-spokesperson-reaction-protests-across-russian-federation_en.

⁵⁵ *Statement by the Spokesperson on the Continued Illegal Detention of Oleg Sentsov*, EUR. UNION, Oct. 7, 2018, available at https://eeas.europa.eu/headquarters/headquarters-homepage/51706/statement-spokesperson-continued-illegal-detention-oleg-sentsov_en; see also *Statement by the Spokesperson on the Continuous Detention of the Ukrainian Film Director Oleg Sentsov*, EUR. UNION, Aug. 10, 2018, available at https://eeas.europa.eu/headquarters/headquarters-homepage/49296/statement-spokesperson-continuous-detention-ukrainian-film-director-oleg-sentsov_en (“The European Union expects . . . all illegally detained Ukrainian citizens in Russia and on the Crimean peninsula to be released without delay.”) and *Local EU Statement on the Continued Imprisonment of Ukrainian Film Director Oleg Sentsov*, EUR. UNION, Sept. 5, 2018, available at https://eeas.europa.eu/delegations/council-europe/50150/local-eu-statement-continued-imprisonment-ukrainian-film-director-oleg-sentsov_en (“We strongly support the request from the Council of Europe Secretary General Jagland to the Russian authorities to urgently release Mr Sentsov.”).

⁵⁶ *Memorial’s Full List Of Political Prisoners In Russia*, KHODORKOVSKY.COM, Nov. 4, 2013, available at <https://www.khodorkovsky.com/memorials-full-list-of-political-prisoners-in-russia/>.

⁵⁷ Press Release, *EU/Russia Summit, Rome, 6 November*, EUR. COMM’N, Nov. 4, 2003, available at http://europa.eu/rapid/press-release_IP-03-1496_en.htm?locale=en.

European Parliament: The European Parliament has been particularly vocal and has adopted numerous resolutions regarding the Kremlin's political prisoners. The most recent, adopted on March 12, 2019, cites to Memorial HRC's list of political prisoners and "Calls on Russia to immediately release political prisoners, including foreign citizens, and journalists."⁵⁸ In a June 2018 resolution, the European Parliament noted that "the number of political prisoners in Russia has increased significantly in recent years" and demanded the "unconditional[] release [of] Oleg Sentsov and all other illegally detained Ukrainian citizens," as well as "all other political prisoners."⁵⁹ The resolution further expressed "deep concern" that "many" Ukrainian political prisoners have been "seriously tortured"; insisted that "Russian authorities cease the intimidation and harassment of the Human Rights Centre Memorial"; and decried the fact that the Kremlin "fails to implement the judgments delivered" by the European Court of Human Rights.⁶⁰ Finally, the resolution called for European member states to "consider targeted measures against the individuals responsible for the detention and trial of the political prisoners," and for the leadership of the European Union to "raise these issues in different formats and meetings with Russia."⁶¹

Numerous prior resolutions similarly called for targeted sanctions against Russian officials involved in persecuting political prisoners.⁶² In

⁵⁸ *Resolution on the State of EU-Russia Political Relations*, EUR. PARL., adopted Mar. 12, 2019, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2019-0157+0+DOC+XML+V0//EN&language=EN>.

⁵⁹ *Resolution on Russia, Notably the Case of Ukrainian Political Prisoner Oleg Sentsov*, EUR. PARL., adopted June 14, 2018, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONGML+TA+P8-TA-2018-0259+0+DOC+PDF+V0//EN>.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Resolution on the Cases of Crimean Tatar leaders Akhtem Chiygoz, Ilmi Umerov and the Journalist Mykola Semena*, EUR. PARL., adopted Oct. 5, 2017, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP8-TA-2017-0382%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN> ("[R]estrictive measures should be imposed on all individuals responsible for gross human rights violations, including those Crimean and Russian officials directly responsible for charging and sentencing Akhtem Chiygoz, Mykola Semena and Ilmi Umerov, and these should include the freezing of assets in EU banks and travel bans . . ."); *Resolution on Ukrainian Political Prisoners in Russia and Situation in Crimea*, EUR. PARL., adopted Mar. 16, 2017, available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0087&language=EN> ("Calls for further restrictive measures to be imposed on individuals responsible for gross human rights violations, including the freezing of their assets in EU banks . . ."); *Resolution on the Case of Ildar Dadin, Prisoner of Conscience in Russia*, EUR. PARL., adopted Nov. 24, 2016, available at

fact, the European Parliament has recommended the creation of a Europe-wide analogue of the US Magnitsky list.⁶³ Other resolutions expressed concern over “fabricated criminal charges,”⁶⁴ politically-motivated sentences,⁶⁵ and the fact that “the law is being used as a political instrument”⁶⁶ in Russia. Several resolutions noted the persecution of individuals connected to Yukos. One resolution noted the “extremely

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2016-0446&language=EN&ring=P8-RC-2016-1261> (“Calls on the Council to adopt a series of targeted sanctions to punish those responsible for the mistreatment of Ildar Dadin and other human rights activists”); and *Resolution on Russia, in Particular the Cases of Eston Kohver, Oleg Sentsov and Olexandr Kolchenko*, EUR. PARL., adopted Sept. 10, 2015, available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2015-0314&language=EN&ring=P8-RC-2015-0845> (“Calls on the Council to establish a common EU list of the officials responsible for the abduction, illegal detention and sentencing of Eston Kohver, Nadiya Savchenko, Oleg Sentsov and Olexandr Kolchenko, to impose and implement an EU-wide visa ban on these officials, and to freeze any financial assets that they, or their immediate family, may hold within the European Union . . .”).

⁶³ *Recommendation to the Council on Establishing Common Visa Restrictions for Russian Officials Involved in the Sergei Magnitsky Case*, EUR. PARL., adopted Apr. 2, 2014, available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2014-0258> (requesting the Council “(a) to establish a common EU list of officials responsible for the death of Sergei Magnitsky, for the subsequent judicial cover-up and for the ongoing and continuing harassment of his mother and widow; (b) to impose and implement an EU-wide visa ban on these officials and to freeze any financial assets that they, or their immediate family, may hold within the European Union; [and] (c) to allow for regular revision of the proposed visa ban list . . .”) and *Resolution on the Rule of Law in Russia*, EUR. PARL., adopted June 13, 2013, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2F%2FEP%2F%2FTEXT%2BTA%2BP7-TA-2013-0284%2B0%2BDOC%2BXML%2BV0%2F%2FEN&language=EN> (asking the Council and Commission “to implement an EU-wide visa ban and to freeze the financial assets in the EU of all officials involved in the death of Magnitsky . . . and of other serious human rights violators in Russia”).

⁶⁴ *Resolution on Russia, the Case of Oyub Titiev and the Human Rights Centre Memorial*, EUR. PARL., adopted Feb. 8, 2018, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2018-0034+0+DOC+XML+V0//EN&language=EN>; see also *Resolution on Russia: Sentencing of Demonstrators Involved in the Bolotnaya Square Events*, EUR. PARL., adopted Mar. 13, 2014, available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2014-0253&language=EN&ring=P7-RC-2014-0245> (noting “politically motivated charges” against the Bolotnaya Square demonstrators) and *Resolution on Political Use of Justice in Russia*, EUR. PARL., adopted Sept. 13, 2012, available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2012-0352&language=EN> (noting “the recent upsurge in the politically motivated intimidation and prosecution of opposition activists in the Russian Federation”).

⁶⁵ *Resolution on Russia, the Arrest of Alexei Navalny and Other Protestors*, EUR. PARL., adopted Apr. 6, 2017, available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2017-0125>.

⁶⁶ *Resolution on Russia, in Particular the Case of Alexei Navalny*, EUR. PARL., adopted Jan. 15, 2015, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2015-0006+0+DOC+PDF+V0//EN>.

serious situation regarding the rule of law and justice in Russia, as highlighted by the Russian authorities' alarming attitude towards . . . persons accused in the Yukos affair and all the abuses committed during legal proceedings.”⁶⁷ Another expressed regret that “recent moves by the Russian authorities against Yukos . . . were such as to arouse strong suspicion of political interference in the judicial process,”⁶⁸ and yet another decried the “increased political control of the judiciary, as exemplified by the Yukos case.”⁶⁹

Parliamentary Assembly of the Council of Europe (PACE): In June 2018, PACE adopted a resolution calling for the Kremlin to “release without further delay all Ukrainians detained in the Russian Federation and in Crimea on politically motivated or fabricated charges.”⁷⁰ PACE members have also made written declarations on this issue,⁷¹ as well as regarding the pre-trial detention of religious minorities facing extremism charges.⁷² In addition, PACE’s Committee on Legal Affairs and Human Rights issued a

⁶⁷ *Resolution on the EU’s Rights, Priorities and Recommendations for the 60th Session of the UN Commission on Human Rights in Geneva*, EUR. PARL., adopted Feb. 10, 2004, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P5-TA-2004-0079+0+DOC+XML+V0//EN&language=EN>.

⁶⁸ *Recommendation to the Council on EU-Russia Relations*, EUR. PARL., adopted Feb. 26, 2004, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P5-TA-2004-0121+0+DOC+XML+V0//EN&language=EN>.

⁶⁹ *Resolution on Human Rights in Russia and the New NGO Legislation*, EUR. PARL., adopted Dec. 15, 2005, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2005-0534+0+DOC+XML+V0//EN&language=EN>.

⁷⁰ *Resolution 2231 on Ukrainian Citizens Detained as Political Prisoners by the Russian Federation*, PARL. ASSEMBLY FOR THE COUNCIL OF EUROPE, adopted June 28, 2018, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24994&lang=en>.

⁷¹ *Written Declaration on the Situation of Ukrainian Political Prisoners in the Russian Federation and Crimea (Ukraine)*, PARL. ASSEMBLY FOR THE COUNCIL OF EUROPE, adopted Feb. 1, 2018, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24501&lang=en>; *Written Declaration on the Situation of Ukrainian Political Prisoners in the Russian Federation and Crimea (Ukraine)*, PARL. ASSEMBLY FOR THE COUNCIL OF EUROPE, adopted Oct. 12, 2017, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24221&lang=en>; and *Written Declaration on Ukrainian Captives in Russia: Another Call to Free Them*, PARL. ASSEMBLY FOR THE COUNCIL OF EUROPE, adopted June 28, 2017, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23946&lang=en> (discussing Mykola Karpyuk and Stanislav Klykh – “We believe that their detention in the Russian Federation is politically motivated.”).

⁷² *Written Declaration on Religious Freedom in Russia*, PARL. ASSEMBLY FOR THE COUNCIL OF EUROPE, adopted Feb. 01, 2018, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24504&lang=en> and *Written Declaration on Religious Freedom in Russia*, PARL. ASSEMBLY FOR THE COUNCIL OF EUROPE, adopted Oct. 13, 2017, <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24231&lang=en>.

report in October 2018 encouraging national parliaments to consider passing Magnitsky laws.⁷³

In 2004, that same Committee appointed a former German Minister of Justice as a Rapporteur to investigate the arrest and prosecution of Yukos officials. Her report, written after two fact-finding visits to Moscow, documented “numerous procedural shortcomings” in the investigation and prosecution of Khodorkovsky, Lebedev, and Pichugin, and further noted Pichugin’s “plausible” allegations of torture.⁷⁴ The report concluded that “the interest of the State’s action in these cases goes beyond the mere pursuit of criminal justice, to include such elements as to weaken an outspoken political opponent, to intimidate other wealthy individuals and to regain control of strategic economic assets.”⁷⁵ Relying on that report, PACE adopted a resolution which noted that “serious procedural violations committed by different law-enforcement agencies against Mr Khodorkovsky, Mr Lebedev and Mr Pichugin . . . have been corroborated during fact-finding visits” and reiterated several of the report’s key findings, including that Pichugin was held in an FSB-controlled prison; proceedings in Pichugin’s case were held *in camera* even though only a small portion of the case file was classified; and there was repeated interference with the right to counsel.⁷⁶ PACE subsequently issued a series of resolutions condemning the politically-motivated cases against Pichugin and others affiliated with Yukos.⁷⁷ On April 24, 2017, during free debate before the

⁷³ SERGEI MAGNITSKY AND BEYOND – FIGHTING IMPUNITY BY TARGETED SANCTIONS, PACE COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS, Oct. 30, 2018, at ¶ 36, *available at* <http://semantic-pace.net/tools/pdf.aspx?doc=aHR0cDovL2Fzc2VtYmx5LmNvZS5pbmQvbnNveG1sL1hSZWYvWDJlLURXLWV4dHluYXNwP2ZpbGVpZD0yNTA1MyZsYW5nPUVO&xsl=aHR0cDovL3NlbWVudGljcGFjZS5uZXQvWHNsdC9QZGYvWFJlZi1XRC1BVCIYUwyUERGLnhzbA==&xsltparams=ZmlsZWlkPTI1MDUz> (“The purpose of this report is to encourage national parliaments to consider passing ‘Magnitsky laws’ providing for targeted sanctions against individuals found personally responsible for serious human rights violations and who enjoy impunity in their own countries, on political or corrupt grounds.”).

⁷⁴ THE CIRCUMSTANCES SURROUNDING THE ARREST AND PROSECUTION OF LEADING YUKOS EXECUTIVES, RAPPOREUR OF THE PARL. ASSEMBLY OF THE COUNCIL OF EUROPE, Nov. 29, 2004, at Summary and § III, ¶ 9, *available at* <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=10730&lang=EN>.

⁷⁵ *Id.*, at Summary.

⁷⁶ *Resolution 1418 on the Circumstances Surrounding the Arrest and Prosecution of Leading Yukos Executives*, PARL. ASSEMBLY OF THE COUNCIL OF EUROPE, *adopted* Jan. 25, 2005, at ¶¶ 7–8, *available at* <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17293&lang=en>.

⁷⁷ *Id.*, at ¶ 7; *Resolution 1685 on Allegations of Politically Motivated Abuses of the Criminal Justice System in Council of Europe Member States*, PARL. ASSEMBLY OF THE COUNCIL OF EUROPE, *adopted* Sept. 30, 2009, at ¶ 4.3.8, *available at* <http://assembly.coe.int/nw/xml/XRef/Xref->

full Assembly, French Representative Pierre Yves Le Borgn – himself an appointed PACE Rapporteur regarding the enforcement of judgments by the European Court of Human Rights – called out Pichugin’s case, describing the Kremlin’s treatment of him as “tantamount to moral torture” and insisting that “There can be no place for such inhumanity in our community of law.”⁷⁸

Organization for Security and Co-operation in Europe (OSCE): During its annual sessions, the OSCE Parliamentary Assembly has adopted several resolutions concerning the Kremlin’s political prisoners. In 2018, for example, it adopted a Resolution on Violations of Human Rights and Fundamental Freedoms in the Russian Federation, which asked the Kremlin to “release unconditionally all human rights defenders and other persons detained for peacefully exercising their rights to freedom of expression, assembly and association.”⁷⁹ The resolution also called for the repeal of the Undesirable Organizations Law and Foreign Agent Law, and an end to the “excessive use” of extremism laws.⁸⁰ Another resolution from that same year demanded that the Kremlin release “Ukrainian citizens, who have been unlawfully detained or imprisoned under the fabricated charges,” specifically mentioning Oleg Sentsov, Oleksandr Kolchenko, Vladimir Balukh, Emir Usein Kuku, and several others.⁸¹ Prior resolutions and declarations have requested the release of “Ukrainian citizens who are illegally detained,”⁸² noted that the Kremlin “continue[s] to abuse the

XML2HTML-en.asp?fileid=17778&lang=en; and *Resolution 2040 on Threats to the Rule of Law in Council of Europe Member States: Asserting the Parliamentary Assembly’s Authority*, PARL.

ASSEMBLY OF THE COUNCIL OF EUROPE, adopted Mar. 6, 2015, at ¶ 3.1, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=21591&lang=en>.

⁷⁸ Remarks of Mr. Pierre Yves Le Borgn to Parliamentary Assembly of the Council of Europe, Apr. 24, 2017, available at <http://assembly.coe.int/Documents/Records/2017/E/1704241500E.htm>.

⁷⁹ *Resolution on Violations of Human Rights and Fundamental Freedoms in the Russian Federation*, OSCE PARL. ASSEMBLY, adopted July 2018, at ¶ 24, in *BERLIN DECLARATION AND RESOLUTIONS ADOPTED BY THE OSCE PARLIAMENTARY ASSEMBLY AT THE TWENTY-SEVENTH ANNUAL SESSION*, July 7–11, 2018, available at <https://www.oscepa.org/documents/all-documents/annual-sessions/2018-berlin/declaration-26/3742-berlin-declaration-eng/file>.

⁸⁰ *Id.*, at ¶¶ 31, 34.

⁸¹ *Resolution on Ongoing Violations of Human Rights and Fundamental Freedoms in the Autonomous Republic of Crimea and the City of Sevastopol (Ukraine)*, OSCE PARL. ASSEMBLY, adopted July 2018, at ¶ 27(k), in *BERLIN DECLARATION AND RESOLUTIONS*, *supra* note 79.

⁸² *Resolution on Restoration of the Sovereignty and Territorial Integrity of Ukraine*, OSCE PARL. ASSEMBLY, adopted July 2017, at ¶ 34, in *MINSK DECLARATION AND RESOLUTIONS ADOPTED BY THE OSCE PARLIAMENTARY ASSEMBLY AT THE TWENTY-SIXTH ANNUAL SESSION*, July 5–9, 2017, available at <https://www.oscepa.org/documents/all-documents/annual-sessions/2017-minsk/declaration-25/3555-declaration-minsk-eng/file>; see also *Resolution on Violations of Human Rights and Fundamental Freedoms in the Autonomous Republic of Crimea and the City of Sevastopol*, OSCE PARL. ASSEMBLY, adopted July 2016, at ¶ 26, in *TBILISI DECLARATION AND*

Interpol system by seeking the arrest of opponents on politically motivated charges,”⁸³ and called for targeted sanctions on individuals responsible for gross human rights violations against people seeking to expose illegal activity by Russian officials.⁸⁴

OSCE thematic experts have also spoken out. For instance, the Representative on Freedom of the Media has called for the release of political prisoners Igor Rudnikov, Oleg Sentsov, and Mykola Semena,⁸⁵ and the Representative for Democratic Institutions and Human Rights has highlighted the detention of Jehovah’s Witnesses and called for Nadiya Savchenko to be released.⁸⁶

RESOLUTIONS ADOPTED BY THE OSCE PARLIAMENTARY ASSEMBLY AT THE TWENTY-FIFTH ANNUAL SESSION, July 1–5, 2016, *available at* <https://www.oscepa.org/documents/all-documents/annual-sessions/2016-tbilisi/declaration-24/3371-tbilisi-declaration-eng/file> (“Calls upon the Russian Federation . . . f. To immediately and unconditionally release . . . Ukrainian citizens, who have been unlawfully detained or imprisoned under fabricated charges by the de facto authorities in occupied Crimea . . .”) and *Resolution on the Continuation of Clear, Gross and Uncorrected Violations of OSCE Commitments and International Norms by the Russian Federation*, OSCE PARL. ASSEMBLY, *adopted* July 2015, at ¶ 28, in *HELSINKI DECLARATION AND RESOLUTIONS ADOPTED BY THE OSCE PARLIAMENTARY ASSEMBLY AT THE TWENTY-FOURTH ANNUAL SESSION*, July 5–9, 2015, *available at* <https://www.oscepa.org/documents/annual-sessions/2015-helsinki/declaration-3/2977-2015-helsinki-declaration-eng/file> (“Calls on the Russian Federation to immediately release and return to Ukraine detained pilot and member of the Verkhovna Rada, Nadiya Savchenko, filmmaker Oleg Sentsov, Oleksander Kolchenko and all other illegally detained Ukrainian citizens . . .”).

⁸³ *ISTANBUL DECLARATION AND RESOLUTIONS ADOPTED BY THE OSCE PARLIAMENTARY ASSEMBLY AT THE TWENTY-SECOND ANNUAL SESSION*, June 29–July 3, 2013, at ¶ 146, *available at* <http://www.oscepa.org/documents/all-documents/annual-sessions/2013-istanbul/declaration/1801-istanbul-declaration-eng-1/file>.

⁸⁴ *Resolution on Rule of Law in Russia: Case of Sergei Magnitsky*, OSCE PARL. ASSEMBLY, *adopted* July 2012, at ¶ 26, in *MONACO DECLARATION AND RESOLUTIONS ADOPTED BY THE OSCE PARLIAMENTARY ASSEMBLY AT THE TWENTY-FIRST ANNUAL SESSION*, July 5–9, 2012, *available at* <http://www.oscepa.org/documents/all-documents/annual-sessions/2012-monaco/declaration-1/1258-2012-monaco-declaration-eng/file>.

⁸⁵ Press Release, *One Year After Arrest of Russian Journalist Igor Rudnikov*, OSCE Representative Reiterates Call for His Release, OSCE REPRESENTATIVE ON FREEDOM OF THE MEDIA, Nov. 6, 2018, *available at* <https://www.osce.org/representative-on-freedom-of-media/402110>; Tweet by OSCE Representative on Freedom of the Media (@OSCE_RFoM), TWITTER, June 26, 2018, 12:33 am, *available at* https://twitter.com/OSCE_RFoM/status/1011512841503944704 (Mykola Semena); Press Release, *OSCE Representative Calls for Release of Ukrainian Film Director Oleg Sentsov in a Letter to Russian Foreign Minister Sergey Lavrov*, OSCE REPRESENTATIVE ON FREEDOM OF THE MEDIA, June 4, 2018, *available at* <https://www.osce.org/representative-on-freedom-of-media/383364>; and Press Release, *OSCE Representative on Freedom of the Media Expresses Concern on Detention and Situation of Russian Journalist Igor Rudnikov*, OSCE REPRESENTATIVE ON FREEDOM OF THE MEDIA, Nov. 3, 2017, *available at* <https://www.osce.org/fom/354601>.

⁸⁶ Press Release, *ODHIR Director Link and OSCE Chairperson’s Personal Representative Gabriel Concerned over Jehovah’s Witness Ban in Russia*, OSCE OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS, Apr. 25, 2017, *available at* <https://www.osce.org/odihr/313561> and Press Release, *OSCE Human Rights Chief Raises Concerns over Savchenko Verdict, Calling for Release*,

c. Individual Countries

In recent years, a number of mostly Western countries have acknowledged that the Kremlin keeps political prisoners and publicly demanded their release. For example, several countries have made broad statements about the Kremlin's political prisoners and blanket calls for their release.

On June 18, 2018, the US State Department said in a press release that it was “deeply concerned by the growing number of individuals . . . identified by credible human rights organizations as political and religious prisoners held by the Government of the Russian Federation,” and called for the Kremlin to “release all those identified as political or religious prisoners immediately and cease its use of the legal system to suppress dissent and peaceful religious practice.”⁸⁷ In addition, the State Department's annual human rights report on Russia has consistently highlighted political prisoners as a problem, and cited Memorial HRC's list of political prisoners.⁸⁸ The State Department's 2018 human rights report on Russia specifically discussed the sentences imposed on the Kremlin's political prisoners, noting that Alexey Pichugin “has been imprisoned since 2003 with a life sentence.”⁸⁹ Canadian officials have similarly called for the Kremlin to release “all political prisoners.”⁹⁰ The UK has also noted

OSCE OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS, Mar. 22, 2016, *available at* <https://www.osce.org/odihr/229506>.

⁸⁷ Press Statement, *Political and Religious Prisoners Held by the Russian Government*, U.S. DEP'T OF STATE, June 18, 2018, *available at* <https://www.state.gov/r/pa/prs/ps/2018/06/283289.htm>.

⁸⁸ RUSSIA 2017 HUMAN RIGHTS REPORT, U.S. DEP'T OF STATE, Apr. 20, 2018, at 15, *available at* <https://www.state.gov/documents/organization/277455.pdf> (citing Memorial HRC's list of political prisoners); RUSSIA 2016 HUMAN RIGHTS REPORT, U.S. DEP'T OF STATE, Mar. 3, 2017, at 16, *available at* <https://www.state.gov/documents/organization/265678.pdf> (citing Memorial HRC's list of political prisoners); and RUSSIA 2015 HUMAN RIGHTS REPORT, U.S. DEP'T OF STATE, Apr. 13, 2016, at 16, *available at* <https://www.state.gov/documents/organization/253105.pdf> (citing Memorial HRC's list of political prisoners).

⁸⁹ RUSSIA 2018 HUMAN RIGHTS REPORT, U.S. DEP'T OF STATE, Mar. 13, 2019, at 15, *available at* <https://www.state.gov/documents/organization/289419.pdf>.

⁹⁰ Tweet by Canada Minister of Foreign Affairs Chrystia Freeland (@cafreeland), TWITTER, July 12, 2018, 11:28 am, *available at* <https://twitter.com/cafreeland/status/1017475871714762752> (“Today marks the 60th day of Ukrainian filmmaker Oleg #Sentsov's hunger strike. We remain very concerned about his condition. #Russia must free him and all political prisoners. #SaveOlegSentsov #FreeSentsov”); Tweet by Foreign Policy CAN (@CanadaFP), TWITTER, June 4, 2018, 6:08 pm, *available at* <https://twitter.com/CanadaFP/status/1003805818045784064> (“We call on #Russia to release without delay all political prisoners”); *Statement by Minister of Foreign Affairs on Fourth Anniversary of Illegal Annexation of Crimea*, GLOBAL AFFAIRS CANADA, Mar. 16, 2018, *available at* <https://www.canada.ca/en/global-affairs/news/2018/03/statement-by-minister-of-foreign-affairs-on-fourth-anniversary-of-illegal-annexation-of-crimea.html> (“We call for the release of all political prisoners held by Russia . . .”); and *Canada Deeply Concerned by*

that prior prisoner amnesties did not include political prisoners,⁹¹ and cited Memorial HRC's list of political prisoners in its human rights reports.⁹²

Specific political prisoners, as well as specific groups, have also attracted significant attention. For example, several countries have spoken out regarding prisoners connected to Yukos, and in particular, Alexey Pichugin, Platon Lebedev, and Mikhail Khodorkovsky. During Khodorkovsky's imprisonment, the UK "consistently raised concerns about the flaws in the Russian judicial process highlighted by Mr Khodorkovsky's case,"⁹³ and several of the UK's annual human right reports highlighted the detention of Khodorkovsky and Lebedev.⁹⁴ Canada's Foreign Affairs Minister similarly noted that Khodorkovsky's second conviction in 2010

Human Rights Violations in Crimea, GLOBAL AFFAIRS CANADA, Sept. 26, 2017, available at https://www.canada.ca/en/global-affairs/news/2017/09/canada_deeply_concernedbyhumanrightsviolationsincrimea.html ("We call for the release of all political prisoners that it holds, including Oleg Sentsov, Mykola Semena and all those others who have bravely spoken out against Russia's actions in Crimea.").

⁹¹ *Russia – Country of Concern*, U.K. FOREIGN & COMMONWEALTH OFFICE, Jan. 21, 2015, available at <https://www.gov.uk/government/publications/russia-country-of-concern/russia-country-of-concern> ("Amnesty International criticised the amnesty for not covering 'political prisoners' . . .").

⁹² *Russia – In-Year Update July 2015*, U.K. FOREIGN & COMMONWEALTH OFFICE, July 15, 2015, available at <https://www.gov.uk/government/publications/russia-in-year-update-july-2015/russia-in-year-update-july-2015> ("On 4 June, Russian NGO, Memorial, published an updated list of 'political prisoners' in Russia. The list contains 50 names, an increase of four since the list was last published in October 2014.") and *Russia – In-Year Update December 2015*, U.K. FOREIGN & COMMONWEALTH OFFICE, Apr. 21, 2016, available at <https://www.ecoi.net/de/dokument/1322300.html> (noting that Memorial HRC considers certain persons to be political prisoners).

⁹³ Press Release, *Minister for Europe Welcomes Release of Mikhail Khodorkovsky*, U.K. FOREIGN & COMMONWEALTH OFFICE, Dec. 20, 2013, available at <https://www.gov.uk/government/news/minister-for-europe-welcomes-release-of-mikhail-khodorkovsky>.

⁹⁴ HUMAN RIGHTS AND DEMOCRACY: THE 2011 FOREIGN & COMMONWEALTH OFFICE REPORT, U.K. FOREIGN & COMMONWEALTH OFFICE, Apr. 2012, at 300, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/408379/Cm-8339.pdf ("Amnesty International recognised Khodorkovsky and Lebedev as 'prisoners of conscience' in May."); HUMAN RIGHTS AND DEMOCRACY: THE 2010 FOREIGN & COMMONWEALTH OFFICE REPORT, U.K. FOREIGN & COMMONWEALTH OFFICE, Mar. 2011, at 253, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/408381/accessible-hrd-report-2010.pdf ("The trial of Mikhail Khodorkovsky and Platon Lebedev was widely condemned for failing to adhere to basic standards of justice."); and HUMAN RIGHTS: ANNUAL REPORT 2006, U.K. FOREIGN & COMMONWEALTH OFFICE, 2006, at 94, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/272401/6916.pdf (noting that Khodorkovsky's case "highlighted weaknesses in the Russian judicial system and raised serious concerns about the application of law in a nondiscriminatory and proportional way").

sent a “worrying signal” about the rule of law in Russia,⁹⁵ and in June 2018, the US State Department spokesperson tweeted: “We call on #Russia to finally release Aleksey #Pichugin, in jail since 2003 on a life sentence. #FreePichugin.”⁹⁶

The conviction and sentencing of members of Pussy Riot in 2012 also sparked international outrage. German Chancellor Angela Merkel said that the sentence was “out of line with the European values of the rule of law and democracy.”⁹⁷ Ruprecht Polenz, then Chairman of Germany’s Bundestag Foreign Affairs Committee (CDU), was more blunt: “This was Putin’s trial. It is Putin’s judgement. And it is a judgement, that makes a mockery of justice and rule of law.”⁹⁸ Similarly, the US State Department expressed dismay, noting that it was “concerned about both the verdict and the disproportionate sentences . . . and the negative impact on freedom of expression in Russia,” and the White House expressed its “concerns about the way these young women were treated by the Russian judicial system.”⁹⁹ Latvian Foreign Minister Edgars Rinkēvičs tweeted that the trial was “clear evidence that Russia is sliding back to the USSR.”¹⁰⁰

A number of countries have expressed concern about the detention of peaceful protestors. After hundreds of demonstrators, including opposition leader Alexey Navalny, were arrested during anti-Putin protests on May 5, 2018,¹⁰¹ the US, Latvia, the UK, and Lithuania condemned the arrests and called on the Kremlin to release them.¹⁰² Sweden’s Minister of

⁹⁵ Sergey Ponomarev, *Canada Condemns Khodorkovsky Conviction as ‘Worrying’ About Russia’s Rule of Law*, GLOBE AND MAIL, Dec. 28, 2010, available at <https://www.theglobeandmail.com/news/politics/canada-condemns-khodorkovsky-conviction-as-worrying-about-russias-rule-of-law/article1321485/>.

⁹⁶ Tweet by U.S. State Dep’t Spokesperson Heather Nauert (@statedeptspox), TWITTER, June 22, 2018, 11:04 am, available at <https://twitter.com/statedeptspox/status/1010222066547687427>.

⁹⁷ *Merkel Criticizes Pussy Riot Judgment*, ZEIT ONLINE, Aug. 17, 2012, available at <https://www.zeit.de/politik/ausland/2012-08/pussy-riot-reaktionen> [in German].

⁹⁸ *Id.*

⁹⁹ John Hudson, *White House, State Department Back Pussy Riot*, THE ATLANTIC, Aug. 17, 2012, available at <https://www.theatlantic.com/politics/archive/2012/08/white-house-state-department-back-pussy-riot/324583/>.

¹⁰⁰ Tweet by Latvia Minister of Foreign Affairs Edgars Rinkēvičs (@edgarsrinkevics), TWITTER, July 31, 2012, 6:33 am, available at <https://twitter.com/edgarsrinkevics/status/230295090084605952>.

¹⁰¹ *Police Detain Navalny, Hundreds Of Protesters At Anti-Putin Rally*, RADIO FREE EUROPE / RADIO LIBERTY, May 5, 2018, available at <https://www.rferl.org/a/russia-navalny-detained-protests-putin-inauguration/29209862.html>.

¹⁰² Tweet by U.S. State Dep’t Spokesperson Heather Nauert (@statedeptspox), TWITTER, May 5, 2018, 11:31 am, available at <https://twitter.com/statedeptspox/status/992834229863141376>; Tweet by Latvia Minister of Foreign Affairs Edgars Rinkēvičs (@edgarsrinkevics), TWITTER, May 5,

Foreign Affairs similarly declared that “The arrests of over 1,000 demonstrators, journalists and bystanders is yet another failure by Russia to respect freedom of expression, association and peaceful assembly” and demanded that the “[p]eaceful protesters must be released without delay.”¹⁰³ When hundreds were arrested during the March 2017 anti-corruption protests, including several that were later recognized as political prisoners,¹⁰⁴ Germany, Canada, the US, and Lithuania spoke out.¹⁰⁵ The UK’s Foreign Office asserted that “Russian citizens were exercising their fundamental rights to freedom of expression, association and peaceful assembly” and called on the Kremlin “to release citizens detained during peaceful demonstrations, and to comply with its international commitments.”¹⁰⁶

2018, 8:09 am, available at <https://twitter.com/edgarsrinkevics/status/992783405833170944>; Tweet by U.K. Minister of State Alan Duncan, TWITTER, May 5, 2018, 8:41 am, available at <https://twitter.com/AlanDuncanMP/status/992791280299266048>; and Tweet by Lithuania Minister of Foreign Affairs Linas Linkevicius (@LinkeviciusL), TWITTER, May 5, 2018, 7:39 am, available at <https://twitter.com/LinkeviciusL/status/992775732932808705>.

¹⁰³ Tweet by Sweden Minister of Foreign Affairs Margot Wallström (@margotwallstrom), TWITTER, May 6, 2018, 3:07 am, available at <https://twitter.com/margotwallstrom/status/993069651197296640>.

¹⁰⁴ *The Case of March 26*, MEMORIAL HUMAN RIGHTS CTR., accessed Dec. 19, 2018, available at <https://memohrc.org/ru/special-projects/delo-26-marta> [in Russian]; *Krepkin Dmitry Mikhailovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Dec. 19, 2018, available at <https://memohrc.org/ru/defendants/krepkin-dmitriy-mihaylovich> [in Russian]; *Politikov Alexey Vladimirovich*, MEMORIAL HUMAN RIGHTS CTR., accessed Dec. 19, 2018, available at <https://memohrc.org/ru/defendants/politikov-aleksey-vladimirovich> [in Russian]; *Zimovets Stanislav Sergeevich*, MEMORIAL HUMAN RIGHTS CTR., accessed Dec. 19, 2018, available at <https://memohrc.org/ru/defendants/zimovec-stanislav-sergeevich> [in Russian]; and *Shpakov Alexander Y.*, MEMORIAL HUMAN RIGHTS CTR., accessed Dec. 19, 2018, available at <https://memohrc.org/ru/defendants/shpakov-aleksandr-yurevich> [in Russian].

¹⁰⁵ Tweet by German Foreign Office (@GermanyDiplo), TWITTER, Mar. 28, 2017, 6:23 am, available at <https://twitter.com/GermanyDiplo/status/846714377231351808> (“#Russia: Germany notes with concern and incomprehension the arrest of hundreds of peaceful protesters this weekend.”); Tweet by Foreign Policy CAN (@CanadaFP), TWITTER, Mar. 27, 2017, 8:15 am, available at <https://twitter.com/CanadaFP/status/846380196714500096> (“Canada is very concerned by detention of peaceful protesters yesterday in cities across #Russia. Democratic freedoms must be respected.”); Tweet by U.S. Dep’t of State (@StateDept), TWITTER, Mar. 26, 2017, 5:11 pm, available at <https://twitter.com/StateDept/status/846152580451438594> (“U.S. condemns detention of 100s of peaceful protesters in #Russia today. Detaining peaceful protesters is an affront to democratic values.”); and *Lithuanian Foreign Ministry’s Statement on the Detention of Peaceful Protesters in the Russian Federation*, MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF LITHUANIA, Mar. 27, 2017, available at <http://urm.lt/default/en/news/lithuanian-foreign-ministrys-statement-on-the-detention-of-peaceful-protesters-in-the-russian-federation> (“The Ministry of Foreign Affairs of Lithuania expresses its deep concern over mass arrests of participants in anti-corruption protests in many cities across Russia yesterday, on 26 March . . . We call on the Russian authorities to release all detainees immediately.”).

¹⁰⁶ Press Release, *Foreign Office Expresses Concern About Russian Protest Arrests*, U.K. FOREIGN & COMMONWEALTH OFFICE, Mar. 27, 2017, available at

The Kremlin's detention of Ukrainian citizens has also drawn vociferous criticism. For example, the UK has repeatedly called for the release of the Kremlin's Ukrainian political prisoners¹⁰⁷ and also commented on specific cases: it decried the conviction of Nadiya Savchenko in 2016 as "deeply flawed,"¹⁰⁸ and her detention as "illegal [and] politically motivated."¹⁰⁹ The US has also consistently demanded the release of the Kremlin's Ukrainian political prisoners,¹¹⁰ including in

<https://www.gov.uk/government/news/foreign-office-expresses-concern-about-russian-protest-arrests>.

¹⁰⁷ *Human Rights Council 39: UK Statement on Ukraine*, U.K. MISSION TO THE U.N. GENEVA, Sept. 25, 2018, available at <https://www.gov.uk/government/news/human-rights-council-39-uk-statement-on-ukraine>; *Human Rights Council 39: UK Statement on Russia*, U.K. MISSION TO THE U.N. GENEVA, Sept. 21, 2018, available at <https://www.gov.uk/government/news/human-rights-council-39-uk-statement-on-russia>; Press Release, *Statement to Mark 100th day of Hunger Strike by Ukrainian Political Prisoner*, U.K. FOREIGN & COMMONWEALTH OFFICE, Aug. 21, 2018, available at <https://www.gov.uk/government/news/statement-to-mark-100th-day-of-hunger-strike-by-ukrainian-political-prisoner>; Press Release, *Statement on Ukrainian Political Prisoners Held by Russian Authorities*, U.K. FOREIGN & COMMONWEALTH OFFICE, July 13, 2018, available at <https://www.gov.uk/government/news/statement-on-ukrainian-political-prisoners-held-by-russian-authorities>; Press Release, *Statement on Ukrainian [sic] Political Prisoners Held by Russian Authorities*, U.K. FOREIGN & COMMONWEALTH OFFICE, June 6, 2018, available at <https://www.gov.uk/government/news/statement-on-ukrainian-political-prisoners-held-by-russian-authorities>; Tweet by UK in Ukraine (@UKinUkraine), TWITTER, Dec. 10, 2017, 12:30 am, available at https://twitter.com/UKinUkraine/status/939774419370684417?ref_src=twsrc%5Etfw; Press Release, *FCO Minister Welcomes Release of Ilmi Umerov and Akhtem Chiygoz*, U.K. FOREIGN & COMMONWEALTH OFFICE, Oct. 26, 2017, available at <https://www.gov.uk/government/news/fco-minister-welcomes-release-of-ilmi-umerov-and-akhtem-chiygoz>; and Press Release, *Minister for Europe Concerned by the Conviction and Sentencing of Crimean Tatar Leader by 'De-facto' Russian Authorities*, U.K. FOREIGN & COMMONWEALTH OFFICE, Sept. 11, 2017, available at <https://www.gov.uk/government/news/minister-for-europe-concerned-by-the-conviction-and-sentencing-of-crimean-tatar-leader-by-de-facto-russian-authorities>.

¹⁰⁸ *Foreign Secretary Condemns Guilty Verdict in Case Against Nadiya Savchenko*, U.K. FOREIGN & COMMONWEALTH OFFICE, Mar. 22, 2016, available at <https://www.gov.uk/government/news/foreign-secretary-condemns-guilty-verdict-in-case-against-nadiya-savchenko>; see also Press Release, *Minister for Europe Calls for Savchenko Release*, U.K. FOREIGN & COMMONWEALTH OFFICE, Apr. 12, 2016, available at <https://www.gov.uk/government/news/minister-for-europe-calls-for-savchenko-release> (noting her "illegal detention in Russia, flawed trial, judgment and sentence").

¹⁰⁹ *Foreign Secretary Statement on Nadiya Savchenko's Release*, BRITISH EMBASSY MOSCOW & BRITISH EMBASSY KYIV, May 25, 2016, available at <https://www.gov.uk/government/news/foreign-secretary-statement-on-nadiya-savchenkos-release>.

¹¹⁰ Press Statement, *Crimea Is Ukraine*, U.S. DEP'T OF STATE, Feb. 27, 2019, available at <https://www.state.gov/secretary/remarks/2019/02/289749.htm> ("The United States calls on Russia to release all of the Ukrainians, including members of the Crimean Tatar community, it has imprisoned in retaliation for their peaceful dissent. This includes Oleh Sentsov, Oleksandr Kolchenko, Volodymyr Balukh, Ruslan Zeytullayev, and approximately 70 others."); *EU, US Call on Russia to Release Ukrainian Political Prisoners*, UKRINFORM, accessed Dec. 19, 2018, available at <https://www.ukrinform.net/rubric-politics/2534789-eu-us-call-on-russia-to-release-ukrainian-political-prisoners.html> ("The chair of the US delegation [to the OSCE] called on Russia to release Oleg Sentsov and other Ukrainian political prisoners held by the Russian Federation."); United

August 2018, when US Secretary of State Mike Pompeo urged Russia to “immediately release Sentsov and all Ukrainian political prisoners.”¹¹¹ Germany,¹¹² Poland,¹¹³ Lithuania,¹¹⁴ Estonia,¹¹⁵ Sweden,¹¹⁶ France,¹¹⁷

States Mission to the OSCE, Closing Statement at the 2017 Human Dimension Implementation Meeting, Sept. 22, 2017, at 2, *available at* <https://www.osce.org/odihr/345621?download=true> (decrying the “show trials of ethnic Ukrainian and Crimean Tatar prisoners” and calling for the release of all those prosecuted for opposing Russia’s occupation of Crimea); Tweet by U.S. Dep’t of State (@StateDept), TWITTER, Feb. 4, 2015, 1:03 pm, *available at* <https://twitter.com/StateDept/status/563080408448126977> (“U.S. calls on #Russia to release Nadiya Savchenko and all other Ukrainian hostages immediately.”); Press Statement, *Russian Court’s Unjust Verdict Against Nadiya Savchenko*, U.S. DEP’T OF STATE, *available at* <https://2009-2017.state.gov/r/pa/prs/ps/2016/03/254949.htm> (“We reiterate our call on Russia to immediately release Nadiya Savchenko and other unlawfully detained persons.”); and Tweet by U.S. Dep’t of State (@StateDept), TWITTER, Mar. 7, 2016, 6:23 pm, *available at* <https://twitter.com/StateDept/status/707028869623189504> (“Statement by Secretary @JohnKerry: The U.S. once again calls on #Russia to immediately release Nadiya #Savchenko”).

¹¹¹ Readout, *Secretary Pompeo’s Call with Russian Foreign Minister Sergey Lavrov*, U.S. STATE DEP’T SPOKESPERSON HEATHER NAUERT, Aug. 23, 2018, *available at* <https://www.state.gov/r/pa/prs/ps/2018/08/285381.htm#W38iJUCJMVA.twitter>.

¹¹² *German MFA: Number of Political Prisoners Increased in Crimea*, CRIMEAN NEWS AGENCY, Dec. 4, 2017, *available at* <http://old.qha.com.ua/en/politics/german-mfa-number-of-political-prisoners-increased-in-crimea/142240/>.

¹¹³ Tweet by Poland Ministry of Foreign Affairs (@PolandMFA), TWITTER, Oct. 23, 2018, 5:44 am, *available at* <https://twitter.com/PolandMFA/status/1054715104611233794> (“On the sidelines of the #Ukraine FM’s visit FM #Czaputowicz announced that this year’s #ProDignitateHumana award will receive Oleg Sentsov. The director in the Russian prison recalled the fate of political prisoners in #Russia and occupied #Crimea. #FreeSentsov”) and Tweet by Poland Ministry of Foreign Affairs (@PolandMFA), TWITTER, Sept. 24, 2018, 9:51 am, *available at* <https://twitter.com/PolandMFA/status/1044268004689793024> (“FM #Czaputowicz among numerous people supporting Ukrainian director Oleg Sentsov, unjustly held in Russia.”).

¹¹⁴ Tweet by Lithuania MFA (@LithuaniaMFA), TWITTER, Oct. 8, 2015, 3:11 am, *available at* <https://twitter.com/LithuaniaMFA/status/652063816755347456> (“Stand #UnitedForUkraine – urge #Russia to release illegally detained #Ukrainians. #FreeSavchenko #LetMyPeopleGo”) and Tweet by Lithuania Minister of Foreign Affairs Linas Linkevicius (@LinkeviciusL), TWITTER, Aug. 20, 2018, 4:04 am, *available at* <https://twitter.com/linkeviciusl/status/1031497112108851200> (“Tomorrow marks 100 days of O. Sentsov’s hunger strike in Russian prison. Oleg is on the verge of life and death. We call on #Russia once again to immediately release the illegally detained, innocent man and the rest of #Ukraine’s political prisoners. #FreeSentsov #SaveOlegSentsov”).

¹¹⁵ *Human Rights Council Discusses Oral Update on the Human Rights Situation in Ukraine*, OFFICE OF THE U.N. HIGH COMM’R FOR HUMAN RIGHTS, July 3, 2018, *available at* <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23320&LangID=E> (Estonia said that “Russia must release all political prisoners detained in illegally annexed Crimea”).

¹¹⁶ Tweet by Sweden Minister for Foreign Affairs Margot Wallström (@margotwallstrom), TWITTER, Aug. 9, 2018, 6:22 am, *available at* <https://twitter.com/margotwallstrom/status/1027545747582005248> (“Deeply concerning reports on Oleg Sentsov’s deteriorating health condition. His detention violates international law and is based on a legal process which did not meet elementary standards of justice. We call on Russia to release him & other illegally detained Ukrainian citizens.”).

¹¹⁷ *Situation of Oleg Sentsov*, FRANCE DIPLOMATIE, Aug. 22, 2018, *available at* <https://www.diplomatie.gouv.fr/en/country-files/ukraine/events/article/situation-of-oleg-sentsov-22-08-18>.

Finland,¹¹⁸ and Latvia¹¹⁹ have variously raised the cases of Ukrainian political prisoners, especially Oleg Sentsov. Lithuania and Poland have gone further, with their parliaments adopting resolutions calling for the prisoners' release.¹²⁰ Twenty-six additional countries (as members of the European Union) signed onto a June 2018 letter asking the UN Secretary General to help free the Kremlin's Ukrainian political prisoners.¹²¹

As might be expected, Ukraine has been particularly outspoken on this issue. For example, on March 1, 2018, Ukraine's parliament released a list of more than 50 Ukrainians being detained by the Kremlin – including Oleg Sentsov, Oleksandr Kolchenko, Vladimir Balukh, and Stanislav Klykh – and appealed to the international community to help secure their release.¹²² In May, the Ukrainian Minister for Foreign Affairs called out the Kremlin at the UN Security Council, noting that “the phenomenon of political prisoners has become the sad reality in the Russia-occupied

¹¹⁸ Tweet by Finland Ministry for Foreign Affairs (@Ulkoministerio), TWITTER, Aug. 13, 2018, 5:23 am, *available at* <https://twitter.com/Ulkoministerio/status/1028980421500063744> (“FM #Soini: Health of Ukrainian film director Oleg #Sentsov in prison is deteriorating rapidly. We expect #Russia to provide him with medical treatment and to release all illegally detained Ukrainian citizens. #FreeSentsov”).

¹¹⁹ Tweet by Latvia Minister of Foreign Affairs Edgars Rinkēvičs (@edgarsrinkevics), TWITTER, Aug. 16, 2018, 12:27 am, *available at* <https://twitter.com/edgarsrinkevics/status/1029993144266448901> (“I call on Russia for immediate and unconditional release of unlawfully convicted Ukrainian film director Oleg Sentsov. His hunger strike lasting more than 90 days causes deep concerns for his health #FreeSentsov”); Tweet by Latvia Minister of Foreign Affairs Edgars Rinkēvičs (@edgarsrinkevics), TWITTER, Sept. 29, 2018, 8:04 am, *available at* <https://twitter.com/edgarsrinkevics/status/1046053075746770944> (“This picture speaks more than thousand words, addressing #UNGA73 I urged Russia to immediately release Oleg Sentsov and other political prisoners #freeolegsentsov”); and Tweet by Latvia Minister of Foreign Affairs Edgars Rinkēvičs (@edgarsrinkevics), TWITTER, Oct. 25, 2018, 3:01 am, *available at* <https://twitter.com/edgarsrinkevics/status/1055398930417152002> (“Congratulations to Oleg #Sentsov who was awarded Sakharov Prize! He is a symbol of the resistance against oppression and intimidation. I renew my call on Russia to free him immediately #freeolegsentsov”).

¹²⁰ *Resolution Regarding Oleg Sentsov and Other Political Prisoners*, SEIMAS OF THE REPUBLIC OF LITHUANIA, adopted June 27, 2018, *available at* <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/57bffd07b8f1e89188e16a6495e98c?jfwid=16a7xc2fgk> and *Polish Sejm Calls on Russia To Release Ukrainian Political Prisoners*, UNIAN, June 15, 2018, *available at* <https://www.unian.info/politics/10154423-polish-sejm-calls-on-russia-to-release-ukrainian-political-prisoners.html>.

¹²¹ *Ukraine, 37 Other Countries Call On UN Secretary-General To Help Free Sentsov*, UKRINFORM, June 15, 2018, *available at* <https://www.ukrinform.net/rubric-society/2481017-ukraine-37-other-countries-call-on-un-secretarygeneral-to-help-free-sentsov.html> (the additional countries are: Turkey, Georgia, Moldova, Australia, Iceland, Liechtenstein, Switzerland, Austria, Italy, Belgium, Bulgaria, Croatia, Luxembourg, Cyprus, Malta, Czechia, Netherlands, Denmark, Portugal, Romania, Slovakia, Slovenia, Greece, Spain, Hungary, and Ireland).

¹²² *Ukraine Shows Full List of “Kremlin Prisoners,”* UNIAN, Mar. 1, 2018, *available at* <https://www.unian.info/politics/10027019-ukraine-shows-full-list-of-kremlin-prisoners.html>.

Crimea.”¹²³ That same month, Ukrainian President Petro Poroshenko demanded “the immediate release of Ukrainian servicemen, Ukrainian activists and volunteers retained in the occupied territory and political prisoners illegally retained in the occupied Crimea and prisons of the Russian Federation.”¹²⁴ During Russia’s 2018 Universal Periodic Review before the UN Human Rights Council, Ukraine made a recommendation to “[i]mmediately release Ukrainian citizens who have been unlawfully detained or sentenced.”¹²⁵ In August, the Embassy of Ukraine to the UK warned that Oleg Sentsov would “become another victim of [a] Stalin kind regime,”¹²⁶ Ukraine’s Permanent Mission to the UN called on the Secretary-General and the OHCHR to address “the plight of all those unlawfully detained,”¹²⁷ and the Government stated to the OSCE that “[t]he list of Ukrainian political prisoners, unlawfully held by the Russian authorities, contains more than 70 names and it is constantly growing. These individuals have never perpetrated any crime and were imprisoned on bogus charges, on the basis of false ‘confessions’ obtained under torture, fake witnesses, planted ammunition.”¹²⁸

The case of opposition leader and former political prisoner Alexey Navalny has received significant attention. During Navalny’s 2013 trial on corruption charges, Latvian Foreign Minister Edgars Rinkēvičs noted that it showed that “politically motivated justice is well established in Russia” and insisted that the “Council of Europe [and] OSCE should not be silent

¹²³ Pavlo Klimkin, Minister for Foreign Affairs of Ukraine, Statement at the UNSC Meeting on Ukraine, May 30, 2018, *available at* <https://mfa.gov.ua/en/about-mfa/minister/speeches/6206-vistup-ministra-zakordonnih-sprav-ukrajini-pavla-klimkina-na-zasidanni-radi-bezpeki-oon-shhodo-situacii-v-ukrajini-movoju-originalu>.

¹²⁴ *Presidents of Ukraine and Germany Discussed the Release of Ukrainian Hostages Who Are in Jail In the Occupied Territory and in Russia*, PRESIDENT OF UKRAINE, May 29, 2018, *available at* <https://www.president.gov.ua/en/news/prezidenti-ukrayini-ta-nimechchini-obgovorili-pitannya-zviln-47822> (calling for “immediate release” of “political prisoners illegally retained in the . . . prisons of the Russian Federation”).

¹²⁵ REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW: RUSSIAN FEDERATION, U.N. HUMAN RIGHTS COUNCIL, 39th Sess., U.N. Doc. A/HRC/39/13, June 12, 2018, at ¶ 147.131, *available at* <https://undocs.org/A/HRC/39/13>.

¹²⁶ Tweet by Ukraine’s Embassy to U.K. (@UkrEmbLondon), TWITTER, Aug. 15, 2018, 1:51 am, *available at* <https://twitter.com/UkrEmbLondon/status/1029651687810760704/photo/1>.

¹²⁷ *Comment of the Permanent Mission of Ukraine to the United Nations*, PERMANENT MISSION OF UKRAINE TO THE UNITED NATIONS IN NEW YORK, Aug. 30, 2018, *available at* <https://ukraineun.org/en/press-center/337-comment-of-the-permanent-mission-of-ukraine-to-the-united-nations/>.

¹²⁸ *Statement on Illegal Detention of Oleg Sentsov by the Russian Federation*, PERMANENT MISSION OF UKRAINE TO THE INTERNATIONAL ORGANIZATIONS IN VIENNA, Aug. 31, 2018, *available at* <https://www.osce.org/permanent-council/392588?download=true>.

on this.”¹²⁹ When Navalny was convicted in a separate trial in December 2014, Germany’s Human Rights Commissioner stated that the “court ruling is a further blow against Russia’s critical civil society.”¹³⁰ When Navalny was convicted during a February 2017 retrial, the UK’s Foreign Office remarked that the “judgement once again raises questions about the selective application of the rule of law in Russia” and “reflects a worrying trend in Russia where the space for public debate and legitimate opposition is shrinking ever further,”¹³¹ and Germany’s Foreign Office took note of the conviction “with concern.”¹³²

The Kremlin’s targeting of Memorial HRC and related organizations has been widely criticized. When Russia tried to liquidate the Russian Historical and Educational Society Memorial in 2014, the UK Foreign Office urged against this action,¹³³ and Canada’s Minister of Foreign Affairs retweeted a statement that “Russia without Memorial is no Russia that I recognise, but something scary and dark and horrible.”¹³⁴ After the International Historical, Educational, Charitable and Human Rights Society Memorial (the international legal entity uniting all the other Memorial organizations and legal entities) was declared to be a “foreign agent” in October 2016, the Germany Foreign Office called the decision “incomprehensible,”¹³⁵ and the UK said this was a “clear example[] of the rapidly shrinking space for civil society in Russia.”¹³⁶ In January 2018, the arrest and detention of Oyub Titiev, head of Memorial HRC’s Grozny

¹²⁹ Tweet by Latvia Minister of Foreign Affairs Edgars Rinkēvičs (@edgarsrinkevics), TWITTER, July 18, 2013, 3:52 am, *available at* <https://twitter.com/edgarsrinkevics/status/357815194761695232>.

¹³⁰ Press Release, *Human Rights Commissioner Dismayed by Navalny Verdict*, AUSTRALIA FEDERAL FOREIGN OFFICE, Dec. 30, 2014, *available at* <https://www.auswaertiges-amt.de/en/newsroom/news/141230-mrhh-nawalny/267916>.

¹³¹ Press Release, *Foreign Office Concerned at Conviction of Russian Opposition Politician Alexei Navalny*, U.K. FOREIGN & COMMONWEALTH OFFICE, Feb. 9, 2017, *available at* <https://www.gov.uk/government/news/foreign-office-concerned-at-conviction-of-russian-opposition-politician-alexei-navalny>.

¹³² Tweet by German Foreign Office (@GermanyDiplo), TWITTER, Feb. 8, 2017, 8:48 am, *available at* <https://twitter.com/GermanyDiplo/status/829371212992110593>.

¹³³ Tweet by U.K. Foreign Office (@foreignoffice), TWITTER, Nov. 12, 2014, 8:10 am, *available at* <https://twitter.com/foreignoffice/status/532566168511709184>.

¹³⁴ Tweet by Canada Minister of Foreign Affairs Chrystia Freeland (@cafreeland), TWITTER, Oct. 10, 2014, 11:07 am, *available at* <https://twitter.com/cafreeland/status/520636843319369728>.

¹³⁵ Tweet by German Foreign Office (@GermanyDiplo), TWITTER, Dec. 21, 2016, 3:02 am, *available at* <https://twitter.com/GermanyDiplo/status/811527228039294976>.

¹³⁶ Press Release, *UK Concerned by Russian Government’s Decision to Label the Civil Society Organisation Memorial as a “Foreign Agent,”* U.K. FOREIGN & COMMONWEALTH OFFICE, Oct. 6, 2016, *available at* <https://www.gov.uk/government/news/uk-concerned-by-russian-governments-decision-to-label-the-civil-society-organisation-memorial-as-a-foreign-agent>.

office, was condemned by Sweden, the US, the UK, and Lithuania,¹³⁷ with the UK noting that “significant doubts have been raised about the legitimacy” of the allegations against him¹³⁸ and the US calling them “baseless drug charges.”¹³⁹

Political prisoners detained because of their religion have been also highlighted. The US Commission on International Religious Freedom has declared several of the Kremlin’s current and former political prisoners to be prisoners of conscience, including Dennis Christensen (Jehovah’s Witness), Ivan Matsitsky (Scientologist), and Bagir Kazikhanov (Muslim).¹⁴⁰ US State Department Spokesperson Heather Nauert also called for the release of the detained Jehovah’s Witnesses and “all the other 100+ religious prisoners, many held on baseless extremism charges.”¹⁴¹

¹³⁷ Tweet by Sweden Minister for Foreign Affairs Margot Wallström (@margotwallstrom), TWITTER, Jan. 11, 2018, 5:17 am, *available at* <https://twitter.com/margotwallstrom/status/951442913069805568> (“Following with great concern reports on the detention of Russian human rights activist Oyub Titiev (Memorial Organization) in Chechnya.”); Press Statement, *The Detention of Oyub Titiev of Russian NGO “Memorial,”* U.S. STATE DEP’T SPOKESPERSON HEATHER NAUERT, Jan. 10, 2018, *available at* <https://www.state.gov/r/pa/prs/ps/2018/01/276951.htm> (“We are troubled by the news that the head of the local Chechen branch office of the Russian human rights NGO Memorial, Oyub Titiev, has been arrested We call on Chechen authorities to immediately release Mr. Titiev”); Press Release, *Minister for Europe’s Statement on Human Rights in Russia Following the Arrest of Oyub Titiev*, U.K. FOREIGN & COMMONWEALTH OFFICE, Jan. 18, 2018, *available at* <https://www.gov.uk/government/news/minister-for-europe-statement-on-human-rights-in-russia> (“The decision of the Chechen authorities to charge Oyub Titiev, the Director of Russian human rights NGO Memorial’s office in Chechnya, and remand him in custody until 9 March, is extremely concerning.”); Tweet by Lithuania MFA (@LithuaniaMFA), TWITTER, Jan. 9, 2018, 11:47 pm, *available at* <https://twitter.com/LithuaniaMFA/status/950997448566231042> (“Another attack vs leading #Russia’s #HumanRights NGO @hrc_memorial aiming to put human rights behind bars in #Chechnya”); and Tweet by Lithuania Minister of Foreign Affairs Linas Linkevicius (@LinkeviciusL), TWITTER, June 27, 2018, 11:52 pm, *available at* <https://twitter.com/LinkeviciusL/status/1012227221677903872> (“We call on Russia to immediately release illegally detained prominent #Memorial’s representatives Oyub Titiev and Yuri Dmitriev. @MemorialMoscow”).

¹³⁸ Press Release, *Minister for Europe’s Statement on Human Rights in Russia Following the Arrest of Oyub Titiev*, U.K. FOREIGN & COMMONWEALTH OFFICE, Jan. 18, 2018, *available at* <https://www.gov.uk/government/news/minister-for-europe-statement-on-human-rights-in-russia>.

¹³⁹ Tweet by U.S. State Dep’t Spokesperson Heather Nauert (@statedeptspox), TWITTER, June 21, 2018, 11:10 am, *available at* <https://twitter.com/statedeptspox/status/1009861134525063171>; *see also* Tweet by U.S. Dep’t of State (@StateDept), TWITTER, Jan. 10, 2018, 8:08 am, *available at* <https://twitter.com/StateDept/status/951123498294005761> (“We are troubled by the news that the head of the local Chechen branch office of #Russia’s NGO @hrc_memorial, Oyub Titiev, has been arrested.”).

¹⁴⁰ USCIRF’s *Religious Prisoners of Conscience Project*, U.S. COMM’N ON INT’L RELIGIOUS FREEDOM, accessed Nov. 24, 2018, *available at* <https://www.uscifr.gov/uscirfs-religious-prisoners-conscience-project>.

¹⁴¹ Tweet by U.S. State Dep’t Spokesperson Heather Nauert (@statedeptspox), TWITTER, June 24, 2018, 11:14 am, *available at* <https://twitter.com/statedeptspox/status/1010949392436776965>.

Germany's Foreign Office noted the ban on Jehovah's Witnesses "makes the peaceful enjoyment of the right to freedom of religion and thought a criminal offence" and "opened the floodgates to the criminal prosecution of members of this religious group."¹⁴² The UK said that the ban "criminalizes the peaceful worship of 175,000 Russian citizens and contravenes the right to religious freedom."¹⁴³

d. Civil Society

Human rights organizations have played a leading role in raising awareness about the Kremlin's political prisoners.

Free Russia Foundation: Since its establishment, Free Russia Foundation (FRF) has been advocating for the release of the Kremlin's Ukrainian political prisoners, including Nadiya Savchenko, Roman Sushchenko, Oleg Sentsov, and the Crimean Tatars, among others. Advocating for political prisoners is explicitly part of FRF's core work,¹⁴⁴ and its other projects are closely related to political prisoners. For example, its Political Opposition Program supports Russia's political opposition¹⁴⁵ – a commonly targeted group whose members often become political prisoners. FRF also "offers emergency assistance to journalists, civil activists, [and] minorities suffering harassment by Putin's regime,"¹⁴⁶ and it has provided legal and financial assistance to many of the Kremlin's political prisoners. FRF has repeatedly spoken out regarding problematic and repressive laws,¹⁴⁷ political prisoners generally,¹⁴⁸ and individual

¹⁴² Tweet by German Foreign Office (@GermanyDiplo), TWITTER, July 19, 2017, 7:45 am, available at <https://twitter.com/GermanyDiplo/status/887684706325512193>.

¹⁴³ Press Release, *Minister for Human Rights Criticises Russian Supreme Court Ruling for Labelling Jehovah's Witnesses as 'Extremist'*, U.K. Foreign & Commonwealth Office, Apr. 21, 2017, available at <https://www.gov.uk/government/news/minister-for-human-rights-criticises-russian-supreme-court-ruling-for-labelling-jehovahs-witnesses-as-extremist> (quoting FCO Minister Baroness Anelay).

¹⁴⁴ *Programs*, FREE RUSSIA FOUNDATION, accessed Jan. 11, 2019, available at <http://www.4freerussia.org/140/> (under the Rule of Law project, Free Russia Foundation advocates for political prisoners by "actively campaigning for their release by generating international media attention and briefing federal agencies, lawmakers and the NGO community").

¹⁴⁵ *Id.*

¹⁴⁶ *Free Russia Foundation 2018: A Year in Review*, FREE RUSSIA FOUNDATION, accessed Jan. 11, 2019, available at <http://www.4freerussia.org/free-russia-foundation-2018-a-year-in-review/>.

¹⁴⁷ *Undesirables*, FREE RUSSIA FOUNDATION, accessed Jan. 11, 2019, available at <http://www.4freerussia.org/undesirables/> and MELISSA HOOPER & GRIGORY FROLOV, RUSSIA'S BAD EXAMPLE, FREE RUSSIA FOUNDATION & HUMAN RIGHTS FIRST, Feb. 2016, available at <http://www.4freerussia.org/wp-content/uploads/2016/03/Russias-Bad-Example.pdf>.

¹⁴⁸ Tweet by Free Russia (@4freerussia_org), TWITTER, Aug. 21, 2018, 11:53 am, available at https://twitter.com/4freerussia_org/status/1031977488354824192 ("Free Russia Foundation and

political prisoners.¹⁴⁹ It also works to raise awareness of the Kremlin's political prisoners among Western audiences. Natalia Arno, President of the Free Russia Foundation, recently wrote: "Convicting political opponents on manufactured charges and bogus evidence is one of the hallmarks of Putin's regime."¹⁵⁰

Boris Nemtsov Foundation for Freedom: The Boris Nemtsov Foundation for Freedom honors the work and activism of Boris Nemtsov, who was one of Russia's most prominent opposition politicians and leaders – and an outspoken critic of Putin – until his murder in 2015. Created by his daughter, the Foundation engages in a wide range of advocacy relating to human rights and the rule of law, such as monitoring political persecution,¹⁵¹ promoting EU–Russia dialogue,¹⁵² and highlighting the work of specific human rights defenders (through the Boris Nemtsov Prize

Free Russia House in Kyiv joins many other organizations around the world in the call for the immediate release . . . political prisoners in Russia."); Tweet by Free Russia (@4freerussia_org), TWITTER, July 4, 2018, 7:01 am, *available at* https://twitter.com/4freerussia_org/status/1014509397152854016 ("There are more than 156 political prisoners in Russia today – a higher number than in the late period of the Soviet Union. The issue should be raised by the U.S. administration at the upcoming summit on July 16."); Tweet by Free Russia (@4freerussia_org), TWITTER, Mar. 30, 2017, 6:35 am, *available at* https://twitter.com/4freerussia_org/status/847442250875363330 ("We have over 100 political prisoners in Russia.") (quoting Vladimir Kara-Murza); and Tweet by Free Russia (@4freerussia_org), TWITTER, Sept. 17, 2018, 12:43 pm, *available at* https://twitter.com/4freerussia_org/status/1041774545575784453 ("Free Russia Foundation joins those who voice support for releasing . . . Ukrainian political prisoners in Russia").

¹⁴⁹ *Priority Number One: Save Oleg Sentsov*, FREE RUSSIA FOUNDATION, accessed Jan. 11, 2019, *available at* <http://www.4freerussia.org/priority-number-one-save-oleg-sentsov/>; *Ildar Dadin Is Finally Released from Prison*, FREE RUSSIA FOUNDATION, Feb. 27, 2017, *available at* <http://www.4freerussia.org/ildar-dadin-is-finally-released-from-prison/#more-7273>; Tweet by Free Russia (@4freerussia_org), TWITTER, Aug. 30, 2016, 1:42 pm, *available at* https://twitter.com/4freerussia_org/status/770723316558655488 ("Free Russia Foundation urges Russian government to immediately release Ilmi Umerov"); Tweet by Free Russia (@4freerussia_org), TWITTER, May 5, 2015, 6:23 am, *available at* https://twitter.com/4freerussia_org/status/595579677458202624 (highlighting a rally for the Bolotnaya Square political prisoners in New York City); and Tweet by Free Russia (@4freerussia_org), TWITTER, Apr. 14, 2015, 2:11 pm, *available at* https://twitter.com/4freerussia_org/status/588087320856825856 ("Draft resolution calling for the release of Savchenko will be considered by the US Congress tomorrow").

¹⁵⁰ Natalia Arno, *Why We Must Speak out About Oleg Sentsov Now*, ATLANTIC COUNCIL, Sept. 11, 2018, *available at* <https://www.atlanticcouncil.org/blogs/ukrainealert/why-we-must-speak-out-about-oleg-sentsov-now>.

¹⁵¹ *Monitor*, BORIS NEMTSOV FOUNDATION FOR FREEDOM, accessed Feb. 28, 2019, *available at* <https://nemtsovfund.org/en/category/monitor/>.

¹⁵² *Boris Nemtsov Fund*, BORIS NEMTSOV FOUNDATION FOR FREEDOM, accessed Feb. 28, 2019, *available at* <https://nemtsovfund.org/en/boris-nemtsov-forum/>.

for Courage).¹⁵³ The Foundation's Chairman, Vladimir Kara-Murza, is currently one of the most outspoken voices internationally regarding the Kremlin's political prisoners – he has written extensively on this issue,¹⁵⁴ given testimony before international bodies and parliaments in Europe and North America,¹⁵⁵ and advocated for Magnitsky laws throughout the world.¹⁵⁶ He has also led the international efforts to commemorate Boris Nemtsov, including with street designations in Washington DC and Vilnius¹⁵⁷ and the naming of a square after him near the Russian embassy in Kyiv.¹⁵⁸

Human Rights Foundation: The Human Rights Foundation (HRF) has frequently spoken out against the Kremlin, including its repressive

¹⁵³ *Boris Nemtsov Prize*, BORIS NEMTSOV FOUNDATION FOR FREEDOM, accessed Feb. 28, 2019, available at <https://nemtsovfund.org/en/boris-nemtsov-prize/>.

¹⁵⁴ See, e.g., Vladimir Kara-Murza, *Trump Should Ask Putin to Release Russian Political Prisoners*, WASHINGTON POST, July 13, 2018, available at https://www.washingtonpost.com/news/democracy-post/wp/2018/07/13/trump-should-ask-putin-to-release-russian-political-prisoners/?utm_term=.fccc03c67c18; Vladimir Kara-Murza, *For Russia's Longest-Serving Political Prisoner, It's 15 Years and Counting*, WASHINGTON POST, June 19, 2018, available at https://www.washingtonpost.com/news/democracy-post/wp/2018/06/19/for-russias-longest-serving-political-prisoner-its-15-years-and-counting/?utm_term=.009acb7f94c5 (discussing Alexey Pichugin); and Vladimir Kara-Murza, *Only Western Pressure Can Save Oleg Sentsov*, WASHINGTON POST, June 4, 2018, available at https://www.washingtonpost.com/news/democracy-post/wp/2018/06/04/only-western-pressure-can-save-oleg-sentsov/?utm_term=.20b3d39ac071.

¹⁵⁵ See, e.g., *Russian Justice Minister Confronted by Dissident in UN Rights Debate*, UN WATCH, Sept. 21, 2018, available at <https://www.unwatch.org/russian-justice-minister-confronted-dissident-un-rights-debate/>; Vladimir Kara-Murza, Statement to the Commission on Security and Cooperation in Europe: Democracy and Human Rights Abuses in Russia: No End in Sight, Apr. 26, 2017, available at

<https://www.csce.gov/sites/helsinkicommission.house.gov/files/III.A.%20Kara%20Murza%20Testimony.pdf>; and Vladimir Kara-Murza, Statement to the U.S. Senate Committee on Appropriations:

Civil Society Perspectives on Russia, Mar. 29, 2017, available at <https://www.appropriations.senate.gov/imo/media/doc/032917-Kara-Murza-Testimony.pdf>.

¹⁵⁶ Michael Petrou, *Hitting Russia's 'Crooks and Abusers' Where It Hurts – In Canada*, MACLEANS, Dec. 13, 2012, available at <https://www.macleans.ca/uncategorized/hitting-russias-crooks-and-abusers-where-it-hurts-in-canada/> and Vladimir Kara-Murza, *Who Campaigned for Magnitsky Act, to Accept IRI's 2015 Freedom Award on Behalf of Boris Nemtsov*, INT'L REPUBLICAN INST., Aug. 31, 2015, available at <https://www.iri.org/resource/vladimir-kara-murza-who-campaigned-magnitsky-act-accept-iri%E2%80%99s-2015-freedom-award-behalf>.

¹⁵⁷ *Boris Nemtsov Plaza Unveiled In Washington*, RADIO FREE EUROPE / RADIO LIBERTY, Feb. 27, 2018, available at <https://www.rferl.org/a/boris-nemtsov-plaza-washington/29066220.html> and “You Can Kill a Person, But Your Memory Cannot Be Killed”: The Square Named After Boris Nemtsov Was Solemnly Opened in Vilnius, RU.DELFI, Aug. 24, 2018, available at <https://ru.delfi.lt/news/live/cheloveka-mozhno-ubit-a-pamyat-nelzya-v-vilnyuse-torzhestvenno-otkryt-skver-imeni-borisa-nemcova.d?id=78893815> [in Russian].

¹⁵⁸ *Square Near Russian Embassy in Kyiv Named After Nemtsov*, KYIV POST, Nov. 15, 2018, available at <https://www.kyivpost.com/ukraine-politics/square-near-russian-embassy-in-kyiv-named-after-nemtsov.html>.

laws,¹⁵⁹ the detention of protestors,¹⁶⁰ and specific political prisoners.¹⁶¹ HRF also produces the annual Oslo Freedom Forum, a human-rights conference which has featured leading dissident voices such as Garry Kasparov, Vladimir Kara-Murza, and Zhanna Nemtsova, and former political prisoners Nadezhda Tolokonnikova, Maria Alyokhina, and Mikhail Khodorkovsky.¹⁶² In addition, HRF awarded its 2014 Václav Havel International Prize for Creative Dissent to Pussy Riot¹⁶³ (soon after two of its members were released from prison). Garry Kasparov, the Human Rights Foundation's Chairman and a former prisoner of

¹⁵⁹ Tweet by HRF (@HRF), TWITTER, June 28, 2016, 6:43 am, *available at* <https://twitter.com/HRF/status/747787569895739393> ("Authorities charge activist under 'foreign agents' law"); Tweet by HRF (@HRF), TWITTER, Apr. 29, 2014, 9:26 am, *available at* <https://twitter.com/HRF/status/461179659007586304> ("Putin foes fear Internet crackdown as 'blogger law' sails through"); Tweet by HRF (@HRF), TWITTER, Nov. 14, 2012, 8:44 am, *available at* <https://twitter.com/HRF/status/268756394927345664> ("#Putin approves sweeping new treason law that can be used even if no state secrets are divulged"); and Tweet by HRF (@HRF), TWITTER, June 5, 2012, 1:10 pm, *available at* <https://twitter.com/HRF/status/210101282646663170> ("#Russia debates new bill to raise fines for unauthorized street protestors and mass gatherings: from \$60 to \$9000.").

¹⁶⁰ Tweet by HRF (@HRF), TWITTER, Mar. 26, 2017, 9:46 am, *available at* <https://twitter.com/HRF/status/846040601325846528> (showing photo from anti-corruption protests); Tweet by HRF (@HRF), TWITTER, Feb. 6, 2015, 9:25 am, *available at* <https://twitter.com/HRF/status/563750303603101697> ("Putin is jailing more protestors in attempt to prevent mass demonstrations over Western sanctions effects"); Tweet by HRF (@HRF), TWITTER, Oct. 9, 2013, 7:52 am, *available at* <https://twitter.com/HRF/status/387953757809819648> ("#Russia courts send harsh anti-protest message in two decisions"); and Tweet by HRF (@HRF), TWITTER, May 7, 2012, 2:45 pm, *available at* <https://twitter.com/HRF/status/199615961119211523> ("More than 250 arrested in #Russia protesting Putin's swearing in as president").

¹⁶¹ Tweet by HRF (@HRF), TWITTER, Jan. 30, 2018, 7:07 am, *available at* <https://twitter.com/HRF/status/958355876913479686> (discussing the European Court of Human Rights decision regarding political prisoners Andrei Barabanov, Aleksey Polikhovich, and Stepan Zimin); Tweet by HRF (@HRF), TWITTER, Nov. 4, 2013, 11:32 am, *available at* <https://twitter.com/HRF/status/397446364499824640> (mentioning the "70 political prisoners in prison today"); Tweet by HRF (@HRF), TWITTER, Oct. 25, 2013, 7:03 am, *available at* <https://twitter.com/HRF/status/393739649753317376> (mentioning Mikhail Khodorkovsky); and Tweet by HRF (@HRF), TWITTER, Aug. 16, 2012, 11:03 am, *available at* <https://twitter.com/HRF/status/236161162843148288> ("HRF legal report on the Pussy Riot case concludes: Punk rock band should be acquitted").

¹⁶² *Event: 2018 Oslo Freedom Forum in Taiwan*, OSLO FREEDOM FORUM, *accessed* Jan. 7, 2019, *available at* <https://oslofreedomforum.com/speakers/event/2018-oslo-freedom-forum-in-taiwan> (Vladimir Kara-Murza); *Speakers From 2017 Oslo Freedom Forum*, OSLO FREEDOM FORUM, *accessed* Jan. 7, 2019, *available at* <https://oslofreedomforum.com/speakers/event/2017-oslo-freedom-forum> (Zhanna Nemtsova); and *Speakers From 2014 Oslo Freedom Forum*, OSLO FREEDOM FORUM, *accessed* Jan. 7, 2019, *available at* <https://oslofreedomforum.com/speakers/event/2014-oslo-freedom-forum> (Garry Kasparov, Nadezhda Tolokonnikova, Maria Alyokhina, and Mikhail Khodorkovsky).

¹⁶³ 2014 ANNUAL REPORT, HUMAN RIGHTS FOUNDATION, at 10, *available at* <https://hrf.org/wp-content/uploads/2018/09/2014-1.pdf>.

conscience,¹⁶⁴ has repeatedly spoken about political prisoners generally, as well as specific individuals.¹⁶⁵ A June 2017 side event at the Parliamentary Assembly of the Council of Europe featured Kasparov, who used Alexey Pichugin's case to highlight how the Kremlin "is making a mockery of European courts and concepts of justice by repeatedly ignoring decisions against it."¹⁶⁶ In March 2018, the Human Rights Foundation also organized the inaugural *PutinCon*, a unique conference offering a comprehensive review of Putin and his reach; one session explored Russia's police state and political assassinations by the Kremlin.¹⁶⁷ Kasparov has long advocated for human rights and the rule of law in Russia, including by starting the United Civil Front movement, aimed at protecting electoral democracy,¹⁶⁸ and Other Russia, an opposition coalition.¹⁶⁹

¹⁶⁴ Press Release, *Russian Federation: Systematic Repression on Eve of Elections*, AMNESTY INT'L, Nov. 28, 2007, available at <https://www.amnesty.org/en/press-releases/2007/11/russian-federation-systematic-repression-eve-elections-20071128/>.

¹⁶⁵ Tweet by Garry Kasparov (@Kasparov63), TWITTER, June 27, 2017, 3:40 am, available at <https://twitter.com/kasparov63/status/879650693354844161> ("Alexey Pichugin is Putin's political prisoner for 14 yrs & Russia ignores EU court decisions."); Tweet by Garry Kasparov (@Kasparov63), TWITTER, Nov. 2, 2016, 8:59 am, available at <https://twitter.com/Kasparov63/status/793844869705981952> ("Kremlin shuts down Amnesty International office. Awkward to have them around when you're turning a whole country into political prisoners."); Tweet by Garry Kasparov (@Kasparov63), TWITTER, Dec. 8, 2015, 11:02 am, available at <https://twitter.com/Kasparov63/status/674303009313173504> ("Mark Dec 7 as date of Putin's Russia's first official political prisoner, Ildar Dadin. No criminal pretext, no more charades. 3 yr sentence."); Tweet by Garry Kasparov (@Kasparov63), TWITTER, Feb. 13, 2015, 10:30 am, available at <https://twitter.com/Kasparov63/status/566303320374251520> ("Putin still keeping Nadiya Savchenko hostage."); Tweet by Garry Kasparov (@Kasparov63), TWITTER, Jan. 26, 2015, 8:40 am, available at <https://twitter.com/Kasparov63/status/559752661663494145> ("For political prisoners in Putin's Russia, the time before the trial is often deadly. Profile of her. #FreeSavchenko"); Tweet by Garry Kasparov (@Kasparov63), TWITTER, Feb. 24, 2014, 2:21 am, available at <https://twitter.com/Kasparov63/status/437895082188873728> ("7 Russians just sentenced to 2.5 to 4 years for attending Bolotnaya Square protest, the latest members of Putin's political prisoner list."); Tweet by Garry Kasparov (@Kasparov63), TWITTER, Dec. 22, 2013, 9:24 am, available at <https://twitter.com/Kasparov63/status/414808677615284224> ("Do not forget that many of Khodorkovsky's YUKOS colleagues are still in jail, along with many other political prisoners. This is no 'thaw'."); and Tweet by Garry Kasparov (@Kasparov63), TWITTER, July 18, 2013, 11:57 am, available at <https://twitter.com/Kasparov63/status/357937305488588801> ("My full support for my colleague @navalny, the newest political prisoner of Putin's regime.").

¹⁶⁶ Garry Kasparov, FACEBOOK, June 27, 2017, available at <https://www.facebook.com/GKKasparov/posts/10155518597413307>.

¹⁶⁷ *PutinCon*, PUTINCON.COM, accessed Feb. 20, 2019, available at <https://putincon.com/>.

¹⁶⁸ *Russian Chess Legend Kasparov to Establish United Civil Front*, MOSNEWS.COM, May 18, 2005, available at <https://archive.is/20070509165213/http://www.mosnews.com/news/2005/05/18/kasparovfront.shtml#selection-1381.0-1384.0>.

¹⁶⁹ *Kasparov: Russia Increasingly Losing Its Standing On World Stage*, RADIO FREE EUROPE / RADIO LIBERTY, Dec. 14, 2018, available at <https://www.rferl.org/a/kasparov-russia-increasingly-losing-its-standing-on-world-stage/29657002.html>.

Lantos Foundation for Human Rights and Justice: The Lantos Foundation – named after US politician and human rights advocate Tom Lantos – works on a variety of human rights issues, including religious freedom, the rule of law, and corporate responsibility.¹⁷⁰ It has condemned the “show trial” of Mikhail Khodorkovsky,¹⁷¹ the “outrageous persecution” of Jehovah’s Witnesses,¹⁷² the Kremlin’s abuse of INTERPOL,¹⁷³ and the December 2018 arrest of veteran human rights campaigner Lev Ponomarev.¹⁷⁴ The Foundation also produced a documentary film on Mikhail Khodorkovsky¹⁷⁵ and featured Khodorkovsky as the inaugural speaker of the now-annual Lantos Rule of Law Lecture.¹⁷⁶ Dr. Katrina Lantos Swett, President of the Lantos Foundation, has written about the Kremlin’s recently enacted repressive laws,¹⁷⁷ given testimony about the

¹⁷⁰ *About*, LANTOS FOUNDATION FOR HUMAN RIGHTS AND JUSTICE, accessed Mar. 15, 2019, available at <https://www.lantosfoundation.org/thefoundation>.

¹⁷¹ Katrina Lantos Swett, *Statement on Verdict in Second Show Trial of Mikhail Khodorkovsky*, LANTOS FOUNDATION FOR HUMAN RIGHTS AND JUSTICE, Dec. 27, 2010, available at <https://www.lantosfoundation.org/news/2015/9/21/statement-on-verdict-in-second-show-trial-of-mikhail-khodorkovsky>.

¹⁷² Tweet by Lantos Foundation (@LantosFndn), TWITTER, June 22, 2018, 9:55 am, available at <https://twitter.com/LantosFndn/status/1010204860720041987>; see also Tweet by Lantos Foundation (@LantosFndn), TWITTER, July 17, 2017, 11:07 am, available at <https://twitter.com/LantosFndn/status/887010950687096834> (“We condemn Russia’s outrageous decision to ban an entire religion – Jehovah’s Witnesses.”).

¹⁷³ Tweet by Lantos Foundation (@LantosFndn), TWITTER, May 28, 2013, 12:13 pm, available at <https://twitter.com/LantosFndn/status/339459371903881216> (“We urge Interpol not to become embroiled in Russia’s latest attempt to make a mockery of international justice.”) (quoting Katrina Lantos Swett).

¹⁷⁴ Lantos Foundation for Human Rights and Justice, *Kremlin Jails a Veteran Human Rights Activist — For a Facebook Post*, FACEBOOK, Dec. 12, 2018, available at <https://www.facebook.com/TheLantosFoundation/posts/2018265221585882>.

¹⁷⁵ Lantos Foundation, *Mikhail Khodorkovsky – The Man Who Believed He Could Change Russia*, YOUTUBE, Feb. 13, 2012, available at https://www.youtube.com/watch?v=jB5hzb_S_H0.

¹⁷⁶ *The First Annual Lantos Rule of Law Lecture*, LANTOS FOUNDATION FOR HUMAN RIGHTS AND JUSTICE, Oct. 12, 2017, available at <https://www.lantosfoundation.org/news/2017/10/12/the-first-annual-lantos-rule-of-law-lecture>.

¹⁷⁷ Katrina Lantos Swett, *Russia’s Extremism Law Violates Human Rights*, MOSCOW TIMES, Nov. 26, 2014, available at <https://themoscowtimes.com/articles/russias-extremism-law-violates-human-rights-41759> and Katrina Lantos Swett and Catherine Cosman, *Is Russia Becoming a Police State?*, GEORGETOWN JOURNAL OF INTERNATIONAL AFFAIRS, Feb. 12, 2013, available at <https://www.georgetownjournalofinternationalaffairs.org/online-edition/is-russia-becoming-a-police-state-by-katrina-lantos-swett-and-catherine-cosman> (“In July, laws were enacted which criminalized libel, particularly against government officials, tightened Internet control, and required foreign-funded nongovernmental groups (NGOs) involved in undefined political activity to register as ‘foreign agents.’”).

Kremlin's political prisoners at Congressional hearings,¹⁷⁸ and noted that "Alexei Pichugin . . . is undeniably a prisoner of conscience."¹⁷⁹

Open Russia Movement: Founded by Mikhail Khodorkovsky in 2014 after his release from prison, today's Open Russia is a civil society organization operating in Russia which aims to promote democracy and support for the rule of law at the grassroots level.¹⁸⁰ Committed to "defend[ing] the rights of political prisoners,"¹⁸¹ Open Russia provides legal assistance to political prisoners and their families.¹⁸² It has also partnered with opposition politician Alexey Navalny to assist families who struggle to visit relatives detained far from their homes.¹⁸³

openDemocracy: Through its project "oDR" focusing on the post-Soviet space, openDemocracy has regularly published articles, petitions, and updates on the Kremlin's political prisoners,¹⁸⁴ with a particular focus on the treatment of Ukrainian citizens.¹⁸⁵

¹⁷⁸ *Time to Pause the Reset? Defending U.S. Interests in the Face of Russian Aggression: Hearing Before the H. Comm. on Foreign Affairs*, 112th Cong. 12 (2011), available at <https://www.govinfo.gov/content/pkg/CHRG-112hhrg67304/html/CHRG-112hhrg67304.htm> (statement of Katrina Lantos Swett, President, Lantos Foundation for Human Rights).

¹⁷⁹ Katrina Lantos Swett, *Interpol and Pichugin: Unwilling Pawns in Putin's Yukos Game*, HUFFINGTON POST, Nov. 16, 2016, available at https://www.huffingtonpost.com/katrina-lantos-swett/interpol-and-pichugin-unw_b_8483784.html.

¹⁸⁰ *The Open Russia Movement*, KHODORKOVSKY.COM, accessed Mar. 3, 2019, available at <https://www.khodorkovsky.com/open-russia-movement/>.

¹⁸¹ *The Program of the Public Movement "Open Russia"*, OPEN RUSSIA, accessed Mar. 3, 2019, available at <https://orteam.org/document/programma-obshhestvennogo-dvizheniya-otkrytaya-rossiya/> [in Russian].

¹⁸² *Open Russia*, KHODORKOVSKY.COM, accessed Mar. 3, 2019, available at <https://www.khodorkovsky.com/biography/open-russia/>.

¹⁸³ *Id.*

¹⁸⁴ See, e.g., Elizaveta Pestova, *Four Years in Prison for Utopia*, OPENDEMOCRACY, Aug. 5, 2017, available at <https://www.opendemocracy.net/en/odr/alexander-sokolov-four-years-for-utopia/>; *An Appeal to the Representatives of Countries Who Are Expected to Travel to the World Cup Football Games in Russia*, OPENDEMOCRACY, June 6, 2018, available at <https://www.opendemocracy.net/en/odr/open-letter-in-support-of-ukrainian-political-prisoners-and-this-trial-turned-out-to-be-unique-and-dystopian-in-the-orwellian-sense>;

¹⁸⁵ See, e.g., Oksana Trufanova, *How Prisoners in Ukraine's Occupied Territories Live, Work and Survive*, OPENDEMOCRACY, July 24, 2018, available at

<https://www.opendemocracy.net/en/odr/prisoners-of-the-donbas/> and Ganna Grytsenko, *Why Ukrainian Film Director Oleg Sentsov is on Hunger Strike*, OPENDEMOCRACY, May 29, 2018, available at <https://www.opendemocracy.net/en/odr/this-is-why-ukrainian-film-director-oleg-sentsov-is-on-hunger-strike/>.

Raoul Wallenberg Centre for Human Rights: The Raoul Wallenberg Centre for Human Rights is a unique international consortium of parliamentarians, scholars, jurists, human rights defenders, NGOs, and students united in the pursuit of justice, inspired by and anchored in Raoul Wallenberg's humanitarian legacy – how one person with the compassion to care and the courage to act can confront evil, prevail, and transform history. As part of its mission and mandate, the Centre mobilizes international advocacy on behalf of political prisoners throughout the world, and the Centre has worked specifically on the case of Alexey Pichugin.¹⁸⁶ The Centre has recognized Pichugin as a prisoner of conscience, and the Centre's Chair, Irwin Cotler (former Minister of Justice and Attorney General of Canada, and longtime parliamentarian), joined former Ministers of Justice from Israel and Germany to call on other organizations to recognize Pichugin as a prisoner of conscience.¹⁸⁷ Cotler has also written on the need for advocacy to help political prisoners, including passing legislation that allows for sanctions against those who persecute political prisoners.¹⁸⁸ Indeed, Cotler has been recognized as one of the foremost advocates for human rights in general and political prisoners in particular, having been named by Maclean's – Canada's national newsmagazine – as "counsel for the oppressed," and having drafted and introduced Canada's first Magnitsky sanctions bill. The Wallenberg Centre later spearheaded the bill's unanimous passage in the Canadian Parliament and encouraged the Government's implementation of targeted sanctions against rights abusers.

Amnesty International: Amnesty International has designated several of the Kremlin's political prisoners (both current and former) as

¹⁸⁶ *Defending Political Prisoners*, RAOUL WALLENBERG CENTRE FOR HUMAN RIGHTS, accessed Jan. 6, 2019, available at <https://www.raoulwallenbergcentre.org/political-prisoners/>.

¹⁸⁷ Letter from Irwin Cotler, Former Minister of Justice of Canada, David Libai, Former Minister of Justice of Israel, and Herta Daubler-Gmelin, Former Minister of Justice of Germany, to Amnesty International, July 25, 2018, available at <https://pichugin.org/wp-content/uploads/2018/07/Amnesty-International-AD-072318F.pdf>.

¹⁸⁸ Irwin Cotler, *For the Sake of Human Rights, We Must Stand for the Nameless*, THE HILL, Feb. 16, 2018, available at <https://thehill.com/opinion/civil-rights/373756-for-the-sake-of-human-rights-we-must-stand-for-the-nameless>.

“prisoners of conscience,”¹⁸⁹ including Alexey Navalny,¹⁹⁰ Oyub Titiev,¹⁹¹ Ildar Dadin,¹⁹² and members of Pussy Riot.¹⁹³ The organization has also drawn attention to the Kremlin’s political prisoners in each of its last three annual reports on Russia.¹⁹⁴ In addition, it has issued urgent appeals calling for specific action on behalf of, e.g., Oyub Titiev,¹⁹⁵ Ildar Dadin,¹⁹⁶ Stanislav Klykh,¹⁹⁷ and Mykola Karpyuk.¹⁹⁸ Further back, Amnesty International noted that “there is a significant political context to the arrest and prosecution of . . . individuals associated with” the Yukos oil company, and it wrote letters to Russia’s Ministry of Justice and Procurator General expressing concerns about “the closed nature of court proceedings, in particular in the case of Aleksei Pichugin . . . alleged shortcomings in medical care in the cases of Platon Lebedev, Aleksei Pichugin and Svetlana Bakhmina, allegations concerning the ill-treatment of Aleksei Pichugin and

¹⁸⁹ *Search Results*, AMNESTY INT’L, accessed Dec. 19, 2018, *available at* <https://www.amnesty.org/en/search/?q=&sort=date&issue=1586&country=38497> (listing press releases and campaigns for prisoners of conscience in Russia).

¹⁹⁰ *Russia: Opposition Leader Re-Arrested Minutes After Release from Detention for Calling for Peaceful Protests*, AMNESTY INT’L, Sept. 24, 2018, *available at* <https://www.amnesty.org/en/latest/news/2018/09/russia-opposition-leader-re-arrested-minutes-after-release-from-detention-for-calling-for-peaceful-protests/>.

¹⁹¹ *Russian Federation: Further Information: Defender’s Detention Renewed Again: Oyub Titiev*, AMNESTY INT’L, May 14, 2018, *available at* <https://www.amnesty.org/en/documents/eur46/8400/2018/en/>.

¹⁹² *Russia: Court Offers ‘Chink of Light’ in Case Brought by Jailed Protester Ildar Dadin*, AMNESTY INT’L, Feb. 10, 2017, *available at* <https://www.amnesty.org/en/latest/news/2017/02/russia-court-offers-chink-of-light-in-case-brought-by-jailed-protester-ildar-dadin/>.

¹⁹³ *Russian Federation: Further Information: Pussy Riot Punk Singers Imprisoned*, AMNESTY INT’L, Aug. 21, 2012, *available at* <https://www.amnesty.org/en/documents/eur46/033/2012/en/>.

¹⁹⁴ AMNESTY INTERNATIONAL REPORT 2017/2018: THE STATE OF THE WORLD’S HUMAN RIGHTS, 2018, at 311–13, *available at* <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF> (noting “systematic violations of the right to a fair trial” and that “protest leaders and political activists . . . faced harassment, administrative and criminal proceedings”); AMNESTY INTERNATIONAL REPORT 2016/2017: THE STATE OF THE WORLD’S HUMAN RIGHTS, 2017, at 305–309, *available at* <https://www.amnesty.org/download/Documents/POL1048002017ENGLISH.PDF> (discussing specific cases, including Dmitry Buchenkov, Natalya Sharina, Mykola Karpyuk, and Stanislav Klykh); and AMNESTY INTERNATIONAL REPORT 2015/2016: THE STATE OF THE WORLD’S HUMAN RIGHTS, 2016, at 302, *available at* (“Growing numbers of individuals were arrested and criminally charged for criticizing state policy and publicly displaying or possessing materials deemed extremist or otherwise unlawful under vague national security legislation.”).

¹⁹⁵ Urgent Action, *Human Rights Defender Detained in Chechnya*, AMNESTY INT’L, Jan. 10, 2017, *available at* <https://www.amnestyusa.org/wp-content/uploads/2018/01/uaa00518.pdf>.

¹⁹⁶ Urgent Action, *Prisoner of Conscience Writes of Torture*, AMNESTY INT’L, Nov. 2, 2016, *available at* <https://www.amnesty.org/download/Documents/EUR4650832016ENGLISH.pdf>.

¹⁹⁷ Urgent Action, *Appeal of Two Ukrainian Men Rejected*, AMNESTY INT’L, Oct. 27, 2016, *available at* https://www.amnesty.org.uk/files/fi15716_1.pdf.

¹⁹⁸ *Id.*

Svetlana Bakhmina while in detention, and the detention of Aleksei Pichugin in Lefortovo, a detention facility under the jurisdiction of the Federal Security Service (FSB)).¹⁹⁹

Human Rights Watch: Human Rights Watch has highlighted the Kremlin's political prisoners and the misuse of criminal legislation against opponents in its annual reports on Russia.²⁰⁰ It has also raised the issue with UN bodies, including the Human Rights Committee, Committee Against Torture, and Human Rights Council.²⁰¹ In addition, it has published in-depth reporting on the Kremlin's assault on freedom of expression²⁰² and

¹⁹⁹ Public Statement, *Russian Federation: The Case of Mikhail Khodorkovskii and Other Individuals Associated with YUKOS*, AMNESTY INT'L, Apr. 11, 2005, available at <https://www.amnesty.org/download/Documents/84000/eur460122005en.pdf>.

²⁰⁰ WORLD REPORT 2018: EVENTS OF 2017, HUMAN RIGHTS WATCH, 2017, at 440–52, available at https://www.hrw.org/sites/default/files/world_report_download/201801world_report_web.pdf (discussing Ildar Dadin, Alexey Kungurov, Ruslan Sokolovsky, Natalya Sharina, and Jehovah's Witnesses); WORLD REPORT 2017: EVENTS OF 2016, HUMAN RIGHTS WATCH, 2017, at 496–97, available at https://www.hrw.org/sites/default/files/world_report_download/wr2017-web.pdf (noting, e.g., prosecutions for online speech); and WORLD REPORT 2016: EVENTS OF 2015, HUMAN RIGHTS WATCH, 2016, at 466–77, available at https://www.hrw.org/sites/default/files/world_report_download/wr2016_web.pdf (highlighting, e.g., the convictions of Rafis Kashapov, Oleg Navalny, and Alexey Navalny).

²⁰¹ SUBMISSION TO THE UNITED NATIONS COMMITTEE AGAINST TORTURE ON RUSSIA, HUMAN RIGHTS WATCH, July 2018, available at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCAT%2fCSS%2fRUS%2f31648&Lang=en (noting, e.g., Oleg Sentsov, Oyub Titiev, and Oleksander Kolchenko); CONCERNS AND RECOMMENDATIONS ON RUSSIA, HUMAN RIGHTS WATCH, May 2014, available at

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/RUS/INT_CCPR_ICO_RUS_17516_E.pdf (submission to the U.N. Human Rights Committee noting, e.g., a “crackdown on civil society”; that “authorities have harassed, intimidated, and in several cases imprisoned political activists”; the conviction of Bolotnaya Square protestors; and the “expanded legal definition of the crime of treason”); and RUSSIA, HUMAN RIGHTS WATCH & INT’L PARTNERSHIP FOR HUMAN RIGHTS, Oct. 2017, available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRRussianFederationStakeholdersInfoS30.aspx> (click on link next to “HRW – Human Rights Watch”) (submission for the Universal Periodic Review noting, e.g., that laws “have been used to imprison people on politically motivated prosecutions”; the conviction of Bolotnaya Square protestors; the imprisonment of Ildar Dadin; that police “arbitrarily detained hundreds of peaceful protesters” and were “detaining Navalny’s campaigners on groundless administrative charges”; and prosecution of critics under anti-extremism laws).

²⁰² ONLINE AND ON ALL FRONTS: RUSSIA’S ASSAULT ON FREEDOM OF EXPRESSION, HUMAN RIGHTS WATCH, July 2017, available at https://www.hrw.org/sites/default/files/report_pdf/russiafoe0717_web_1.pdf and “LIKE WALKING A MINEFIELD”: VICIOUS CRACKDOWN ON CRITICS IN RUSSIA’S CHECHEN REPUBLIC, HUMAN RIGHTS WATCH, Aug. 2016, available at https://www.hrw.org/sites/default/files/report_pdf/chechnya0816_1.pdf.

its crackdown on Jehovah's Witnesses.²⁰³ Staff members have also written extensively about individual political prisoners.²⁰⁴ Human Rights Watch also consistently speaks out about the Kremlin's political prisoners and the use of the law to prosecute protected activities.²⁰⁵

Front Line Defenders: Front Line Defenders publishes updated case files on persecuted human rights defenders throughout the world, including some of the Kremlin's political prisoners,²⁰⁶ and its annual reports have consistently highlighted political prisoners. Its 2018 report, for example, noted that Oyub Titiev was arrested on "fabricated charges . . . in an attempt to destroy his reputation and to paralyse the work of [Memorial HRC] in Chechnya."²⁰⁷ Its 2017 report pointed out that human rights defenders in Russia-occupied Crimea "faced numerous police raids, interrogations and

²⁰³ *Russia: Sweeping Arrests of Jehovah's Witnesses*, HUMAN RIGHTS WATCH, June 28, 2018, available at <https://www.hrw.org/news/2018/06/28/russia-sweeping-arrests-jehovahs-witnesses>.

²⁰⁴ Tanya Lokshina, *A Closed Trial in Chechnya*, HUMAN RIGHTS WATCH, Sept. 20, 2018, available at <https://www.hrw.org/news/2018/09/20/closed-trial-chechnya> (Oyub Titiev); Yulia Gorbunova, *Oleg Sentsov's Hunger Strike Evokes a Dark Page in Soviet History*, HUMAN RIGHTS WATCH, Sept. 7, 2018, available at <https://www.hrw.org/news/2018/09/07/oleg-sentsovs-hunger-strike-evokes-dark-page-soviet-history>; *Russia: Jehovah's Witness Faces 10-Year Sentence*, HUMAN RIGHTS WATCH, Apr. 2, 2018, available at <https://www.hrw.org/news/2018/04/02/russia-jehovahs-witness-faces-10-year-sentence> (Dennis Christensen); and Jane Buchanan, *Russian Police Violently Arrest Critical Newspaper Editor*, HUMAN RIGHTS WATCH, Nov. 7, 2017, available at <https://www.hrw.org/news/2017/11/07/russian-police-violently-arrest-critical-newspaper-editor> (Igor Rudnikov).

²⁰⁵ *Russia: Human Rights Defender Jailed*, HUMAN RIGHTS WATCH, Dec. 7, 2018, available at <https://www.hrw.org/news/2018/12/07/russia-human-rights-defender-jailed> (discussing Lev Ponomarev); *Russia: Defense Lawyer Arrested, Beaten*, HUMAN RIGHTS WATCH, Oct. 4, 2018, available at <https://www.hrw.org/news/2018/10/04/russia-defense-lawyer-arrested-beaten> (discussing lawyer Mikhail Benyash); *Police Crush Peaceful Russia Protests: Daily Brief*, HUMAN RIGHTS WATCH, Sept. 13, 2018, available at <https://www.hrw.org/the-day-in-human-rights/2018/09/13> ("Police in Russia have arrested hundreds of peaceful protesters, including children, for taking part in demonstrations to protest state corruption and government plans to raise the pension age."); Vladislav Lobanov, *Online Jokes Are No Laughing Matter in Russia*, HUMAN RIGHTS WATCH, Aug. 21, 2018, available at <https://www.hrw.org/news/2018/08/21/online-jokes-are-no-laughing-matter-russia> (discussing how social media posts are being prosecuted under extremism laws); *Russia: Sweeping Arrests of Jehovah's Witnesses*, HUMAN RIGHTS WATCH, June 28, 2018, available at <https://www.hrw.org/news/2018/06/28/russia-sweeping-arrests-jehovahs-witnesses>; and Tanya Lokshina, *Jailed Critics, Activists in Russia Still Waiting for Freedom*, HUMAN RIGHTS WATCH, June 29, 2018, available at <https://www.hrw.org/news/2018/06/29/jailed-critics-activists-russia-still-waiting-freedom> (discussing Oleg Sentsov, Oyub Titiev, and Yuri Dmitriev).

²⁰⁶ *#Russian Federation*, FRONT LINE DEFENDERS, accessed Dec. 19, 2018, available at <https://www.frontlinedefenders.org/en/location/russian-federation>.

²⁰⁷ GLOBAL ANALYSIS 2018, FRONT LINE DEFENDERS, 2019, at 23, available at https://www.frontlinedefenders.org/sites/default/files/global_analysis_2018.pdf.

arrests,”²⁰⁸ while its 2016 report explained that “authorities fined and jailed peaceful protesters for violating restrictive public assembly laws.”²⁰⁹

International Federation for Human Rights (FIDH): sFIDH regularly issues press releases, statements, and urgent appeals concerning the Kremlin’s political prisoners.²¹⁰

Freedom House: In its annual reports on Russia, Freedom House has highlighted specific political prisoners, as well as numerous issues relating to political prisoners. For example, its 2018 report noted “widespread speculation” that journalist Aleksandr Sokolov was convicted of extremism because of his reports on mismanagement in state corporations, and that librarian Natalya Sharina was convicted of inciting hatred because her library contained “extremist” books.²¹¹ In addition, the report emphasized that arrests of journalists are common; unsanctioned protests are punished with arrests and prison sentences; opposition politicians and activists are frequently targeted with fabricated criminal cases; and the vague extremism laws allow authorities to crack down on any speech, organization, or activity that lacks official support.²¹² Freedom House also noted that the Russian Supreme Court “rejected a finding by the [European Court of Human Rights] that Aleksey Pichugin . . . had not received a fair trial.”²¹³

Human Rights First: Human Rights First has repeatedly highlighted political prisoners and pressed US officials to raise them in discussions with the Kremlin. For example, in July 2018, in the lead-up to President Trump’s meeting with Putin in Helsinki, it explained that the Kremlin “imprisons over 150 individuals on political or religious grounds as a means to suppress

²⁰⁸ ANNUAL REPORT ON HUMAN RIGHTS DEFENDERS AT RISK IN 2017, FRONT LINE DEFENDERS, 2017, at 17, *available at*

https://www.frontlinedefenders.org/sites/default/files/annual_report_digital.pdf.

²⁰⁹ ANNUAL REPORT 2016, FRONT LINE DEFENDERS, 2016, at 16, *available at*

<https://www.frontlinedefenders.org/en/resource-publication/2016-annual-report>.

²¹⁰ *Europe & Central Asia*, INT’L FED’N FOR HUMAN RIGHTS, *accessed* Dec. 19, 2018, *available at* <https://www.fidh.org/en/region/europe-central-asia/> (select “Russia” from the “Select A Country” drop-down menu, click “Search,” then scroll through results).

²¹¹ *Freedom in the World 2018: Russia*, FREEDOM HOUSE, *accessed* Dec. 19, 2018, *available at* <https://freedomhouse.org/report/freedom-world/2018/russia>.

²¹² *Id.*

²¹³ NATIONS IN TRANSIT 2014, FREEDOM HOUSE, June 12, 2014, at 530, *available at* https://freedomhouse.org/sites/default/files/22.%20NIT14_Russia_final_0.pdf.

dissent and peaceful religious practice.”²¹⁴ Human Rights First specifically noted that Oleg Sentsov was convicted on “charges widely believed to be groundless,” Alexey Navalny was convicted “on trumped-up charges of embezzlement,” Ildar Dadin was imprisoned “after being arrested for engaging in one-man protests,” 94 people were imprisoned during the prior year for the “pretextual charge” of “extremist” speech, and thousands were arbitrarily arrested for participating in unsanctioned protests.²¹⁵ In June 2018, Human Rights First called for the congressional delegation to Russia to “prioritize discussions concerning the Russian government’s continued suppression of non-governmental organizations and the political opposition . . . and the cases of political prisoners held by Russian authorities.”²¹⁶ In 2017, it made similar requests of US officials visiting Russia.²¹⁷

2. Specific Actions: Legislation and Sanctions

Beyond statements and condemnation, the international response to the Kremlin’s political prisoners has consisted of legislation and sanctions. The legislation and sanctions are often modeled on the US Magnitsky and Global Magnitsky Acts, which allow for travel bans and/or asset freezes.

United States: In 2012, the US enacted the Magnitsky Act,²¹⁸ named after Russian accountant Sergei Magnitsky, who died after being tortured in a Moscow prison.²¹⁹ The Act initially mandated the US President to identify those responsible for Magnitsky’s detention, abuse, or death or other gross human rights violations in Russia; individuals listed

²¹⁴ FACT SHEET: HELSINKI SUMMIT: A REVIEW OF VLADIMIR PUTIN’S RECORD OF HUMAN RIGHTS VIOLATIONS AND ATTACKS ON DEMOCRATIC INSTITUTIONS, HUMAN RIGHTS FIRST, July 2018, at 2, available at <https://www.humanrightsfirst.org/sites/default/files/factsheet-Putin-July-2018.pdf>.

²¹⁵ *Id.*

²¹⁶ *Congressional Delegation to Russia Must Raise Human Rights Concerns, Meet with Civil Society*, HUMAN RIGHTS FIRST, June 27, 2018, available at <https://www.humanrightsfirst.org/press-release/congressional-delegation-russia-must-raise-human-rights-concerns-meet-civil-society>.

²¹⁷ *Trump Should Raise Human Rights Concerns With Putin*, HUMAN RIGHTS FIRST, June 30, 2017, available at <https://www.humanrightsfirst.org/press-release/trump-should-raise-human-rights-concerns-putin> (“President Trump should press Moscow to adhere to international norms on human rights, including by raising the following . . . politically-motivated arrests of peaceful protestors . . .”) and Letter from Elisa Massimino, President and CEO, Human Rights First, to Rex Tillerson, U.S. Secretary of State, Apr. 6, 2017, available at <http://www.humanrightsfirst.org/sites/default/files/Letter-to-Secretary-Tillerson-Russia.pdf> (“[W]e urge you to express – both publicly and privately – your concern over the Russian government’s crackdown on peaceful protestors.”).

²¹⁸ Sergei Magnitsky Rule of Law Accountability Act of 2012, Public Law 112-208, Title IV, Dec. 14, 2012 [hereinafter Magnitsky Act].

²¹⁹ *The US Global Magnitsky Act: Questions and Answers*, HUMAN RIGHTS WATCH, Sept. 13, 2017, available at <https://www.hrw.org/news/2017/09/13/us-global-magnitsky-act>.

under the Magnitsky Act are subjected to asset freezes and rendered ineligible for US visas.²²⁰ The 2016 Global Magnitsky Act builds on this and allows the US President to designate for sanctions (1) any foreign person (or entity) responsible for extrajudicial killings, torture, or other gross human rights violations against individuals seeking to expose illegal activity by government officials or obtain, exercise, defend, or promote human rights and freedoms, and (2) any foreign government official engaged in “acts of significant corruption.”²²¹ The sanctions available under the Global Magnitsky Act are the same as those under the original Magnitsky Act – asset freezes and inadmissibility into the US.²²² In 2017, President Trump issued Executive Order 13818,²²³ which “markedly enlarges the range of sanctionable conduct and persons” under the Global Magnitsky Act.²²⁴

The US has sanctioned dozens of human rights abusers under the Magnitsky and Global Magnitsky Acts. In Russia, this includes (but is not

²²⁰ Magnitsky Act, *supra* note 218, at §§ 404–406.

²²¹ Global Magnitsky Human Rights Accountability Act, Public Law 114-328, Dec. 23, 2016, at § 1263(a), *available at* https://www.treasury.gov/resource-center/sanctions/Programs/Documents/glomag_pl_114-328.pdf [hereinafter Global Magnitsky Act].

²²² *Id.*, at § 1263(b).

²²³ Exec. Order No. 13,818, 82 Fed. Reg. 60,839, Dec. 20, 2017, *available at* https://www.treasury.gov/resource-center/sanctions/Programs/Documents/glomag_eo.pdf.

²²⁴ HDEEL ABDELHADY, THE TRUMP ADMINISTRATION SUPERCHARGED GLOBAL MAGNITSKY ACT HUMAN RIGHTS AND CORRUPTION SANCTIONS, Apr. 3, 2018, at 1, *available at* <https://masspointpllc.com/wp-content/uploads/Global-Magnitsky-Sanctions.Human-Rights-Abuses.MassPoint-Series-3.pdf>; *see also The Trump White House Has More Power To Constrain Bad Guys*, THE ECONOMIST, Feb. 1, 2018, *available at* <https://www.economist.com/united-states/2018/02/01/the-trump-white-house-has-more-power-to-constrain-bad-guys> (noting that Executive Order 13818 “magnifies the power of [the Global Magnitsky Act] by loosening or deleting criteria for action written into the original law”).

limited to) judges, prison officials, and law enforcement officials involved in Sergei Magnitsky's persecution and death.²²⁵ For example:²²⁶

- Judge Alexey Krivoruchko, who extended Magnitsky's detention and refused to consider Magnitsky's applications about "unbearable conditions" and the denial of medical care;²²⁷
- Judge Igor Alisov, who served as a judge in Magnitsky's posthumous trial and helped cover up the fraud that Magnitsky had discovered;²²⁸
- Oleg Logunov, Interior Ministry, who directed the case against Magnitsky, authorized his arrest and prolonged detention, appointed officers with conflicts of interest on the investigative team, and refused to remove them;²²⁹
- Dmitry Komnov, head of the Butyrka detention center, who denied an application from Magnitsky's lawyers regarding his medical condition and ignored requests for a medical examination;²³⁰ and
- Alexander Bastrykin, Head of the Investigative Committee, who found no link between the acts of officials and Magnitsky's death in custody.²³¹

²²⁵ Press Release, *Announcement of Sanctions Under the Sergei Magnitsky Rule of Law Accountability Act*, U.S. DEP'T OF THE TREASURY, May 20, 2014, available at <https://www.treasury.gov/press-center/press-releases/Pages/jl2408.aspx> and Elias Groll, *A Guide to the Russian Officials on the U.S. Magnitsky List*, FOREIGN POLICY, Apr. 13, 2013, available at <https://foreignpolicy.com/2013/04/13/a-guide-to-the-russian-officials-on-the-u-s-magnitsky-list/>. A complete list of currently sanctioned individuals is available at <https://sanctionssearch.ofac.treas.gov/> (select "MAGNIT" under "Program" and click on "Search") (listing officials sanctioned under the Magnitsky Act). A detailed description of these individuals is included in SUBMISSION OF ALLEGED CANDIDATES UNDER THE SERGEI MAGNITSKY RULE OF LAW ACCOUNTABILITY ACT, OFFICE OF REP. JIM MCGOVERN, at 109, available at <http://www.scribd.com/doc/134085731/Smrule-of-Law-List>. This document was prepared by Rep. Jim McGovern, a Massachusetts Democrat who sent the Obama administration 280 suggested names for inclusion in the Magnitsky list. See Elias Groll, *A Guide to the Russian Officials on the U.S. Magnitsky List*, FOREIGN POLICY, Apr. 13, 2013, available at <https://foreignpolicy.com/2013/04/13/a-guide-to-the-russian-officials-on-the-u-s-magnitsky-list/>.

²²⁶ *Sanctions List Search*, OFFICE OF FOREIGN ASSETS CONTROL, accessed Dec. 21, 2018, available at <https://sanctionssearch.ofac.treas.gov/> (select "MAGNIT" under "Program" and click on "Search").

²²⁷ SUBMISSION OF ALLEGED CANDIDATES, *supra* note 225, at 109.

²²⁸ *Id.*, at 104.

²²⁹ *Id.*, at 41.

²³⁰ *Id.*, at 127.

²³¹ *Id.*, at 83.

The Global Magnitsky Act has not yet been used against Kremlin officials involved in persecuting political prisoners, though the son of Prosecutor General Yuri Chaika was sanctioned for corruption.²³²

European Union: On December 10, 2018, the European Ministers of Foreign Affairs “unanimously approved the Dutch proposal for the E.U.-wide Magnitsky Act.”²³³ As of March 2019, preliminary discussions on implementation were ongoing at the Council working group level.²³⁴ On March 14, 2019, the European Parliament called on the Council to “swiftly establish an autonomous, flexible and reactive EU-wide sanctions regime that would allow for the targeting of any individual . . . responsible for or involved in grave human rights violations,” which “should symbolically carry Sergei Magnitsky’s name.”²³⁵

UK: The UK has enacted two pieces of legislation with “Magnitsky elements” in them.²³⁶ The Proceeds of Crime Act, 2002, as amended in 2017,²³⁷ allows for the recovery of property obtained through “unlawful conduct,”²³⁸ which includes conduct abroad that constitutes, or is connected with, a gross human rights abuse or violation.²³⁹ “Gross human rights abuse or violation,” in turn, means torture or cruel, inhuman or degrading treatment committed by a government official against a person seeking to expose illegal activity by a public official or to obtain, exercise, defend or promote human rights and fundamental freedoms.²⁴⁰

²³² *United States Sanctions Human Rights Abusers and Corrupt Actors Across the Globe*, U.S. DEP’T OF THE TREASURY, Dec. 21, 2017, available at <https://home.treasury.gov/news/press-releases/sm0243>.

²³³ Ewelina U. Ochab, *The Magnitsky Law Is Taking Over the European Union*, FORBES, Dec. 10, 2018, available at <https://www.forbes.com/sites/ewelinaochab/2018/12/10/the-magnitsky-law-is-taking-over-the-european-union/#320aa02b1eca>.

²³⁴ *Resolution on a European Human Rights Violations Sanctions Regime*, EUR. PARL., adopted Mar. 14, 2019, available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2019-0215&language=EN&ring=B8-2019-0180>.

²³⁵ *Id.*

²³⁶ BEN SMITH & JOANNA DAWSON, MAGNITSKY LEGISLATION, HOUSE OF COMMONS LIBRARY, July 16, 2018, at 3, available at <http://researchbriefings.files.parliament.uk/documents/CBP-8374/CBP-8374.pdf>.

²³⁷ Criminal Finances Act, Apr. 27, 2017 (U.K.), available at http://www.legislation.gov.uk/ukpga/2017/22/pdfs/ukpga_20170022_en.pdf (amending the Proceeds of Crime Act, 2002).

²³⁸ Proceeds of Crime Act, July 24, 2002, at § 240(1)(a) (U.K.), available at <https://www.legislation.gov.uk/ukpga/2002/29/contents>.

²³⁹ *Id.*, at § 241(2A)(a)–(b).

²⁴⁰ *Id.*, at § 241A(1)–(4).

The Sanctions and Anti-Money Laundering Act, 2018 empowers the Secretary of State and the Treasury to make sanctions regulations for a wide variety of purposes, including to further a foreign policy objective; provide accountability for, or be a deterrent to, gross violations of human rights; promote compliance with international human rights law and respect for human rights; and promote respect for democracy, the rule of law, and good governance.²⁴¹ The regulations can impose financial and immigration sanctions on specific persons.²⁴²

Neither of these laws has been used to specifically target Russian officials involved in persecuting political prisoners, although in September 2018, Andrew Mitchell, British Member of Parliament, read out the names of 30 Russians linked to Sergei Magnitsky's death – all of whom had been sanctioned by the US – and inquired whether they would be sanctioned.²⁴³

Netherlands: In April 2018, the Dutch Parliament passed a motion demanding EU- and national-level Magnitsky Acts.²⁴⁴ The motion gave a five-month deadline at the EU level, after which the Netherlands would proceed at the national level (though it has not yet done so).²⁴⁵ In November, the Netherlands hosted a meeting with officials from all 28 EU member states to discuss its proposal for an EU Magnitsky Act,²⁴⁶ which was unanimously approved.²⁴⁷ In 2011, the Dutch Parliament also adopted a resolution calling for sanctions against those involved in Magnitsky's death.²⁴⁸

²⁴¹ Sanctions and Anti-Money Laundering Act, May 23, 2018, at § 1(1)–(2) (U.K.), *available at* <http://www.legislation.gov.uk/ukpga/2018/13/contents/enacted>.

²⁴² *Id.*, at §§ 1(5)(a)–(b), 11.

²⁴³ Rob Merrick, *Tory MP Names 30 Russians Linked to 'Murder' Amid Criticism of Government for Failing to Sanction Them*, INDEPENDENT, Sept. 12, 2018, *available at* <https://www.independent.co.uk/news/uk/politics/uk-russia-human-rights-brexit-conservative-andrew-mitchell-money-laundering-a8534771.html>; *see also* *Sanctions: Russia: Written Question – 173536*, PARLIAMENT.UK, Sept. 11, 2018, *available at* <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-09-11/173536/>.

²⁴⁴ *EU-Level 'Magnitsky Act' Demanded by Dutch Parliament*, LIBERTIES.EU, Apr. 5, 2018, *available at* <https://www.liberties.eu/en/short-news/21793/21793>.

²⁴⁵ *Id.*

²⁴⁶ Rikard Jozwiak, *Netherlands Proposes New EU Human Rights Sanctions Regime*, RADIO FREE EUROPE / RADIO LIBERTY, Nov. 19, 2018, *available at* <https://www.rferl.org/a/netherlands-propose-new-eu-human-rights-sanctions-regime/29609488.html>.

²⁴⁷ *The Magnitsky Law Is Taking Over the European Union*, *supra* note 233.

²⁴⁸ *Resolution on Human Rights in Foreign Policy*, TWEDE KAMER DER STATEN-GENERAAL, adopted June 29, 2011, *available at* <http://russian-untouchables.com/rus/docs/D403.pdf>.

Canada: In 2017, Canada enacted the Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law),²⁴⁹ which allows targeted sanctions to be imposed on foreign nationals responsible for, or complicit in, acts of significant corruption or gross human rights violations committed against those seeking to expose illegal activity by public officials or to obtain, exercise, defend, or promote human rights.²⁵⁰ In November 2017, the Government sanctioned 30 Russian officials involved in Sergei Magnitsky's case.²⁵¹ In late 2018, Canada established a new Sanctions Policy and Operations Coordination Division within Global Affairs Canada intended to, among other things, improve the country's capacity to effectively apply sanctions as an instrument of Canada's foreign policy.²⁵²

Ukraine: In December 2017, Ukraine's Parliament introduced a bill that would allow the Government to impose entry bans and asset freezes on human rights abusers.²⁵³ One of the co-authors of the bill described it as a "Ukrainian Magnitsky Act."²⁵⁴

Latvia: Latvia's Saeima adopted a resolution in 2018 asking the Government to ban the entry of 49 Russians involved in the death of Sergei Magnitsky or who benefited from the fraud he uncovered.²⁵⁵ Several weeks later, the Minister of Foreign Affairs banned those individuals.²⁵⁶

²⁴⁹ Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law), Oct. 18, 2017, available at <http://laws.justice.gc.ca/PDF/J-2.3.pdf> (Canada).

²⁵⁰ *Id.*, at § 4(1)–(3).

²⁵¹ *Justice for Victims of Corrupt Foreign Officials – Case 3*, GLOBAL AFFAIRS CANADA, Nov. 6, 2017, available at https://www.canada.ca/en/global-affairs/news/2017/11/case_3.html (listing sanctioned officials); see also *Magnitsky Act: Canada Imposed Sanctions Against 30 Russian Citizens (List)*, FRONT NEWS INT'L, Nov. 4, 2017, available at <https://frontnews.eu/news/en/16826/Magnitsky-Act-Canada-imposed-sanctions-against-30-Russian-citizens-list>.

²⁵² *Administration of Canada's Sanctions Regime Gets a Welcome Makeover*, BORDEN LADNER GERVAIS, Oct. 23, 2018, available at https://blg.com/en/News-And-Publications/Publication_5438.

²⁵³ *Magnitsky Act Has Been Introduced into Verkhovna Rada (Ukrainian Parliament)*, SAMOPOMICH.UA, Dec. 18, 2017, available at <https://samopomich.ua/en/u-verhovnij-radi-predstavlenyj-akt-magnitskogo-pro-prava-lyudyny/>.

²⁵⁴ *Id.*

²⁵⁵ *Saeima Approves Proposed Sanctions Against the Officials Connected to the Sergei Magnitsky Case*, REPUBLIC OF LATVIA SAEIMA, Feb. 8, 2018, available at <http://www.saeima.lv/lv/aktualitates/saeimas-zinas/26575-saeima-approves-proposed-sanctions-against-the-officials-connected-to-the-sergei-magnitsky-case> (describing the resolution "On the Proposal to Introduce Sanctions Against the Officials Connected to the Sergei Magnitsky Case").

²⁵⁶ Tweet by Latvia Minister of Foreign Affairs Edgars Rinkēvičs (@edgarsrinkevics), TWITTER, Feb. 22, 2018, 6:52 am, available at <https://twitter.com/edgarsrinkevics/status/966687259415207938> ("Pursuant [to] resolution of Saeima (Parliament of Latvia) and based on Immigration law I have banned 49 individuals from

Lithuania: In 2017, Lithuania enacted “Magnitsky Amendments” to the Law on the Legal Status of Aliens. The amendments provide for an entry ban on foreign nationals who have committed a “serious crime” that violates “universal human rights and freedoms” or have engaged in corruption or money laundering.²⁵⁷ The Government later sanctioned 49 Russians, including Alexander Bastrykin.²⁵⁸

Estonia: In 2016, Estonia introduced amendments to the Obligation to Leave and Prohibition on Entry Act.²⁵⁹ The amendments allow the Government to prohibit entry of a foreigner if he or she has participated in or contributed to a violation of human rights in a foreign state which has resulted in the death of a person, serious injury, an unjustified conviction for political reasons, or any other serious consequence.²⁶⁰ The Government subsequently banned the entry of a number of foreign nationals, including Russian officials involved in Sergei Magnitsky’s case.²⁶¹

B. Domestic Response from Media, Civil Society Groups and Political Parties

Despite an increasingly hostile environment, activists, human rights defenders, civil society groups, media, professionals, and even some political parties in Russia and Russia-occupied Crimea have advocated tirelessly on behalf of the increasing number of political prisoners. Their varied forms of activism are discussed below.

entering the territory of the Republic of Latvia sending clear signal that rule of law and human rights matter #MagnitskyAct”).

²⁵⁷ Law on the Legal Status of Aliens, Apr. 29, 2004, at Art. 133(4) (Lithuania) (as amended by Law Amending Article 133 of Law No. IX-2206 on the Legal Status of Aliens, Nov. 16, 2017, at Art. 1 (Lithuania), available at <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/63bebab0d38311e782d4fd2c44cc67af?jfwid=2r1m2vhr>).

²⁵⁸ *Latvian Ministry of Foreign Affairs Bans Entry to 49 Persons Named in ‘Magnitsky List,’* UAWIRE, Feb. 23, 2018, available at <https://uawire.org/latvian-ministry-of-foreign-affairs-bans-entry-to-49-persons-named-in-magnitsky-list>.

²⁵⁹ *Estonia Becomes First European Nation to Introduce a ‘Magnitsky Law,’* EU-OCS, Dec. 12, 2016, available at <https://eu-ocs.com/estonia-becomes-first-european-nation-to-introduce-a-magnitsky-law/> (quoting Estonian President Kersti Kaljulaid: “The act was elaborated to consider the recommendations of the European Parliament and the OSCE Parliamentary Assembly regarding the refusal of a visa to those persons who are guilty of violating the human rights of Sergei Magnitsky and causing his death, which could be imposed in future similar situations.”).

²⁶⁰ Obligation to Leave and Prohibition on Entry Act, Apr. 1, 1999, at § 29(1)(6¹) (Estonia) (as amended by Act on Amendments to the Obligation to Leave and Prohibition on Entry Act, Dec. 23, 2016, at § 4 (Estonia), available at <https://www.riigiteataja.ee/akt/113122016004> [in Estonian]).

²⁶¹ *Estonia Imposes Entry Ban on Individuals on Magnitsky List*, EESTI RAHVUSRIIGIHÄÄLING, Mar. 29, 2018, available at <https://news.err.ee/692843/estonia-imposes-entry-ban-on-individuals-on-magnitsky-list> (listing officials banned from entry).

1. Collecting and Disseminating Information

In the face of the Kremlin's persistent claim that it has no political prisoners,²⁶² a key component of domestic advocacy has been collecting and sharing information on political prisoners. Although most of the media in Russia is state controlled,²⁶³ and therefore unlikely to raise the issue, there are a limited number of independent journalists and outlets within Russia that report on political prisoners and arbitrary detentions. Perhaps most notably, *Novaya Gazeta*, a newspaper Mikhail Gorbachev helped launch in 1993,²⁶⁴ has consistently reported on human rights violations generally, and politically-motivated detentions specifically, despite the fact that several of its journalists and correspondents have been murdered.²⁶⁵ In addition to publishing its own reporting on political prisoners and related issues,²⁶⁶ the newspaper has served as a platform for rights activists to

²⁶² See, e.g., *Fraud Case Against Putin Opponent Navalny Falters*, BBC NEWS, Apr. 25, 2013, available at <https://www.bbc.com/news/world-europe-22297707> ("Asked during a presidential phone-in in Moscow about the Navalny case and the Pussy Riot trial, [Putin] said there were no political prisoners in Russia and nobody was prosecuted for their politics.") and *Putin Defends Russia's Human Rights Record*, CTV NEWS, June 4, 2012, available at <https://www.ctvnews.ca/putin-defends-russia-s-human-rights-record-1.835233> ("President Vladimir Putin on Monday defended his country's human rights record, claiming that Russia has no political prisoners . . .").

²⁶³ *Freedom in the World 2018: Russia*, *supra* note 211 ("The government controls, directly or through state-owned companies and friendly business magnates, all of the national television networks and many radio and print outlets, as well as most of the media advertising market.").

²⁶⁴ Claire Bigg, *Russia's 'Novaya Gazeta' Marks 20th Anniversary*, RADIO FREE EUROPE / RADIO LIBERTY, Apr. 1, 2013, available at <https://www.rferl.org/a/russia-novaya-gazeta-20-years/24944376.html>.

²⁶⁵ *Id.*

²⁶⁶ See, e.g., Anton Naumlyuk, *Roskomnadzor Demanded That Ukrainian Journalists Remove From YouTube the Story About the Crimean Tatar Human Rights Activist*, NOVAYA GAZETA, Feb. 6, 2019, available at <https://www.novayagazeta.ru/news/2019/02/06/149002-roskomnadzor-potreboval-u-ukrainskih-zhurnalistov-udalit-iz-youtube-syuzhet-o-krymskotatarskom-pravozaschitnike> (government agency demanded removal of video about political prisoner Emir-Usein Kuku) [in Russian]; *Oryol Court Sentenced the Leader of the Local Jehovah's Witnesses Community to 6 Years in Prison*, NOVAYA GAZETA, Feb. 6, 2019, available at <https://www.novayagazeta.ru/news/2019/02/06/148992-orlovskiy-sud-prigovoril-k-6-godam-kolonii> (noting that political prisoner Dennis Christensen was sentenced to six years' imprisonment for extremism) [in Russian]; Anton Naumlyuk, *In Crimea, Those Accused of Terrorism and Sabotage Put on a Professional Account*, NOVAYA GAZETA, Feb. 3, 2019, available at <https://www.novayagazeta.ru/news/2019/02/03/148925-v-krymu-obvinyayemyh-v-terrorizme-i-diversiyah-stavyat-na-profuchet> (discussing political prisoner Nariman Memedeminov) [in Russian]; *Board Member of the "Open Russia" Anastasia Shevchenko Released From House Arrest for the Funeral of [Her] Daughter*, NOVAYA GAZETA, Feb. 2, 2019, available at <https://www.novayagazeta.ru/news/2019/02/02/148906-chlena-otkrytoy-rossii-anastasiyu-shevchenko-otpustyat-iz-pod-domashnego-aresta-na-pohorony-docheri> (discussing recently detained Anastasia Shevchenko) [in Russian]; and Victoria Odissonova, *Three Activists of an Indefinite Picket in Support of Sentsov Were Detained Near the Reception Office of the President*,

publish op-eds²⁶⁷ and even for political prisoners to publish letters from prison.²⁶⁸ Other outlets frequently commenting on the Kremlin's political prisoners (and related issues) include The Moscow Times,²⁶⁹ Vedomosti,²⁷⁰

NOVAYA GAZETA, Dec. 21, 2018, available at <https://www.novayagazeta.ru/news/2018/12/21/147826-u-priemnoy-administratsii-prezidenta-zaderzhali-treh-aktivistov-bessrochnogo-piketa-v-podderzhku-sentsova> (discussing a picket in support of political prisoner Oleg Sentsov) [in Russian].

²⁶⁷ See, e.g., Julius Rybakov, "Changes Are Inevitable, Your Terms Will End with Them," NOVAYA GAZETA, Nov. 7, 2018, available at <https://www.novayagazeta.ru/articles/2018/11/07/78486-peremeny-neizbezhny-s-nimi-okonchatsya-vashi-sroka-politzek-1970-h-yuliy-rybakov-politzekam-nyneshnim-s-pozhelaniem-sil-i-muzhestva> [in Russian].

²⁶⁸ *Letters from Bondage: Sentsov, Malobrodsky, Pavlikova, Titiyev*, NOVAYA GAZETA, Dec. 28, 2018, available at <https://www.novayagazeta.ru/articles/2018/12/28/79079-pisma-iz-nevoli> [in Russian].

²⁶⁹ See, e.g., *Danish Jehovah's Witness Faces 10-Year 'Extremism' Sentence in Russia*, NGO Warns, MOSCOW TIMES, Apr. 2, 2018, available at <https://themoscowtimes.com/news/danish-jehovahs-witness-faces-10-year-extemism-sentence-russia-ngo-warns-61018> (discussing Dennis Christensen); *Russia's Political Prisoner Numbers on the Rise, Says Memorial Rights Group*, MOSCOW TIMES, Oct. 31, 2017, available at <https://themoscowtimes.com/news/russia-detaining-more-political-prisoners-says-memorial-rights-group-59422>; Eva Hartog, *Jailed Russian Dissident Pleads for His Life in Letter Home to Wife*, MOSCOW TIMES, Nov. 1, 2016, available at <https://themoscowtimes.com/articles/dadin2-55968> (discussing Ildar Dadin); *Memorial Human Rights NGO: Russian Librarian Is Political Prisoner*, MOSCOW TIMES, Nov. 17, 2015, available at <https://themoscowtimes.com/news/memorial-human-rights-ngo-russian-librarian-is-political-prisoner-50797> (discussing Natalya Sharina); and Anna Dolgov, *Rights NGO Memorial Adds Navalny to List of Russian Political Prisoners*, MOSCOW TIMES, Aug. 11, 2014, available at <https://themoscowtimes.com/articles/rights-ngo-memorial-adds-navalny-to-list-of-russian-political-prisoners-38221> (discussing Alexey Navalny).

²⁷⁰ See, e.g., Angelina Krechetova, *Sentsov Became the Winner of the Sakharov Prize*, VEDOMOSTI.RU, Oct. 25, 2018, available at <https://www.vedomosti.ru/politics/articles/2018/10/25/784675-sentsov-stal-laureatom-premii> [in Russian]; Elena Mukhametshina, *Navalny Demanded that the Supreme Court Release His Brother*, VEDOMOSTI.RU, Mar. 20, 2018, available at <https://www.vedomosti.ru/politics/articles/2018/03/21/754374-navalnii-osvobodit-brata> (discussing Oleg Navalny) [in Russian]; *The Court Will Review the Case of Alexey Pichugin*, VEDOMOSTI.RU, Oct. 24, 2017, available at <https://www.vedomosti.ru/politics/news/2017/10/24/739193-peresmotrit-pichugina> [in Russian]; *The European Parliament Adopted A Resolution on the Ukrainian Political Prisoners in Russia*, VEDOMOSTI.RU, Mar. 16, 2017, available at <https://www.vedomosti.ru/politics/news/2017/03/16/681472-evroparlament-prinyal-rezolyutsiyu> [in Russian]; and Dmitry Kamyshev, *New "Main Political Prisoner,"* VEDOMOSTI.RU, Nov. 6, 2016, available at <https://www.vedomosti.ru/opinion/articles/2016/11/07/663745-novii-glavnii-politzaklyuchennii> (discussing Ildar Dadin) [in Russian].

Colta,²⁷¹ RBC²⁷² (sold in 2017 to a Putin-connected Russian magnate, worrying proponents of independent journalism²⁷³), TV Rain,²⁷⁴ MediaZona,²⁷⁵ and Echo of Moscow.²⁷⁶ Meduza, another independent

²⁷¹ See, e.g., *Oleg Sentsov Announced an Indefinite Hunger Strike*, COLTA.RU, May 16, 2018, available at <https://www.colta.ru/news/18058-oleg-sentsov-ob-yavil-bessrochnuyu-golodovku> [in Russian]; *Director of the Library of Ukrainian Literature Indicted*, COLTA.RU, June 7, 2016, available at <https://www.colta.ru/news/11367-direktoru-biblioteki-ukrainskoy-literatury-pred-yavleno-obvinenie> (discussing Natalya Sharina) [in Russian]; *“Memorial” Recognized Sentsov and Kolchenko as Political Prisoners*, COLTA.RU, Aug. 3, 2015, available at <https://www.colta.ru/news/8130-memorial-priznal-sentsova-i-kolchenko-politzaklyuchennymi> [in Russian]; and Dmitry Okrest, *How to Write Letters to Prison*, COLTA.RU, Dec. 20, 2013, available at <https://www.colta.ru/articles/society/1607-kak-pisat-pisma-v-tyurmy> (noting that “many political prisoners remain in prison”) [in Russian].

²⁷² See, e.g., *Pussy Riot Activists Appealed to the ECHR Arrest for a Share at the 2018 World Cup Final*, RBC.RU, Nov. 22, 2018, available at <https://www.rbc.ru/rbcfreenews/5bf672009a79474fc6b468ac> (“Pussy Riot activists Petr Verzilov, Nika Nikulshina, Olga Pakhtusova and Olga Kuracheva filed a complaint with the European Court of Human Rights (ECHR) because of persecution for a rally in defense of political prisoners, held during the 2018 World Cup final match.”) [in Russian]; *The European Parliament Awarded the Sakharov Prize to Oleg Sentsov*, RBC.RU, Oct. 25, 2018, available at <https://www.rbc.ru/society/25/10/2018/5bd1957f9a7947aa7fcb6403> [in Russian]; and *Kiev Filed a Claim with the European Court of Human Rights on the Rights of Ukrainian Political Prisoners in Russia*, RBC.RU, Aug. 11, 2018, available at <https://www.rbc.ru/politics/11/08/2018/5b6e3bdb9a794751644bb12e> [in Russian].

²⁷³ Svetlana Reiter & Anastasia Lyrchikova, *Russia Media Group that Angered Kremlin is Sold*, REUTERS, June 16, 2017, available at <https://www.reuters.com/article/us-russia-media-rbc-sale/russia-media-group-that-angered-kremlin-is-sold-idUSKBN1972KO>.

²⁷⁴ See, e.g., *“In Russia, and So Now the Lack of Adequate People.” Oleg Sentsov – About the “Persecution” of Oleg Kashin*, TVRAIN.RU, Dec. 28, 2018, available at https://tvrain.ru/news/oleg_sentsov_olega_kashina-478008/ [in Russian]; *In St. Petersburg, Detained Participants of Single Pickets in Support of the Crimean Tatars*, TVRAIN.RU, Dec. 18, 2018, available at https://tvrain.ru/news/v_peterburge_politsiya-477289/ [in Russian]; *“Memorial” Recognized the Defendants in the Case of “New Greatness” as Political Prisoners*, TVRAIN.RU, Sept. 24, 2018, available at <https://tvrain.ru/news/memorial-472078/> [in Russian]; *An Activist of the “Open Russia” Shevchenko Will Be Released to the Funeral of Her Daughter from House Arrest*, TVRAIN.RU, Feb. 2, 2018, available at <https://tvrain.ru/news/shevchenko-479770/> [in Russian]; and *In Moscow, Will Hold a March for the Release of Women Political Prisoners*, TVRAIN.RU, Jan. 31, 2018, available at https://tvrain.ru/news/v_moskve_provedut_marsh_materinskogo_gneva_s_trebovaniem_osvobodit_zhenschin_politzaklyuchennyh-479650/ [in Russian].

²⁷⁵ See, e.g., *“Memorial” Recognized as Political Prisoners of a St. Petersburg Resident Pavel Zlomnov, Accused of Justifying Terrorism in a Detention Center*, MEDIAZONA, Feb. 22, 2019, available at <https://zona.media/news/2019/02/22/zlomnov-memo> [in Russian]; *Memorial Recognized Politically Motivated Persecution of 19 More Followers of Jehovah’s Witnesses*, MEDIAZONA, Feb. 4, 2019, available at <https://zona.media/news/2019/02/04/memo-svideteli> [in Russian]; and *The ECHR Has Returned Priority Status to the Complaint of Sentsov and Kolchenko*, MEDIAZONA, Jan. 29, 2019, available at <https://zona.media/news/2019/01/29/sencov-ehrc> [in Russian].

²⁷⁶ See, e.g., *In Moscow, More Than a Thousand People Went to the “March of Maternal Rage” in Support of Women Political Prisoners*, ECHO MOSCOW, Feb. 10, 2019, available at <https://echo.msk.ru/news/2368565-echo.html> [in Russian]; *Memorial Human Rights Center Recognized Open Russia Activist Anastasia Shevchenko Political Prisoner*, ECHO MOSCOW, Feb. 9,

Russia-language newspaper, operates in exile from Riga, Latvia.²⁷⁷

Several civil society organizations have helped document and highlight political prisoner cases. Memorial HRC, the Union of Solidarity with Political Prisoners, and OVD-Info, for example, collect and compile information on the facts of a given case, the charges alleged, the conditions of detention, the legal proceedings, and any mistreatment or due process violations.²⁷⁸ Memorial HRC and the Union of Solidarity with Political Prisoners also compile updated and vetted lists of the Kremlin's political prisoners that can be used to coordinate advocacy and analyze trends.²⁷⁹ For example, based on Memorial HRC's data, the European Parliament noted in 2018 that "the number of political prisoners in Russia has increased significantly in recent years."²⁸⁰ Other organizations have reported on certain categories of political prisoners. The SOVA Center for Information and Analysis issues reports on individuals charged under extremism or blasphemy laws;²⁸¹ Team 29 has reported on those prosecuted as spies (*i.e.*, for treason, espionage, or disclosing state secrets);²⁸² and Article 20 has

2019, available at <https://echo.msk.ru/news/2367715-echo.html> [in Russian]; *In the 7th Anniversary of the Rally at the Bolotnaya – Megashor for Political Prisoners*, ECHO MOSCOW, Dec. 10, 2018, available at https://echo.msk.ru/blog/akimenkov_v/2331261-echo/ [in Russian]; and *Ukrainian Director Oleg Sentsov Has Been Unable to Receive a Package with Warm Clothes and Food for Three Weeks*, ECHO MOSCOW, Dec. 10, 2018, available at <https://echo.msk.ru/news/2330805-echo.html> [in Russian].

²⁷⁷ *Welcome to Meduza: Russia's Top News and Reporting*, in *English*, MEDUZA, Feb. 2, 2015, available at <https://meduza.io/en/feature/2015/02/02/welcome-to-meduza>.

²⁷⁸ *Current List of Political Prisoners*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 7, 2019, available at <https://memohrc.org/ru/pzk-list> [in Russian]; *Alphabetical List of Political Prisoners and Persecuted for Political Reasons*, UNION OF SOLIDARITY WITH POLITICAL PRISONERS, accessed Feb. 7, 2019, available at <https://www.politzeky.ru/operativnaya-informatsiya/8199/alfavitnyj-spisok-politzakljuchennyh-i-presleduemyh-po-politicheskim-motivam> [in Russian]; and *Not Only Crimea and Maidan*, OVD-INFO, accessed Feb. 7, 2019, available at <http://reports.ovdinfo.org/2017/pp15-16/> [in Russian].

²⁷⁹ *Current List of Political Prisoners*, *supra* note 278 and *Alphabetical List of Political Prisoners*, *supra* note 278.

²⁸⁰ *Resolution on Russia, Notably the Case of Ukrainian Political Prisoner Oleg Sentsov*, *supra* note 59 ("[W]hereas the number of political prisoners in Russia has increased significantly in recent years; whereas the Human Rights Centre Memorial . . . published a list on 29 May 2018 with the names of 158 political prisoners . . ."); see also RUSSIA 2016 HUMAN RIGHTS REPORT, *supra* note 88, at 16 ("As of October 31, the Memorial Human Rights Center's updated list of political prisoners included 102 names, more than double the 50 individuals the organization listed in 2015.").

²⁸¹ *Misuse of Anti-Extremism*, SOVA CTR. FOR INFO. AND ANALYSIS, accessed Oct. 9, 2018, available at <https://www.sova-center.ru/en/misuse/>.

²⁸² THE HISTORY OF HIGH TREASON, ESPIONAGE AND STATE SECRET IN TODAY'S RUSSIA, TEAM 29, 2018, available at <https://spy.team29.org/report.pdf>.

reported on prosecutions that violate the right to freedom of assembly and association.²⁸³

Domestic organizations have also published numerous reports relating to political prisoners. The Moscow Helsinki Group, for example, has issued reports on the prosecution of human rights defenders, newly enacted legislation, freedom of peaceful assembly, and the shrinking space for civil society.²⁸⁴ Memorial HRC has similarly written reports on restrictions on peaceful assembly and speech, the misuse of terrorism laws, and trends in political persecution.²⁸⁵ OVD-Info has published on, among other topics, extrajudicial persecution, administrative and criminal prosecution, and misuse of Administrative Code Article 20.2.²⁸⁶ Agora has written about violence and intimidation of activists, journalists and politicians; censorship and internet freedom; and government surveillance of opponents.²⁸⁷

In addition, several groups engage with the international and regional human rights bodies, providing key information so that they fully understand the extent of the Kremlin's repression. During Russia's 2018 Universal Periodic Review, several domestic groups – including Citizens' Watch, the Russian LGBT Network, and the SOVA Center – submitted shadow reports discussing the persecution of political prisoners.²⁸⁸ These

²⁸³ *Freedom of Associations*, ARTICLE 20, accessed Feb. 8, 2019, available at <https://article20.org/category/freedom-of-associations/> and *Freedom of Assembly*, ARTICLE 20, accessed Feb. 8, 2019, available at <https://article20.org/category/freedom-of-assembly/>.

²⁸⁴ *Thematic Reports*, MOSCOW HELSINKI GROUP, accessed Feb. 8, 2019, available at <http://mhg.ru/tematicheskie-doklady> [in Russian].

²⁸⁵ *Publications of the Memorial Human Rights Center*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 7, 2019, available at <https://memohrc.org/ru/publications> [in Russian].

²⁸⁶ See, e.g., VIOLATION OF THE ESTABLISHED ORDER, OVD-INFO, Mar. 17, 2016, available at http://reports.ovdinfo.org/2015/20_2-report/ [in Russian].

²⁸⁷ *Important*, AGORA, accessed Feb. 8, 2019, available at <http://en.agora.legal/articles/>.

²⁸⁸ JOINT SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW 30TH SESSION OF THE UPR WORKING GROUP, CIVICUS & CITIZENS' WATCH, Oct. 5, 2017, at ¶ 4.6, available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRRussianFederationStakeholdersInfoS30.aspx> (click on "JS5 - Joint Submission 5") (discussing, e.g., "widespread persecution of free speech under the guise of combating extremism"); JOINT SUBMISSION TO THE HUMAN RIGHTS COUNCIL AT THE 30TH SESSION OF THE UNIVERSAL PERIODIC REVIEW, ANTI-DISCRIMINATION CTR. "MEMORIAL" & RUSSIAN LGBT NETWORK, May 2018, at ¶¶ 21, 23, available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRRussianFederationStakeholdersInfoS30.aspx> (click on "JS6 - Joint Submission 6") (discussing, e.g., "arrests and detention of religious leaders" and persecution of Jehovah's Witnesses); and JOINT SUBMISSION FOR UNIVERSAL PERIODIC REVIEW, SOVA CTR. ET AL., available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRRussianFederationStakeholdersInfoS30.aspx> (click on "JS10 - Joint Submission 10") (discussing, e.g., laws criminalizing freedom of expression and peaceful assembly).

organizations, and others, have also highlighted restrictive laws and political prisoners during the UN treaty body reporting process²⁸⁹ and the OSCE's Human Dimension Implementation Meeting.²⁹⁰

2. Public Statements

Despite the serious risks involved, domestic activists frequently speak out regarding the Kremlin's political prisoners. For example, in advance of the 2018 World Cup, activists from Russia signed onto an open letter calling on world leaders to boycott the event and for the release of the Kremlin's Ukrainian political prisoners.²⁹¹ In October 2018, activist Lev Ponomarev posted on Facebook about rallies in support of arrested teen activists (and was given 16 days' administrative arrest as a result).²⁹² Organizations such as Memorial HRC, the Union of Solidarity with Political Prisoners, the Moscow Helsinki Group, OVD-Info, and For Human Rights have called for the release of political prisoners,²⁹³ marked

²⁸⁹ REPORT TO THE UN COMMITTEE AGAINST TORTURE ON INFRINGEMENT OF THE RIGHTS OF JOURNALISTS AND PRESSURE ON THEM IN CONNECTION WITH THEIR JOURNALISTIC ACTIVITIES, COMMITTEE AGAINST TORTURE ET AL., *available at* https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/RUS/INT_CAT_CSS_RUS_31622_E.pdf (discussing, e.g., criminal prosecutions against persons conducting independent journalistic investigations); NGO CONTRIBUTION IN VIEW OF THE ADOPTION OF THE LIST OF ISSUES, YOUTH HUMAN RIGHTS MOVEMENT, SOVA CTR. FOR INFO. AND ANALYSIS & COMMITTEE AGAINST TORTURE, Apr. 2014, *available at* https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fICO%2fRUS%2f17192&Lang=en (discussing, e.g., prosecution of religious minorities); and KSENIYA KIRICHENKO & MARIA KOZLOVSKAYA, IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS IN THE RUSSIAN FEDERATION: SEXUAL ORIENTATION AND GENDER IDENTITY ISSUES, RUSSIAN LGBT NETWORK ET AL., July 2014, *available at* https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/RUS/INT_CCPR_ICO_RUS_17137_E.pdf (discussing, e.g., arrest of LGBT activists).

²⁹⁰ *Russian Political Prisoners in the Year of 2018: The Situation and Its Trends*, MEMORIAL HUMAN RIGHTS CTR., Sept. 27, 2018, *available at* <https://www.osce.org/odihr/397598?download=true>.

²⁹¹ *An Appeal to the Representatives of Countries Who Are Expected to Travel to the World Cup Football Games in Russia*, OPENDEMOCRACY, June 6, 2018, *available at* <https://www.opendemocracy.net/od-russia/open-letter-in-support-of-ukrainian-political-prisoners>.

²⁹² Vladimir Kara-Murza, *Kremlin Jails a Veteran Human Rights Activist – For a Facebook Post*, WASHINGTON POST, Dec. 11, 2018, *available at* https://www.washingtonpost.com/opinions/2018/12/12/russia-jails-veteran-human-rights-activist-facebook-post/?hpid=hp_hp-top-table-main-russia-jails-veteran-human-rights-activist-facebook-post%3Ahomepage%2Ft%3A-4be531b537ab.

²⁹³ See, e.g., *The Case of “New Greatness,”* MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 7, 2019, *available at* <https://memohrc.org/ru/special-projects/delo-novogo-velichiya> [in Russian]; *Moscow Business “Tablighi Jamaat,”* UNION OF SOLIDARITY WITH POLITICAL PRISONERS, accessed Feb. 7, 2019, *available at* <https://www.politzeky.ru/dela-musulman/8969/moskovskoe-delo-tablighi-dzhamaat/?fbclid=IwAR2O9QgLv9F4vjv28oiVHHWjsC3A9vKzPVaVMRqe4oaED5IWWVZrPoCz6sM> [in Russian]; and *Jehovah's Orel Witness Dennis Christensen, the Court Sentenced to Six*

important anniversaries related to political prisoners,²⁹⁴ and issued updates on specific cases.²⁹⁵

Political prisoners in particular often speak out, both during and after their detention. For example, soon after his release, prisoner of conscience Ildar Dadin²⁹⁶ gave several interviews describing the torture he endured at a remote penal colony, adding, “I refuse to give up the struggle, and abandon those political prisoners who remain behind bars.”²⁹⁷ Despite being imprisoned, Oleg Sentsov has repeatedly published letters in the media,²⁹⁸ most recently thanking “those who still . . . continue to support me and, most importantly, other Ukrainian political prisoners” and stating: “They’re not giving up and I’m not either.”²⁹⁹ Dmitry Buchenkov gave an

Years in Prison, MOSCOW HELSINKI GROUP, Feb. 6, 2019, available at <http://mhg.ru/news/orlovskogo-svidetelya-iegovy-dennisa-kristensena-sud-prigovoril-k-shesti-godam-kolonii> [in Russian].

²⁹⁴ See, e.g., *The Case of Oyub Titiev – Year*, MEMORIAL HUMAN RIGHTS CTR., Jan. 9, 2019, available at https://memohrc.org/ru/news_old/delu-oyuba-titieva-god [in Russian] and Tweet by OVD-Info (@Ovdinfo), TWITTER, May 6, 2015, 11:28 am, available at <https://twitter.com/OvdInfo/status/596018827021942785> (marking the 3rd anniversary of the Bolotnaya Square protests) [in Russian].

²⁹⁵ See, e.g., *Convicted for Membership in Hizb ut-Tahrir in Chelyabinsk – Political Prisoners*, MEMORIAL HUMAN RIGHTS CTR., Feb. 6, 2019, available at https://memohrc.org/ru/news_old/osuzhdennye-za-chlenstvo-v-hizb-ut-tahrir-v-chelyabinske-politizaklyuchennye [in Russian]; *The Court Approved the House Arrest of the Activist of the “Open Russia” Anastasia Shevchenko*, OVD-INFO, Feb. 7, 2019, available at https://ovdinfo.org/express-news/2019/02/07/sud-utverdil-domashniy-arest-aktivistki-otkrytoy-rossii-anastasii-shevchenko?utm_source=tw&utm_medium=social [in Russian]; and *Public Hearings on the Case of the Network in the Sakharov Center (Video)*, FOR HUMAN RIGHTS, Jan. 21, 2019, available at <http://www.zaprava.ru/obshhestvennye-slushaniya-po-delu-seti-v-saxarovskom-centre-video/> [in Russian].

²⁹⁶ *Prisoner of Conscience, Ildar Dadin Has Been Freed!*, AMNESTY INT’L, Mar. 3, 2017, available at <https://www.amnesty.ie/prisoner-conscience-ildar-dadin-freed/>.

²⁹⁷ Marc Bennetts, *‘They Beat Me’: A Putin Critic Speaks Out*, VOCATIV.COM, Mar. 17, 2017, available at <https://www.vocativ.com/news/412414/russia-putin-critic-prison-torture/index.html>.

²⁹⁸ Luke Harding, *Letter from Ukrainian Film-Maker Oleg Sentsov Smuggled Out of Prison*, THE GUARDIAN, Sept. 12, 2016, available at <https://www.theguardian.com/world/2016/sep/12/oleg-sentsov-jailed-ukrainian-film-maker-letter-siberian-prison-putin>; “*I’m On the Move*”: *Oleg Sentsov Sends Letter From Prison*, PEN AMERICA, Oct. 5, 2017, available at <https://pen.org/im-move-oleg-sentsov-sends-letter-prison/>; and *Oleg Sentsov Letter: “Everyone Understands that I Will Not Back Down,”* VOICES OF UKRAINE, June 9, 2018, available at <https://maidantranslations.com/2018/06/09/oleg-sentsov-letter-everyone-understands-that-i-will-not-back-down/>.

²⁹⁹ *On 136th Day of Hunger Strike, Oleg Sentsov Says He Won’t Give Up*, MOSCOW TIMES, Sept. 26, 2018, available at <https://themoscowtimes.com/news/on-his-136th-day-of-hunger-strike-sentsov-says-he-wont-give-up-63004>.

interview while detained for his participation in the Bolotnaya Square protest.³⁰⁰

Several political parties³⁰¹ and individual politicians have also spoken out. The United Democratic Party “Yabloko” and its representatives have frequently spoken out on behalf of individual political prisoners, including Oyub Titiev,³⁰² Oleg Sentsov,³⁰³ and Yuri Dmitriev,³⁰⁴ and called for the release of political prisoners.³⁰⁵ In December 2018, Emilia Slabunova, Chair of the Yabloko party, slammed the Moscow City Court’s decision upholding the detention of Lev Ponomarev, stating: “The court decision is a shame This arbitrary rule is a demonstration that human rights and freedoms in our country are not upheld.”³⁰⁶ Grigory Yavlinsky, Chairman of the Federal Political Committee of Yabloko, has called on Putin to amnesty all political prisoners.³⁰⁷ Mikhail Kasyanov, a former Prime Minister of Russia and current Chair of the registered People’s Freedom Party (PARNAS), has repeatedly issued public statements on the detention and mistreatment of political prisoners, including Ildar Dadin.³⁰⁸ On the party’s website, he harshly criticized the February 2017 conviction of Alexey Navalny, calling it “a political decision and absolutely unjust.”³⁰⁹

³⁰⁰ Tatyana Dvornikova, *The Man in Black: Interview with Russian Anarchist Dmitry Buchenkov*, OPENDEMOCRACY, July 3, 2017, available at <https://www.opendemocracy.net/od-russia/tatyana-dvornikova/man-in-black-interview-with-russian-anarchist-dmitry-buchenkov>.

³⁰¹ As of September 2018, only four political parties are represented in the national legislature, though sixty additional parties were registered, along with an unspecified number of unregistered parties and movements. See *The World Factbook: Russia*, CIA.GOV, accessed Feb. 7, 2019, available at <https://www.cia.gov/library/publications/resources/the-world-factbook/geos/rs.html> (click on “Government”); see also *List of Registered Political Parties*, MINISTRY OF JUSTICE OF THE RUSSIAN FEDERATION, accessed Feb. 7, 2019, available at <https://minjust.ru/nko/gosreg/partii/spisok?theme=minjust> [in Russian].

³⁰² See, e.g., Grigory Yavlinsky, *The Case of Human Rights Defender Oyub Titiyev Concerns Everyone in Russia*, YABLOKO, Nov. 28, 2018, available at <http://eng.yabloko.ru/?p=20653> and *Yabloko Demands from Vladimir Putin Again that Oyub Titiev Be Released. Earlier President Through His Administration Refused to Do It*, YABLOKO, Nov. 19, 2018, available at <http://eng.yabloko.ru/?p=20624>.

³⁰³ *Vladimir Putin Through his Administration Refuses to Grant a Pardon to Oleg Sentsov Upon Yabloko’s Request*, YABLOKO, Nov. 1, 2018, available at <http://eng.yabloko.ru/?p=20528>.

³⁰⁴ “The Current Political System is a Step Away from Becoming a Political Mechanism of Terror,” YABLOKO, Oct. 29, 2018, available at <http://eng.yabloko.ru/?p=20494>.

³⁰⁵ *Id.*

³⁰⁶ *Yabloko Demands that Moscow City Court Release Human Rights Activist Lev Ponomarev Immediately*, YABLOKO, Dec. 7, 2018, available at <http://eng.yabloko.ru/?p=20758>.

³⁰⁷ Grigory Yavlinsky, FACEBOOK, Dec. 11, 2018, available at <https://www.facebook.com/yavlinsky.yabloko/posts/2145234092236403> [in Russian].

³⁰⁸ See, e.g., *Dadin’s Sentence is Canceled*, PARNAS, Feb. 22, 2017, available at <https://parnasparty.ru/publications/343> [in Russian].

³⁰⁹ *New Sentence to Alexei Navalny in the Case of “Kirovles,”* PARNAS, Aug. 2, 2017, available at <https://parnasparty.ru/publications/335>.

On Twitter, PARNAS slammed the recent detention of Lev Ponomarev, calling it illegal and politically motivated and demanding his immediate release.³¹⁰ Leonid Gozman, former co-chair of the Just Cause Party and President of the Union of Right Forces (SPS),³¹¹ has published news articles criticizing the courts for not upholding the rule of law³¹² and called the Sentsov case an example of “lawlessness and fantastic cruelty.”³¹³

Former political prisoner Alexey Navalny, head of the unregistered Russia of the Future Party,³¹⁴ has repeatedly criticized the Kremlin for holding political prisoners and called for their release.³¹⁵ In a sarcastic open letter to Putin in 2018, he called on the Kremlin to “shock everybody by releasing [Oleg Sentsov] and all 64 Ukrainian political prisoners.”³¹⁶

Boris Nemtsov, a former Deputy Prime Minister, co-chair of PARNAS, and leading opposition figure, advocated on behalf of the Kremlin’s political prisoners both domestically and on the international stage in public speeches, media appearances, and meetings with policymakers. He played a key role in the passage of the US Magnitsky Act; in fact, Senator John McCain, one of the law’s main sponsors, said that

³¹⁰ Tweet by PARNAS (@parnasparty), TWITTER, Dec. 5, 2018, 5:04 am, available at <https://twitter.com/parnasparty/status/1070302945605050370>.

³¹¹ Dr. Leonid Gozman, NAT’L ENDOWMENT FOR DEMOCRACY, accessed Feb. 7, 2019, available at <https://www.ned.org/fellows/dr-leonid-gozman/>.

³¹² Leonid Gozman, *On the Field of the Enemy*, NOVAYA GAZETA, Dec. 22, 2018, available at <https://www.novayagazeta.ru/articles/2018/12/22/79030-na-pole-protivnika> [in Russian].

³¹³ Leonid Gozman, *Citizen Sentsov: “The Case of Sentsov” is the Restoration of Serfdom in Russia*, NOVAYA GAZETA, June 2, 2018, available at <https://www.novayagazeta.ru/articles/2018/06/02/76699-grazhdanin-sentsov>.

³¹⁴ Navalny has been attempting to register a political party since 2012, but authorities have repeatedly refused these requests on technicalities. See *Russia’s Justice Ministry Again Refuses to Register Alexey Navalny’s Opposition Political Party*, MEDUZA, Aug. 27, 2018, available at <https://meduza.io/en/news/2018/08/27/russia-s-justice-ministry-again-refuses-to-register-alexey-navalny-s-opposition-political-party>.

³¹⁵ Tweet by Alexey Navalny (@navalny), TWITTER, Feb. 6, 2019, 1:36 am, available at <https://twitter.com/navalny/status/1093080957123526656> (Dennis Christensen) [in Russian]; *Russian Opposition Leader Navalny Seeks Brother’s Release*, AP, Mar. 20, 2018, available at <https://www.apnews.com/866d017b3b5340a6b11b4e1ab7285c1f> (Oleg Sentsov); Tweet by Alexey Navalny (@navalny), TWITTER, Dec. 7, 2017, 2:40 am, available at <https://twitter.com/navalny/status/938719838456905728> (Dmitry Krepin) [in Russian]; and *Russian Opposition Call for Release of Political Prisoners During Moscow Demonstration*, TELEGRAPH, Oct. 27, 2013, available at <https://www.telegraph.co.uk/news/worldnews/europe/russia/10407540/Russian-opposition-call-for-release-of-political-prisoners-during-moscow-demonstration.html>.

³¹⁶ Masha Gessen, *Counting Down the Days of the Hunger Strike by Oleg Sentsov, A Ukrainian Political Prisoner Held in Russia*, NEW YORKER, June 4, 2018, available at <https://www.newyorker.com/news/our-columnists/counting-down-the-days-of-the-hunger-strike-by-oleg-sentsov-a-ukrainian-political-prisoner-held-in-russia>.

“without Boris Nemtsov, we would not have had the Magnitsky Act.”³¹⁷ In February 2012, Nemtsov personally handed then President Dmitry Medvedev a list of 37 political prisoners and demanded their release.³¹⁸ As a result of that meeting, Sergei Mokhnatkin, a long-serving political prisoner arrested for attending a Moscow opposition rally, was pardoned and released in April 2012.³¹⁹

3. Protests and Civil Disobedience

Russian activists have risked fines and imprisonment (and worse) by protesting and demonstrating in support of the Kremlin’s political prisoners. In 2016, Ildar Dadin was sentenced to three years in prison for repeatedly holding political signs in public, including some that supported political prisoners (though the Supreme Court later quashed his conviction).³²⁰ In June 2018, Dmitry Kalinychev was sanctioned three times for picketing alone in support of detained political prisoners; for the last offense, he spent 25 days in jail.³²¹ In July 2018, two activists were arrested for holding posters demanding the release of political prisoner Oyub Titiev.³²² In August 2018, politician Leonid Gozman and activist Sergei Sharov-Delaunay were detained while holding a banner marking the 50th anniversary of the 1968 Red Square Demonstration, in which several

³¹⁷ Vladimir Kara-Murza, *It’s Been Four Years Since the Murder of Boris Nemtsov. Russians Haven’t Forgotten.*, WASHINGTON POST, Mar. 6, 2019, available at https://www.washingtonpost.com/opinions/2019/03/06/its-been-four-years-since-murder-boris-nemtsov-russians-havent-forgotten/?utm_term=.f775f5dc2956.

³¹⁸ *At the Meeting With the President, Nemtsov Felt That Medvedev “Decided to Pardon Someone,”* INTERFAX, Feb. 20, 2012, available at <https://www.interfax.ru/russia/231865> [in Russian].

³¹⁹ *Medvedev Pardoned Political Prisoner Sergei Mokhnatkin*, FORBES, Apr. 23, 2012, available at <https://www.forbes.ru/news/81495-medvedev-pomiloval-figuranta-spiska-politzaklyuchennyh-mohnatkina>.

³²⁰ Paula Chertok, *New Normal in Russia: Putin Critics Punished with Harsh Prison Terms*, EUROMAIDAN PRESS, Jan. 5, 2016, available at <http://euromaidanpress.com/2016/01/05/new-normal-in-russia-putin-critics-punished-with-harsh-prison-terms/>; Halya Coynash, *Russian Court Sentences Ildar Dadin to 3 Years Under New Anti-Protest Law*, KHARKIV HUMAN RIGHTS PROT. GROUP, Dec. 8, 2015, available at <http://khpg.org/en/index.php?id=1449495941>; and *Russia’s Supreme Court Sets Ildar Dadin Free*, MEDUZA, Feb. 22, 2017, available at <https://meduza.io/en/feature/2017/02/22/russia-s-supreme-court-releases-ildar-dadin-and-overturns-his-sentence>.

³²¹ *Russian Man Jailed for Speaking Up for Political Prisoners During World Cup*, UNIAN, June 20, 2018, available at <https://www.unian.info/world/10158860-russian-man-jailed-for-speaking-up-for-political-prisoners-during-world-cup.html>.

³²² Lene Wetteland, *Russia After the World Cup: On Pussy Riot and Putin’s Tumble*, NORWEGIAN HELSINKI COMMITTEE, Aug. 16, 2018, available at <https://www.nhc.no/en/russia-after-the-world-cup-on-pussy-riot-and-putins-tumble/>.

protestors were convicted on politically-motivated charges.³²³ Anna Krasovitskaya was also arrested at the event for holding a placard supporting Oleg Sentsov.³²⁴

In more dramatic advocacy, four members of the rock band Pussy Riot, dressed as policemen, ran onto the field during the 2018 World Cup Final in Moscow to demand, among other things, the release of all political prisoners.³²⁵ They were sentenced to 15 days in jail.³²⁶ There have also been several large-scale marches, most notably in Moscow, in which thousands of demonstrators demanded the release of political prisoners.³²⁷ For example, in August 2018, protestors in several cities participated in the “Mother’s March” demanding the release of Maria Dubovik and Anna Pavlikova, two teenage girls charged with extremism in the “New Greatness” case.³²⁸ Further back, there were large protests when opposition leader Alexey Navalny was convicted of fraud in December 2014³²⁹ and when several Bolotnaya Square protestors were sentenced in February

³²³ *Russian Police Detain Three People Marking 1968 Red Square Protest*, RADIO FREE EUROPE / RADIO LIBERTY, Aug. 25, 2018, available at <https://www.rferl.org/a/russian-police-detain-three-people-marking-1968-red-square-protest-czechoslovakia/29453057.html>.

³²⁴ *Id.*

³²⁵ Emily Stewart, *Pussy Riot Says It's Behind World Cup Protesters*, VOX, July 15, 2018, available at <https://www.vox.com/world/2018/7/15/17573668/what-is-pussy-riot-world-cup-mbappe>.

³²⁶ *World Cup Protestors Learn Their Fate in Russian Court*, CBS NEWS, July 17, 2018, available at <https://www.cbsnews.com/news/world-cup-protesters-pussy-riot-learn-fate-russian-court-today-2018-07-17/>.

³²⁷ *Muscovites Rally to Protest 'Catastrophic' Violations of Human Rights, Freedoms*, RADIO FREE EUROPE / RADIO LIBERTY, June 10, 2018, available at <https://www.rferl.org/a/muscovites-rally-to-protest-catastrophic-violations-of-human-rights/29282359.html>; *Thousands March in Moscow to Honor Kremlin Critic Killed in 2015*, REUTERS, Feb. 26, 2017, available at <https://www.businessinsider.com/r-thousands-march-in-moscow-to-honor-kremlin-critic-killed-in-2015-2017-2> (quoting Ilya Yashin, a Russian opposition activist and an organizer of the march: “We gathered here to demand political reforms and release of political prisoners.”); and Sergei L. Loiko, *Thousands March in Moscow, Demand Release of Political Prisoners*, L.A. TIMES, Oct. 27, 2013, available at <http://articles.latimes.com/2013/oct/27/world/la-fg-wn-russia-moscow-protest-political-prisoners-20131027> (“[P]rotesters marched along Moscow’s central Boulevard Ring road carrying photographs of political prisoners, including business tycoon Mikhail Khodorkovsky and members of the band Pussy Riot.”).

³²⁸ Evan Gershkovich, *A ‘Mothers’ March’ in Moscow for Teenage Girls Charged with Extremism*, MOSCOW TIMES, Aug. 15, 2018, available at <https://www.themoscowtimes.com/2018/08/15/mothers-march-moscow-against-novoye-velichiye-extremism-case-a62534>.

³²⁹ Brian Ries & Christopher Miller, *Thousands Protest in Moscow After Opposition Leader's Guilty Verdict*, MASHABLE, Dec. 30, 2014, available at <https://mashable.com/2014/12/30/moscow-protests/#nuZT0rYqiiqy> (“A massive crowd of protesters gathered in Moscow’s Manezhka Square on Tuesday following the guilty verdict of anti-corruption crusader Alexei Navalny.”).

2014.³³⁰ In addition, Oleg Sentsov's recent 145-day hunger strike, which called for the release of the Kremlin's Ukrainian political prisoners, garnered significant international attention and support.³³¹

4. Advocacy

Russian civil society also provides much-needed support directly to political prisoners (and potential political prisoners). For example, a group of organizations, including Memorial HRC, Moscow Helsinki Group, Agora, and Human Rights Network, established a "rapid response" center to protect human rights defenders and respond to incidents of persecution.³³² Civil society also provides essential legal support. Given that lawyers defending political prisoners have been arrested themselves,³³³ had their homes and offices raided,³³⁴ and been accused of official misconduct,³³⁵ it is essential to have lawyers who will not be deterred by government intimidation. Memorial HRC, Agora, and Public Verdict Foundation, in particular, have assisted political prisoners in their cases.³³⁶ A coalition of organizations has also held a regular series of "charity evenings"³³⁷ to raise money to help political prisoners pay for legal

³³⁰ *Mass Arrest of Protesters at Rallies in Russia*, BBC NEWS, Feb. 25, 2014, available at <https://www.bbc.com/news/world-europe-26337693>.

³³¹ See, e.g., Oleg Matsnev, *Ukrainian Film Director Jailed in Russia Is Said to End Hunger Strike*, N.Y. TIMES, Oct. 5, 2018, available at <https://www.nytimes.com/2018/10/05/world/europe/russia-oleg-sentsov-hunger-strike.html> and *US Urges Russia to 'Immediately Release' Ukrainian Filmmaker Sentsov*, EXPRESS TRIBUNE, Aug. 24, 2018, available at <https://tribune.com.pk/story/1786874/3-us-urges-russia-immediately-release-ukrainian-filmmaker-sentsov/>.

³³² *About Us*, SOS-HRD.ORG, accessed Feb. 8, 2019, available at <http://sos-hrd.org/about#.XF2h6M9Kg0o>.

³³³ Urgent Action, *Human Rights Lawyer Incarcerated in Crimea*, AMNESTY INT'L, Jan. 30, 2017, available at <https://www.amnesty.org/download/Documents/EUR5055952017ENGLISH.pdf>.

³³⁴ *Id.*

³³⁵ *Case History: Marina Dubrovina*, FRONTLINE DEFENDERS, accessed Feb. 8, 2019, available at <https://www.frontlinedefenders.org/en/case/case-history-marina-dubrovina> (discussing "judicial harassment" of lawyers Dokka Itslaev and Marina Dubrovina, who were representing political prisoners Nikolai Karpuyuk and Stanislav Klykh).

³³⁶ *Russia: Court Orders Rights Group Closed*, HUMAN RIGHTS WATCH, Feb. 11, 2016, available at <https://www.hrw.org/news/2016/02/11/russia-court-orders-rights-group-closed> (noting that Agora's lawyers have represented Pussy Riot, Alexey Navalny, and Oleg Sentsov); *The Memorial Helped Them*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 8, 2019, available at <https://memohrc.org/ru/content/im-pomog-memorial> (listing people Memorial has helped) [in Russian]; and Joshua Yaffa, *The Perfect Show-Trial for the Putin Era*, NEW REPUBLIC, June 24, 2013, available at <https://newrepublic.com/article/113581/moscows-may-6-protesters-perfect-show-trial-putin-era> (noting that Public Verdict Foundation was representing some of the defendants arrested during the protests on May 6, 2012).

³³⁷ *Charity Evening in Support of Political Prisoners*, FACEBOOK, accessed Feb. 9, 2019, available at <https://www.facebook.com/events/2170073619912750/> [in Russian] and Sergei Davidis,

counsel.³³⁸ Legal assistance is essential not only to mount a strong defense and object to any procedural irregularities during trial, but also to appeal the case in the event of a conviction and, if domestic remedies fail, to take the cases to the UN Human Rights Committee or European Court of Human Rights.³³⁹

C. The Kremlin's Response to Advocacy Regarding Its Political Prisoners

While the Kremlin's response to advocacy on behalf of its political prisoners is consistently hostile, its specific response depends on the person or organization being addressed. As set forth below, the Kremlin responds to, and retaliates against, domestic actors, activists abroad, and the international community in different ways.

1. Response to Advocacy Within Russia and Russia-Occupied Crimea

Russian activists calling for the release of political prisoners are themselves punished for exercising their fundamental rights. In July 2018, for example, two activists in Moscow held up posters demanding the release of political prisoner Oyub Titiev; they were arrested a few minutes later for holding an "illegal demonstration."³⁴⁰ That same month, four members of Pussy Riot were sentenced to 15 days in jail for running onto the field during the 2018 World Cup Final in Moscow to demand, among other things, the release of all political prisoners.³⁴¹ The prior month, Dmitry Kalinychev

FACEBOOK, Dec. 23, 2018, *available at*

https://www.facebook.com/sergei.davidis/posts/2074151739307210?__tn__=C-R [in Russian].

³³⁸ *Financial Report of the Union of Solidarity with Political Prisoners for the IV Quarter of 2018*, UNION OF SOLIDARITY WITH POLITICAL PRISONERS, Jan. 5, 2019, *available at* <https://www.politzeky.ru/operativnaya-informatsiya/8979/finansovyy-otchjot-sojuza-solidarnosti-s-politzakljuchjonnymi-za-iv-kvartal-2018-goda> [in Russian].

³³⁹ *Open Russia Human Rights*, OPEN RUSSIA, accessed Jan. 23, 2019, *available at* <https://en.openrussia.org/human-rights> and *Protection of Human Rights Using International Mechanisms*, MEMORIAL HUMAN RIGHTS CTR., accessed Jan 23, 2019, *available at* <https://memohrc.org/ru/content/zashchita-prav-cheloveka-s-ispolzovaniem-mezhdunarodnyh-mehanizmov> [in Russian].

³⁴⁰ Lene Wetteland, *Russia After the World Cup: On Pussy Riot and Putin's Tumble*, NORWEGIAN HELSINKI COMMITTEE, Aug. 16, 2018, *available at* <https://www.nhc.no/en/russia-after-the-world-cup-on-pussy-riot-and-putins-tumble/>.

³⁴¹ Emily Stewart, *Pussy Riot Says It's Behind World Cup Protesters*, VOX, July 15, 2018, *available at* <https://www.vox.com/world/2018/7/15/17573668/what-is-pussy-riot-world-cup-mbappe> and *World Cup Protesters Learn Their Fate in Russian Court*, CBS NEWS, July 17, 2018,

was administratively sanctioned three times for single-person pickets in support of detained political prisoners; the last time was deemed a repeated offense, and he was jailed for 25 days.³⁴² In a similar case in 2016, Ildar Dadin was sentenced to three years in prison for repeatedly holding solitary protests, including in support of political prisoners.³⁴³

Government officials have also intimidated and harassed lawyers representing political prisoners. In September 2018, lawyer Mikhail Benyash traveled to a protest against pension reform in Krasnodar in the North Caucasus region to provide legal assistance to its participants.³⁴⁴ As Benyash was talking to a client, two plainclothes police officers grabbed him, forced him into a car, stole his phone, beat him, and then drove him to the police station.³⁴⁵ Soon thereafter, he was sentenced to 14 days' administrative arrest for disobeying a police officer and violating the rules for public events.³⁴⁶ The day he was due to be released, he was re-arrested on charges of obstructing justice (relating to an earlier court appearance when he interrupted the judge) and assaulting a police officer (for allegedly hitting an officer during his original arrest).³⁴⁷ He was kept in pretrial detention on these criminal charges for nearly two months, but eventually released on bail.³⁴⁸ The obstruction of justice charge was later dropped, but on December 12, 2018, Benyash was indicted for assaulting the police officer under Criminal Code Article 318(1) (use of violence against a public

available at <https://www.cbsnews.com/news/world-cup-protesters-pussy-riot-learn-fate-russian-court-today-2018-07-17/>.

³⁴² *Russian Man Jailed for Speaking up for Political Prisoners During World Cup*, UNIAN, June 20, 2018, available at <https://www.unian.info/world/10158860-russian-man-jailed-for-speaking-up-for-political-prisoners-during-world-cup.html> and Halya Coynash, *Russian Jailed for Defence of Sentsov, Balukh and Other Political Prisoners During World Cup*, KHARKIV HUMAN RIGHTS PROT. GROUP, June 20, 2018, available at <http://khpg.org/en/index.php?id=1529446807> (for the last offense, he was sentenced under Article 20.2(8) of the Code of Administrative Offenses – repeated infringement of the rules for holding a public event).

³⁴³ *Russia: Court Offers 'Chink of Light' in Case Brought by Jailed Protester Ildar Dadin*, AMNESTY INT'L, Feb. 10, 2017, available at <https://www.amnesty.org/en/latest/news/2017/02/russia-court-offers-chink-of-light-in-case-brought-by-jailed-protester-ildar-dadin/>. The Supreme Court later quashed his conviction after the Constitutional Court ruled that Penal Code 212.1 (which punishes repeated violations of the procedures for holding protests or other public gatherings) cannot be used where the earlier, administrative convictions had not yet entered into force. See *Legal Case of the Week: Ildar Dadin*, RIGHTS IN RUSSIA, Feb. 26, 2017, available at <http://www.rightsinrussia.info/legal-case-of-the-week/ildardadin-1>.

³⁴⁴ *Judicial Harassment of Mikhail Benyash*, FRONT LINE DEFENDERS, accessed Nov. 10, 2018, available at <https://www.frontlinedefenders.org/en/case/judicial-harassment-mikhail-benyash>.

³⁴⁵ *Russia: Defense Lawyer Arrested, Beaten*, *supra* note 205.

³⁴⁶ *Judicial Harassment of Mikhail Benyash*, *supra* note 344.

³⁴⁷ *Russia: Defense Lawyer Arrested, Beaten*, *supra* note 205.

³⁴⁸ *Judicial Harassment of Mikhail Benyash*, *supra* note 344.

official).³⁴⁹ Yulia Gorbunova, a Russia researcher with Human Rights Watch, has insisted that Benyash's arrest was "without a doubt retaliation for his work as an outspoken defense lawyer."³⁵⁰

There are numerous other recent examples of lawyers being targeted. In January 2017, officials arrested lawyer Emil Kurbedinov in Russia-occupied Crimea during a "routine" traffic stop.³⁵¹ Kurbedinov, who represents persecuted Crimean Tatars, was taken to court and convicted of publicly distributing "extremist materials" – a reference to a social media post about the banned religious organization Hizb ut-Tahrir.³⁵² He was sentenced to 10 days' administrative arrest.³⁵³ In December 2018, Kurbedinov was arrested and sentenced to five days' arrest on the same charges for the same post made on a different social media site.³⁵⁴ After his release on December 25, the Ministry of Justice asked the Crimean Bar Association to expel him due to his "extremist activities."³⁵⁵ In January 2017, FSB officials intercepted and detained lawyer Nikolai Polozov for several hours while he was en route to a hearing for a client – a Crimean Tatar being prosecuted on fabricated charges.³⁵⁶ A criminal inquiry was also opened against Polozov based on his Facebook posts, in what he believes is retaliation for defending Crimean Tatar leaders (though he was never formally charged).³⁵⁷ In another case, a judge accused lawyers Marina Dubrovina and Dokka Itslaev, who represent political prisoners Nikolai Karpyuk and Stanislav Klykh, of actions that "challenge the honour and injure the dignity of an advocate."³⁵⁸ They had done nothing but represent the interests of their client.³⁵⁹ If this accusation is upheld, they could lose their right to practice law.³⁶⁰ In 2014, after lawyer Mark Feygin

³⁴⁹ *Id.*

³⁵⁰ *Russia: Defense Lawyer Arrested, Beaten*, *supra* note 205.

³⁵¹ *Crimea: Defense Lawyers Harassed*, HUMAN RIGHTS WATCH, Jan. 30, 2017, available at <https://www.hrw.org/news/2017/01/30/crimea-defense-lawyers-harassed>.

³⁵² *Id.*

³⁵³ *Id.*

³⁵⁴ Yulia Gorbunova, *Russian Authorities Increase Pressure on Crimean Human Rights Lawyer*, HUMAN RIGHTS WATCH, Jan. 14, 2019, available at <https://www.hrw.org/news/2019/01/14/russian-authorities-increase-pressure-crimean-human-rights-lawyer>.

³⁵⁵ *Id.*

³⁵⁶ *Crimea: Defense Lawyers Harassed*, *supra* note 351.

³⁵⁷ *Id.*

³⁵⁸ *Case History: Marina Dubrovina*, FRONT LINE DEFENDERS, accessed Nov. 10, 2018, available at <https://www.frontlinedefenders.org/en/case/case-history-marina-dubrovina>.

³⁵⁹ *Id.*

³⁶⁰ *Id.*

tweeted about his client (and then political prisoner³⁶¹) Nadiya Savchenko, authorities tried to initiate a criminal case against him for extremism (they he was not formally charged).³⁶² The Ministry of Justice also urged the Moscow Bar Association to audit and discipline him.³⁶³ In April 2018, Feygin's law license was revoked because, in his words, the Russian Bar Association "bowed before the Kremlin."³⁶⁴

Organizations advocating for political prisoners have also been targets of the Kremlin's general crackdown³⁶⁵ on human rights organizations. For example, in 2014, the Government designated Memorial HRC – the most prominent organization working within Russia on political prisoners – as a "foreign agent."³⁶⁶ This designation triggers reporting requirements and potential civil and criminal liability.³⁶⁷ The organization challenged this designation in court, but lost.³⁶⁸ Memorial HRC was fined 300,000 rubles (about US \$4,615) in 2016 for violating the law because it did not put the "foreign agent" label on its website posts regarding political prisoners.³⁶⁹ Government officials have also targeted those working with Memorial HRC (or related organizations). Oyub Titiev, the head of Memorial HRC's Grozny office, was convicted in March 2019 on

³⁶¹ *Savchenko Nadezhda Viktorovna*, OLD.MEMO.RU, Oct. 14, 2014, available at <http://old.memo.ru/d/212807.html> [in Russian].

³⁶² UPR SUBMISSION: RUSSIAN FEDERATION, LAWYERS FOR LAWYERS, Oct. 2017, at 4, available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRRussianFederationStakeholdersInfoS30.aspx>.

³⁶³ *Id.*

³⁶⁴ *Ukrainian Journalist's Defender in Russia Stripped of Lawyer License "For Three Tweets,"* UNIAN, Apr. 24, 2018, available at <https://www.unian.info/politics/10093406-ukrainian-journalist-s-defender-in-russia-stripped-of-lawyer-license-for-three-tweets.html>.

³⁶⁵ See generally *Delegitimization and Division in Russia*, CARNEGIE ENDOWMENT FOR INT'L PEACE, May 18, 2017, available at <https://carnegieendowment.org/2017/05/18/delegitimization-and-division-in-russia-pub-69958> (discussing the Kremlin's attacks on civil society) and *Briefing on Shrinking Space for Civil Society in Russia*, HUMAN RIGHTS WATCH, Feb. 24, 2017, available at <https://www.hrw.org/news/2017/02/24/briefing-shrinking-space-civil-society-russia> (same).

³⁶⁶ *Current List of Political Prisoners*, *supra* note 278 ("On July 21, 2014, the Ministry of Justice of the Russian Federation included the Interregional Public Organization Memorial Human Rights Centre in the 'register of non-profit organizations acting as a foreign agent.'").

³⁶⁷ *Russia: 'Year of Ecology' a Sham*, HUMAN RIGHTS WATCH, Nov. 21, 2017, available at <https://www.hrw.org/news/2017/11/21/russia-year-ecology-sham> (describing the penalties for violating the Foreign Agent Law).

³⁶⁸ *Denial to Remove Human Rights Group Memorial from "Foreign Agents" List Appealed*, RUSSIAN LEGAL INFORMATION AGENCY, Jan. 16, 2017, available at http://www.rapsinews.com/judicial_news/20170116/277569868.html.

³⁶⁹ Vadim Birstein, *Memorial Society and its Members Persecuted*, VBIRSTEIN.COM, Dec. 29, 2016, available at <http://www.vbirstein.com/2016/12/29/memorial-society-and-its-members-persecuted/>.

fabricated drug possession charges.³⁷⁰ Yuri Dmitriev, chairman of the Karelian branch of the Russian Historical, Educational and Human Rights Society Memorial (which is related to, but legally distinct from, Memorial HRC), has been detained (off and on) on various false charges since 2016.³⁷¹

2. Response to Advocacy by Activists Abroad

The Kremlin uses a variety of means to retaliate against and silence activists living abroad who speak out regarding its political prisoners. Most troubling, the Kremlin has tried to murder several of them. Vladimir Kara-Murza, who has been actively pushing for Magnitsky laws around the world,³⁷² has been poisoned twice while in Russia in retaliation for his opposition to the Putin regime.³⁷³ Both times, in May 2015 and February 2017, he was left in a coma and on life support, and doctors estimated his chance of survival at five percent.³⁷⁴ In a floor speech in the US Senate after the second poisoning, the late Senator John McCain called Kara-Murza “one of the most passionate and effective advocates for passage of the Magnitsky Act” and said that “Vladimir has once again paid the price for . . . placing the interests of the Russian people before his own self-interest.”³⁷⁵ Luzius Wilhaber, former president of the European Court of Human Rights, became violently ill after a trip to Moscow in October 2006; he had previously angered the Kremlin by upholding complaints from Chechen human rights activists.³⁷⁶ In June 2006, Irwin Cotler, then a Canadian Member of Parliament, visited Moscow as part of an official Canadian delegation and fell extremely ill, which he later described as a

³⁷⁰ Titiev Oyub Salmanovich, MEMORIAL HUMAN RIGHTS CTR., accessed Mar. 19, 2019, available at <https://memohrc.org/ru/defendants/titiev-oyub-salmanovich> [in Russian].

³⁷¹ Dmitriev Yuri Alekseevich, MEMORIAL HUMAN RIGHTS CTR., accessed Nov. 10, 2018, available at <https://memohrc.org/ru/defendants/dmitriev-yuriy-alekseevich> [in Russian].

³⁷² Tom Peck, *Vladimir Kara-Murza, A Twice-Poisoned Russian Dissident, Says: 'If It Happens a Third Time, That'll Be It,'* INDEPENDENT, Mar. 18, 2017, available at <https://www.independent.co.uk/news/uk/politics/russian-dissident-vladimir-kara-murza-poisoned-twice-democracy-campaigner-vladimir-putin-a7637421.html>.

³⁷³ *Id.*

³⁷⁴ *Russian Critic Vladimir Kara-Murza Suffers Sudden Organ Failure*, BBC NEWS, Feb. 2, 2017, available at <https://www.bbc.com/news/world-europe-38844292> and *Poison Puzzle: A Search For Answers In Kremlin Critic's Mysterious Illness*, RADIO FREE EUROPE / RADIO LIBERTY, Jan. 15, 2016, available at <https://www.rferl.org/a/russia-kara-murza-poisoning/27490121.html>.

³⁷⁵ Senator John McCain, *McCain Floor Statement on Vladimir Kara-Murza*, YOUTUBE, Feb. 7, 2017, available at <https://www.youtube.com/watch?v=FaAy3vjjLms> (see timestamps 1:35 and 6:46).

³⁷⁶ Simona Weinglass, *Saying He Was Poisoned in Russia, Ex-Canadian Justice Minister Fights a Kremlin Bullying Campaign*, TIMES OF ISRAEL, Mar. 30, 2017, available at <https://www.timesofisrael.com/saying-he-was-poisoned-in-russia-ex-canadian-justice-minister-fights-a-kremlin-revenge-campaign/>.

deliberate poisoning.³⁷⁷ Cotler had previously represented prisoners of conscience Andrei Sakharov, Natan Sharansky, and Alexander Nikitin.³⁷⁸ Activist and former political prisoner Mikhail Khodorkovsky recently stated that he has received information about an assassination attempt ordered against him.³⁷⁹ Such brutal treatment fits into the Kremlin's larger pattern of "increasingly targeting dissidents and renegade spies for death by poison."³⁸⁰ High-profile examples of this include security officer Alexander Litvinenko,³⁸¹ former spy Sergei Skripal,³⁸² journalist and human rights activist Anna Politkovskaya (poisoned and later shot to death),³⁸³ Ukrainian politician Viktor Yushchenko,³⁸⁴ and whistleblower Alexander Perepilichny.³⁸⁵

Another common tactic used by the Kremlin is initiating sham criminal proceedings *in absentia* and then using INTERPOL in an attempt to have the target arrested abroad, either through Red Notices or Diffusion Notices.³⁸⁶ The former is initiated through an application by a member

³⁷⁷ *Id.*

³⁷⁸ *Id.*; see also *Russia's Environmental Dissident*, N.Y. TIMES, Aug. 22, 1998, available at <https://www.nytimes.com/1998/08/22/opinion/russia-s-environmental-dissident.html?mtrref=www.google.com> (noting that Amnesty International recognized Andrei Sakharov as a prisoner of conscience); William F. Schulz, *Fear No Freedom*, BOSTON REVIEW, June 1, 2005, available at <http://bostonreview.net/schulz-fear-no-freedom> (noting that Amnesty International recognized Natan Sharansky as a prisoner of conscience); and *Russia: Nikitin Is A Prisoner of Conscience, Says Amnesty*, RADIO FREE EUROPE / RADIO LIBERTY, Aug. 9, 1996, available at <https://www.rferl.org/a/1081462.html> (noting that Amnesty International recognized Alexander Nikitin as a prisoner of conscience).

³⁷⁹ Anna Nemtsova, *Mikhail Khodorkovsky, Putin's Most Powerful Critic-in-Exile, Says He's Living Under a Kill Order*, DAILY BEAST, Oct. 1, 2018, available at <https://www.thedailybeast.com/mikhail-khodorkovsky-putins-most-powerful-critic-in-exile-should-fear-for-his-life-but-doesnt>.

³⁸⁰ Elias Groll, *A Brief History of Attempted Russian Assassinations by Poison*, FOREIGN POLICY, Mar. 9, 2018, available at <https://foreignpolicy.com/2018/03/09/a-brief-history-of-attempted-russian-assassinations-by-poison/>.

³⁸¹ Luke Harding, *Alexander Litvinenko: The Man Who Solved His Own Murder*, THE GUARDIAN, Jan. 19, 2016, available at <https://www.theguardian.com/world/2016/jan/19/alexander-litvinenko-the-man-who-solved-his-own-murder>.

³⁸² Michael Schwartz & Ellen Barry, *A Spy Story: Sergei Skripal Was a Little Fish. He Had a Big Enemy*, N.Y. TIMES, Sept. 9, 2018, available at <https://www.nytimes.com/2018/09/09/world/europe/sergei-skripal-russian-spy-poisoning.html>.

³⁸³ Anna Politkovskaya, COMMITTEE TO PROTECT JOURNALISTS, accessed Jan. 13, 2019, available at <https://cpj.org/data/people/anna-politkovskaya/>.

³⁸⁴ Abigail O'Leary, *This Is What Russia Poisoning Did to Me: Former Ukrainian President Describes Horrifying Attack That Left Him Disfigured*, MIRROR, Apr. 2, 2018 available at <https://www.mirror.co.uk/news/world-news/former-ukrainian-president-viktor-yushchenko-12291277>.

³⁸⁵ *A Brief History of Attempted Russian Assassinations by Poison*, *supra* note 380.

³⁸⁶ See, e.g., Natasha Bertrand, *How Russia Persecutes Its Dissidents Using U.S. Courts*, THE ATLANTIC, July 30, 2018, available at <https://www.theatlantic.com/politics/archive/2018/07/how->

country based on a valid national arrest warrant; if INTERPOL accepts the application, its General Secretariat issues a worldwide request to locate and provisionally arrest the person pending extradition.³⁸⁷ The latter is a less formal alert issued directly by a country to other countries; it does not require pre-approval by INTERPOL.³⁸⁸

In 2015, for example, former political prisoner Mikhail Khodorkovsky was charged with being the organizer behind some of the manufactured crimes for which Alexey Pichugin has been held in prison,³⁸⁹ and the Prosecutor General's Office then tried to get an INTERPOL Red Notice issued against him based on that charge.³⁹⁰ Bill Browder, who was a "key force" behind the US Magnitsky Act,³⁹¹ has twice been convicted *in absentia* for fraud and tax evasion and sentenced to nine years' imprisonment each time.³⁹² The day before the November 2018 meeting on the Netherlands' proposal for an EU Magnitsky Act, the Kremlin accused Browder of murdering Sergei Magnitsky himself.³⁹³ Based on these charges and convictions, the Kremlin has repeatedly tried to get a Red Notice issued against Browder, most recently in December 2018.³⁹⁴ However, INTERPOL has rejected these requests as politically motivated.³⁹⁵ The Kremlin has also bypassed INTERPOL's Secretariat by

russia-persecutes-its-dissidents-using-us-courts/566309/ and Kathy Gilsinan, *How Russia Tries to Catch Its 'Criminals' by Abusing Interpol*, THE ATLANTIC, May 30, 2018, available at <https://www.theatlantic.com/international/archive/2018/05/russia-interpol-abuse/561539/>.

³⁸⁷ *Red Notices*, INTERPOL, accessed Mar. 17, 2019, available at <https://www.interpol.int/INTERPOL-expertise/Notices/Red-Notices>.

³⁸⁸ *About Notices*, INTERPOL, accessed Mar. 17, 2019, available at <https://www.interpol.int/How-we-work/Notices/About-Notices>.

³⁸⁹ *Russia Charges Khodorkovsky With Organizing Murders*, RADIO FREE EUROPE / RADIO LIBERTY, Dec. 11, 2015, available at <https://www.rferl.org/a/khodorkovsky/27420886.html>.

³⁹⁰ *Russia Sends Interpol New Khodorkovsky Documents*, MOSCOW TIMES, May 17, 2016, available at <https://themoscowtimes.com/articles/russia-sends-interpol-new-khodorkovsky-documents-52900>.

³⁹¹ *How Russia Tries to Catch Its 'Criminals' by Abusing Interpol*, *supra* note 386.

³⁹² *In Absentia, Billionaire Bill Browder Is Sentenced to More Russian Prison Time*, MEDUZA, Dec. 29, 2017, available at <https://meduza.io/en/news/2017/12/29/in-absentia-billionaire-bill-browder-is-sentenced-to-more-russian-prison-time> and *Bill Browder: Russia Jails Investor in Absentia*, BBC News, Dec. 29, 2017, available at <https://www.bbc.com/news/world-europe-42513616>.

³⁹³ *Browder Links Russia's New Prosecution to Magnitsky Act*, RUSSIAN NEWS AGENCY, Nov. 19, 2018, available at <http://tass.com/politics/1031481>.

³⁹⁴ Tweet by Bill Browder (@Billbrowder), TWITTER, Dec. 26, 2018, 10:51 am, available at <https://twitter.com/Billbrowder/status/1078000481476190210> ("BREAKING: Russian Interior Ministry is formally applying for an Interpol arrest warrant for me for the 7th time. How many times does Russia have to abuse @INTERPOL_HQ Red Notice system before there are real consequences?").

³⁹⁵ *How Russia Persecutes Its Dissidents Using U.S. Courts*, *supra* note 386 ("Interpol has repeatedly rejected Russian requests to issue a Red Notice for Browder, deeming them politically

issuing diffusion notices directly to INTERPOL member countries.³⁹⁶ One such diffusion notice led Spanish authorities to briefly arrest Browder in May 2018.³⁹⁷ In a clear case of retaliation, the Kremlin also issued a diffusion notice against Browder the day before Canada's Magnitsky Act became law.³⁹⁸ In another case, Nikita Kulachenkov, who worked with Alexey Navalny's Anti-Corruption Foundation, was charged with stealing a poster that was stuck to a wall in a small town outside Moscow.³⁹⁹ It was one of many such posters, which generally stay up until people take them or they are destroyed by the rain.⁴⁰⁰ Kulachenkov fled to Lithuania, where he was granted asylum.⁴⁰¹ However, when he traveled to Cyprus to visit family, he was arrested pursuant to a diffusion notice sent out by the Kremlin asking for his extradition back to Russia.⁴⁰² He spent three weeks in a Cyprus prison before he was able to get it resolved.⁴⁰³

The Kremlin's abuse of INTERPOL was the subject of worldwide debate during the November 2018 election of INTERPOL's new President, when it was widely expected that Russian Alexander Prokopchuk, an Interior Ministry official, would win.⁴⁰⁴ However, after an international outcry,⁴⁰⁵ South Korean Kim Jong Yang beat Prokopchuk.⁴⁰⁶

motivated.") and Tweet by INTERPOL (@INTERPOL_HQ), TWITTER, May 30, 2018, 6:25 am, available at https://twitter.com/INTERPOL_HQ/status/1001816767554039808 ("There is not, and never has been, a Red Notice for Bill Browder. Mr Browder is not wanted via INTERPOL channels.").

³⁹⁶ *How Russia Tries to Catch Its 'Criminals' by Abusing Interpol*, *supra* note 386.

³⁹⁷ *How Russia Persecutes Its Dissidents Using U.S. Courts*, *supra* note 386.

³⁹⁸ Michelle Zilio, *Putin Puts Critic on Interpol Wanted List After Canada Passes Magnitsky Law*, THE GLOBE AND MAIL, Oct. 23, 2017, available at <https://www.theglobeandmail.com/news/politics/russia-puts-critic-on-interpol-wanted-list-after-canada-passes-magnitsky-law/article36688143/>.

³⁹⁹ Chris Harris, *Russia is Using Interpol to Target Putin's Political Rivals, Says NGO*, EURONEWS, Mar. 17, 2018, available at <https://www.euronews.com/2018/03/17/russia-is-using-interpol-to-target-putin-s-political-rivals-says-ngo>.

⁴⁰⁰ *Nikita Kulachenkov*, FAIR TRIALS, Mar. 24, 2018, available at <https://www.fairtrials.org/case-study/nikita-kulachenkov>.

⁴⁰¹ *Russia is Using Interpol to Target Putin's Political Rivals*, *supra* note 399.

⁴⁰² *Nikita Kulachenkov*, *supra* note 400.

⁴⁰³ *Id.*

⁴⁰⁴ Euan McKirdy, *Interpol Elects South Korean Kim Jong Yang President over Russian Front-Runner*, CNN, Nov. 21, 2018, available at <https://www.cnn.com/2018/11/21/asia/interpol-new-president-intl/index.html>.

⁴⁰⁵ Carol Morello, *Pressure on Interpol Grows as the Agency Considers Making a Russian Its Chief*, WASHINGTON POST, Nov. 20, 2018, available at https://www.washingtonpost.com/world/national-security/pressure-on-interpol-grows-as-the-agency-considers-making-a-russian-its-chief/2018/11/20/8762f51c-eed7-11e8-baac-2a674e91502b_story.html?utm_term=.1789b5a4d92f.

⁴⁰⁶ *Interpol Elects South Korean Kim Jong Yang President over Russian Front-Runner*, *supra* note 404.

Beyond these extreme measures, the Kremlin has banned Irwin Cotler (discussed above), who proposed Canada's Magnitsky legislation, and Raynell Andreychuk, who later reintroduced it, from entering Russia.⁴⁰⁷ Vladimir Kara-Murza was banned from entering the Russian embassy in the US (despite being a Russian citizen) and had his Russian media credentials officially revoked.⁴⁰⁸

3. Response to Advocacy by the International Community

The Kremlin has four common responses when foreign countries or international organizations criticize it for its political prisoners: it (1) denies there is a problem; (2) ignores unfavorable decisions; (3) attacks and retaliates; and/or (4) invokes its sovereignty.

a. Denying There Is a Problem

Despite the overwhelming evidence and an international consensus to the contrary, the Kremlin continues to deny that it has any political prisoners. Putin himself has repeatedly insisted that there are no political prisoners in Russia,⁴⁰⁹ and the Government reported to the UN in September 2018: "There are no 'political prisoners' in the Russian Federation."⁴¹⁰

The Kremlin also denies that its laws – which have been repeatedly criticized by numerous human rights bodies – are incompatible with its obligations under international law. For example, during Russia's 2018

⁴⁰⁷ Michelle Zilio, *Russia Bans Dozens of Canadians, Refuses to Name Names*, THE GLOBE AND MAIL, Nov. 7, 2017, available at <https://www.theglobeandmail.com/news/politics/russia-refuses-to-identify-dozens-of-canadian-officials-banned-from-entering-country/article36872534/> and *Canada's Irwin Cotler Happy to Be Banned by Russia*, TIMES OF ISRAEL, Mar. 26, 2014, available at <https://www.timesofisrael.com/canadas-irwin-cotler-happy-to-be-banned-by-russia/>.

⁴⁰⁸ Vladimir Kara-Murza, *Kremlin Retaliates for Magnitsky Bill – Against Russians*, WORLD AFFAIRS BLOG, July 13, 2012, available at <http://www.worldaffairsjournal.org/blog/vladimir-kara-murza/kremlin-retaliates-magnitsky-bill%E2%80%9494against-russians>.

⁴⁰⁹ *Fraud Case Against Putin Opponent Navalnyalters*, *supra* note 262 ("Asked during a presidential phone-in in Moscow about the Navalny case and the Pussy Riot trial, [Putin] said there were no political prisoners in Russia and nobody was prosecuted for their politics.") and *Putin Defends Russia's Human Rights Record*, *supra* note 262 ("President Vladimir Putin on Monday defended his country's human rights record, claiming that Russia has no political prisoners . . .").

⁴¹⁰ POSITION ON THE RECOMMENDATIONS PRESENTED TO THE RUSSIAN FEDERATION BY FOREIGN DELEGATIONS DURING THE THIRD CYCLE OF THE UNIVERSAL PERIODIC REVIEW, RUSSIAN FEDERATION, U.N. Doc. A/HRC/39/13/Add.1 (Annex), Sept. 3, 2018, at 18, available at https://lib.ohchr.org/HRBodies/UPR/Documents/Session30/RU/A_HRC_39_13_Add.1_RussianFederation_Annex_E.docx (unofficial English translation) (response to Recommendation 147.132).

Universal Periodic Review, Sweden recommended that the Kremlin “[e]nd the practice of using the broad and vague anti-extremism and counter-terrorism legislation to pursue politically motivated charges.”⁴¹¹ In response, the Kremlin stated that these laws “do[] not contradict the international obligations of the Russian Federation.”⁴¹² Norway asked the Kremlin to repeal laws and regulations that “limit the legitimate exercise of the rights to freedom of expression, association and belief.”⁴¹³ The Russian Government answered that “Russian legislation . . . is consistent with Russia’s obligations under the key international human rights treaties.”⁴¹⁴ Canada demanded that the Foreign Agent Law and the Undesirable Organizations Law be revised or repealed;⁴¹⁵ the Kremlin again asserted that these laws “compli[ed] with [its] international obligations.”⁴¹⁶ Slovenia and New Zealand suggested bringing “legislation governing public assemblies and its enforcement into conformity with international human rights standards”; the Kremlin insisted this was “already implemented.”⁴¹⁷ Despite the well-documented persecution of religious minorities, the Government also refused to amend its laws relating to religious freedom and belief because, it claimed, its laws are “consistent with [its] international obligations.”⁴¹⁸

The Kremlin made several other blatantly false claims during its recent Universal Periodic Review. For example, it insisted that “[n]either Russian legislation nor law enforcement practices create a restrictive environment for the activities of NGOs and civil society institutions, including those engaged in human rights activities.”⁴¹⁹ Inexplicably, the Government argued that the recent ban on Jehovah’s Witnesses does not

⁴¹¹ REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW, *supra* note 125, at ¶ 147.66.

⁴¹² POSITION ON THE RECOMMENDATIONS, *supra* note 410 (response to Recommendation 147.66).

⁴¹³ REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW *supra* note 125, at ¶ 147.156.

⁴¹⁴ POSITION ON THE RECOMMENDATIONS, *supra* note 410 (response to Recommendation 147.156).

⁴¹⁵ REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW *supra* note 125, at ¶ 147.64.

⁴¹⁶ POSITION ON THE RECOMMENDATIONS, *supra* note 410 (response to Recommendation 147.64).

⁴¹⁷ *Id.* (response to Recommendations 147.164 and 147.176).

⁴¹⁸ *Id.* (response to Recommendation 147.202).

⁴¹⁹ *Id.* (response to Recommendation 147.196); *see also id.* (response to Recommendation 147.178: “Neither national legislation nor law enforcement practice restricts the activities of civil society institutions in the territory of the Russian Federation”; response to Recommendation 147.180: “The legislation does not contain any restrictions on the work of activists and human rights defenders, they are free to carry out their activities”; response to Recommendation 147.181: “The recommendation to review the legal provisions is not accepted, since currently, it does not contain any restrictions on the activities of civil society.”).

restrict their right to freedom of religion.⁴²⁰ Finally, the Kremlin claimed that “There are no offences in the Russian Federation that allow detaining persons only on political grounds⁴²¹ – despite the many vague legal provisions that allow precisely this.

The Kremlin also consistently denies that it mistreats political prisoners. For example, in 2018, when the UN Committee Against Torture asked about the torture of Sergei Magnitsky, the Russian Government insisted that the “[t]he criminal investigation into Sergei Magnitsky’s death had not revealed any evidence of unlawful acts or torture by prison officials.”⁴²² However, it is widely accepted based on the evidence that Magnitsky was indeed tortured and murdered; former President Dimitry Medvedev’s own Human Rights Council concluded that Magnitsky was beaten by eight guards with rubber batons on the last day of his life.⁴²³ The Committee also asked about Ildar Dadin’s allegations of torture (allegations that Amnesty International’s Russia Director called “credible”⁴²⁴); the Kremlin explained that this “had been officially investigated, and the allegations had not been confirmed.”⁴²⁵ In response to Oleg Sentsov’s claim that he was beaten for 24 hours in an attempt to force a confession (again deemed “credible” by Amnesty International⁴²⁶), the Government suggested that his bruises were self-inflicted.⁴²⁷

b. Ignoring Unfavorable Decisions

Various human rights bodies have found that the Kremlin’s imprisonment and mistreatment of political prisoners violates Russia’s obligations under international law. However, the Kremlin often simply ignores decisions against it. For example, the European Court of Human

⁴²⁰ *Id.* (response to Recommendation 147.200).

⁴²¹ POSITION ON THE RECOMMENDATIONS, *supra* note 410 (response to Recommendation 147.174).

⁴²² *Summary Record of the 1661st Meeting: Russian Federation*, U.N. COMMITTEE AGAINST TORTURE, U.N. Doc. CAT/C/SR.1661, Aug. 6, 2018, at ¶ 56, available at <https://undocs.org/CAT/C/SR.1661>.

⁴²³ Magnitsky Act, *supra* note 218, at § 402(a)(8).

⁴²⁴ *Russia: Shocking New Torture Allegations by Prisoner of Conscience Must Be Investigated*, AMNESTY INT’L, Nov. 1, 2016, available at <https://www.amnesty.org/en/latest/news/2016/11/russia-shocking-new-torture-allegations-by-prisoner-of-conscience-must-be-investigated/>.

⁴²⁵ *Summary Record of the 1661st Meeting*, *supra* note 422, at ¶ 18.

⁴²⁶ *Russia: Crimean Activists Sentenced After ‘Fatally Flawed’ Military Trial*, AMNESTY INT’L, Aug. 25, 2015, available at <https://www.amnesty.org/en/latest/news/2015/08/russia-crimean-activists-sentenced-after-fatally-flawed-military-trial/>.

⁴²⁷ *Russia Denies Access to Jailed Ukraine Film-Maker Sentsov*, BBC NEWS, June 15, 2018, available at <https://www.bbc.com/news/world-europe-44493596>.

Rights declared that both of Alexey Pichugin's criminal trials violated his right to a fair trial under the European Convention on Human Rights because he was denied a public hearing, the opportunity to challenge statements against him, the presumption of innocence, and the right to introduce key expert evidence.⁴²⁸ The Court twice insisted that "that the most appropriate form of redress would . . . be trial de novo or the reopening of the proceedings."⁴²⁹ Despite this, more than six years after the first decision by the European Court of Human Rights, Pichugin has not been given a new, fair trial and he remains imprisoned as a result of his original convictions. Pierre-Yves Le Borgn', the PACE Rapporteur on the implementation of judgments of the European Court of Human Rights, specifically noted in 2017 that "Russian authorities have still not remedied the human rights violations found by the Court" in Pichugin's case; he further called on the Russian Government "to ensure that Mr Pichugin . . . [is] granted a new trial in compliance with Article 6 of the Convention."⁴³⁰

In another high-profile case, the Kremlin ignored two decisions by the European Court of Human Rights concerning Alexey Navalny, Putin's "most vocal contemporary political opponent."⁴³¹ The first related to Navalny's 2013 conviction of embezzlement from a state-owned timber company,⁴³² which was "widely seen as a means of silencing him."⁴³³ In 2016, the European Court of Human Rights declared Navalny's conviction unlawful because his trial was fundamentally unfair.⁴³⁴ The Court noted

⁴²⁸ *Pichugin v. Russia* 2012, *supra* note 9, at ¶¶ 192, 210–212 and *Pichugin v. Russia*, App. No. 38958/07, Eur. Ct. H.R., June 6, 2017, ¶¶ 36–38, 41–42, *available at* <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-174061%22%7D> [hereinafter *Pichugin v. Russia* 2017].

⁴²⁹ *Pichugin v. Russia* 2012, *supra* note 9, at ¶ 219 and *Pichugin v. Russia* 2017, *supra* note 428, at ¶ 47.

⁴³⁰ *Pichugin and Navalny Cases: Failings Highlighted by ECHR Still Not Remedied by Russian Authorities*, PARL. ASSEMBLY FOR THE COUNCIL OF EUROPE, Sept. 27, 2017, *available at* <http://assembly.coe.int/nw/xml/News/News-View-en.asp?newsid=6788&lang=2>.

⁴³¹ Abraham Joseph, *Russia's Love-Hate Relationship with European Court of Human Rights*, THE WIRE, Feb. 15, 2017, <https://thewire.in/law/what-the-european-court-of-human-rights-latest-ruling-means-for-russia>.

⁴³² *Navalny v. Russia*, App. No. 46632/13, Eur. Ct. H.R., Feb. 23, 2016, at ¶ 61, *available at* <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-161060%22%7D> (describing the conviction).

⁴³³ Miriam Elder, *Alexei Navalny Sentenced to Five Years in Prison*, THE GUARDIAN, July 18, 2013, *available at* <https://www.theguardian.com/world/2013/jul/18/alexei-navalny-five-years-prison-russia>.

⁴³⁴ *Navalny v. Russia*, *supra* note 432, at ¶¶ 115 ("[T]he criminal law was arbitrarily and unforeseeably construed to the detriment of the applicants, leading to a manifestly unreasonable outcome of the trial."), 116 ("[T]he domestic courts have failed, by a long margin, to ensure a fair hearing in the applicants' criminal case, and may be taken as suggesting that they did not even care

that he was convicted of fostering “regular commercial middleman activities”⁴³⁵ and that there was an “obvious” link between his anti-corruption advocacy and the decision to press charges against him.⁴³⁶ Despite this, the Government refused to vacate Navalny’s conviction. Rather, he was retried on the same charges, using the same evidence, and was convicted again and given the exact same five-year suspended sentence.⁴³⁷ The second case related to Navalny’s conviction on money laundering and fraud charges in 2014,⁴³⁸ which was also “widely considered to be politically motivated.”⁴³⁹ In October 2017, the European Court of Human Rights unanimously found that he was not given a fair trial,⁴⁴⁰ explaining that “the decisions reached by the domestic courts . . . were arbitrary and manifestly unreasonable,” and that “judicial examination of this case was flawed with arbitrariness.”⁴⁴¹ Notwithstanding this forceful denunciation, Russia’s Supreme Court upheld Navalny’s convictions in April 2018.⁴⁴² The Supreme Court also upheld a ban, predicated on his convictions, on his competing in the 2018 presidential election.⁴⁴³

The Kremlin also delayed compliance with the European Court of Human Rights’ interim measures regarding Vasily Aleksanyan, former head of Yukos’ legal department. At that time, Aleksanyan was detained on trumped-up allegations of embezzlement based simply on his role as a Yukos lawyer on transactions that were targeted in the Kremlin’s campaign

about appearances.”), 120 (“[T]he criminal proceedings . . . constituted a violation of their right to a fair hearing under Article 6 § 1 of the Convention.”).

⁴³⁵ *Id.*, at ¶ 115.

⁴³⁶ *Id.*, at ¶ 119.

⁴³⁷ Alec Luhn, *Alexei Navalny: Russian Opposition Leader Found Guilty of Embezzlement*, THE GUARDIAN, Feb. 8, 2017, available at <https://www.theguardian.com/world/2017/feb/08/alexei-navalny-russian-opposition-leader-found-guilty-embezzlement>; see also Danila Galperovich, *Bulk in the “Kirovles Case” Re-Sentenced to a Suspended Sentence*, VOA NEWS, Feb. 8, 2017, available at <https://www.golos-ameriki.ru/a/dg-navalny-decision/3714420.html> [in Russian].

⁴³⁸ *Navalnyye v. Russia*, App. No. 101/15, Eur. Ct. H.R., Oct. 17, 2017, at ¶ 32, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-177665%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-177665%22]}) (discussing the conviction).

⁴³⁹ Amanda Taub, *Russia’s Most Important Opposition Leader Alexei Navalny Was Just Convicted of “Fraud,”* VOX, Dec. 30, 2014, available at <https://www.vox.com/2014/12/30/7467497/navalny-verdict-protest-moscow>.

⁴⁴⁰ *Navalnyye v. Russia*, *supra* note 438, at Holding (“Holds, unanimously, that there has been a violation of Article 6 § 1 of the Convention on account of the lack of fair hearing.”).

⁴⁴¹ *Id.*, at ¶¶ 83–84.

⁴⁴² *Russian Supreme Court Upholds Conviction of Navalny Brothers’ in ‘Yves Rocher Case,’* RADIO FREE EUROPE / RADIO LIBERTY, Apr. 25, 2018, available at <https://www.rferl.org/a/russia-navalny-brothers-conviction-upheld-supreme-court-yves-rocher/29191551.html>.

⁴⁴³ *Russian Supreme Court Rejects Navalny Appeal on Presidential Election Ban*, RADIO FREE EUROPE / RADIO LIBERTY, Jan. 6, 2018, <https://www.rferl.org/a/russia-supreme-court-rejects-navalny-appeal/28959277.html>.

against Yukos. On November 27, 2007, the European Court of Human Rights indicated that, as an interim measure, Russia should immediately provide in-patient treatment for Aleksanyan at a specialized hospital because of his serious medical conditions, including AIDS.⁴⁴⁴ This interim measure was reiterated in December 2007 and January 2008.⁴⁴⁵ However, the Government did not transfer him to a hospital until February 8, 2008⁴⁴⁶ (and even then, it was not clear that the hospital was a “specialist” hospital capable of treating Aleksanyan’s serious issues⁴⁴⁷). The European Court of Human Rights condemned this delay, noting that “for over two months the Government continuously refused to implement the interim measure, thus putting the applicant’s health and even life in danger”⁴⁴⁸ and that “non-implementation of the measure is fully attributable to the authorities’ reluctance to cooperate with the Court.”⁴⁴⁹ The Court held this to be a violation of Russia’s obligations under Article 34 of the European Convention on Human Rights.⁴⁵⁰ Aleksanyan was eventually released from prison in 2009 and died thereafter.⁴⁵¹ Activists have attributed Aleksanyan’s death to the mistreatment he suffered during his lengthy pretrial detention, including the denial of medical care, which was held hostage by the Kremlin in an effort to extract favorable testimony from him.⁴⁵²

c. Attacking / Retaliating

The Kremlin also attacks those who dare to criticize its treatment of political prisoners. In June 2018, the Kremlin dismissed US calls to release its political prisoners as a “finely honed propaganda strategy” and insisted that “the American establishment ha[s] no moral right to blame Russia and demand that someone be released” because of its “relentless hunt on

⁴⁴⁴ *Aleksanyan v. Russia*, App. No. 46468/06, Eur. Ct. H.R., Dec. 22, 2008, at ¶ 76, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-90390%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-90390%22]}); see also *id.* ¶¶ 47–74 (detailing his medical condition).

⁴⁴⁵ *Id.*, at ¶ 230.

⁴⁴⁶ *Id.*

⁴⁴⁷ *Id.* (“The Court leaves open the question whether Hospital no. 60 can be considered a ‘specialist institution’ in view of the recent developments in the applicant’s medical condition.”).

⁴⁴⁸ *Id.*

⁴⁴⁹ *Id.*

⁴⁵⁰ *Id.*, at ¶ 232.

⁴⁵¹ Andrew McChesney, *Aleksanyan’s Death ‘Practically Murder,’* MOSCOW TIMES, Oct. 4, 2011, available at <https://themoscowtimes.com/news/aleksanyans-death-practically-murder-9945>.

⁴⁵² *Jailed Former Yukos Executive Dies of AIDS*, REUTERS, Oct. 4, 2011, available at <https://www.reuters.com/article/idUSL5E7L40BP20111004> (“‘He would still be alive if he hadn’t spent a long time in solitary confinement and had received medical treatment in time,’ veteran Russian rights activist Lev Ponomarev told radio station Ekho Moskvy on Tuesday.”).

Russian citizens,” a reference to those convicted in the US of terrorism and smuggling charges.⁴⁵³ Similarly, in 2010, when Mikhail Khodorkovsky was convicted on financial charges widely recognized as politically motivated, the Kremlin “lashed out at U.S. and European governments over Western criticism of the conviction.”⁴⁵⁴ The Kremlin has also opposed the work of the UN Special Rapporteur on Human Rights Defenders – who has repeatedly expressed concern about politically-motivated arrests and detention by Russian authorities⁴⁵⁵ – by attempting to weaken its mandate and calling for its abolition.⁴⁵⁶ In addition, high-level Russian officials have criticized the European Court of Human Rights,⁴⁵⁷ which has repeatedly issued judgments against Russia in political prisoner cases⁴⁵⁸ – Putin himself stated that the Court “does not regulate legal relations, does not

⁴⁵³ Jason Lemon, *Russia Has Said the U.S. Government Has “No Moral Right” to Demand Jehovah’s Witnesses Release*, NEWSWEEK, June 19, 2018, available at <https://www.newsweek.com/russia-says-us-no-moral-right-demand-jehovahs-witnesses-release-983932>.

⁴⁵⁴ Albina Kovalyova, *Russia Rejects US, European Criticism of Khodorkovsky Conviction*, VOA NEWS, Dec. 27, 2010, available at <https://www.voanews.com/a/russia-hits-back-at-critics-of-khodorkovsky-trial-112554959/132855.html>.

⁴⁵⁵ See, e.g., Michel Forst, REPORT OF THE SPECIAL RAPPOREUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS: ADDENDUM, U.N. Doc. A/HRC/34/52/Add. 1, Feb. 20, 2017, at ¶¶ 559–561, 565, available at <https://undocs.org/en/A/HRC/34/52/Add.%201> and Michel Forst, REPORT OF THE SPECIAL RAPPOREUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS, U.N. Doc. A/HRC/31/55/Add.1, Feb. 22, 2016, at ¶¶ 441, 443, 445, available at <https://undocs.org/en/A/HRC/31/55/Add.1>.

⁴⁵⁶ HRC34 / States Should Reject Attempts to Weaken Mandate of UN Expert on Human Rights Defenders, INT’L SERVICE FOR HUMAN RIGHTS, Mar. 22, 2017, available at <https://www.ishr.ch/news/hrc34-states-should-reject-attempts-weaken-mandate-un-expert-human-rights-defenders> (Russia proposed amendments which would weaken its mandate) and *Human Rights Council Holds Interactive Dialogue on Human Rights Defenders and on Torture*, OFFICE OF THE U.N. HIGH COMM’R FOR HUMAN RIGHTS, Mar. 1, 2018, available at <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22740&LangID=E> (Russia questioned whether “it was a good idea to extend the Special Rapporteur’s mandate as funds could be better used elsewhere”).

⁴⁵⁷ Andriy Osavoliyk, *Russia’s Ignoring of European Court of Human Rights Decisions*, OPEN DIALOGUE FOUNDATION, Feb. 5, 2016, available at <https://en.odfoundation.eu/a/7280,russia-signoring-of-european-court-of-human-rights-decisions> (quoting statements by Alexey Kravtsov, Chairman of the Commercial Arbitration Tribunal of the city of Moscow: “Russian people don’t want to fulfil the ECHR’s decisions, including with regard to the Yukos case.”; Alexander Bastykin, Head of Russia’s Investigative Committee: “The ECHR, from my point of view, hyperbolises excessively and, I would even say . . . without sufficient grounds, absolutises the significance of international law when examining concrete cases it is charged with dealing with.”; Alexey Pushkov, Head of the State Duma Committee for International Affairs: “It is perfectly realistic to limit ECHR decisions on the territory of the [Russian Federation] to those that do not contradict our legislation.”).

⁴⁵⁸ See, e.g., *Pichugin v. Russia* 2012, *supra* note 9; *Pichugin v. Russia* 2017, *supra* note 428; *Alekshina v. Russia*, App. No. 38004/12, Eur. Ct. H.R., July 17, 2018, available at [https://hudoc.echr.coe.int/eng/%7B%22itemid%22:\[%22001-184666%22%7D%7D](https://hudoc.echr.coe.int/eng/%7B%22itemid%22:[%22001-184666%22%7D%7D)]; *Navalnyy v. Russia*, *supra* note 438; and *Navalnyy v. Russia*, *supra* note 432.

protect rights, but simply executes some kind of political function.”⁴⁵⁹ More generally, the Government has dismissed calls for the release of its political prisoners as “western propaganda.”⁴⁶⁰

The Government’s response to the adoption of Magnitsky-style laws has been especially aggressive. After Lithuania enacted one in 2017, Russia’s Foreign Ministry called it an “openly Russophobic action[.]” and insisted that “Lithuania . . . has secured for itself the most unseemly place in the anti-Russian hysteria unleashed in the West.”⁴⁶¹ Russia’s Foreign Ministry also said that Ukraine’s planned Magnitsky List demonstrates “an inquisition-like approach to justice, which is based on the principle of collective punishment for non-existent crimes.”⁴⁶² The Russian Embassy in Ottawa denounced Canada’s Magnitsky law as an “[i]rrational act sponsored by fugitive fraudster and tax evader [Bill Browder] and Russia-haters.”⁴⁶³ The Kremlin has also consistently responded to sanctions in kind: after the US, Latvia, Lithuania, Estonia, and Canada separately imposed sanctions on Russian officials connected to the Sergei Magnitsky case, the Kremlin imposed travel restrictions on nationals of those countries.⁴⁶⁴ In 2012, after passage of the Magnitsky Act in the US, the Kremlin banned Americans from adopting Russian children.⁴⁶⁵

⁴⁵⁹ *Russia’s Ignoring of European Court of Human Rights Decisions*, *supra* note 457.

⁴⁶⁰ *Russia Has Said the U.S. Government Has “No Moral Right” to Demand Jehovah’s Witnesses Release*, *supra* note 453.

⁴⁶¹ *Russia Vows to Reciprocate After Publication of Magnitsky List in Lithuania*, SPUTNIK NEWS, Jan. 17, 2018, available at <https://sputniknews.com/europe/201801171060821466-russia-lithuania-magnitsky-list/>.

⁴⁶² *Kiev’s ‘Magnitsky List’ Violates International Law, Diplomat Says*, RUSSIAN NEWS AGENCY, Aug. 15, 2018, available at <http://tass.com/politics/1017357>.

⁴⁶³ Tweet by Russia in Canada (@RussianEmbassyC), Twitter, Oct. 18, 2017, 1:42 pm, available at <https://twitter.com/RussianEmbassyC/status/920751917185228800>.

⁴⁶⁴ Matt Williams, *Russia Bans 18 Americans from Country in Answer to US List*, THE GUARDIAN, Apr. 13, 2013, available at <https://www.theguardian.com/world/2013/apr/13/russia-bans-18-americans-visa-sanctions>; *Russia Responds to Latvia’s Sanctions List Connected with the Magnitsky Case and Submits List of Latvians Forbidden to Enter Russia*, LATVIA INFORMATION AGENCY, June 19, 2018, available at <http://www.leta.lv/eng/home/important/62D76E0D-0682-405F-A1AB-435144C41C93/>; *Russia Bans Entry to ‘Hostile’ Lithuanian Politicians, Lawmakers*, SPUTNIK NEWS, Apr. 28, 2018, available at <https://sputniknews.com/russia/201804281063999456-ban-lithuania-magnitsky-list/>; *Russia Issues Reciprocal Entry Bans for ‘Especially Russophobic’ Estonians*, RT, June 6, 2018, available at <https://www.rt.com/russia/428901-russia-estonia-entry-ban/>; and *Russia Hits Back After Canada Sets New Magnitsky-Related Sanctions*, RADIO FREE EUROPE / RADIO LIBERTY, Nov. 4, 2017, available at <https://www.rferl.org/a/canada-russia-magnitsky-sanctions-united-states-browder/28834596.html>.

⁴⁶⁵ *Putin Signs Bill Banning Americans from Adopting Russian Children*, FOX NEWS, Dec. 28, 2012, available at <https://www.foxnews.com/us/putin-signs-bill-banning-americans-from-adopting-russian-children>.

d. Invoking Sovereignty

Russia's Constitution explicitly provides for the supremacy of international law over domestic law. It states that "international treaties and agreements of the Russian Federation shall be a component part of its legal system" and that, if a treaty "fixes other rules than those envisaged by law, the rules of the international agreement shall be applied."⁴⁶⁶ The Criminal Procedure Code and the Code of Administrative Offenses contain similar provisions.⁴⁶⁷

Despite these provisions, the Kremlin frequently invokes its sovereignty when other countries demand the release of its political prisoners. For example, after the US State Department called on the Kremlin to do so in June 2018, the Russian Embassy in Washington DC reiterated that Moscow "rejects any attempts of meddling" in its internal affairs.⁴⁶⁸ When Canada's Minister of Foreign Affairs called for Oleg Sentsov to be released in August 2018,⁴⁶⁹ the Russian Embassy in Ottawa replied that "[f]oreign attempts to press law enforcement and judicial systems of another country are blatant interference in domestic affairs."⁴⁷⁰ Earlier, when Canada sanctioned officials involved in Sergei Magnitsky's case in 2010, the Russian Foreign Ministry called it "an attempt to . . . interfere in the internal affairs of another state."⁴⁷¹ Russia's Foreign Minister also suggested the original US Magnitsky Act was "an attempt to meddle in our internal affairs."⁴⁷²

⁴⁶⁶ CONSTITUTION OF THE RUSSIAN FEDERATION, Dec. 25, 1993, Art. 15(4), *available at* <http://www.constitution.ru/en/10003000-01.htm>.

⁴⁶⁷ CRIMINAL PROCEDURE CODE OF THE RUSSIAN FEDERATION, No. 174-FZ, Dec. 18, 2001, at Art. 1(3), *available at* <http://www.consultant.ru/cons/cgi/online.cgi?from=315093-0&rnd=47340785A9DE5488FE17315F1B7BCCF1&req=doc&base=LAW&n=319671&REFDOC=315093&REFBASE=LAW#5c0i42t33e4> [in Russian] and CODE OF THE RUSSIAN FEDERATION ON ADMINISTRATIVE OFFENSES, Dec. 30, 2001, at Art. 1.1(2) *available at* <http://www.consultant.ru/cons/cgi/online.cgi?from=317659-0&rnd=47340785A9DE5488FE17315F1B7BCCF1&req=doc&base=LAW&n=319688&REFDOC=317659&REFBASE=LAW#1zi27dy348f> [in Russian].

⁴⁶⁸ *US Has No Moral Right to Accuse Russia, Demand Someone's Release – Embassy*, RUSSIAN NEWS AGENCY, June 19, 2018, *available at* <http://tass.com/politics/1010068>.

⁴⁶⁹ Tweet by Canada Minister of Foreign Affairs Chrystia Freeland (@cafreeland), TWITTER, Aug. 21, 2018, 9:33 am, *available at* <https://twitter.com/cafreeland/status/1031942280545030145>.

⁴⁷⁰ Tweet by Russia in Canada (@RussianEmbassyC), TWITTER, Aug. 21, 2018, 1:04 pm, *available at* <https://twitter.com/RussianEmbassyC/status/1031995380202795008>.

⁴⁷¹ Kathy Lally, *Legal Proceedings Test Whether Russia Will Move Closer to West*, WASHINGTON POST, Dec. 15, 2010, *available at* <http://www.washingtonpost.com/wp-dyn/content/article/2010/12/14/AR2010121407342.html>.

⁴⁷² Lavrov: 'United' Response to Magnitsky Act, RADIO FREE EUROPE / RADIO LIBERTY, Dec. 9, 2012, *available at* <https://www.rferl.org/a/russia-lavrov-magnitsky-act/24793442.html>.

The Kremlin also reflexively retreats to its claimed sovereignty when its repressive legislation is criticized. During Russia's 2018 Universal Periodic Review, Spain recommended that Russia repeal the Foreign Agent Law.⁴⁷³ The Government rejected this recommendation, noting that Russia's Constitutional Court had examined the law and held that it does not violate the Russian Constitution.⁴⁷⁴ As noted, however, the Russian Constitution expressly provides that international treaties must be applied where any conflict exists between such treaties and domestic law. In this respect, the Kremlin's response is contrary to the terms of the Russian Constitution itself, which embodies the well-established principle that a country's domestic law cannot be used to justify a violation of its obligations under an international treaty.⁴⁷⁵

Russia's sovereignty has also been invoked to justify noncompliance with the decisions of international human rights bodies. On July 14, 2015, the Constitutional Court, emphasizing Russia's sovereignty,⁴⁷⁶ ruled that where a decision by the European Court of Human Rights conflicts with the Russian Constitution, the Constitution takes precedence and Russia does not have to implement the decision.⁴⁷⁷ This ruling ignores Russia's obligations pursuant to the European Convention on Human Rights.⁴⁷⁸ Yet later that year, Russia's Parliament codified this ruling and gave the Court explicit statutory authority to review decisions by international bodies and international courts for compliance with Russia's Constitution.⁴⁷⁹ Since then, the Constitutional Court has declared at least two decisions by the European Court of Human Rights – including, notably,

⁴⁷³ REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW, *supra* note 125, at ¶ 147.61.

⁴⁷⁴ POSITION ON THE RECOMMENDATIONS, *supra* note 410 (response to Recommendation 147.61).

⁴⁷⁵ *Vienna Convention on the Law of Treaties*, 1155 U.N.T.S. 331, entered into force Jan. 27, 1980, at Art. 27 (“A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.”).

⁴⁷⁶ Lauri Mälksoo, *Russia's Constitutional Court Defies the European Court of Human Rights*, 12 EUR. CONST. L. REV. 377, 381 (2016).

⁴⁷⁷ Ruling of the Constitutional Court of July 14, 2015, ROSSIISKAIA GAZETA [ROS. GAZ.] July 27, 2015, at ¶ 5.3, available at <https://rg.ru/2015/07/27/ks-dok.html> [in Russian]; see also *Russia's Constitutional Court Defies the European Court of Human Rights*, *supra* note 476, at 383 (“[T]he Court repeated that if interpretation of the Convention by the Strasbourg Court would lead to a direct collision with the Russian Constitution, such a judgment cannot be enforced in Russia.”).

⁴⁷⁸ *Convention for the Protection of Human Rights and Fundamental Freedoms*, 213 U.N.T.S. 221, entered into force Sept. 3, 1953, at Art. 46(1) (“The High Contracting Parties undertake to abide by the final

judgment of the Court in any case to which they are parties.”).

⁴⁷⁹ Federal Law on Amendments to the Federal Constitutional Law, No. 7-FKZ, Dec. 14, 2015, available at <https://rg.ru/2015/12/15/ks-site-dok.html> [in Russian].

the Yukos decision – in conflict with Russia’s Constitution and, therefore, unenforceable domestically.⁴⁸⁰

4. A New Approach for Further Exploration

Despite the very troubling responses described above, the Kremlin has indicated, at least indirectly, some willingness to engage constructively on the situation of its political prisoners. During its 2018 Universal Periodic Review, the Kremlin accepted a recommendation to “[p]revent . . . trials based on dubious charges of human rights defenders, journalists, political actors and civil society.”⁴⁸¹ It also accepted several recommendations to reform and liberalize criminal laws generally and laws relating to freedom of expression specifically.⁴⁸² Of particular importance, the Kremlin accepted recommendations to reform and improve the judicial system and to ensure the right to a fair trial.⁴⁸³ The Kremlin also agreed to investigate cases of torture⁴⁸⁴ and threats and attacks against civil society, journalists,

⁴⁸⁰ Ruling of the Constitutional Court of Jan. 19, 2017, *available at* http://www.ksrf.ru/en/Decision/Judgments/Documents/2017_January_19_1-P.pdf and Ruling of the Constitutional Court of Apr. 19, 2016, *available at* <http://doc.ksrf.ru/decision/KSRFDecision230222.pdf> [in Russian]. For a description of the latter case in English, see RUSSIAN FEDERATION: FINAL OPINION ON THE AMENDMENTS TO THE FEDERAL CONSTITUTIONAL LAW ON THE CONSTITUTIONAL COURT, EUR. COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION), Opinion No. 832/2015, June 13, 2016, at ¶¶ 9–19, *available at* [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)016-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)016-e).

⁴⁸¹ POSITION ON THE RECOMMENDATIONS, *supra* note 410 (accepting Recommendation 147.171).

⁴⁸² REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW, *supra* note 125, at ¶¶ 147.143 (“Continue efforts to further liberalize and humanize criminal legislation”), 147.144 (“Redouble efforts to liberalize and humanize criminal legislation”), 147.153 (“Continue easing regulations on media coverage and Internet censorship in order to secure and facilitate the exercise of freedom of expression”), 147.166 (“Improve existing law and practice to guarantee freedom of expression, freedom of the media, and the safety of journalists”); *see also* POSITION ON THE RECOMMENDATIONS, *supra* note 410 (accepting Recommendations 147.143, 147.144, 147.153, and 147.166).

⁴⁸³ REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW, *supra* note 125, at ¶¶ 147.137 (“Continue its efforts to upgrade its judicial system”), 147.138 (“Continue implementing reforms of the judicial system and of the administration of justice”), 147.139 (“Continue improving the judicial system with the aim of ensuring the transparency of the courts and the access of all citizens to justice”), 147.140 (“Continue efforts to strengthen the proper functioning of the judicial system and ensure the right to a fair trial”), 147.141 (“Respect the right to a fair trial and ensure effective remedies for alleged violations of due process”), 147.142 (“Continue the ongoing judicial system reform and strengthening of measures for the promotion of public confidence in the judicial system and openness to justice”); *see also* POSITION ON THE RECOMMENDATIONS, *supra* note 410 (accepting Recommendations 147.137–.142).

⁴⁸⁴ REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW, *supra* note 125, at ¶¶ 147.110 (“Ensure that all investigations into cases of abductions, unlawful detentions, torture and other ill-treatment, as well as killings, are conducted thoroughly and effectively”), 147.113 (“Investigate allegations of torture and inhuman treatment in custody in a transparent manner and bring those responsible to justice”), 147.133 (“Ensure that public detention monitoring committees

and human rights defenders,⁴⁸⁵ and to bring the perpetrators to justice. Finally, the Government promised to ensure that religious groups are not subjected to discrimination⁴⁸⁶ and to guarantee freedom of expression, assembly, and association.⁴⁸⁷

Although it is reasonable to question the Kremlin's sincerity in making these commitments, given its poor record thus far, these commitments nonetheless provide a foundation on which to hold the Kremlin accountable going forward. Not only is the Kremlin flagrantly violating its obligations under international law, it is also failing to meet the commitments it explicitly made to the international community.

are independent, adequately resourced and that their members are selected in a transparent manner"); *see also* POSITION ON THE RECOMMENDATIONS, *supra* note 410 (accepting Recommendations 147.110, 147.113, and 147.133).

⁴⁸⁵ REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW, *supra* note 125, at ¶¶ 147.127 ("Investigate all reports of attacks on, or threats against, human rights defenders, lawyers, journalists, civil society activists and lesbian, gay, bisexual, transgender and intersex persons, and bring those responsible to justice"), 147.128 ("Investigate attacks on members of civil society, including lesbian, gay, bisexual, transgender and intersex persons in Chechnya, and bring perpetrators to justice while providing legal redress for victims"), 147.169 ("Continue efforts to protect journalists from violence and intimidation and intensify cooperation with the Organization for Security and Cooperation in Europe Representative on Freedom of the Media"), 147.170 ("Ensure that cases of violence and intimidation against independent journalists are independently investigated and that their perpetrators are effectively brought to justice"), 147.173 ("Ensure effective and impartial investigations by the law enforcement authorities aimed at preventing and combating offences against journalists and human rights defenders, with a view to holding the perpetrators accountable"), 147.179 ("Ensure the protection of human rights defenders, particularly in the North Caucasus"); *see also* POSITION ON THE RECOMMENDATIONS, *supra* note 410 (accepting Recommendations 147.127, 147.128, 147.169, 147.170, 147.173, and 147.179).

⁴⁸⁶ REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW, *supra* note 125, at ¶ 147.206 ("Observe constitutional guarantees of freedom of religion and ensure religious groups are not subject to discrimination"); *see also* POSITION ON THE RECOMMENDATIONS, *supra* note 410 (accepting Recommendation 147.206).

⁴⁸⁷ REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW, *supra* note 125, at ¶¶ 147.154 ("Ensure fully everyone's right to exercise freedom of expression"), 147.155 ("Strengthen human rights guarantees for freedom of expression and peaceful assembly"), 147.159 ("Ensure that anyone, including human rights defenders and journalists, can exercise their right to freedom of expression, including online, without fear of reprisal"), 147.162 ("Uphold the rights to freedom of assembly and expression, as enshrined in the Constitution"), 147.163 ("Safeguard the freedom of association of all its people, as prescribed in the Constitution, including of journalists, lawyers and human rights defenders"), 147.167 ("Guarantee freedom of expression, particularly online, as well as freedom of the media"), 147.175 ("Take effective and credible measures to protect and facilitate the exercise of the rights to freedom of peaceful assembly, freedom of opinion and expression, and freedom of association"), 147.177 ("Ensure that NGOs can work free of threats and intimidation and ensure equal participation in political and public affairs by all stakeholders, including NGOs"), 147.185 ("Ensure that the federal law on combating extremist activity is not arbitrarily used to limit freedom of expression"); *see also* POSITION ON THE RECOMMENDATIONS, *supra* note 410 (accepting Recommendations 147.154, 147.155, 147.159, 147.162, 147.163, 147.167, 147.175, 147.177, and 147.185).

IX. EXCEPTIONS TO THE RULE: PARDONS, AMNESTIES AND OTHER EARLY RELEASES

Russian and Soviet governments have a long history of detaining political prisoners to punish perceived enemies, intimidate the opposition, and quash dissent. However, there is also a sporadic but cumulatively significant pattern of clemency – that is, pardons, amnesties, and other early releases of political prisoners. An analysis of this pattern reveals that social, political, and economic pressure can, in certain cases, have tangible effects. This section will briefly review political prisoner releases under the USSR¹ and then provide more recent examples, indicating where possible the circumstances that may have contributed to each release.

A. Releases Under the USSR

Under Joseph Stalin, the USSR's infamous *gulag* system of forced labor camps held millions of prisoners in brutal conditions. The camps eventually included many of the country's most educated professionals and intellectuals, who were imprisoned for offenses ranging from petty street crimes to political dissent.² Though restructuring the camps and adjusting prisoners' statuses had been discussed for years – particularly as the camps became a massive social and economic liability – it was only Stalin's death in 1953 that allowed real change to occur.³ Within months of his passing, the new Ministry of Internal Affairs and State Security initiated a massive amnesty in which 1.5 million *gulag* prisoners were released – an estimated 60% of the camps' combined population.⁴

The *gulag* system never returned to the size of the Stalin era, though hundreds of prominent political prisoners were held in the camps from the late 1960s through the 1980s.⁵ After assuming leadership in 1985, Mikhail

¹ Memorial HRC published its first list of political prisoners in 2013. Thus, when discussing “political prisoners” under the USSR, this report is referring to individuals understood to be political prisoner at that time.

² *Gulag*, HISTORY.COM, accessed Feb. 13, 2019, available at <https://www.history.com/topics/russia/gulag>.

³ Aleksei Tikhonov, *The End of the Gulag*, in THE ECONOMICS OF FORCED LABOR: THE SOVIET GULAG (Paul R. Gregory and Valery Lazarev eds., 2003), at 67, available at <http://onlinebooks.library.upenn.edu/webbin/metabook?id=hoovergulag>.

⁴ *Id.*, at 67.

⁵ *Gulag: Soviet Forced Labor Camps and the Struggle for Freedom*, GULAGHISTORY.ORG, accessed Feb. 13, 2019, available at <http://gulaghistory.org/nps/onlineexhibit/dissidents/prisoners.php> and *Gulag*, *supra* note 2.

Gorbachev instituted important reforms, including releasing numerous political prisoners and opponents (both from prison and from exile).⁶

This reform process was hardly inevitable and followed repeated domestic and international appeals for the release of political prisoners and other persecuted groups. Previous amnesties, such as those in 1977 and 1985, had generally applied to non-political prisoners.⁷ Separately, there were several high-profile prisoner swaps. Perhaps most famously, Vladimir Bukovsky, who was serving a seven-year prison sentence for “anti-Soviet agitation and propaganda,” was exchanged in December 1976 for Chilean Communist Party leader Luis Corvalán, who had been imprisoned by the regime of Augusto Pinochet.⁸ Bukovsky was flown in handcuffs aboard a special KGB plane from Moscow to Zurich’s Kloten Airport, where the exchange occurred.⁹ This exchange had been negotiated by the Ford administration; US Ambassador Nathaniel Davis helped coordinate the release of both prisoners at the Zurich airport.¹⁰ In another example, five prominent dissidents were released to the US in 1979 in exchange for two Soviet spies.¹¹ That deal was negotiated by US National Security Advisor Zbigniew Brzezinski, his deputy, and Soviet Ambassador Anatoliy Dobrynin.¹²

One of the strongest and most sustained international campaigns during these years focused on the plight of the Soviet *refuseniks* – residents of the USSR (mostly Jews) who were denied exit visas for years and even decades, typically on “national security” grounds.¹³ In retaliation for even

⁶ *Gorbachev’s Domestic Reforms Broke With Soviet Past*, VOA NEWS, Mar. 2, 2011, available at <https://www.voanews.com/a/gorbachevs-domestic-reforms-broke-with-soviet-past-117354428/170523.html>.

⁷ Celestine Bohlen, *Soviets Set First Amnesty for Political Prisoners*, WASHINGTON POST, June 25, 1987, available at https://www.washingtonpost.com/archive/politics/1987/06/25/soviets-set-first-amnesty-for-political-prisoners/fl1738e54-facb-4bc9-9878-d8d3d985bbab/?noredirect=on&utm_term=.352d266a28d1.

⁸ *Bukovsky and Corvalan Exchanged at Zurich Airport*, N.Y. TIMES, Dec. 19, 1976, available at <https://www.nytimes.com/1976/12/19/archives/bukovsky-and-corvalan-exchanged-at-zurich-airport.html>.

⁹ *Id.*

¹⁰ *Id.* and Olga Ulianova, *Corvalán for Bukovsky: A Real Exchange of Prisoners During an Imaginary War. the Chilean Dictatorship, the Soviet Union, and US Mediation, 1973–1976*, 14 COLD WAR HISTORY 315, 330–31 (2014).

¹¹ Edward Walsh, *Soviets Exchange 5 Dissidents for 2 Spies*, WASHINGTON POST, Apr. 28, 1979, available at https://www.washingtonpost.com/archive/politics/1979/04/28/soviets-exchange-5-dissidents-for-2-spies/c5b9f98a-a82b-4c13-a062-e376a7b5a797/?utm_term=.a05db4dbc414.

¹² *Id.*

¹³ *Refuseniks*, ENCYCLOPEDIA.COM, accessed Feb. 27, 2019, available at <https://www.encyclopedia.com/history/encyclopedias-almanacs-transcripts-and-maps/refuseniks>.

applying to emigrate, *refuseniks* were persecuted and threatened, and many were fired from their jobs.¹⁴ The US responded with the 1974 Jackson–Vanik Amendment, making favorable trade policies with Communist countries contingent on free emigration policies for those countries’ citizens.¹⁵ Nonetheless, over the next decade, large numbers remained unable to leave the USSR.¹⁶ Among the most prominent *refuseniks* was Anatoly Shcharansky (Natan Sharansky), who had applied for an exit visa in 1973 but was denied because he allegedly was in “possession of state secrets” – an absurd claim given that the Moscow Institute of Physics and Technology, where he worked, was an open institute and several of his colleagues there had received exit visas.¹⁷ Sharansky was subsequently fired from his job in 1975, charged with “treason” and “espionage” in 1977, and sentenced to 13 years in prison and hard-labor camps.¹⁸

In February 1986, Andrey Sakharov – who had been under house arrest and exile in Gorky since 1980 – appealed in a letter to Gorbachev for a general amnesty for USSR prisoners of conscience.¹⁹ The “father of the Soviet hydrogen bomb,” Sakharov had received the Nobel Peace Prize in 1975 for his human rights activism and his criticism of the nuclear arms race but was banned by Soviet authorities from receiving the prize.²⁰ He went on a hunger strike on three occasions to demand that his wife, Yelena Bonner – a prominent activist in her own right who was detained alongside Sakharov in 1984 – be permitted to travel to the West for critical medical treatment.²¹ Consequently, the couple was held *incommunicado* for

¹⁴ *Id.*

¹⁵ *Remember the Refuseniks?*, N.Y. TIMES, Dec. 14, 1990, available at <https://www.nytimes.com/1990/12/14/opinion/remember-the-refuseniks.html> and Julie Ginsberg, *Reassessing the Jackson–Vanik Amendment*, COUNCIL ON FOREIGN RELATIONS, July 2, 2009, available at <https://www.cfr.org/backgrounder/reassessing-jackson-vanik-amendment>.

¹⁶ Mary McGrory, *Refuseniks With Nothing to Lose*, WASHINGTON POST, Sept. 29, 1985, available at https://www.washingtonpost.com/archive/opinions/1985/09/29/refuseniks-with-nothing-to-lose/845c9a0a-fa27-4ce0-bc14-e188a7fe8630/?utm_term=.bcd7e21cd4bd.

¹⁷ Petition to the Procurator-General of the U.S.S.R. by Avital Shcharansky, Aug. 1978, at ¶¶ 16–17, available at <https://drive.google.com/file/d/1xuw0C2H7zqMoEnm03Oi0eBjnSAfcDh2B/view>.

¹⁸ *Anatoly Shcharansky*, ENCYCLOPAEDIA BRITANNICA, updated Jan. 16, 2019, available at <https://www.britannica.com/biography/Anatoly-Shcharansky>.

¹⁹ *Sakharov in a Plea on Prisoners*, N.Y. TIMES, Sept. 4, 1986, available at <https://www.nytimes.com/1986/09/04/world/sakharov-in-a-plea-on-prisoners.html>.

²⁰ *Andrei Sakharov: Facts*, NOBELPRIZE.ORG, accessed Feb. 27, 2019, available at <https://www.nobelprize.org/prizes/peace/1975/sakharov/facts/>.

²¹ Isobel Montgomery, *Yelena Bonner Obituary*, THE GUARDIAN, June 19, 2011, available at <https://www.theguardian.com/world/2011/jun/19/yelena-bonner-obituary>.

months²² and Sakharov was force-fed in a hospital.²³ His decades of activism were later immortalized in the eponymous prize of the European Parliament.²⁴

Also in February 1986, following a meeting between Gorbachev and US President Ronald Reagan, Natan Sharansky was swapped for a Czech couple detained by the US for espionage.²⁵ This was thought to be the first release of a political prisoner under Gorbachev.²⁶ That same year, Reagan appealed to Gorbachev to review the cases of 25 political prisoners, with particular emphasis on Yuri Orlov, the founding chairman of the Moscow Helsinki Group.²⁷ Around the same time, activist Larisa Bogoraz and others launched a campaign to free all political prisoners, advocating in particular on behalf of her detained husband, Anatoly Marchenko.²⁸ Ultimately, Orlov was released in October, just before Reagan left for a summit with Gorbachev in Reykjavik,²⁹ though Marchenko died in prison. Nonetheless, the advocacy directed at the release of these prominent individuals and their fellow political prisoners and dissidents may have motivated the extraordinary waves of releases that began just a few months later.

In February 1987, over 40 political prisoners were unexpectedly released from prison pursuant to a decree of the Presidium of the USSR

²² Dana Priest, *Family Receives Wire Allegedly from Sakharov*, WASHINGTON POST, June 27, 1984, available at https://www.washingtonpost.com/archive/politics/1984/06/27/family-receives-wire-allegedly-from-sakharov/3c0d8b9a-50c4-4213-a64c-40c7fb587292/?utm_term=.1fbecelf6alc.

²³ *Sakharov on Hunger Strike, Hospitalized*, CHICAGO TRIBUNE, June 24, 1985, available at <https://www.chicagotribune.com/news/ct-xpm-1985-06-24-8502100360-story.html>.

²⁴ See Oleg Sentsov: 2018 Sakharov Prize Laureate, EUR. PARL., accessed Feb. 27, 2019, available at <http://www.europarl.europa.eu/sakharovprize/en/home/the-prize.html>.

²⁵ Natan (Anatoly) Sharansky, JEWISH VIRTUAL LIBRARY, accessed Feb. 17, 2019, available at <https://www.jewishvirtuallibrary.org/natan-anatoly-sharansky> and Alan Crosby, *For Your Spies Only: Cold War Prisoner Swaps*, RADIO FREE EUROPE / RADIO LIBERTY, Jan. 4, 2019, available at <https://www.rferl.org/a/for-your-spies-only-a-brief-history-of-cold-war-prisoner-swaps/29691372.html>.

²⁶ Natan (Anatoly) Sharansky, *supra* note 25.

²⁷ Vladimir Kara-Murza, *Trump Should Ask Putin to Release Russian Political Prisoners*, WASHINGTON POST, July 13, 2018, available at https://www.washingtonpost.com/news/democracy-post/wp/2018/07/13/trump-should-ask-putin-to-release-russian-political-prisoners/?noredirect=on&utm_term=.5f7a7a51e888.

²⁸ Seth Mydans, *Larisa Bogoraz, Soviet Dissident, Dies at 74*, N.Y. TIMES, Apr. 8, 2004, available at <https://www.nytimes.com/2004/04/08/world/larisa-bogoraz-soviet-dissident-dies-at-74.html>.

²⁹ *Trump Should Ask Putin to Release Russian Political Prisoners*, *supra* note 27.

Supreme Council.³⁰ The freed prisoners were those serving time for “anti-Soviet agitation and propaganda” and were required to sign statements upon their release that they would not engage in further “harmful” activities.³¹ By the end of the month, more than 100 had been freed.³² Just weeks earlier, Gorbachev had personally called Sakharov to release him from exile and invite him to return to Moscow.³³ An amnesty declared in June 1987 – in honor of the 70th anniversary of the Bolshevik Revolution – became the first amnesty to specifically cover political crimes.³⁴ Contemporary accounts speculated that the releases were calculated not only to assure the broader world that the USSR was committed to reform and liberalization and to increase its credibility with the West, but also to win the support of the USSR’s intelligentsia.³⁵

In 1988, following talks with West German Chancellor Helmut Kohl, Gorbachev promised the release of all “whom the West considers to be political prisoners” by the year’s end.³⁶ This commitment may have been the result of western demands that political prisoners be freed as a precondition toward drawing down conventional military forces in Europe and West Germany’s willingness to improve trade with the USSR.³⁷ The release of Vazif Meilanov in December 1988 was said to mark the end of the Soviet political prisoners, as he was the last known to be serving a sentence for anti-Soviet actions (Article 70 of the Soviet Criminal Code), though activists insisted that other political prisoners were still detained.³⁸

³⁰ See, e.g., Paul Quinn-Judge, *Gorbachev Reinforces Reform Image by Freeing Dissidents*, CHRISTIAN SCIENCE MONITOR, Feb. 9, 1987, available at <https://www.csmonitor.com/1987/0209/olease-f.html>.

³¹ Bill Keller, *Soviet Releasing Some Prisoners Under New Law*, N.Y. TIMES, Feb. 8, 1987, available at <https://www.nytimes.com/1987/02/08/world/soviet-releasing-some-prisoners-under-new-law.html>.

³² David Remnick and Robert J. McCartney, *Kohl Says Soviets Promise Release of Political Prisoners*, WASHINGTON POST, Oct. 27, 1988, available at https://www.washingtonpost.com/archive/politics/1988/10/27/kohl-says-soviets-promise-release-of-political-prisoners/b466493e-0632-428d-9c71-3022c1b97b44/?utm_term=.e699433dc760.

³³ Philip Taubman, *Soviet Lifts Sakharov Banishment and Grants a Pardon to Bonner*, N.Y. TIMES, Dec. 20, 1986, available at <https://www.nytimes.com/1986/12/20/world/soviet-lifts-sakharov-banishment-and-grants-a-pardon-to-bonner.html>.

³⁴ *Soviets Set First Amnesty for Political Prisoners*, *supra* note 7.

³⁵ See, e.g., *Gorbachev Reinforces Reform Image by Freeing Dissidents*, *supra* note 30.

³⁶ *Kohl Says Soviets Promise Release of Political Prisoners*, *supra* note 32.

³⁷ *Id.*

³⁸ Michael Dobbs, *Last of ‘Anti-Soviet’ Prisoners is Released*, WASHINGTON POST, Dec. 13, 1988, available at https://www.washingtonpost.com/archive/politics/1988/12/13/last-of-anti-soviet-prisoners-is-released/870a96ba-a359-491c-a5c0-7d9c7d4f59fe/?utm_term=.da73dd9c6b1b.

B. Releases Under the Russian Federation

The collapse of the USSR and the creation of the Russian Federation in 1991 marked the beginning of a new era. Boris Yeltsin, elected president that year, finally released the last Soviet political prisoners through a decree in February 1992.³⁹ Various amnesties in the following years resulted in the release of tens of thousands of additional prisoners.⁴⁰ Yeltsin also issued thousands of pardons annually, which were presented to him by the Pardons Commission,⁴¹ a body of volunteers appointed by the president.⁴²

Nonetheless, there was no sustained effort by authorities in the new Russian Federation to give a transparent and comprehensive accounting of the rights abuses committed under Soviet leadership – including of the estimated millions of victims who were disappeared during and after Stalin’s regime and are presumed to have been murdered. In September 1991, Yeltsin agreed to open access to decades’ worth of Soviet archives in what was cited as an attempt to discredit the former USSR and bolster his new government.⁴³ But despite a promising start, researchers complained that many of the most important archives were never opened to the public – including military intelligence and defense archives – and that even the archives originally opened were quickly restricted or closed entirely.⁴⁴ As such, the true number of victims remains unknown, and their families have never received closure regarding their missing relatives.

One of the most well-known examples of this is Swedish diplomat Raoul Wallenberg, who in 1944 led the Swedish effort in Nazi-controlled Hungary to save tens of thousands of Jews⁴⁵ from concentration camps by

³⁹ *Released Last Political Prisoners in Russia*, IZVESTIA, Feb. 11, 1992, available at <https://yeltsin.ru/day-by-day/1992/02/11/10741/> [in Russian].

⁴⁰ *Russian Federation: Human Rights Developments*, HUMAN RIGHTS WATCH, accessed Mar. 25, 2019, available at <https://www.hrw.org/legacy/wr2k/Eca-17.htm>.

⁴¹ Masha Lipman, *How Putin Pardons*, WASHINGTON POST, July 17, 2001, available at https://www.washingtonpost.com/archive/opinions/2001/07/17/how-putin-pardons/e91b8caa-8cc0-4e83-8bcc-6a4220a445ae/?noredirect=on&utm_term=.91df1f2382ac.

⁴² *Id.* and Kathy Lally, *Pardons Turn Rare in Putin’s Russia*, BALTIMORE SUN, June 14, 2001, available at <https://www.baltimoresun.com/news/bs-xpm-2001-06-14-0106140126-story.html>.

⁴³ Rachel Donadio, *The Iron Archives*, N.Y. TIMES, Apr. 22, 2007, available at <https://www.nytimes.com/2007/04/22/books/review/Donadio.t.html?mtrref=www.google.com&mtrref=www.nytimes.com>.

⁴⁴ *Id.*

⁴⁵ *Raoul Wallenberg – A Man Who Made A Difference*, SWEDEN.SE., updated Aug. 27, 2018, available at <https://sweden.se/society/raoul-wallenberg-a-man-who-made-a-difference/>.

providing them with passports and establishing safe houses.⁴⁶ However, the Soviet forces that entered Hungary in January 1945 arrested Wallenberg, and he was never seen again.⁴⁷ More than a decade after his disappearance, Soviet authorities claimed he died in custody in 1947, though other detainees claimed for years to have seen him in other prisons.⁴⁸ The results of an investigation by a joint Soviet–Swedish working group with a mandate to look into Wallenberg’s disappearance were inconclusive.⁴⁹ Wallenberg has been honored as one of the “Righteous Among the Nations” by Yad Vashem⁵⁰ and is an honorary citizen of the United States, Canada, Israel, and Australia.⁵¹ His name is memorialized in the title of numerous institutions, awards, and memorials around the world.

After Yeltsin – whose time in power was defined by grave economic difficulties and corruption, but also by political pluralism, media freedom, and democratic elections – resigned in 1999, Vladimir Putin became President and immediately took steps to consolidate power.⁵² Under his leadership – and particularly since 2012 – the number of repressive laws governing Russia has expanded. The number of political prisoners has correspondingly and steadily increased.

C. Releases Under President Putin

Today, most of the Kremlin’s political prisoners are released only after serving their criminal sentences in full.⁵³ While there are notable exceptions, it is difficult to determine exactly what led to these early releases. For example, public attention is often cited as a contributing factor when a given prisoner is freed⁵⁴ or when a victim of a politically-motivated

⁴⁶ *About Raoul Wallenberg*, RAOUL WALLENBERG INST., accessed Feb. 27, 2019, available at <https://rwi.lu.se/about/about-raoul-wallenberg/>.

⁴⁷ *Raoul Wallenberg*, YAD VASHEM, accessed Feb. 27, 2019, available at <https://www.yadvashem.org/righteous/stories/wallenberg.html>.

⁴⁸ *Id.*

⁴⁹ *Raoul Wallenberg – A Man Who Made A Difference*, *supra* note 45.

⁵⁰ *Raoul Wallenberg*, *supra* note 47.

⁵¹ *Raoul Wallenberg – A Man Who Made A Difference*, *supra* note 45.

⁵² Michael Wines, *Putin’s Plan to Centralize Power in the Kremlin Wins a Round*, N.Y. TIMES, June 1, 2000, available at <https://www.nytimes.com/2000/06/01/world/putin-s-plan-to-centralize-power-in-the-kremlin-wins-a-round.html>.

⁵³ *Memorial Publishes Lists of Political Prisoners in Russia*, MEMORIAL HUMAN RIGHTS CTR., Oct. 30, 2018, available at https://memohrc.org/en/news_old/memorial-publishes-lists-political-prisoners-russia (“Most of the released prisoners fully served the unjust and unjustified punishment imposed on them by the court.”).

⁵⁴ *Id.* (“It is very likely that the solidarity campaigns in support of D. Borisov and K. Saltykov also hastened their release. Public attention played a role in the fate of other political prisoners too.”).

prosecution avoids jail time.⁵⁵ Nonetheless, there are many high-profile cases in which domestic and international attention seems to have had no effect. Oleg Sentsov received unprecedented international attention through his 145-day hunger strike; however, he remains imprisoned today. Alexey Pichugin, infamous for being the Kremlin's longest-serving political prisoner, is also still in prison more than 15 years after his warrantless arrest. Oleg Navalny, the brother of one of Russia's leading political opposition figures, was freed only after serving 3.5 year sentence in full.⁵⁶

Nevertheless, it is possible to at least identify some commonalities and conditions that seem to correlate with early releases. Examples of early releases are discussed below, organized by the legal basis for their release.

1. Parole

Russia's Criminal Code allows a convicted person to be released on parole if a court finds that serving the full sentence is not necessary to ensure their rehabilitation.⁵⁷ Parole may be applied only after a person has served at least six months of their sentence and no less than one-third of the full sentence for a minor to medium-severity crime, half for a severe crime, and two-thirds for a particularly severe crime.⁵⁸

Yevgeny Vitishko is a Russian environmental activist who was convicted in 2012 of intentional damage to property compounded by

⁵⁵ For example, Valentina Cherevatenko, a veteran activist and chair of several human rights organizations, became the first person charged under Criminal Code Article 330.1 in 2017. International condemnation of the charges against her was immediate, and the case was closed only days later – ostensibly owing to the “absence of the elements of the crime” – though Cherevatenko was not informed of the decision and discovered it weeks later. See *NGO Head First Russian Charged Under ‘Foreign Agent’ Law*, RADIO FREE EUROPE / RADIO LIBERTY, June 2, 2017, available at <https://www.rferl.org/a/ngo-head-first-russian-charged-foreign-agent-law/28525273.html> and Urgent Action, *Russia Drops Case Against Rights Defender*, AMNESTY INT’L, Aug. 8, 2017, available at <https://www.amnesty.org/download/Documents/EUR4668952017ENGLISH.pdf> (“She also told us that according to reliable sources, international support played a big and important role in the outcome of her case.”).

⁵⁶ *Oleg Navalny Released from Russian Prison After 3 ½ Years*, RADIO FREE EUROPE / RADIO LIBERTY, June 29, 2018, available at <https://www.rferl.org/a/oleg-navalny-released-from-russian-prison-after-3-1-2-years/29326978.html>.

⁵⁷ CRIMINAL CODE OF THE RUSSIAN FEDERATION, June 13, 1996, at Art. 79(1), available at <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=315095&div=LAW&rnd=0.27782972020928964#03780383634932958> [in Russian].

⁵⁸ *Id.*, at Art. 79(3)–(4).

“hooliganism” (Criminal Code Article 167(2))⁵⁹ for taking down two sections of a fence built around a governor’s dacha and spray-painting criticism on it.⁶⁰ He was initially given a suspended three-year sentence, but in December 2013, this was converted into imprisonment.⁶¹ Vitishko was designated as a political prisoner by Memorial HRC and a prisoner of conscience by Amnesty International, which also noted multiple fair trial violations.⁶² In October 2015, Putin said he would ask the Prosecutor General’s office to look into the case,⁶³ and Vitishko was released on parole in December 2015.⁶⁴

Putin’s request to the Prosecutor General’s office to review Vitishko’s detention was made after he met with members of the Presidential Council on Civil Society Development and Human Rights.⁶⁵ Diplomatic pressure on Vitishko’s behalf was also rising at that time – for example, Latvia, which then held the EU presidency, sent an appeal to the Kremlin urging Vitishko’s release.⁶⁶

Alexey Polikhovich, Stepan Zimin, and Alexandr Margolin were convicted in 2014 of participating in a mass riot (Article 212(2)) and violence against a government official (Article 318(1)) for their alleged involvement in the Bolotnaya Square protests.⁶⁷ They were each sentenced to 3.5 years’ imprisonment.⁶⁸ Memorial HRC designated all three as

⁵⁹ *New List of Political Prisoners Published*, MEMORIAL HUMAN RIGHTS CTR., Oct. 30, 2015, available at <https://memohrc.org/ru/news/opublikovan-novyy-spisok-politzaklyuchennyh> [in Russian].

⁶⁰ *Vitishko Case*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 18, 2019, available at <https://memohrc.org/ru/special-projects/delo-vitishko> [in Russian].

⁶¹ *Id.*

⁶² Public Statement, *Russia: Activist Sent to Prison for Three Years for Environmental Activism*, AMNESTY INT’L, Feb. 14, 2014, available at <https://www.amnesty.org/download/Documents/8000/eur460122014en.pdf> and *New List of Political Prisoners Published*, *supra* note 59.

⁶³ Charles Digges, *Putin to Re-Examine Case of Imprisoned Environmentalist Vitishko*, BELLONA.ORG, Oct. 2, 2015, available at <https://bellona.org/news/russian-human-rights-issues/2015-10-putin-to-re-examine-case-of-imprisoned-environmentalist-vitishko>.

⁶⁴ Charles Digges, *Newly Freed from Prison, Ecologist Vitishko Says He Wouldn’t Have Changed a Thing*, BELLONA.ORG, Jan. 6, 2016, available at <https://bellona.org/news/russian-human-rights-issues/2016-01-newly-freed-from-prison-ecologist-vitishko-says-he-wouldnt-have-changed-a-thing>.

⁶⁵ *Putin to Re-Examine Case of Imprisoned Environmentalist Vitishko*, *supra* note 63.

⁶⁶ *Id.*

⁶⁷ *The Case of Events on Bolotnaya Square on May 6, 2012*, MEMORIAL HUMAN RIGHTS CTR., accessed Mar. 13, 2019, available at <https://memohrc.org/ru/special-projects/delo-o-sobytiyah-na-bolotnoy-ploshchadi-6-maya-2012-goda> [in Russian].

⁶⁸ *Id.*

political prisoners, and Amnesty International designated Polikhovich and Zimin as prisoners of conscience.⁶⁹ Zimin was granted parole in June 2015,⁷⁰ Polikhovich in October 2015,⁷¹ and Margolin in January 2016.⁷² This may have been the result of the attention to their cases – Amnesty International, for example, called the imprisonment of the Bolotnaya Square protestors “a hideous injustice.”⁷³ Russia’s High Commissioner for Human Rights also personally advocated for their release on parole.⁷⁴

2. Pardons and Prisoner Swaps

The right to petition for a pardon is enshrined in Russia’s Constitution, which states: “Everyone convicted for a crime shall have the right to appeal against the judgement . . . as well as to ask for pardon or a mitigation of punishment.”⁷⁵ The right to issue a pardon is the prerogative of the Presidency.⁷⁶ Although Putin signed thousands of pardons in his first year as president – through a process facilitated by the Yeltsin-era Pardons Commission, which was undercut and decentralized in 2001⁷⁷ – he issues pardons much more sparingly today.

Pardons are also the formal legal mechanism through which prisoner swaps occur. Though seen as a Cold War legacy, the tradition of swapping

⁶⁹ *Id.* and *Russia: Protestors Found Guilty in Flawed Case*, HUMAN RIGHTS WATCH, Aug. 18, 2014, available at <https://www.hrw.org/news/2014/08/18/russia-protesters-found-guilty-flawed-case>.

⁷⁰ *Moscow 2012 Riots Activist Zimin Released from Prison*, RUSSIAN LEGAL INFORMATION AGENCY, June 23, 2015, available at http://www.rapsinews.com/judicial_news/20150623/273994555.html.

⁷¹ *Bolotnaya Activist Polikhovich Granted Parole*, RUSSIAN LEGAL INFORMATION AGENCY, Oct. 19, 2015, available at http://www.rapsinews.com/judicial_news/20151019/274784987.html.

⁷² *Russian Court Releases Bolotnoye Case Prisoner on Parole*, MOSCOW TIMES, Jan. 29, 2016, available at <https://www.themoscowtimes.com/2016/01/29/russian-court-releases-bolotnoye-case-prisoner-on-parole-a51643>.

⁷³ *Russia: Guilty Verdict in Bolotnaya Case – Injustice at Its Most Obvious*, AMNESTY INT’L, Feb. 21, 2014, available at <https://www.amnesty.org/en/latest/news/2014/02/russia-guilty-verdict-bolotnaya-case-injustice-its-most-obvious/>.

⁷⁴ REPORT 2015, HIGH COMM’R FOR HUMAN RIGHTS IN THE RUSSIAN FEDERATION, 2016, at 56, available at http://eng.ombudsmanrf.org/www/upload/files/Report_2015_Sample.pdf (“With the assistance of the High Commissioner Alexey Polikhovich . . . was released on parole [T]he same court ruled to release on parole another participant in the Bolotnaya Square case Alexander Margolin, whose destiny has been in the sight of the High Commissioner as well.”).

⁷⁵ CONSTITUTION OF THE RUSSIAN FEDERATION, Dec. 25, 1993, Art. 50(3), available at <http://www.constitution.ru/en/10003000-01.htm>.

⁷⁶ *Id.*, at Art. 89 (“The President of the Russian Federation shall . . . decide on pardoning.”) and CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 57, at Art. 85(1) (“A pardon is granted by the President of the Russian Federation in respect of an individually determined person.”); see also *Presidential Pardon*, PRESIDENT OF RUSSIA, accessed Feb. 19, 2019, available at <http://en.kremlin.ru/structure/president/authority/mercy>.

⁷⁷ *Pardons Turn Rare in Putin’s Russia*, *supra* note 42.

prisoners detained in Russia for Russian prisoners detained abroad has continued into recent years. In fact, Team 29 has reported that 12 persons accused of treason or espionage were swapped with other countries over the past two decades.⁷⁸

Mikhail Khodorkovsky was convicted of a variety of financial crimes in 2005 and 2010.⁷⁹ Following two reductions of his sentence on appeal, he was due to be released in August 2014,⁸⁰ but was pardoned in December 2013.⁸¹ The case against Khodorkovsky and his company Yukos was widely understood as an attempt to silence a political rival – not only did Yukos’ size threaten the power of state-owned entities, but Khodorkovsky and his partners, including Leonid Nevzlin, had started funding opposition political parties⁸² and speaking out against Putin. Khodorkovsky’s case garnered an enormous amount of international criticism⁸³ and he was named a prisoner of conscience by Amnesty International in 2011.⁸⁴ The European Court of Human Rights issued several judgments in favor of Khodorkovsky, finding that government authorities violated his rights during his arrest, detention, and trial.⁸⁵

⁷⁸ *100 Convictions and Just One Acquittal. A New Study Looks at the Past 20 Years of Russia’s Treason and Espionage Cases.*, MEDUZA, Sept. 20, 2018, available at <https://meduza.io/en/feature/2018/09/20/100-convictions-and-just-one-acquittal-a-new-study-looks-at-the-past-20-years-of-russia-s-treason-and-espionage-cases>. The full report is available at <https://spy.team29.org/report.pdf>.

⁷⁹ Tom Parfitt, *Mikhail Khodorkovsky Sentenced to 14 Years in Prison*, THE GUARDIAN, Dec. 30, 2010, available at <https://www.theguardian.com/world/2010/dec/30/mikhail-khodorkovsky-jail-term>.

⁸⁰ Gabriela Baczynska, *Russian Court Trims Ex-Tycoon Khodorkovsky’s Jail Term*, REUTERS, Aug. 6, 2013, available at <https://www.reuters.com/article/us-russia-khodorkovsky/russian-court-trims-ex-tycoon-khodorkovskys-jail-term-idUSBRE9750NT20130806>.

⁸¹ David M. Herszenhorn and Steven Lee Myers, *Freed Abruptly by Putin, Khodorkovsky Arrives in Germany*, N.Y. TIMES, Dec. 20, 2013, available at <https://www.nytimes.com/2013/12/21/world/europe/mikhail-khodorkovsky-russia-pardon.html>.

⁸² THE CIRCUMSTANCES SURROUNDING THE ARREST AND PROSECUTION OF LEADING YUKOS EXECUTIVES, RAPPOREUR OF THE PARL. ASSEMBLY OF THE COUNCIL OF EUROPE, Nov. 29, 2004, at § III, ¶ 69, available at <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=10730&lang=EN>.

⁸³ *Statements of Support (2003–2013)*, KHODORKOVSKY.COM, accessed Feb. 15, 2019, available at <https://www.khodorkovsky.com/resource-type/statements-of-support/>.

⁸⁴ *Russia’s Most Prominent Political Prisoner Freed After Ten Years Behind Bars*, AMNESTY INT’L, accessed Feb. 16, 2019, available at <https://www.amnestyusa.org/russias-most-prominent-political-prisoner-freed-after-ten-years-behind-bars/>.

⁸⁵ *Khodorkovskiy v. Russia*, App. No. 11082/06, Eur. Ct. H.R., July 25, 2013, available at [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-122697%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-122697%22]}) and *Khodorkovskiy v. Russia*, App. No. 5829/04, Eur. Ct. H.R., May 31, 2011, available at [https://hudoc.echr.coe.int/eng#{%22dmdocnumber%22:\[%22885884%22\],%22itemid%22:\[%22001-104983%22\]}](https://hudoc.echr.coe.int/eng#{%22dmdocnumber%22:[%22885884%22],%22itemid%22:[%22001-104983%22]}).

German Chancellor Angela Merkel and former German Foreign Minister Hans-Dietrich Genscher played a key role negotiating Khodorkovsky's release.⁸⁶ Other contributing factors likely included the little time remaining on Khodorkovsky's sentence, his mother's fading health (cited in his pardon application), and the then upcoming Sochi Olympics, which were held in February 2014.⁸⁷

Marina Dzhandzhgava, Annik Kesyan, and Oksana Sevastidi were each convicted of treason (Article 275) for sending text messages to Georgian acquaintances that mentioned the movement of military equipment around Sochi shortly before the Russia–Georgia War in 2008.⁸⁸ The text messages sent by the women contained only information that was publicly available, and the women had no reason to believe it was classified. Nonetheless, they were sentenced to 12, eight, and seven years in prison, respectively.⁸⁹ Memorial HRC recognized all three women as political prisoners,⁹⁰ and they were pardoned by Putin in 2017 – four to five years early – for “humanitarian reasons.”⁹¹

⁸⁶ Michelle Martin and Lidia Kelly, *Inside Germany's Campaign to Free Khodorkovsky*, REUTERS, Dec. 26, 2013, available at <https://www.reuters.com/article/us-germany-khodorkovsky/inside-germanys-campaign-to-free-khodorkovsky-idUSBRE9BP0C420131226?feedType=RSS&feedName=wtMostRead> and *Berlin Worked 'Behind the Scenes' for Mikhail Khodorkovsky Release, Says Angela Merkel*, NDTV, Dec. 21, 2013, available at <https://www.ndtv.com/world-news/berlin-worked-behind-the-scenes-for-mikhail-khodorkovsky-release-says-angela-merkel-545188>.

⁸⁷ *Inside Germany's Campaign to Free Khodorkovsky*, *supra* note 86 and Roland Oliphant, *Vladimir Putin Pardons Oil Tycoon Mikhail Khodorkovsky in Amnesty*, THE TELEGRAPH, Dec. 19, 2013, available at <https://www.telegraph.co.uk/news/worldnews/vladimir-putin/10527779/Vladimir-Putin-pardons-oil-tycoon-Mikhail-Khodorkovsky-in-Amnesty.html>.

⁸⁸ *Memorial Recognizes Oksana Sevastidi, Convicted for Sending a Text Message, as a Political Prisoner*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 18, 2019, available at <https://memohrc.org/sites/all/themes/memo/templates/pdf.php?pdf=/sites/default/files/sevastidi.pdf> and *List of Individuals Recognized as Political Prisoners by the Memorial Human Rights Centre (with the Exception of Those Persecuted in Connection with the Realization of their Right to Freedom of Religion) as of 25 May 2017*, MEMORIAL HUMAN RIGHTS CTR., June 5, 2017, available at <https://memohrc.org/ru/bulletins/list-individuals-recognized-political-prisoners-memorial-human-rights-centre-exception> [in Russian].

⁸⁹ *Memorial Recognizes Three More Sochi Residents, Convicted for Sending Text Messages, as Political Prisoners*, MEMORIAL HUMAN RIGHTS CTR., accessed Mar. 13, 2019, available at https://memohrc.org/sites/all/themes/memo/templates/pdf.php?pdf=/sites/default/files/sochi_eng.pdf.

⁹⁰ *Id.* and *Memorial Recognizes Oksana Sevastidi, Convicted for Sending a Text Message, as a Political Prisoner*, *supra* note 88.

⁹¹ Tom Balmforth, *This Lawyer Helped Free Four Russian Women Jailed Over Text Messages*, RADIO FREE EUROPE / RADIO LIBERTY, Feb. 1, 2018, available at <https://www.rferl.org/a/russian-lawyer-pavlov-hrw-award-treason-text-message-manning/29013256.html>.

Ivan Pavlov of Team 29, who helped represent the women, explained that he worked hard to demonstrate to the public that their convictions were absurd.⁹² This appears to have had an impact. For example, in December 2016, a pro-Kremlin media network asked Putin in his annual press conference if he thought the seven-year sentence against Sevastidi was “too harsh.”⁹³ He promised to look into the case, and not long after, she was pardoned. Pavlov has also suggested that then US President Barack Obama’s pardon of Chelsea Manning may have also played a role by serving as an example for other world leaders.⁹⁴ Pavlov has insisted, however, that “humanitarian reasons” had nothing to do with the pardons: “It was just an attempt to correct a mistake that had made the authorities look stupid, funny. The authorities can look brutal, they can look fierce, they can be accused of terrible crimes and [they] will tolerate that. But [they] will not tolerate it when people look at [them] and smile.”⁹⁵

Akhtem Chiyyoz and Ilmi Umerov are deputy chairmen of the Mejlis, the self-governing body of the Crimean Tatars. In 2017, they were both convicted on criminal charges. Chiyyoz was convicted of organizing mass riots (Article 212(1))⁹⁶ for calling for protests against the March 2014 referendum, which was used to justify the annexation of Crimea,⁹⁷ and Umerov was convicted of separatism (Article 280.1(2)) for stating during an interview that Crimea should be returned to Ukraine.⁹⁸ Memorial HRC named both men political prisoners⁹⁹ and Amnesty International declared both to be prisoners of conscience.¹⁰⁰ They were sentenced to eight years

⁹² *Id.*

⁹³ Vladimir Putin’s Annual News Conference, PRESIDENT OF RUSSIA, Dec. 23, 2016, available at <http://en.kremlin.ru/events/president/news/53573>.

⁹⁴ *This Lawyer Helped Free Four Russian Women Jailed Over Text Messages*, *supra* note 91.

⁹⁵ *Id.*

⁹⁶ *The Lawyer of the Crimean Tatar Activists Ilmi Umerov and Akhtem Chiyyoz Sued the Administration of the President of Russia*, MEMORIAL HUMAN RIGHTS CTR., Dec. 27, 2017, available at https://memohrc.org/ru/news_old/advokat-krymskotatarskih-aktivistov-ilmi-umerova-i-ahtema-chiyyoza-podal-v-sud-na [in Russian].

⁹⁷ *Crimean Tatar Leader Jailed for Stirring Anti-Russia Protests*, REUTERS, Sept. 11, 2017, available at <https://www.reuters.com/article/us-ukraine-crisis-tatar-sentence/crimean-tatar-leader-jailed-for-stirring-anti-russia-protests-idUSKCN1BM0VS>.

⁹⁸ *Crimea: Crimean Tatar Leader Convicted on Spurious Charges*, HUMAN RIGHTS WATCH, Sept. 27, 2017, available at <https://www.hrw.org/news/2017/09/27/crimea-crimean-tatar-leader-convicted-spurious-charges>.

⁹⁹ *Russian Presidential Administration Declined to Say Why Ilmi Umerov was Released*, MEMORIAL HUMAN RIGHTS CTR., Dec. 4, 2017, available at https://memohrc.org/ru/news_old/administraciya-prezidenta-rossii-otkazalas-soobshchit-pochemu-osvobodili-ilmi-umerova [in Russian].

¹⁰⁰ *Russia: Released Crimean Tatar Leaders Should be Free to Return Home and Speak Out*, AMNESTY INT’L, Oct. 27, 2017, available at

and two years in prison, respectively.¹⁰¹ However, they were pardoned and released in October 2017 after Turkish President Recep Erdogan intervened.¹⁰²

Both men thanked the EU, the US, PACE, international organizations, and the presidents of Turkey and Ukraine for their efforts to secure their release.¹⁰³ In speculating why the men were released, another Tatar leader suggested that Putin wanted “to preserve close ties with Erdogan, as not so many world leaders shake hands with the Russian president these days,” and that Putin was also hoping to get Crimea-related sanctions lifted.¹⁰⁴ A Russia analyst based in Poland wrote that the pardons may have been an attempt to demonstrate that Russia was not politically persecuting Crimeans, and also speculated that the releases were timed to keep the peace in advance of the 2018 presidential election.¹⁰⁵

Igor Sutyagin was a military researcher based at the Institute for US and Canada Studies at the Russian Academy of Sciences. In 2004, he was convicted on multiple counts of treason (Article 275)¹⁰⁶ for allegedly providing information to a UK consultancy firm and was sentenced to 15 years in prison.¹⁰⁷ Sutyagin was recognized as a prisoner of conscience by Amnesty International.¹⁰⁸ He was released and sent to the UK in July 2010

<https://www.amnesty.org/en/latest/news/2017/10/russia-released-crimean-tatar-leaders-should-be-free-to-return-home-and-speak-out/>.

¹⁰¹ *Crimea: Crimean Tatar Leader Sentenced to Eight Years in Penal Colony Following Sham Trial*, AMNESTY INT’L, Sept. 11, 2017, available at <https://www.amnesty.org/en/latest/news/2017/09/crimea-crimean-tatar-leader-sentenced-to-eight-years-in-penal-colony-following-sham-trial/> and *Crimea: Prominent Critic of Russian Occupation Sentenced to Two Years in Penal Colony*, AMNESTY INT’L, Sept. 27, 2017, available at <https://www.amnesty.org/en/latest/news/2017/09/crimea-prominent-critic-of-russian-occupation-sentenced-to-two-years-in-penal-colony/>.

¹⁰² *Crimean Tatar Leader Umerov Awarded Prize of Platform of European Memory and Conscience*, EUROMAIDAN PRESS, Nov. 9, 2017, available at <http://euromaidanpress.com/2017/11/09/crimean-tatar-leader-umerov-receives-prize-of-platform-of-european-memory-and-conscience/>.

¹⁰³ *Freed Crimean Tatar Leaders Vow To Return To Russian-Held Homeland*, RADIO FREE EUROPE / RADIO LIBERTY, Oct. 27, 2017, available at <https://www.rferl.org/a/crimean-tatar-umerov-vows-return-chiygoz/28819023.html>.

¹⁰⁴ *Id.*

¹⁰⁵ *Ridvan Bari Urcosta, Autumn Brings Fresh Persecutions in Russian-Occupied Crimea*, JAMESTOWN FOUNDATION, Oct. 30, 2017, available at <https://jamestown.org/program/autumn-brings-fresh-persecutions-russian-occupied-crimea/>.

¹⁰⁶ *Joint Statement on the Case of Igor Sutiagin*, AMNESTY INT’L ET AL., June 2004, available at https://www.hrw.org/legacy/backgrounder/eca/russia/2004/igor_statement.htm.

¹⁰⁷ *Id.*

¹⁰⁸ *Russian Court Rejects Appeal by Scientist Accused of Spying*, RADIO FREE EUROPE / RADIO LIBERTY, May 1, 2010, available at

as one of four “spies” traded for 10 Russian sleeper agents that had been arrested by the US.¹⁰⁹

Contemporary accounts suggest the spy swap was negotiated to blunt the political crisis that would otherwise have been caused by the discovery of the Russian sleeper agents and to avoid undermining attempts to strengthen the US–Russia bilateral relationship under the US “reset” policy.¹¹⁰

3. Overturning the Conviction on Appeal

Political prisoners are, in rare instances, able to get their convictions overturned on appeal.¹¹¹

Ildar Dadin is an opposition activist who, in December 2015, became the first person convicted under Criminal Code Article 212.1 for repeated violations of the procedures for holding public assemblies.¹¹² He was sentenced to three years’ imprisonment (later reduced to 2.5 years),¹¹³ and was named a prisoner of conscience by Amnesty International¹¹⁴ and by the European Union, which called for his “immediate and unconditional release” in November 2016.¹¹⁵ Dadin challenged the constitutionality of Article 212.1 on appeal, and although the Constitutional Court did not strike Article 212.1 down, it interpreted the provision such that a person can be

https://www.rferl.org/a/Russian_Court_Rejects_Appeal_By_Scientist_Accused_Of_Spying/2030021.html.

¹⁰⁹ Peter Baker, *Ruing Exile, Russian Says He’s No Spy*, N.Y. TIMES, Aug. 12, 2010, available at <https://www.nytimes.com/2010/08/13/world/europe/13spy.html>.

¹¹⁰ Peter Baker, Charlie Savage and Benjamin Weiser, *Swap Idea Emerged Early in Case of Russia Agents*, N.Y. TIMES, July 9, 2010, available at <https://www.nytimes.com/2010/07/10/world/europe/10russia.html>.

¹¹¹ See CRIMINAL PROCEDURE CODE OF THE RUSSIAN FEDERATION, Dec. 18, 2001, at Art. 389.15 (“Grounds for Cancellation or Amendment of a Court Decision on Appeal”), available at <http://www.consultant.ru/cons/cgi/online.cgi?rnd=8070AB5F6D5D5568E9848484E20A98FA&base=LAW&n=319671&dst=4294967295&cacheid=D86B0A02D63B9BA0F053B756AE5E4DE7&mcode=rubr&req=doc#09325183349882482> [in Russian].

¹¹² *Russia’s Supreme Court Sets Ildar Dadin Free*, MEDUZA, Feb. 22, 2017, available at <https://meduza.io/en/feature/2017/02/22/russia-s-supreme-court-releases-ildar-dadin-and-overturns-his-sentence>.

¹¹³ *Id.*

¹¹⁴ *Prisoner of Conscience Ildar Dadin Has Been Freed!*, AMNESTY INT’L, Mar. 3, 2017, available at <https://www.amnesty.ie/prisoner-conscience-ildar-dadin-freed/>.

¹¹⁵ *Resolution on the Case of Ildar Dadin, Prisoner of Conscience in Russia*, EUR. PARL., adopted Nov. 24, 2016, available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2016-0446&language=EN>.

charged only after the predicate administrative convictions have come into force.¹¹⁶ However, Dadin was charged under Article 212.1 before two of the three prior administrative convictions had come into force,¹¹⁷ so the Constitutional Court ordered his conviction be reviewed, and soon thereafter, the Supreme Court quashed Dadin's conviction and dismissed the case against him.¹¹⁸

Dadin and his wife believe that his conviction was quashed, not because of the stated legal technicality, but rather because his case had become "a cause célèbre for international human rights organizations."¹¹⁹ His wife said his release may have occurred so that he "would not be an eye sore . . . because he ha[d] become the main political prisoner, at least for the international community. And Russian authorities are trying to demonstrate by all means that there are no political prisoners in Russia."¹²⁰

4. Reducing the Criminal Sentence on Appeal

Inga Tutisani, a resident of Sochi, was convicted of treason (Article 275) in 2014 for sending two text messages in 2009 about the movement of Russian Navy ships in the Black Sea to a friend in Georgia.¹²¹ She was sentenced to six years in prison,¹²² and was recognized as a political prisoner by Memorial HRC.¹²³ Though Tutisani was convicted on similar charges as Dzhandzhgava, Kesyan, and Sevastidi (described above), she was not pardoned. Instead, the Supreme Court significantly reduced her sentence in November 2017, and she was released a few days later.¹²⁴

After her initial conviction, her case – like those of Dzhandzhgava, Kesyan, and Sevastidi – was taken up by Team 29 lawyer Ivan Pavlov in

¹¹⁶ Dimitriy Mednikov, *Taking Some Human Rights Back: The Case of Ildar Dadin*, OXFORD HUMAN RIGHTS HUB, May 22, 2017, available at <http://ohrh.law.ox.ac.uk/taking-some-human-rights-back-the-case-of-ildar-dadin/>.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ Marc Bennetts, 'They Beat Me': A Putin Critic Speaks Out, VOCATIV, Mar. 17, 2017, available at <https://www.vocativ.com/news/412414/russia-putin-critic-prison-torture/index.html>.

¹²⁰ *Prisoner of Conscience Ildar Dadin Has Been Freed!*, *supra* note 114.

¹²¹ *Tutisani Inga Zhoraevna*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 20, 2019, available at <https://memohrc.org/ru/defendants/tutisani-inga-zhoraevna> [in Russian].

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Russian Court Shortens Prison Term For 'Treason' Text Messages*, RADIO FREE EUROPE / RADIO LIBERTY, Nov. 16, 2017, available at <https://www.rferl.org/a/russian-court-shortens-prison-term-treason-text-messages/28857736.html>.

partnership with Memorial HRC.¹²⁵ The media pressure, combined with the legal advocacy in her case, may have contributed to her release.

Aleksei Sokolov, a human rights defender and the founder of anti-torture organization Legal Basis, was convicted in May 2010 of theft (Article 158(4)) and aggravated robbery (Article 161(3)) for events that had allegedly occurred in 2001 and 2004.¹²⁶ Though Sokolov's case predated Memorial HRC's list, Amnesty International said that it believed he might be a prisoner of conscience and launched an urgent action appeal on his behalf.¹²⁷ Sokolov was sentenced to five years in a high-security penal colony, but his sentence was reduced to three years on appeal, and he was released on parole in July 2011.¹²⁸

Before his arrest, Sokolov was already well-known inside Russia and internationally for his anti-torture work.¹²⁹ His detention was criticized by a number of rights groups, both inside and outside of Russia.¹³⁰ The US State Department devoted two paragraphs to his case in its 2010 Human Rights Report.¹³¹

5. Amnesty

The power to issue a general prison amnesty falls under the authority of the State Duma, the lower house of the Federal Assembly.¹³² However, the President can initiate or promote a bill to issue an amnesty,¹³³ and the Duma appears to broadly defer to his lead.

¹²⁵ *This Lawyer Helped Free Four Russian Women Jailed Over Text Messages*, *supra* note 91.

¹²⁶ RUSSIAN FEDERATION: TRIAL AGAINST HUMAN RIGHTS DEFENDER ALEKSEI SOKOLOV, INT'L FED'N FOR HUMAN RIGHTS & WORLD ORGANISATION AGAINST TORTURE, July 2011, at 4–6, 15, available at https://www.fidh.org/IMG/pdf/obs_report_russia_sokolov.pdf.

¹²⁷ Urgent Action, *Demand A Fair Appeal For Aleksei Sokolov*, AMNESTY INT'L, May 17, 2010, available at <https://www.amnesty.org/download/Documents/40000/eur460162010en.pdf>.

¹²⁸ *The Observatory Welcomes the Release on Parole of Mr. Aleksei Sokolov and Calls for the End of Judicial Harassment Against Him!*, INT'L FED'N FOR HUMAN RIGHTS, July 29, 2011, available at <https://www.fidh.org/en/region/europe-central-asia/russia/The-Observatory-welcomes-the->

¹²⁹ *Demand A Fair Appeal For Aleksei Sokolov*, *supra* note 127.

¹³⁰ See, e.g., *Russian Rights Group Protests Arrest of Prisoner Rights Activist*, VOA NEWS, Nov. 2, 2009, available at <https://www.voanews.com/a/a-13-2009-06-05-voa33-68788987/411265.html>.

¹³¹ 2010 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: RUSSIA, U.S. DEP'T OF STATE, Apr. 8, 2011, available at <https://www.state.gov/j/drl/rls/hrrpt/2010/eur/154447.htm>.

¹³² CONSTITUTION OF THE RUSSIAN FEDERATION, *supra* note 75, Art. 103 ("The jurisdiction of the State Duma includes . . . proclamation of amnesty") and CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 57, at Art. 84 ("Amnesty is declared by the State Duma of the Federal Assembly of the Russian Federation in respect of an individually unspecified circle of persons.").

¹³³ See, e.g., Andrew Roth, *Amnesty Bill in Russia Could Free Activists*, N.Y. TIMES, Dec. 18, 2013, available at <https://www.nytimes.com/2013/12/19/world/europe/russian-bill-pussy-riot->

There have been two prison amnesties in recent years – in 2013 and 2015 – though there have been numerous calls for additional ones.¹³⁴ The 2015 amnesty was issued to mark the 70th anniversary of the Allies' victory over Germany in World War II.¹³⁵ Though it was reported by a state official that up to 400,000 prisoners could be included, only a few thousand were actually released and rights activists condemned the amnesty as a "farce."¹³⁶

The 2013 amnesty, which marked the 20th anniversary of Russia's constitution, was far more significant.¹³⁷ Championed by Putin, it was passed hastily by the Duma without making the text public before the vote.¹³⁸ At the time, estimates on how many prisoners would be eligible varied wildly – some were as low as 1,500,¹³⁹ others as high as 25,000.¹⁴⁰ Specific categories were targeted for release – pregnant women, mothers of young children, the elderly, war veterans, and those convicted of minor crimes, hooliganism, or participating in mass protests.¹⁴¹ However, anyone convicted of inciting mass riots or attacking the police did not qualify.¹⁴² Two members of Pussy Riot and 30 Greenpeace activists were released under the amnesty.¹⁴³

The 2013 amnesty was widely viewed as an attempt to improve Russia's reputation in advance of the 2014 Sochi Olympics, which had brought unwanted attention to Russia's repressive laws and criminalization of dissent.¹⁴⁴ The detention of the Pussy Riot members and Greenpeace

greenpeace.html?module=inline and Mareike Aden, *Kremlin's Prison Amnesty Benefits Only Few*, DEUTSCHE WELLE, June 12, 2015, available at <https://www.dw.com/en/kremlins-prison-amnesty-benefits-only-few/a-18512876>.

¹³⁴ See, e.g., Liz Fuller, *Pardon for Jailed Makhachkala Mayor Considered Unlikely*, RADIO FREE EUROPE / RADIO LIBERTY, June 8, 2017, available at <https://www.rferl.org/a/caucasus-report-daghestan-amrov-amnesty-unlikely/28536313.html>.

¹³⁵ *Russian State Duma Adopts Amnesty*, RADIO FREE EUROPE / RADIO LIBERTY, Apr. 24, 2015, available at <https://www.rferl.org/a/amnesty-adopted-in-russia/26976530.html>.

¹³⁶ *Kremlin's Prison Amnesty Benefits Only Few*, *supra* note 133.

¹³⁷ David Greene and Corey Flintoff, *Russian Parliament Approves Amnesty Bill*, NPR, Dec. 19, 2013, available at <https://www.npr.org/2013/12/19/255406220/russia-amnesty-law>.

¹³⁸ *Amnesty Bill in Russia Could Free Activists*, *supra* note 133.

¹³⁹ Steve Gutterman, *Putin's Prison Amnesty Plan Set for Approval in Russian Duma*, REUTERS, Dec. 17, 2013, available at <https://www.reuters.com/article/us-russia-amnesty/putins-prison-amnesty-plan-set-for-approval-in-russian-duma-idUSBRE9BG0M020131217>.

¹⁴⁰ *Amnesty Bill in Russia Could Free Activists*, *supra* note 133.

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Amnesty Bill in Russia Could Free Activists*, *supra* note 133; *Russian Amnesties*, N.Y. TIMES, Dec. 19, 2013, available at <https://www.nytimes.com/2013/12/20/opinion/russian-amnesties.html>; and Media Briefing, *Behind the Smokescreen of Olympic Celebrations: Key Human Rights*

activists, in particular, had drawn condemnation from the West.¹⁴⁵ Thus, the amnesty allowed Putin to reduce political pressure in the lead up to the Olympics, while avoiding any type of actual legal or political reform.¹⁴⁶ As the Director of Amnesty International UK explained, “The recent amnesty . . . should be treated not as a benign act of clemency, but as a politically expedient move in the run up to the Sochi Olympics.”¹⁴⁷ Similarly, both members of Pussy Riot denounced their own release as a publicity stunt.¹⁴⁸

6. Critically Poor Health

Under the Code of Criminal Procedure, a court can change a measure of restraint – e.g., from pretrial detention to a less restrictive measure – when there are changes in a person’s health condition or a person develops a serious disease.¹⁴⁹ Similarly, the Criminal Code allows a court to release a person from criminal punishment if they develop a serious illness.¹⁵⁰

Vasily Aleksanyan, a former vice-president of Yukos, was arrested in April 2006 and charged as an accomplice to money laundering (Article 174.1(4)) and embezzlement (Article 160).¹⁵¹ Diagnosed with AIDS in November 2006,¹⁵² he was held in inhumane prison conditions¹⁵³ and

Concerns in the Russian Federation, AMNESTY INT’L, Jan. 2014, available at https://www.amnesty.org.uk/files/briefing_behind_the_smokescreen_web_version.pdf.

¹⁴⁵ See, e.g., Press Release, *Pussy Riot Sentence Is Deeply Disappointing Political Intimidation*, Say MEPs, EUR. PARL., Sept. 13, 2012, available at <http://www.europarl.europa.eu/news/en/press-room/20120907IPR50826/pussy-riot-sentence-is-deeply-disappointing-political-intimidation-say-meps>.

¹⁴⁶ *Russian Amnesties*, *supra* note 144 (“Unless followed by a strengthening of the rule of law, these amnesties are mostly an imperial gesture, not a sign that justice has been served.”).

¹⁴⁷ *Behind the Smokescreen of Olympic Celebrations*, *supra* note 144.

¹⁴⁸ *Id.*

¹⁴⁹ CRIMINAL PROCEDURE CODE OF THE RUSSIAN FEDERATION, *supra* note 111, at Art. 110(1) (preventive measure can be changed when the grounds listed in Articles 97 and 99 have changed), (1.1) (the measure of restraint in the form of taking into custody shall be changed for a milder one if a person develops a “serious disease”); see also *id.*, at Art. 99 (when selecting a measure of restraint, the court must consider a person’s “health condition”).

¹⁵⁰ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 57, at Art. 81(2).

¹⁵¹ *Activists Urge Medvedev to Free Political Prisoners*, THE OTHER RUSSIA, May 23, 2008, available at <http://www.theotherussia.org/2008/05/23/activists-urge-medvedev-to-free-political-prisoners/>.

¹⁵² Letter from Joseph Amon and Holly Cartner, Human Rights Watch, to President Vladimir Putin, Feb. 10, 2008, available at <https://www.hrw.org/news/2008/02/10/letter-president-vladimir-putin-denial-hiv-treatment-endangering-russian-prisoners>.

¹⁵³ *Remembering Vasily Alexanyan (1971–2011)*, KHODORKOVSKY.COM, Oct. 3, 2012, available at <https://www.khodorkovsky.com/remembering-vasily-alexanyan-1971-2011/>.

denied medical treatment, including critical antiretroviral medication,¹⁵⁴ reportedly for refusing to testify against Mikhail Khodorkovsky.¹⁵⁵ Aleksanyan was held in pre-trial detention for more than two years, during which he contracted tuberculosis, developed cancer, and began to go blind.¹⁵⁶ Presumably due to his failing health, he was released on bail in January 2009.¹⁵⁷ Prosecutors dropped the case against him in June 2010, after the statute of limitations on the charges had expired.¹⁵⁸ He died in October 2011, and Russian activists called his death “practically murder.”¹⁵⁹

Aleksanyan’s plight drew strong international outrage due to his rapidly-failing health. The European Court of Human Rights also issued interim measures regarding Aleksanyan in November 2007, requiring the Government to secure in-patient treatment for him in a specialized hospital,¹⁶⁰ and further ruled in December 2008 that he must be released.¹⁶¹ Each of these orders was ignored by the Kremlin. In early 2008, Mikhail Khodorkovsky initiated a hunger strike to call attention to Aleksanyan’s case.¹⁶²

7. Reduction or Change in the Method of Restraint or Punishment

Article 110 of the Code of Criminal Procedure allows a court to change the method of restraint in certain circumstances.¹⁶³ Article 80 of the Criminal Code also provides that, where a person’s behavior so warrants, a

¹⁵⁴ Letter to President Vladimir Putin, *supra* note 152.

¹⁵⁵ *Resolution on the Annual Report on Human Rights in the World 2008 and the European Union’s Policy on the Matter*, EUR. PARL., adopted May 7, 2009, at ¶ 91, available at <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:212E:0060:0081:EN:PDF>.

¹⁵⁶ Letter to President Vladimir Putin, *supra* note 152 and Andrew McChesney, *Aleksanyan’s Death ‘Practically Murder,’* MOSCOW TIMES, Oct. 4, 2011, available at <https://themoscowtimes.com/news/aleksanyans-death-practically-murder-9945>.

¹⁵⁷ *Vasily Aleksanyan Dies Aged 39*, KHARKIV HUMAN RIGHTS PROT. GROUP, Oct. 5, 2011, available at <http://khpg.org/en/index.php?id=1317766506>.

¹⁵⁸ *Remembering Vasily Alexanyan*, *supra* note 153.

¹⁵⁹ *Aleksanyan’s Death ‘Practically Murder,’* *supra* note 156.

¹⁶⁰ *Aleksanyan v. Russia*, App. No. 46468/06, Eur. Ct. H.R., Dec. 22, 2008, at ¶ 76, available at <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-90390%22%7D>.

¹⁶¹ *Id.*, at ¶ 240.

¹⁶² Vidya Ram, *Former Yukos Billionaire On Hunger Strike*, FORBES, Jan. 30, 2008, available at https://www.forbes.com/2008/01/30/mikhail-khodorkovsky-yukos-face-cx_vr_0130autofacescan02.html#b05486115e1e.

¹⁶³ CRIMINAL PROCEDURE CODE OF THE RUSSIAN FEDERATION, *supra* note 111, at Art. 110.

court can replace an unserved part of a sentence with a milder form of punishment, such as a fine, restriction of liberty, or corrective labor.¹⁶⁴

The **Crew of the Arctic Sunrise** was a group of 30 individuals – 28 environmental activists and two journalists – detained by Russian authorities and charged with piracy (Article 227) in connection with their protest of a Gazprom-owned oil rig in the Pechora Sea.¹⁶⁵ Two of the activists had attempted to scale the rig on September 18, 2013 and were detained that day.¹⁶⁶ The other 28 were detained the following day and their ship was seized.¹⁶⁷ At the time of the detention and seizure, the ship was located in Russia's exclusive economic zone, though in international waters.¹⁶⁸ All 30 were held in pretrial detention,¹⁶⁹ and Memorial HRC included them in its inaugural list of political prisoners.¹⁷⁰

In late October 2013, the charges were reduced to hooliganism by an organized group (Article 213).¹⁷¹ By November 22, 2013, all but one of the activists had been released on bail.¹⁷² The International Tribunal for the Law of the Sea had also ordered the release of the ship and crew on bail at the request of the Netherlands, where the Arctic Sunrise was registered, but the Kremlin said it would not honor the order.¹⁷³ All 30 defendants were ultimately released in the December 2013 amnesty.

The detention of the “Arctic 30,” as they became known, caused a diplomatic crisis between Russia and the West, as 26 of the detainees were foreign citizens of 18 different countries.¹⁷⁴ Though Putin had made it very clear that the Kremlin considered its ability to develop in the Arctic as key to its national security, the charges against the crew were considered by

¹⁶⁴ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 57, at Arts. 44, 80(1), (3).

¹⁶⁵ Steven Lee Myers, *Activists Feel Powerful Wrath as Russia Guards Its Arctic Claims*, N.Y. TIMES, Oct. 30, 2013, available at <https://www.nytimes.com/2013/10/31/world/europe/activists-feel-powerful-wrath-as-russia-guards-its-arctic-claims.html>.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ Steven Lee Myers, *Russia Seizes Greenpeace Ship and Crew for Investigation*, N.Y. TIMES, Sept. 20, 2013, available at <https://www.nytimes.com/2013/09/21/world/europe/russia-seizes-greenpeace-ship-for-investigation.html>.

¹⁶⁹ *Activists Feel Powerful Wrath*, *supra* note 165.

¹⁷⁰ *Memorial's Full List Of Political Prisoners in Russia*, KHODORKOVSKY.COM, Nov. 4, 2013, available at <https://www.khodorkovsky.com/memorials-full-list-of-political-prisoners-in-russia/>.

¹⁷¹ *Activists Feel Powerful Wrath*, *supra* note 165.

¹⁷² *29 Arctic Sunrise Crewmembers Granted Bail, Leaving Custody*, RT, Nov. 22, 2013, available at <https://www.rt.com/news/arctic-sunrise-crew-free-143/>.

¹⁷³ *Id.*

¹⁷⁴ *Id.* and *Activists Feel Powerful Wrath*, *supra* note 165.

many to be disproportionate and political.¹⁷⁵ Their quick release on bail – even though the upcoming amnesty would have freed them anyway – may have been connected to the intense international outrage. In fact, there was a “last-minute amendment” to the amnesty bill that allowed the activists to benefit.¹⁷⁶

8. Termination of Criminal Proceedings

The Code of Criminal Procedure allows a criminal case or criminal prosecution to be terminated for a number of reasons, including due to lack of evidence, expiration of the statute of limitations, or death of the accused.¹⁷⁷

Svetlana Davydova is an activist and mother of seven who was accused of treason (Article 275) for calling the Ukrainian Embassy in Moscow in April 2014 to warn them that Russian troops might be deployed to Ukraine.¹⁷⁸ Davydova had apparently grown suspicious after seeing a military-intelligence base by her home near Moscow clearing out and overhearing a soldier’s phone conversation during a taxi ride.¹⁷⁹ In January 2015, she became the first person arrested under the 2012 amendments to Article 275, which broadened the definition of treason.¹⁸⁰ She was released from pre-trial detention in February,¹⁸¹ and in March, the charges against her were dropped due to lack of evidence.¹⁸²

Though Davydova, whose stint in pre-trial detention lasted only about two weeks, was never listed as a political prisoner, international attention and criticism of her case was immediate and widespread. Newspaper *Novaya Gazeta* started a petition for her release, which garnered more than 20,000 signatures, including from prominent figures such as the

¹⁷⁵ *Activists Feel Powerful Wrath*, *supra* note 165.

¹⁷⁶ *Russian Amnesty to Free Pussy Riot and Greenpeace* 30, FRANCE24, Dec. 18, 2013, available at <https://www.france24.com/en/20131218-greenpeace-30-pussy-riot-putin-russian-amnesty>.

¹⁷⁷ CRIMINAL PROCEDURE CODE OF THE RUSSIAN FEDERATION, *supra* note 111, at Arts. 24–28.

¹⁷⁸ Joshua Yaffa, *Why Was a Mother of Seven Arrested in Russia for Treason?*, NEW YORKER, Feb. 6, 2015, available at <https://www.newyorker.com/news/news-desk/mother-seven-arrested-russia-treason>.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² *Russia Drops Charges Against Woman Accused of Treason Over Ukraine*, REUTERS, Mar. 13, 2015, available at <https://www.reuters.com/article/us-ukraine-crisis-russia-treason-idUSKBN0M91QZ20150313>.

widow of Aleksandr Solzhenitsyn.¹⁸³ Her case quickly became “a cause célèbre for the country’s liberals and independent media outlets,” as it was clear that “she was not a credible threat to state security.”¹⁸⁴ The “public outrage over the case, legal work, and the shocking revelations concerning Davydova’s living conditions inside the investigative detention facility” have been cited as the reasons that her case did not go to trial.¹⁸⁵ Ivan Pavlov, Team 29’s leader, said he believes that the charges were dropped as the “result of a political decision.”¹⁸⁶

9. Sentencing to Time Served or Issuing a Punishment That Does Not Result in Detention

Where an accused is held in pretrial detention, a court can effectively order their release by sentencing them to probation – that is, by issuing a suspended sentence.¹⁸⁷ Also, given the widespread overuse of pretrial detention (in some cases, for periods longer than the maximum punishment that could be imposed if they were convicted),¹⁸⁸ courts can sentence someone to time served. This may become increasingly common after the 2018 amendments to Criminal Code Article 72, which provide that, in certain circumstances, each day spent in pretrial detention can count as 1.5 or two days of one’s sentence upon conviction.¹⁸⁹

Ruslan Sokolovsky, a student and blogger, was charged with inciting religious hatred (Article 282) and insulting religious feelings (Article 148(2)) for posting videos mocking Christianity and Islam and for

¹⁸³ *Id.*; *Why Was a Mother of Seven Arrested in Russia for Treason?*, *supra* note 178; and *Thousands Sign Petition to Help Russian ‘Treason’ Suspect*, RADIO FREE EUROPE / RADIO LIBERTY, Feb. 1, 2015, available at <https://www.rferl.org/a/russia-davydova-treason-petition-ekho-moskvy/26824835.html>.

¹⁸⁴ *Why Was a Mother of Seven Arrested in Russia for Treason?*, *supra* note 178.

¹⁸⁵ Gleb Belichenko, *Russia’s Secret Treason Investigations*, OPENDEMOCRACY, Oct. 22, 2015, available at <https://www.opendemocracy.net/od-russia/gleb-belichenko/russia-s-secret-treason-investigations>.

¹⁸⁶ *Id.*

¹⁸⁷ CRIMINAL CODE OF THE RUSSIAN FEDERATION, *supra* note 57, at Art. 73(1), (3).

¹⁸⁸ Gabriela Knaul, REPORT OF THE SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS, U.N. Doc. A/HRC/26/32/Add.1, Apr. 30, 2014, at ¶ 42, available at <http://undocs.org/A/HRC/26/32/Add.1>.

¹⁸⁹ *Early Release Likely for Thousands of Jailed Russians Under New Law*, MOSCOW TIMES, July 4, 2018, available at <https://www.themoscowtimes.com/2018/07/04/early-release-likely-thousands-jailed-under-new-law-a62103>. The amending law – Federal Law on Amendments to Article 72 of the Criminal Code of the Russian Federation, No. 186-FZ, July 3, 2018 – is available at <http://publication.pravo.gov.ru/Document/View/0001201807030046> [in Russian].

filming himself playing the popular game Pokémon Go in a church.¹⁹⁰ In May 2017, he was convicted on all counts and given a 3.5 year suspended sentence,¹⁹¹ subsequently reduced to two years and three months.¹⁹² Sokolovsky was declared a political prisoner by Memorial HRC¹⁹³ and a prisoner of conscience by Amnesty.¹⁹⁴

His case was covered and criticized widely by the international media, and after he received the suspended sentence, Sokolovsky thanked reporters for covering his case, saying that if they had not done so, “I would probably have been sent to prison.”¹⁹⁵

¹⁹⁰ *The Case of Ruslan Sokolovsky*, COLUMBIA UNIV. GLOBAL FREEDOM OF EXPRESSION, accessed Mar. 13, 2019, available at <https://globalfreedomofexpression.columbia.edu/cases/case-ruslan-sokolovsky/> and Urgent Action, *Jailed for Playing Pokemon Go in Church*, AMNESTY INT’L, Sept. 7, 2016, available at

<https://www.amnesty.org/download/Documents/EUR4647772016ENGLISH.pdf>.

¹⁹¹ *Russia: Pokemon Go Blogger Convicted*, HUMAN RIGHTS WATCH, May 11, 2017, available at <https://www.hrw.org/news/2017/05/11/russia-pokemon-go-blogger-convicted>.

¹⁹² *Russian Court Reduces Sentence In Pokemon Go Case*, RADIO FREE EUROPE / RADIO LIBERTY, July 10, 2017, available at <https://www.rferl.org/a/russian-court-reduces-sentence-in-pokemon-go-case/28605990.html>.

¹⁹³ *Memorial Recognizes Video-Blogger Sokolovsky as a Political Prisoner*, MEMORIAL HUMAN RIGHTS CTR., accessed Feb. 22, 2019, available at https://memohrc.org/sites/default/files/sokolovskiy_eng_source.pdf.

¹⁹⁴ *Russian YouTuber Facing Prison for Playing Pokémon Go*, AMNESTY INT’L, Sept. 26, 2016, available at <https://www.amnesty.org.uk/russia-youtube-blogger-prison-playing-pokemon-go-church-ruslan-sokolovsky>.

¹⁹⁵ *Russian Who Played Pokémon Go in Church is Convicted of Inciting Hatred*, N.Y. TIMES, May 11, 2017, available at <https://www.nytimes.com/2017/05/11/world/europe/pokemon-go-ruslan-sokolovsky-russia.html>.

X. RECOMMENDATIONS

This report is the first to synthesize, summarize, and analyze the Kremlin's approach to crushing real and imagined dissent through the arbitrary detention of political prisoners. In addition to examining the response to this phenomenon of repression, this report also reviews the variety of ways that the Kremlin has resolved past cases. There is no single proven pathway to securing the release of the Kremlin's political prisoners. But there is a wide variety of actions that can be undertaken to highlight the plight of the Kremlin's political prisoners and to apply serious pressure to secure their release.

A. Targeted Financial Sanctions and Travel Bans on Perpetrators

Vladimir Putin's strong and emotional reaction to the global sanctions imposed under the various Magnitsky Acts demonstrates unequivocally that the Kremlin is especially sensitive to actions that impose real consequences on those responsible for gross human rights abuses. This report highlights eight perpetrators with potential command responsibility and eight judges, prosecutors, and investigators with potential line responsibility for persecuting political prisoners, each of whom would be an appropriate subject to investigate to determine if it is appropriate to impose such sanctions.

Recommendation 1: Individual countries and multilateral institutions should investigate and potentially impose, if appropriate, targeted financial sanctions (*e.g.*, asset freezes) and travel bans on the 16 perpetrators identified in this report. If such sanctions were to be imposed, it would be most effective to have strong coordination between sanctions offices across relevant jurisdictions so that they impose sanctions at the same time or very close in time.

B. Joint Actions Across Multilateral Institutions

While undoubtedly less effective than the imposition of sanctions, the Kremlin is also sensitive to criticism, especially when it is multilateral. There is a wide array of multilateral venues where resolutions and actions focused on the Kremlin's political prisoners could be undertaken, if the political will can be generated to support these activities.

Recommendation 2: Like-minded governments around the world should work collaboratively to apply pressure on the Kremlin to free its political prisoners in all venues where action can be undertaken. Examples of such venues and potential approaches include:

- *Organization for Security and Co-operation in Europe (OSCE)* – joint statement by like-minded governments on relevant agenda items at annual Human Dimension Implementation Meetings.
- *Parliamentary Assembly of the Council of Europe (PACE)* – adoption of a resolution on Russia human rights with a special focus on political prisoners, working with PACE co-rapporteurs on the Monitoring Committee for the Russian Federation.
- *European Parliament* – adoption of a resolution on Russia human rights with a special focus on political prisoners.
- *UN General Assembly* – adoption of a resolution on Russia human rights with a special focus on political prisoners.
- *UN Human Rights Council* – joint statement by governments on the Kremlin’s political prisoners in response to a relevant agenda item; adoption of a resolution on Russia human rights with a special focus on political prisoners; and the creation of a new UN Special Rapporteur on the Situation of Human Rights in the Russian Federation.

C. Highlighting the Plight of the Kremlin’s Political Prisoners

Although pressure from international and regional bodies is essential, it can only be applied at specific times during periodic meetings. Therefore, it is also important for individual governments to speak out repeatedly regarding the Kremlin’s political prisoners to demonstrate a consistent and sustained concern.

Recommendation 3: National governments should frequently and consistently highlight the Kremlin’s political prisoners. Examples of potential actions include:

- Statements by high-level government officials (*e.g.*, President, Prime Minister, Minister of Foreign Affairs, parliamentarians), including when a political prisoner is arrested, charged, convicted, sentenced, tortured, or released; when Memorial HRC recognizes someone as a political prisoner; or when a repressive law is enacted or amended.

- Legislative resolutions condemning the Kremlin's detention of political prisoners, urging the application of targeted sanctions, and calling for their release.
- Hearings before legislatures or relevant Ministries providing a platform for former political prisoners, advocates, and family members of current political prisoners to give testimony.
- Making political prisoners a priority in bilateral relationships with the Kremlin, and raising the issue in every meeting with relevant Kremlin officials. This should include not only calls for release, but also demands that detainees be afforded their due process rights (including access to counsel) and held in conditions meeting minimum standards required by international law.
- Recognizing that the Kremlin's treatment of its own people (and those residing in the occupied territories) is indicative of how it will behave in its foreign policy more generally, governments should link their overall policy toward Russia with the Kremlin's readiness to address the problem of political prisoners.

D. Joint Civil Society Efforts

Many organizations advocate on behalf of the Kremlin's political prisoners around the world; however, their efforts have had only limited success. In light of the Kremlin's resistance to such advocacy, a common and coordinated strategy on political prisoners is urgently needed.

Recommendation 4: On February 21, 2019, twelve civil society organizations in Russia, the US, Canada, Ukraine, Germany, and Estonia – including the commissioners of this report – announced the launch of the Coalition to Free the Kremlin's Political Prisoners. The Coalition seeks to organize and coordinate collective action among its members in order to have a greater impact. Civil society organizations should join the Coalition (RussiaNGOcoalition@gmail.com) and help create a global movement to free the Kremlin's political prisoners. The Coalition is facilitated by Vladimir Kara-Murza, Chairman, Boris Nemtsov Foundation for Freedom; David J. Kramer, former Assistant Secretary of State for Democracy, Human Rights, and Labor, US Department of State and current Senior Fellow, Václav Havel Program on Human Rights and Diplomacy, Florida International University; Natalia Arno, President of Free Russia Foundation; and Oleksandra Matviichuk, Center for Civil Liberties and Euromaidan SOS.

E. Media Engagement

The media's power to effect change was demonstrated in 2018, when *Novaya Gazeta* published the now-infamous video of a Russian inmate being tortured by prison guards. The resulting worldwide outrage forced a serious response – 17 prison staff were suspended, and eight were arrested on criminal charges. The media thus has a critical role to play in advocating for the Kremlin's political prisoners.

Recommendation 5: Civil society organizations and government officials should engage with the media and share information about the Kremlin's political prisoners. This should include press conferences with political prisoners' family members, lawyers, or other advocates. In addition, media outlets should write frequently about the Kremlin's political prisoners (and related issues), and publish op-eds by political prisoners, their family members, and advocates.

The greatest fear of any political prisoner is to be forgotten. This report has sought to focus attention on the plight of the Kremlin's political prisoners so that their names and their stories are known throughout the world. It will undoubtedly be difficult to secure the liberation of all of the Kremlin's political prisoners. But for the prisoners, their families, and the Russian people, failure is not an option. As Nelson Mandela said, "It always seems impossible until it is done."

APPENDIX 1: Full List of the Kremlin's Political Prisoners (as of March 25, 2019)

(Source: Memorial Human Rights Centre)

Part 1: Politically Motivated Persecution

	Name (last, first)	Criminal Code Article	Detained Since	Sentence
1)	Balukh, Vladimir	– 222(1): Illegal storage and carrying of firearms and ammunition – 321(2): Disorganization of the activities of a penal colony	December 8, 2016 (partially in custody, partially under house arrest)	Sentenced on July 5, 2018 to 5 years in a general regime colony
2)	Bakholdin, Denis	282.2(2): Participation in the activities of an extremist organization	March 9, 2017	Sentenced on December 24, 2018 to 3 years and 6 months in a penal colony
3)	Bobyshev, Svyatoslav	275: Treason	March 16, 2010	Sentenced on June 20, 2012 to 12 years in a strict regime colony
4)	Gavrilov, Sergey	– 282.1(1): Creating and leading an extremist community – 282.1(2): Participation in an extremist community	March 15, 2018 (house arrest)	Awaiting trial
5)	Geriev, Zhalaudi	228(2): Illegal storage and transportation of narcotic drugs on a large scale	April 16, 2016	Sentenced on September 5, 2016 to 3 years in a penal colony
6)	Dmitriev, Oleg	205(2): Preparation for a terrorist act by a group of persons by prior agreement	November 2, 2017	Sentenced on January 22, 2019 to 8 years in a strict regime colony, with restriction of liberty for 1 year

7)	Dmitriev, Yuri	<ul style="list-style-type: none"> – 132(4): Violent acts of a sexual nature against a person under the age of fourteen – 135(3): Depraved acts without the use of violence against a person obviously under twelve years of age – 222(1): Illegal storage of the main parts of firearms – 242.2: Use of a minor who is under the age of fourteen to make pornographic materials 	June 27, 2018 (he was also in custody from December 13, 2016 to January 27, 2018)	Awaiting trial
8)	Dubovik, Maria	<ul style="list-style-type: none"> – 282.1(1): Creating and leading an extremist community – 282.1(2): Participating in an extremist community 	March 15, 2018 (house arrest since August 16, 2018)	Awaiting Trial
9)	Egorov, Vyacheslav	212.1: Repeated violation of the established procedure for organizing or holding a meeting, rally, demonstration, procession or picketing	February 2, 2019 (house arrest)	Awaiting Trial
10)	Zimovets, Stanislav	318(1): Use of violence against a representative of the authorities	April 1, 2017	Sentenced on July 20, 2017 to 2 years and 6 months in a penal colony
11)	Zlommov, Pavel	<ul style="list-style-type: none"> – 205.2(1): Public justification of terrorism or propaganda of terrorism – 222(2): Illegal acquisition, transfer, sale, storage, transportation or carrying of weapons, their main parts, or ammunition, committed by an organized group 	January 31, 2018	Awaiting Trial

12)	Ivanov, Igor	<ul style="list-style-type: none"> – 205.2(1): Public calls for terrorist activities – 205.4(2): Participation in the activities of a terrorist community – 222(3): Illegal acquisition, transfer, sale, storage, transportation or carrying of firearms, their main parts, or ammunition, committed by an organized group – 222.1(3): Illegal acquisition, transfer, sale, storage, transportation or carrying of explosives or explosive devices, committed by an organized group – 280(1): Public calls for extremist activities 	May 27, 2017	Awaiting Trial
13)	Ivanov, Oleg	205(2): Preparation for a terrorist act by a group of persons by prior agreement	November 2, 2017	Awaiting Trial
14)	Karamzin, Petr	<ul style="list-style-type: none"> – 282.1(1): Creating and leading an extremist community – 282.1(2): Participation in an extremist community 	March 15, 2018	Awaiting Trial
15)	Karyuk, Nikolay	<ul style="list-style-type: none"> – 102: Deliberate murder of two or more persons in connection with their official duty, committed by prior agreement by a group of persons – 102: Attempted murder of two or more persons in connection with their official duty, committed by prior agreement by a group of persons – 209(1): Creating a stable armed group in order to attack citizens and organizations, as well as directing such a group – 102: Deliberate murder of two or more persons in connection with their official duty, committed by prior agreement by a group of persons – 209(2): Participation in a stable armed group and in its attacks 	March 17, 2014	Sentenced on May 26, 2016 to 22 years and 6 months in a penal colony
16)	Klykh, Stanislav	<ul style="list-style-type: none"> – 102: Deliberate murder of two or more persons in connection with their official duty, committed by prior agreement by a group of persons – 209(2): Participation in a stable armed group and in its attacks 	August 8, 2014	Sentenced in May 2016 to 20 years in a strict regime colony

17)	Kolomiets, Andrey	<ul style="list-style-type: none"> – 105(2): Attempted murder of two persons in connection with the exercise of their work activities, committed in a generally dangerous manner, based on political and ideological hatred – 228(2): Illegal acquisition, storage, or transportation without sale of plants containing narcotic drugs or psychotropic substances, on a large scale 	May 15, 2015	Sentenced on June 10, 2016 to 10 years in a strict regime colony
18)	Kolchenko, Aleksandr	<ul style="list-style-type: none"> – 205(2): Terrorist act committed by an organized group – 205.4(2): Participation in a terrorist community 	May 16, 2014	Sentenced on August 25, 2015 to 10 years in a strict regime colony
19)	Kostylenkov, Ruslan	<ul style="list-style-type: none"> – 282.1(1): Creating and leading an extremist community – 282.1(2): Participation in an extremist community 	March 15, 2018	Awaiting Trial
20)	Kravitsov, Gennady	275: Treason	May 27, 2014	Sentenced on September 21, 2015 to 14 years in a strict regime colony (reduced on appeal to 6 years)
21)	Kryukov, Vyacheslav	<ul style="list-style-type: none"> – 282.1(1): Creating and leading an extremist community – 282.1(2): Participation in an extremist community 	March 15, 2018	Awaiting Trial

22)	Kudaev, Rasul	<ul style="list-style-type: none"> – 105(2): Killing of two or more persons in a generally dangerous way, organized by a group, for mercenary motives, coupled with banditry – 166(4): Wrongful seizure of cars without the purpose of theft, committed by an organized group, with the use of violence endangering life and health, as well as with the threat of using such violence – 205(3): Terrorist act with the use of firearms, committed by an organized group – 209(2): Participation in a gang created for the purpose of attacking citizens and organizations, and in its attacks – 210(2): Participation in a criminal community – 222(3): Illegal acquisition, transfer, storage, transportation and carrying of firearms, their main parts, ammunition, explosives and explosive devices, committed by an organized group – 226(4): Attempt to steal firearms and ammunition committed by an organized group, with the use of violence dangerous to life and health, as well as with the threat of such violence – 226(4): Theft of firearms and ammunition, perpetrated by an organized group, with the use of violence endangering life and health, as well as the threat of such violence – 279: Active participation in an armed rebellion in order to forcibly change the constitutional order of the Russian Federation and violate the territorial integrity of the Russian Federation – 317: Infringement on the life of a law enforcement officer 	October 23, 2005	Sentenced on December 23, 2014 to life imprisonment in a special regime colony
23)	Lapgin, Vladimir	275: Treason	May 13, 2015 (house arrest until September 6, 2016; after that, in custody)	Sentenced on September 6, 2016 to 7 years in a strict regime colony

24)	Litvinov, Sergey	162(3): Robbery committed with illegal entry into a dwelling, premises or other storage or on a large scale – 205.2(1): Public calls for terrorist activities – 205.4(2): Participation in the activities of a terrorist community – 222(3): Illegal acquisition, transfer, sale, storage, transportation or carrying of firearms, their main parts, or ammunition, committed by an organized group – 222.1(3): Illegal acquisition, transfer, sale, storage, transportation or carrying of explosives or explosive devices committed by an organized group – 280(1): Public calls for extremist activities	August 22, 2014	Sentenced on April 20, 2016 to 8.5 years in a strict regime colony
25)	Mamaev, Aleksandr		May 27, 2017	Awaiting Trial
26)	Maryan, Roman	212(2): Preparation for participation in mass riots	October 29, 2017	Sentenced on August 27, 2018 to 3 years and 2 months in a penal colony
27)	Miloserdov, Pyotr	– 282(2): Incitement of hatred and enmity, as well as the humiliation of the dignity of a group of people, based on nationality, committed by an organized group – 282(2): Incitement of hatred and enmity, as well as humiliation of the dignity of a group of people, based on membership in particular social group, committed by an organized group – 282.1(1): Organization of an extremist community	January 24, 2018	Awaiting Trial
28)	Miftakhov, Azat	– 213(2): Hooliganism by a group of persons by prior conspiracy – 223.1(1): Illegal manufacturing of explosives and explosive devices	February 1, 2019	Awaiting Trial
29)	Mordasov, Vladislav	– 212(1): Attempt to organize mass riots – 212(2): Attempt to participate in mass riots	November 5, 2017	Awaiting Trial

30)	Ozerov, Sergey	205(2): Preparation for a terrorist act by a group of persons by prior agreement – 205.2(1): Public calls for terrorist activities – 205.4(1): Organization of a terrorist community – 222(3): Illegal acquisition, transfer, sale, storage, transportation or carrying of firearms, their main parts, or ammunition, committed by an organized group – 222.1(3): Illegal acquisition, transfer, sale, storage, transportation or carrying of explosives or explosive devices committed by an organized group – 280(1): Public calls for extremist activities – 282.1(1): Creating and leading an extremist community – 282.1(2): Participation in an extremist community	November 2, 2017 May 27, 2017	Sentenced on January 22, 2019 to 8 years in a penal colony, with restriction of liberty for 1 year Awaiting Trial
31)	Orshulevich, Aleksandr			
32)	Pavlikova, Anna		March 15, 2018 (in custody until August 16, 2018, then transferred to house arrest)	Awaiting Trial
33)	Parpulov, Petr	275: Treason	March 4, 2014	Sentenced on January 22, 2016 to 12 years in a penal colony
34)	Pichugin, Alexey	– 105(2): Murder – 116(2): Robbery	June 19, 2003	First conviction: Sentenced on March 30, 2005 to 20 years in a penal colony Second conviction: Sentenced on August 6, 2007 to life imprisonment
35)	Poletaev, Dmitry	– 282.1(1): Creating and leading an extremist community – 282.1(2): Participation in an extremist community	March 15, 2018	Awaiting Trial
36)	Prisich, Vladimir	228(2): Illegal possession of narcotic drugs on a large scale	August 13, 2016	Sentenced on May 18, 2017 to 3 years in a general regime colony

37)	Rebrovsky, Pavel	<ul style="list-style-type: none"> - 282.1(1): Creating and leading an extremist community - 282.1(2): Participation in an extremist community 	March 15, 2018 (house arrest)	Awaiting Trial
38)	Roshchin, Maksim	<ul style="list-style-type: none"> - 282.1(1): Creating and leading an extremist community - 282.1(2): Participation in an extremist community 	March 15, 2018 (house arrest)	Awaiting Trial
39)	Rudnikov, Igor	163(3): Extortion by a group of persons by prior collusion on a large scale	November 1, 2017	Awaiting Trial
40)	Savostin, Mikhail	228(2): Illegal acquisition, storage, transportation, manufacture, or processing without a purpose of selling narcotic drugs, psychotropic substances, or their analogues in a significant amount	April 6, 2018	Awaiting Trial
41)	Sentsov, Nikolay	<ul style="list-style-type: none"> - 205.2(1): Public calls for terrorist activities - 205.4(2): Participation in the activities of a terrorist community - 222(3): Illegal acquisition, transfer, sale, storage, transportation or carrying of firearms, their main parts, or ammunition, committed by an organized group - 222.1(3): Illegal acquisition, transfer, sale, storage, transportation or carrying of explosives or explosive devices, committed by an organized group - 280(1): Public calls for extremist activities - 280(1): Terrorist act committed by an organized group - 205(2): Preparation for a terrorist act - 205.4(1): Organization of a terrorist community - 222(3): Illegal acquisition and storage of weapons and explosives - 222(3): Attempt to illegally purchase weapons and explosives 	September 27, 2017	Awaiting Trial
42)	Sentsov, Oleg	<ul style="list-style-type: none"> - 205(2): Preparation for a terrorist act - 205.4(1): Organization of a terrorist community - 222(3): Illegal acquisition and storage of weapons and explosives - 222(3): Attempt to illegally purchase weapons and explosives 	May 11, 2014	Sentenced on August 25, 2015 to 20 years in a strict regime colony

43)	Sidorov, Yan	– 212(1): Attempt to organize mass riots – 212(2): Attempt to participate in mass riots	November 5, 2017	Awaiting Trial
44)	Smyshlyaev, Maxim	205.1(3): Aiding in the preparation of an act of terrorism	April 22, 2016	Sentenced on August 11, 2017 to 10 years in a strict regime colony
45)	Staroverov, Yury	318(1): Use of violence not dangerous to life or health against a representative of the authorities	February 10, 2016	Sentenced on April 22, 2014 to a 3 year suspended sentence; changed on appeal to 3 years in a general regime colony (on February 10, 2016)
46)	Ternovsky, Roman	282.2(2): Participating in the activities of an extremist organization	October 12, 2017	Sentenced on June 28, 2018 to 2 years and 3 months in a general regime colony
47)	Titiev, Oyub	228(2): Illegal acquisition and possession of drugs, committed on a large scale	January 9, 2018	Sentenced on March 18, 2019 to 4 years in a penal colony
48)	Tretyakov, Dmitry	280(2): Public appeals for extremist activity using the Internet	March 14, 2018	Awaiting Trial
49)	Tsakunov, Mikhail	318(2): Use of violence dangerous to life or health against a representative of the authorities	May 5, 2018	Awaiting Trial
50)	Shabliy, Gleb	– 222.1(1): Illegal acquisition and storage of explosives and an explosive device – 223.1(1): Illegal manufacturing of an explosive device	November 15, 2016	Sentenced on October 23, 2017 to 5 years in a general regime colony
51)	Shatrovsky, Vyacheslav	318(1): Use of violence, not dangerous to life or health, against a representative of the authorities	November 5, 2017	Sentenced on May 24, 2018 to 3 years in a penal colony (reduced to 2 years and 9 months on appeal)
52)	Shamshin, Vyacheslav	212(2): Attempt to participate in mass riots	November 5, 2017 (transferred to house arrest on November 10, 2017)	Awaiting Trial
53)	Shevchenko, Anastasia	284.1: Carrying out the activities of an undesirable NGO	January 23, 2019 (house arrest)	Awaiting Trial
54)	Shumkov, Alexander	282.2(2): Participation in the activities of an extremist organization	September 6, 2017	Sentenced on December 4, 2018 to 4 years in a general regime colony

Part 2: Religious Persecution

	Name (last, first)	Criminal Code Article	Detained Since	Sentence
1)	Abdrahimov, Ural	205.5(2): Participation in the activities of a terrorist organization	February 9, 2017	Sentenced on February 21, 2019 to 15 years in a strict regime colony
2)	Abiltarov, Rustem	– 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power by an organized group by prior agreement	May 12, 2016	Sentenced on December 24, 2018 to 9 years in a strict regime colony, with 1 year of restriction of freedom
3)	Abseitov, Zevri	– 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power by an organized group by prior agreement	May 12, 2016	Sentenced on December 24, 2018 to 9 years in a strict regime colony, with 1 year of restriction of freedom
4)	Adiev, Azat	– 150(4): Involvement of a minor in the commission of a particularly serious crime – 205.5(1): Organization of the activities of a terrorist organization – 282.2(1): Organization of the activities of an extremist organization	October 14, 2014	Sentenced on December 8, 2017 to 19 years in a penal colony
5)	Aydarbekov, Aydar	205.5(1): Organization of the activities of a terrorist organization	September 6, 2016	Sentenced on December 11, 2017 to 16 years in a penal colony
6)	Akopov, Alexander	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	December 9, 2018	Awaiting trial
7)	Aliyev, Muslim	– 205.5(1): Organization of the activities of a terrorist organization – 278: Preparation for the violent seizure of power	February 11, 2016	Awaiting trial

8)	Aliyev, Sahib	<ul style="list-style-type: none"> – 171(2): Illegal entrepreneurship in an organized group with extra large-scale income generation – 282(2): The humiliation of human dignity as part of an organized group – 282.1(1): Organization of an extremist community 	June 7, 2017 (under house arrest from October 19 to November 20, 2017, then taken back into custody)	Awaiting trial	
9)	Alimov, Refat	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power 	April 18, 2016	Awaiting trial	
10)	Alushkin, Vladimir	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	July 15, 2018 (transferred to house arrest on January 14, 2019)	Awaiting trial	
11)	Asylov, Ruslan	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization – 282.2(2): Participation in the activities of an extremist organization 	February 25, 2014	Sentenced on June 10, 2015 to 6 years and 4 months in a penal colony	
12)	Akhmetov, Radik	<ul style="list-style-type: none"> – 205.5(1): Organizing a terrorist organization – 278: Preparation for the violent seizure of power, as well as a violent change of the constitutional order 	February 4, 2015	Sentenced on July 30, 2018 to 21 years in a maximum security prison, a fine of 600,000 rubles, and restriction of liberty for 1 year and 6 months	
13)	Akhmetshin, Fanis	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for actions aimed at the violent seizure of power, as well as a violent change of the constitutional order 	February 4, 2015	Sentenced on July 30, 2018 to 11 years in a strict regime colony, a fine of 400,000 rubles, and restriction of liberty for 1 year	
14)	Akhtakhanov, Tagir	<ul style="list-style-type: none"> – 205(2): Preparing for a terrorist act as part of an organized group – 222(3): Storage of weapons as part of an organized group – 223(3): Production of weapons as part of an organized group 	November 27, 2013	Sentenced on April 22, 2016 to 11 years in a strict regime colony	

15)	Bazhenov, Konstantin	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	June 12, 2018	Awaiting trial
16)	Bakirov, Bekzod	282.2(2): Participation in the activities of an extremist organization – 205(2): Preparation for a terrorist act as part of an organized group – 222(3): Storage of weapons as part of an organized group – 223(3): Production of weapons as part of an organized group	December 22, 2016	Sentenced on September 17, 2018 to 4 years in a penal colony
17)	Balakadashev, Inyal	– 205(2): Preparation for a terrorist act as part of an organized group – 222(3): Storage of weapons as part of an organized group – 223(3): Production of weapons as part of an organized group	November 27, 2013	Sentenced on April 22, 2016 to 11 years in a strict regime colony
18)	Balakadashev, Nurmagoned	– 205(2): Preparation for a terrorist act as part of an organized group – 222(3): Storage of weapons as part of an organized group – 223(3): Production of weapons as part of an organized group	November 27, 2013	Sentenced on April 22, 2016 to 11 years in a strict regime colony
19)	Barmakin, Dmitry	282.2(1): Organization of the activity of a religious organization that was liquidated due to extremist activity	May 17, 2018	Awaiting trial
20)	Battalov, Ilshat	205.5(1): Organization of the activities of a terrorist organization	March 2016	Sentenced on February 2, 2018 to 17 years in a strict regime colony
21)	Bekirov, Enver	– 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power	February 11, 2016	Awaiting trial
22)	Britvin, Sergey	282.2(2): Participation in the activities of a religious organization that was liquidated due to extremist activities	July 22, 2018	Awaiting trial
23)	Budenchuk, Alexey	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	June 12, 2018	Awaiting trial
24)	Vaitov, Rustem	205.5(2): Participation in the activities of a terrorist organization	January 23, 2015	Sentenced on September 7, 2016 to 5 years in a penal colony

25)	Valiakhmetov, Radik	205.5(2): Participation in the activities of a terrorist organization	August 2, 2017	Sentenced on February 21, 2019 to 13 years in a strict regime colony
26)	Valiullin, Albert	– 205.5(1): Organization of the activities of a terrorist organization – 282.2(1): Organization of the activities of an extremist organization	October 14, 2014	Sentenced on December 8, 2017 to 18 years in a strict regime colony
27)	Vakhitov, Linar	– 205.5(1): Organizing a terrorist organization – 278: Preparation for the violent seizure of power, as well as a violent change of the constitutional order	February 4, 2015	Sentenced on July 30, 2018 to 22 years in a maximum security prison, a fine of 700,000 rubles, and restriction of freedom for 1 year and 6 months
28)	Velitov, Mahmud	205.2(1): Public appeals for terrorist activities or public justification of terrorism	April 28, 2017 (also under house arrest from July 11, 2016 to February 21, 2017)	Sentenced on August 1, 2017 to 3 years in a penal colony
29)	Vilitkevich, Anatoly	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	April 10, 2018 (transferred to house arrest on June 22, 2018)	Awaiting trial
30)	Gabdulin, Rustam	– 205.5(2): Participation in the activities of a terrorist organization – 282.2(2): Participation in the activities of a religious organization that was liquidated due to extremist activities	February 25, 2014	Sentenced on June 10, 2015 to 5 years and 2 months in a penal colony
31)	Gadiev, Timur	205.5(2): Participation in the activities of a terrorist organization	April 19, 2017	Sentenced on February 21, 2019 to 13 years in a maximum security colony
32)	Galiev, Ural	205.5(2): Participation in the activities of a terrorist organization	February 9, 2017	Sentenced on February 21, 2019 to 11 years in a penal colony
33)	Galimkhanov, Rustam	– 205.5(2): Participation in the activities of a terrorist organization – 282.2(2): Participation in the activities of an extremist organization	February 25, 2014	Sentenced on June 10, 2015 to 5 years and 2 months in a penal colony

34)	Galiullin, Rinat	<ul style="list-style-type: none"> – 205.1(1): Declination and involvement of persons in a crime under Article 278 – 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for actions aimed at the violent seizure of power, as well as a violent change in the constitutional order – 282.2(1): Organization of the activities of an extremist organization 	July 31, 2012	<ul style="list-style-type: none"> – Sentenced in November 2013 to 6 years and 6 months in a strict regime colony, a fine of 150,000 rubles, and 1 year of restriction of liberty (his sentence was later reduced to 5 years) – Sentenced on August 17, 2018 to 8 years in a strict regime colony
35)	Gallyamov, Rustem	<ul style="list-style-type: none"> – 205.5(1): Organizing a terrorist organization – 278: Preparation for the violent seizure of power, as well as a violent change of the constitutional order 	February 4, 2015	Sentenced on July 30, 2018 to 22 years in a maximum security prison, a fine of 700,000 rubles, and restriction of freedom for 1 year and 6 months
36)	Gataullin, Ramil	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization 	March 2016	Sentenced on January 26, 2018 to 7 years in a penal colony
37)	Gimaletdinov, Ilgiz	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power, as well as violent change of the constitutional order 	February 4, 2015	Sentenced on July 30, 2018 to 14 years in a maximum security prison, a fine of 450,000 rubles, and restriction of liberty for 1 year
38)	Girfanov, Rishat	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization 	September 30, 2015	Sentenced on August 3, 2016 to 8 years in a penal colony
39)	Davletbaev, Vadim	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization 	April 19, 2017	Sentenced on February 21, 2019 to 12 years in a penal colony
40)	Davletshin, Ruzim	<ul style="list-style-type: none"> – 205.1(1): Financing terrorist activities – 205.5(1): Organization of the activities of a terrorist organization – 282.2(1): Organization of the activities of an extremist organization 	October 14, 2014	Sentenced on December 8, 2017 to 18 years and 6 months in a strict regime colony
41)	Ziyavdin, Dapaev	<ul style="list-style-type: none"> – 282.2(1): Organizing the activity of a banned religious association 	March 14, 2016	Sentenced on November 7, 2017 to 4 years in a penal colony

42)	Dzhepparov, Arsen	– 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power	April 18, 2016	Awaiting trial
43)	Jumaev, Akhmet	282.2(2): Participation in the activities of an extremist organization	December 22, 2016	Sentenced on September 17, 2018 to 4 years in a penal colony
44)	Dindarov, Marat	205.5(2): Participation in the activities of a terrorist organization	March 2016	Sentenced on December 28, 2017 to 7 years in a penal colony
45)	Erkin, Sergey	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	May 30, 2018 (transferred to house arrest on October 5, 2018)	Awaiting trial
46)	Esaulkova, Constanca	– 171(2): Illegal entrepreneurship in an organized group with extra large-scale income generation – 282(2): Humiliation of human dignity as part of an organized group – 282.1(1): Organization of an extremist community	June 9, 2017 (house arrest)	Awaiting trial
47)	Zhuk, Vitaly	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	November 10, 2018 (transferred to house arrest on January 14, 2019)	Awaiting trial
48)	Zagitdinov, Denis	205.5(2): Participation in the activities of a terrorist organization	September 30, 2015	Sentenced on August 3, 2016 to 8 years in a penal colony
49)	Zainullin, Ruslan	205.5(2): Participation in the activities of a terrorist organization	February 9, 2017	Sentenced on February 21, 2019 to 15 years in a penal colony
50)	Zaripov, Radik	– 205.5(1): Organization of the activities of a terrorist organization – 282.2(1): Organization of the activities of an extremist organization	October 14, 2014	Sentenced on December 8, 2017 to 16 years in a special regime colony
51)	Zeytullaev, Ruslan	205.5(1): Organization of the activities of a terrorist organization	January 23, 2015	Sentenced on April 26, 2017 to 12 years in a penal colony (later increased to 15 years)

52)	Zinnatov, Ilnar	– 205.1(1): Declination to terrorist activities – 205.5(1): Organization of the activities of a terrorist organization	June 6, 2017	Sentenced on March 13, 2019 to 19 years in a strict regime colony with restriction of liberty for 1 year and 6 months
53)	Zyablov, Evgeny	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	May 30, 2018 (transferred to house arrest on October 5, 2018)	Awaiting trial
54)	Ibatullin, Raynur	– 205.1(1): Financing terrorist activities – 205.5(1): Organization of the activities of a terrorist organization	May 19, 2015	Sentenced on April 5, 2017 to 17 years in a strict regime colony
55)	Imangulov, Radik	205.5(2): Participation in the activities of a terrorist organization	March 1, 2017	Sentenced on December 11, 2017 to 11 years in a penal colony
56)	Inamov, Azizbek	– 205.1(1): Inclination of persons to commit a crime under Article 278 – 278: Preparation for the violent seizure of power or a change in the constitutional system – 282.2(1): Organization of the activities of an extremist organization	November 7, 2012	Sentenced on June 30, 2014 to 11 years in a strict regime colony and a fine of 200,000 thousand rubles
57)	Ironov, Sukhrob	205.5(1): Organization of the activities of a terrorist organization	October 19, 2015	Sentenced on June 15, 2017 to 17 years in a penal colony
58)	Ismailov, Shamil	– 278: Preparation for the violent seizure of power or a change in the constitutional system – 282.2(1): Organization of the activities of an extremist organization	June 13, 2013	Sentenced on June 30, 2014 to 8 years in a strict regime colony, a fine of 100,000 rubles, and 2 years of restriction of freedom
59)	Kaltuev, Arthur	282.2(1): Organization of the activity of a banned religious association	November 7, 2017	Sentenced on November 7, 2017 to 3 years in a penal colony
60)	Kaltuev, Suhrab	282.2(1): Organization of the activity of a banned religious association	November 7, 2017 (also detained from March 14 to September 4, 2016)	Sentenced on November 7, 2017 to 3 years in a penal colony
61)	Kamchybekov, Islambek	282.2(1): Organization of the activities of an extremist organization	December 22, 2016	Sentenced on September 17, 2018 to 6.5 years in a penal colony
62)	Karimov, Ilham	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activity	May 27, 2018 (transferred to house arrest on November 2, 2018)	Awaiting trial

63)	Kayumov, Azamat	<ul style="list-style-type: none"> – 205.5(1): Organizing a terrorist organization – 278: Preparation for the violent seizure of power, as well as a violent change of the constitutional order 	February 4, 2015	Sentenced on July 30, 2018 to 20 years in a strict regime colony, a fine of 600,000 rubles, and restriction of freedom for 1 year and 6 months
64)	Kim, Evgeny	<ul style="list-style-type: none"> – 282(1): Incitement of hatred or hostility, as well as the humiliation of human dignity – 282.2(1): Organization of the activity of a banned religious association 	December 27, 2015	Sentenced on June 19, 2017 to 3 years and 9 months in a general regime colony, with restriction of liberty for 1 year
65)	Kim, Stanislav	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activity	November 10, 2018 (transferred to house arrest on January 14, 2019)	Awaiting trial
66)	Klimov, Sergey	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	June 4, 2018	Awaiting trial
67)	Kozhamkulov, Shakhir	282.2(1): Organization of the activities of an extremist organization	December 22, 2016	Sentenced on September 17, 2018 to 6.5 years in a penal colony
68)	Kornev, Aleksander	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power, as well as a violent change of the constitutional order 	February 4, 2015	Sentenced on July 30, 2018 to 13 years in a strict regime colony, a fine of 400,000 rubles, and restriction of freedom for 1 year
69)	Korobeynikov, Vladimir	<ul style="list-style-type: none"> – 282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activity – 282.3(1): Financing extremist activities 	October 9, 2018	Awaiting trial
70)	Christensen, Dennis	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activity	May 25, 2017	Sentenced on February 6, 2019 to 6 years in a general regime colony
71)	Kubatov, Gazybek	282.2(2): Participation in the activities of an extremist organization	December 22, 2016	Sentenced on September 17, 2018 to 4 years in a penal colony
72)	Kuku, Emir-Usein	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power 	February 11, 2016	Awaiting trial

73)	Kulagin, Evgeny	– 278: Preparation for actions aimed at the violent seizure of power, as well as a violent change in the constitutional order – 282.2(1): Organization of the activities of an extremist organization	August 26, 2013	Sentenced on April 9, 2015 to 7 years in a strict regime colony
74)	Kulyasov, Vladimir	282.2(2): Participation in the activities of a religious organization that was liquidated due to extremist activities	July 15, 2018 (house arrest)	Awaiting trial
75)	Kunakbayev, Danil	205.5(2): Participation in the activities of a terrorist organization	September 30, 2015	Sentenced on August 3, 2016 to 8 years in a penal colony
76)	Kurbanov, Saypula	– 278: Preparation for the violent seizure of power or a change in the constitutional system – 282.2(1): Organization of the activities of an extremist organization	November 7, 2012	Sentenced on June 30, 2014 to 8 years in a strict regime colony, 2 years of restriction of liberty, and a fine of 150,000 rubles
77)	Kurbonov, Mirzobakhovaddin	205.5(1): Organization of the activities of a terrorist organization	October 22, 2015	Sentenced on June 15, 2017 to 16 years in a penal colony
78)	Kutluyarov, Gazim	– 205.5(2): Participation in the activities of a terrorist organization – 282.2(2): Participation in the activities of an extremist organization	February 25, 2014	Sentenced on June 10, 2015 to 6 years and 4 months in a penal colony
79)	Kuchkov, Victor	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activity	September 17, 2018 (house arrest)	Awaiting trial
80)	Latypov, Rustem	– 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power, as well as a violent change of the constitutional order	February 4, 2015	Sentenced on July 30, 2018 to 8 years in a strict regime colony, a fine of 400,000 rubles, and restriction of liberty for 1 year
81)	Levchuk, Vadim	282.2(2): Participation in the activities of a religious organization that was liquidated due to extremist activities	July 22, 2018	Awaiting trial
82)	Lemeshov, Anton	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	October 18, 2018 (transferred to house arrest on October 31, 2018)	Awaiting trial

83)	Magliv, Andrey	282.2(2): Participation in the activities of a religious organization that was liquidated due to extremist activities – 205.2(1): Public calls for terrorist activities or public justification of terrorism – 282(1): Incitement of hatred or enmity, as well as humiliation of human dignity – 205.1(1): Declination, recruitment or other involvement of a person in at least one of the crimes provided for in Articles 205, 206, 208, 211, 277, 278, 279, and 360 – 205.5(2): Participation in the activities of a terrorist organization – 222(1): Illegal acquisition, transfer, sale, storage, transportation or carrying of firearms, their main parts, or ammunition – 278: Preparation for the violent seizure of power	July 15, 2018 (house arrest)	Awaiting trial
84)	Magomedov, Magomednabi		April 8, 2016	Sentenced on October 24, 2016 to 5 years in a penal colony (later reduced to 4 years 6 months)
85)	Magomedov, Hiramagomed	– 282.2(2): Participation in the activities of a public or religious association or other organization for which a court ordered its liquidation or prohibited its activities due to extremist activities – 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power	February 25, 2016	Sentenced on July 3, 2017 to 9 years in a strict regime colony
86)	Maksutov, Radmir	– 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power, as well as a violent change of the constitutional order	February 4, 2015	Sentenced on July 30, 2018 to 10 years in a strict regime colony, a fine of 400,000 rubles, and restriction of freedom for 1 year
87)	Malevany, Dmitry	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activity – 205.5(1): Organization of the activities of a terrorist organization	November 25, 2018 (house arrest)	Awaiting trial
88)	Mamutov, Enver	– 278: Preparation for the violent seizure of power by an organized group by prior agreement	May 12, 2016	Sentenced on December 24, 2018 to 17 years in a strict regime colony with 1 year and 6 months of restriction of liberty

89)	Maslakov, Artur	<ul style="list-style-type: none"> – 205(2): Preparing for a terrorist act as part of an organized group – 222(1): Storage of weapons – 222(3): Storage of weapons as part of an organized group – 223(3): Production of weapons as part of an organized group 	November 27, 2013	November 27, 2013	Sentenced on April 22, 2016 to 12 years in a strict regime colony
90)	Matrashov, Konstantin	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	May 29, 2018 (transferred to house arrest on November 9, 2018)	May 29, 2018 (transferred to house arrest on November 9, 2018)	Awaiting trial
91)	Makhammadiev, Felix	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	June 12, 2018	June 12, 2018	Awaiting trial
92)	Makhmudov, Tazhib	<ul style="list-style-type: none"> – 205(2): Preparing for a terrorist act as part of an organized group – 222(1): Storage of weapons – 222(3): Storage of weapons as part of an organized group 	November 27, 2013	November 27, 2013	Sentenced on April 22, 2016 to 13 years in a strict regime colony
93)	Matsitsky, Ivan	<ul style="list-style-type: none"> – 171(2): Illegal entrepreneurship in an organized group with extra large-scale income generation – 282(2): The humiliation of human dignity as part of an organized group – 282.1(1): Organization of an extremist community 	June 7, 2017	June 7, 2017	Awaiting trial
94)	Memedeminov, Nariman	205.2(2): Public appeals for terrorist activities via the Internet	March 22, 2018	March 22, 2018	Awaiting trial
95)	Memetov, Remzi	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power by an organized group by prior agreement 	May 12, 2016	May 12, 2016	Sentenced on December 24, 2018 to 9 years in a strict regime colony with 1 year of restriction of freedom
96)	Miniakhmetov, Nail	205.5(2): Participation in the activities of a terrorist organization	September 6, 2016	September 6, 2016	Sentenced on December 11, 2017 to 12 years in a penal colony

97)	Moskalenko, Valery	282.2(2): Participation in the activities of a religious organization that was liquidated due to extremist activities	August 2, 2018	Awaiting trial
98)	Mustafaev, Farid	– 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for actions aimed at the violent seizure of power, as well as a violent change of the constitutional order	February 4, 2015	Sentenced on July 30, 2018 to 11 years in a strict regime colony, a fine of 400,000 rubles, and restriction of liberty for 1 year
99)	Mustafin, Zufar	282.2(2): Participation in the activities of an extremist organization	January 17, 2017	Sentenced on September 17, 2018 to 4 years in a penal colony
100)	Mustafin, Halil	– 205.5(1): Organizing a terrorist organization – 278: Preparation for actions aimed at the violent seizure of power, as well as a violent change of the constitutional order	February 4, 2015	Sentenced on July 30, 2018 to 22 years in a strict regime colony, a fine of 700,000 rubles, and restriction of freedom for 1 year and 6 months
101)	Mukhametov, Batyr	205.5(2): Participation in the activities of a terrorist organization	February 9, 2017	Sentenced on February 21, 2019 to 16 years in a penal colony
102)	Myakushin, Vladimir	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	May 28, 2018 (transferred to house arrest on November 9, 2018)	Awaiting trial
103)	Nasimova, Matlyuba	– 205(2): Preparing for a terrorist act as part of an organized group – 222(3): Storage of weapons as part of an organized group – 223(3): Production of weapons as part of an organized group	November 27, 2013	Sentenced on April 22, 2016 to 11 years in a penal colony
104)	Irek, Nasirov	– 205.1(1): Declination to terrorist activities – 205.5(2): Participation in the activities of a terrorist organization	March 14, 2017	Sentenced on March 13, 2019 to 14 years in a strict regime colony
105)	Naumov, Artyom	205.5(2): Participation in the activities of a terrorist organization	February 9, 2017	Sentenced on February 21, 2019 to 11 years in a penal colony
106)	Numonchonov, Akmalchon	205.5(1): Organization of the activities of a terrorist organization	October 19, 2015	Sentenced on June 15, 2017 to 15 years in a penal colony

107)	Nurlygayanov, Rinat	– 205.5(1): Organizing a terrorist organization – 278: Preparation for the violent seizure of power, as well as a violent change of the constitutional order	February 4, 2015	Sentenced on July 30, 2018 to 24 years in a strict regime colony, a fine of 700,000 rubles, and restriction of liberty for 1 year and 6 months
108)	Onischuk, Andrzej	– 282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activity – 282.3(1): Financing extremist activities	October 9, 2018	Awaiting trial
109)	Opaleva, Olga	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activity	November 25, 2018 (house arrest)	Awaiting trial
110)	Osadchuk, Valentin	282.2(2): Participation in the activities of a religious organization that was liquidated due to extremist activities	April 20, 2018 (transferred to house arrest on January 18, 2019)	Awaiting trial
111)	Panyuta, Olga	282.2(1.1): Declination, recruitment or other involvement of a person in the activities of an extremist organization	November 25, 2018 (house arrest)	Awaiting trial
112)	Petrov, Konstantin	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activity	May 30, 2018 (transferred to house arrest on August 3, 2018)	Awaiting trial
113)	Polevodov, Nikolay	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activity	November 10, 2018 (transferred to house arrest on January 14, 2019)	Awaiting trial
114)	Polyakov, Sergey	282.2(2): Participation in the activities of a religious organization that was liquidated due to extremist activities	July 4, 2018 (transferred to house arrest on December 4, 2018)	Awaiting trial
115)	Polyakova, Anastasia	282.2(2): Participation in the activities of a religious organization that was liquidated due to extremist activities	July 4, 2018 (transferred to house arrest on December 4, 2018)	Awaiting trial
116)	Primov, Yuri	205.5(2): Participation in the activities of a terrorist organization	January 23, 2015	Sentenced on December 27, 2016 to 5 years in a penal colony
117)	Puigin, Maxim	205.5(2): Participation in the activities of a terrorist organization	September 6, 2016	Sentenced on December 11, 2017 to 11 years in a strict regime colony

118)	Puida, Ivan	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities – 205(2): Preparing for a terrorist act as part of an organized group – 222(3): Storage of weapons as part of an organized group – 223(3): Production of weapons as part of an organized group	May 30, 2018 (transferred to house arrest on October 5, 2018)	Awaiting trial
119)	Ramazanov, Islam		November 27, 2013	Sentenced on April 22, 2016 to 11 years in a strict regime colony
120)	Rakhmanov, Bulat	205.5(2): Participation in the activities of a terrorist organization	April 19, 2017	Sentenced on February 21, 2019 to 16 years in a penal colony
121)	Rakhmatullin, Ruslan	205.5(2): Participation in the activities of a terrorist organization	April 20, 2017	Sentenced on February 21, 2019 to 14 years in a penal colony
122)	Rakhmonkhodjaev, Zikrullokhon	– 205.5(2): Participation in the activities of an extremist organization – 222(1): Illegal acquisition, transfer, sale, storage, transportation or carrying of firearms, their main parts, or ammunition – 278: Preparation for the violent seizure of power or a change in the constitutional system – 282.2(2): Participation in the activities of an extremist organization	November 7, 2012	– Sentenced on June 30, 2014 to 7 years in a strict regime colony and a fine of 50,000 rubles – Sentenced on December 13, 2018 (under 205.5(2)) to 14 years and 6 months in a special regime colony
123)	Saveliev, Yuri	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activity	November 9, 2018	Awaiting trial
124)	Saitov, Lenar	– 205.5(1): Organization of the activities of a terrorist organization – 282.2(1): Organization of the activities of an extremist organization	October 14, 2014	Sentenced on December 8, 2017 to 19 years in a strict regime colony
125)	Saifullaev, Ferat	205.5(2): Participation in the activities of a terrorist organization	April 2, 2015	Sentenced on September 7, 2016 to 5 years in a penal colony
126)	Salakhov, Ilgiz	– 205.5(1): Organizing a terrorist organization – 282.2(1): Organization of the activities of an extremist organization	February 25, 2014	Sentenced on June 10, 2015 to 10 years and 6 months in a high security colony with restriction of liberty for 1 year

127)	Salimzyanov, Arslan	<ul style="list-style-type: none"> – 205.1(1): Financing terrorist activities – 205.5(1): Organization of the activities of a terrorist organization 	May 19, 2015	Sentenced on April 5, 2017 to 16 years in a strict regime colony
128)	Salimov, Artur	<ul style="list-style-type: none"> – 205.5(1): Organizing a terrorist organization – 278: Preparation for the violent seizure of power, as well as a violent change of the constitutional order 	February 4, 2015	Sentenced on July 30, 2018 to 22 years in a maximum security prison, a fine of 600,000 rubles, and restriction of liberty for 1 year and 6 months
129)	Salimov, Ilshat	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization – 282.2(2): Participation in the activities of an extremist organization 	February 25, 2014	Sentenced on June 10, 2015 to 6 years and 6 months in prison
130)	Samsonov, Konstantin	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	December 9, 2018	Awaiting trial
131)	Saraliev, Ersmak	<ul style="list-style-type: none"> – 205(2): Preparing for a terrorist act as part of an organized group – 222(3): Storage of weapons as part of an organized group – 223(3): Production of weapons as part of an organized group 	December 8, 2013	Sentenced on April 22, 2016 to 11 years in a strict regime colony
132)	Sataev, Rasim	<ul style="list-style-type: none"> – 278: Preparation for actions aimed at the violent seizure of power, as well as a violent change in the constitutional order – 282.2(1): Organization of the activities of an extremist organization 	August 26, 2013	Sentenced on April 9, 2015 to 6 years and 6 months in a strict regime colony
133)	Siruk, Vadim	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power 	February 11, 2016	Awaiting trial
134)	Solovyov, Aleksander	282.2(2): Participation in the activities of a religious organization that was liquidated due to the implementation of extremist activity	May 22, 2018 (house arrest since May 24, 2018)	Awaiting trial

135)	Sorokina, Natalia	282.2(2): Participation in the activities of a religious organization that was liquidated due to implementation of extremist activity	October 9, 2018	Awaiting trial
136)	Stupnikov, Andrey	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	July 2018	Awaiting trial
137)	Suvorkov, Andrey	– 282.2(1): Organization of the activities of a religious organization that was liquidated due to the implementation of extremist activity – 282.3(1): Financing extremist activities	October 9, 2018	Awaiting trial
138)	Suvorkov, Evgeny	– 282.2(1): Organization of the activities of a religious organization that was liquidated due to the implementation of extremist activity – 282.3(1): Financing extremist activities	October 9, 2018	Awaiting trial
139)	Suyunduk, Kanybek	282.2(1): Organization of the activities of an extremist organization	December 22, 2016	Sentenced on September 17, 2018 to 6.5 years in a penal colony
140)	Suleymanov, Aslan	– 205(2): Preparing for a terrorist act as part of an organized group – 222(3): Storage of weapons as part of an organized group – 223(3): Production of weapons as part of an organized group	November 27, 2013	Sentenced on April 22, 2016 to 11 years in a strict regime colony
141)	Sultanov, Shamil	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	December 9, 2018	Awaiting trial
142)	Sungatov, Ruslan	– 150(4): Involving a minor in committing a serious crime – 205.1(1): Declination to terrorist activities – 205.5(1): Organization of the activities of a terrorist organization	March 14, 2017	Sentenced on March 13, 2019 to 22 years and 1 day in a strict regime colony and restriction of freedom for 2 years
143)	Tagirov, Irek	– 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power, as well as violent change of the constitutional order	February 4, 2015	Sentenced on July 30, 2018 to 14 years in a maximum security prison, a fine of 450,000 rubles, and restriction of liberty for 1 year

144)	Tezkilov, Anzor	<ul style="list-style-type: none"> – 205(2): Preparing for a terrorist act as part of an organized group – 222(3): Storage of weapons as part of an organized group – 223(3): Production of weapons as part of an organized group 	November 27, 2013	Sentenced on April 22, 2016 to 11 years in a strict regime colony
145)	Tekilov, Artur	<ul style="list-style-type: none"> – 205(2): Preparing for a terrorist act as part of an organized group – 222(3): Storage of weapons as part of an organized group – 223(3): Production of weapons as part of an organized group 	November 27, 2013	Sentenced on April 22, 2016 to 11 years in a strict regime colony
146)	Tekilov, Imran	<ul style="list-style-type: none"> – 205(2): Preparing for a terrorist act as part of an organized group – 222(1): Production of weapons as part of an organized group – 222(3): Storage of weapons as part of an organized group – 223(3): Storage of weapons 	November 27, 2013	Sentenced on April 22, 2016 to 12 years in a strict regime colony
147)	Terentyeva, Anastasia	<ul style="list-style-type: none"> – 171(2): Illegal entrepreneurship in an organized group with extra large-scale income generation – 282(2): The humiliation of human dignity as part of an organized group – 282.1(1): Organization of an extremist community 	June 7, 2017 (transferred to house arrest on October 19, 2017)	Awaiting trial
148)	Timofeev, Yaroslav	205.5(2): Participation in the activities of a terrorist organization	February 9, 2017	Sentenced on February 21, 2019 to 12 years in a strict regime colony
149)	Timoshin, Denis	282.2(2): Participation in the activities of a religious organization that was liquidated due to extremist activities	July 15, 2018 (house arrest)	Awaiting trial
150)	Vasily, Tkachev	205.5(2): Participation in the activities of a terrorist organization	January 17, 2016	Sentenced on August 3, 2016 to 8 years in a penal colony
151)	Toptygin, Mikhail	205.5(2): Participation in the activities of a terrorist organization	July 26, 2017	Sentenced on February 21, 2019 to 15 years in a penal colony

152)	Trofimov, Alexey	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activity	November 25, 2018 (house arrest)	Awaiting trial
153)	Troshina, Maria	282.2(2): Participation in the activities of a religious organization that was liquidated due to the implementation of extremist activity	October 9, 2018	Awaiting trial
154)	Tulyakov, Marat	205.5(1): Organization of the activities of a terrorist organization	June 6, 2017	Sentenced on March 13, 2019 to 18 years in a penal colony and restriction of liberty for 1 year and 6 months
155)	Uzbekov, Timur	– 205.5(1): Organization of the activities of a terrorist organization – 282.2(1): Organization of the activities of an extremist organization	October 14, 2014	Sentenced on December 8, 2017 to 18 years in a strict regime colony
156)	Usmanov, Airat	282.2(2): Participation in the activities of an extremist organization	January 17, 2017	Sentenced on September 17, 2018 to 4 years in a penal colony
157)	Fazylov, Aramis	205.5(2): Participation in a terrorist organization	July 30, 2018	Sentenced on July 30, 2018 to 5 years in a penal colony and a fine of 100,000 rubles (sentence was later annulled, unclear if another trial took place)
158)	Faizrahmanov, Danis	– 205.5(1): Organizing a terrorist organization – 278: Preparation for actions aimed at the violent seizure of power, as well as a violent change of the constitutional order	February 4, 2015	Sentenced on July 30, 2018 to 22 years in a maximum security prison, a fine of 600,000 rubles, and restriction of liberty for 1 year and 6 months
159)	Faizulin, Aidar	– 205.5(2): Participation in the activities of a terrorist organization – 282.2(2): Participation in the activities of an extremist organization	February 25, 2014	Sentenced on June 10, 2015 to 5 years and 2 months in a penal colony
160)	Fattakhov, Rafael	– 205.5(1): Organizing a terrorist organization – 278: Preparation for the violent seizure of power, as well as a violent change of the constitutional order	February 4, 2015	Sentenced on July 30, 2018 to 22 years in a maximum security prison, a fine of 600,000 thousand rubles, and restriction of liberty for 1 year and 6 months

161)	Fattakhov, Ruslan	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for the violent seizure of power, as well as a violent change of the constitutional order 	February, 4 2015	Sentenced on July 30, 2018 to 10 years in a strict regime colony, a fine of 400,000 rubles, and restriction of freedom for 1 year
162)	Khakimullin, Amir	205.5(1): Organization of the activities of a terrorist organization	March 2016	Sentenced on January 26, 2018 to 17 years in a strict regime colony and 1 year restriction of freedom
163)	Khalturin, Maxim	<ul style="list-style-type: none"> – 282.2(1): Organization of the activities of a religious organization that was liquidated due to the implementation of extremist activity – 282.3(1): Financing extremist activities 	October 9, 2018	Awaiting trial
164)	Khamzin, Rustem	<ul style="list-style-type: none"> – 205.5(1): Organizing a terrorist organization – 278: Preparation for the violent seizure of power, as well as the violent change of the constitutional order 	February 4, 2015	Sentenced on July 30, 2018 to 23 years in a maximum security colony, a fine of 700,000 rubles, and restriction of liberty for 1 year and 6 months
165)	Khasanov, Azat	<ul style="list-style-type: none"> – 282(2): Incitement of hatred or enmity within an organized group – 282.2(1): Organization of the activities of an extremist organization 	October 10, 2013	Sentenced on December 18, 2014 to 6 years and 6 months in a penal colony
166)	Khafizov, Asgat	<ul style="list-style-type: none"> – 205.5(1): Organization of the activities of a terrorist organization – 282.2(1): Organization of the activities of an extremist organization 	October 14, 2014	Sentenced on December 8, 2017 to 19 years and 2 months in a maximum security colony
167)	Hevronin, Pavel	<ul style="list-style-type: none"> – 205.1(1): Financing terrorist activities – 205.5(1): Organization of the activities of a terrorist organization – 282.2(1): Organization of the activities of an extremist organization 	October 14, 2014	Sentenced on December 8, 2017 to 18 years in a strict regime colony
168)	Khodjaev, Naimdzhon	205.5(1): Organization of the activities of a terrorist organization	October 19, 2015	Sentenced on June 15, 2017 to 18 years in a penal colony
169)	Husenov, Alisher	205.5(1): Organization of the activities of a terrorist organization	October 19, 2015	Sentenced on June 15, 2017 to 15 years and 6 months in a penal colony

170)	Khusniyarov, Shamil	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization – 282.2(2): Participation in the activities of an extremist organization 	February 25, 2014	Sentenced on June 10, 2015 to 6 years and 4 months in a penal colony
171)	Cheprasov, Sergey	<ul style="list-style-type: none"> – 205(2): Preparing for a terrorist act as part of an organized group – 222(3): Storage of weapons as part of an organized group – 223(3): Production of weapons as part of an organized group 	November 27, 2013	Sentenced on April 22, 2016 to 11 years in a strict regime colony
172)	Shavkatov, Ibrakhim	205.5(2): Participation in the activities of a terrorist organization	March 2016	Sentenced on December 28, 2017 to 6 years in a penal colony
173)	Shavhalov, Adam	<ul style="list-style-type: none"> – 205(2): Preparing for a terrorist act as part of an organized group – 222(3): Storage of weapons as part of an organized group – 223(3): Production of weapons as part of an organized group 	November 27, 2013	Sentenced on April 22, 2016 to 11 years in a strict regime colony
174)	Shaikhutdinov, Ildar	<ul style="list-style-type: none"> – 282(2): Incitement of hatred or enmity within an organized group – 282.2(1): Participation in the activities of an extremist organization 	October 10, 2013	Sentenced on December 18, 2014 to 5 years and 6 months in a penal colony
175)	Shakirov, Ayrat	<ul style="list-style-type: none"> – 205.1(1): Financing terrorist activities – 205.5(1): Organization of the activities of a terrorist organization 	May 19, 2015	Sentenced on April 5, 2017 to 18 years in a strict regime colony
176)	Sharipov, Shamil	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for actions aimed at the violent seizure of power, as well as violent change of the constitutional order 	February 4, 2015	Sentenced on July 30, 2018 to 14 years in a maximum security prison, a fine of 450,000 rubles, and restriction of liberty for 1 year
177)	Shafiyev, Albert	205.5(1): Organization of the activities of a terrorist organization	September 6, 2016	Sentenced on December 11, 2017 to 16 years in a penal colony

178)	Esmurzaev, Hosov	<ul style="list-style-type: none"> – 205(2): Preparing for a terrorist act as part of an organized group – 222(3): Storage of weapons as part of an organized group – 223(3): Production of weapons as part of an organized group 	November 27, 2013	Sentenced on April 22, 2016 to 11 years in a strict regime colony
179)	Yulmetyev, Aidar	282.2(1): Organization of the activities of a religious organization that was liquidated due to extremist activities	May 29, 2018 (transferred to house arrest on November 9, 2018)	Awaiting trial
180)	Yunusov, Nail	205.5(1): Organization of the activities of a terrorist organization	May 19, 2015	Sentenced on April 5, 2017 to 17 years in a strict regime colony
181)	Yakupov, Ural	<ul style="list-style-type: none"> – 205.5(2): Participation in the activities of a terrorist organization – 278: Preparation for actions aimed at the violent seizure of power, as well as a violent change of the constitutional order 	February 4, 2015	Sentenced on July 30, 2018 to 13 years in a strict regime colony, a fine of 450,000 rubles, and restriction of freedom for 1 year
182)	Yamaliev, Rustem	<ul style="list-style-type: none"> – 150(4): Involving a minor in committing a serious crime – 205.1(1): Declination to terrorist activities – 205.5(1): Organization of the activities of a terrorist organization 	March 14, 2017	Sentenced on March 13, 2019 to 20 years in a penal colony with restriction of liberty for 2 years

Credits

Report Prepared By

Perseus Strategies is a public interest law firm whose mission is to help its clients achieve breakthrough results on their toughest challenges and to have a positive impact on the world. Special thanks are due to co-author Brian Tronic as well as Mary Brooks, Juan Miramontes, Yasmine El-Haj, Aishwarya Pagedar, and Simon Ruhland for their work on this report.

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The **Free Russia Foundation** (4freerussia.org) is an independent, 501(c)(3) nonprofit organization that strives to: bring about a democratic, prosperous, and peaceful Russia governed by the rule of law by educating the next generation of Russian leaders; help the United States and Europe develop an effective and sustainable Russia policy by educating policy makers and informing public debate; and strengthen civil society and defend persecuted human rights activists.

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The **Human Rights Foundation** (hrf.org) is a nonpartisan non-profit organization that promotes and protects human rights globally, with a focused on closed societies.

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The **Lantos Foundation for Human Rights and Justice** (lantosfoundation.org) was established to continue Tom Lantos' proud legacy as an ardent champion for human rights by carrying, in his words, "the noble banner of human rights to every corner of the world."

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The **Raoul Wallenberg Centre for Human Rights** (raoulwallenbergcentre.org) is a unique international consortium of parliamentarians, scholars, jurists, human rights defenders, NGOs, and students united in the pursuit of justice, inspired by and anchored in Raoul Wallenberg's humanitarian legacy – how one person with the compassion to care and the courage to act can confront evil, prevail, and transform history.

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