

Shifting Power and Human Rights Diplomacy

Russia

Edited by Doutje Lettinga & Lars van Troost



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List of Authors and Editors – 7

Introduction – 11

Russian foreign policy and the promotion of alternative conceptions of democracy and human rights – 19

Rick Fawn

The rise of authoritarian regionalism: Russia and China's challenge to international human rights norms and law – 31

Alexander Cooley and Matthew Schaaf

Changing Russia-EU relations and their impact on EU's human rights policy in the eastern neighbourhood – 41

Alexander Sergunin

Does Russia have a human rights future in the Council of Europe and OSCE? – 53

Bill Bowring

Framing and foreign policy: Russian media control and human rights – 65

Mikhail Suslov

Domestic politics and the role of identities in Russia's foreign policy on international human rights – 75

Hanna Smith

Civil society in Russia's foreign policy: excluded 'foreign agents' and pro-Kremlin policy implementers – 85

Andrey Demidov and Elena Belokurova

Religion and human rights in Russia's foreign policy – 97
Alicja Curanović

Russia: digital rights in the foreign policy agenda – 111
Alexandra Kulikova

Russia, the R2P and human rights: ensuring responsible protection – 121
Derek Averre and Lance Davies

How to counter a counter-narrative? – 131
Anna Neistat

References – 139

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In 1996 the Russian Federation joined the Council of Europe and signed the European Convention on Human Rights (ECHR). To many observers, perhaps wilfully ignoring the first Chechen War, Russia seemed to be on its way to become an esteemed member of the fast growing family of rules-based democracies. But only three years later the family fell in disarray.

On 11 June 1999 *Operation Allied Force* (a NATO intervention lacking United Nations Security Council mandate) came to an end. The Kosovo War, which had started more than a year earlier, was over. The day before, the Federal Republic of Yugoslavia had agreed to withdraw its troops from the Serbian Autonomous Province of Kosovo and the Security Council had almost unanimously decided to rapidly deploy an international security and civilian presence in the province. (China was the only Security Council member that abstained from voting on resolution 1244.)

While NATO started to deploy a peacekeeping operation in Kosovo, Russian Federation forces that were part of the international peacekeeping operation in Bosnia (SFOR) suddenly headed for Kosovo, through Serbian territory. Russian forces took Pristina Airport by surprise on 12 June. Moscow clearly feared NATO wanted to keep Russia out of the peacekeeping operation and had seemingly decided to force its cooperation on its Western allies.

NATO's supreme commander in Europe, United States general Wesley Clark, ordered a blockade of the runway of Pristina Airport to ensure that no further Russian reinforcements would enter Kosovo. Sir Michael Jackson, the British NATO commander on the ground, refused to execute the order. "I'm not going to risk World War III for you", he would be quoted widely in later years. With the airspace over Kosovo being closed, the airport was not likely to be used for flying in Russian troops anyway.

With hindsight the Pristina Airport incident seems a prefiguration of how relations between the West, more specifically the United States and the European Union, and the Russian Federation would develop (or deteriorate) in the first two decades of the 21st century and how divergent Western responses to Russian actions sometimes would be.

19th Century politics in a 21st century world

In Georgia (in 2008), Eastern Ukraine (2014), Crimea (2014) and Syria (2015), the Russian Federation, seemingly concerned about expansion or growing influence of NATO and the EU, managed again and again to surprise Western actors with its interventions or (depending on one's point of view) assistance in the internal affairs of other states.

To many analysts outside the Russian Federation it seemed as if the political leadership in Moscow was trying to re-establish a sphere of influence for itself, in which it would oppose interference by other major powers. 19th Century politics in a 21st century world, as then US Secretary of State John Kerry said in response to a Russian occupation of Crimea, which soon would be followed by a contested annexation. In an essay he published in March 2016 Kerry's Russian counterpart Sergei Lavrov reminded him and others that during the reign of Catherine the Great "not a single cannon in Europe could be fired without [Russia's] consent" and that it was Russia "that saved the system of international relations which was based on the balance of forces and mutual respect for national interests" after the Napoleonic wars (Lavrov 2016). Writing on contemporary international relations Lavrov added:

"I believe... it is essential for us to realize the continuity of Russian history, which cannot be edited to delete some of its periods, and the importance of combining all the positive trends developed by our people with their historical experience as the basis for moving vigorously forward and asserting our rightful role as one of the leading centers of the modern world, and as a source of values for development, security and stability."

At the same time he complained that Western powers were using the international order and its rules for their own gains and, more specifically, gains to the detriment of Russia. Like Lavrov, Russian media and commentators regularly reminded the world that *Operation Allied Force* was undertaken without preceding Security Council mandate, that the same held for *Operation Iraqi Freedom* (in 2003) and that the US and its allies abused Security Council resolution 1979 (2011) and the emerging international norm known as the Responsibility to Protect for an illegal regime change in Libya.

According to various scholars, the Russian perception that the West over-expanded its soft and hard power across the globe as well as in the Russian neighbourhood, for instance by supporting the so-called colour revolutions, triggered a 'conservative' or 'il-liberal' turn in Russia's foreign policy. In his essay Sergei Lavrov (2016) chose a more positive terminology to describe Russia's position:

"Problems in the modern world can be solved effectively only through serious and fair cooperation between leading states and their associations in the interests of common tasks. Such cooperation should take into account the multivariate nature of the modern world, its cultural and civilizational diversity, and reflect the interests of key components of the international community."

The protection of human rights was a substantial part of the justification for the Western or Western-led military interventions in Kosovo, Iraq and Libya – an insufficient justification from a Russian Federation's point of view. These interventions therefore allegedly fuelled the idea in Moscow that it was high time to invigorate more traditional principles of international relations such as the sovereign equality of states, non-interference and the respect for territorial integrity and political independence of states. Not Russia, but the West was abusing the fundamental norms and principles of the international system. These interventions also fuelled the idea that human rights were just a Western pretext for expanding its sphere of influence, if not control. In Western responses, the Russian emphasis on traditional principles of sovereignty (and cultural and civilizational diversity) was often portrayed as just a smokescreen for the defence of narrow national interests. Western and Russian worldviews were once again colliding.

Turning away from international human rights protection

After 1999 Russian resistance against alleged Western human rights interventionism also became manifest in other situations dealt with in United Nations fora, especially the Security Council. In 2007 the Russian Federation, together with China and South Africa, blocked Security Council action on Myanmar following military attacks against civilians in ethnic minority regions in the country. The Russian representative on the Council warned that it was unacceptable for the Council to discuss matters outside its purview. In 2008 a Russian veto over coercive Security Council action on Zimbabwe was based on the view that electoral violence in Zimbabwe was no threat to international peace and security and therefore no matter for the Security Council. Again, China and South Africa shared Russia's point of view. In 2009, during the final stages of the protracted armed conflict between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE) thousands of civilians were killed while both parties committed serious violations of international humanitarian law. Once again the Russian Federation, this time supported by China, Turkey and Japan, considered the internal armed conflict not to be a threat to international peace and security outside the Security Council's mandate and blocked effective action.

In 2011 this clash of worldviews would result in a Security Council deadlock over Syria. Five years later and after widespread violations of human rights and international humanitarian law by many parties to the conflicts in Syria (allegedly including by Russian armed forces), Russia, together with Turkey but sidelining the US, the EU and the UN, would seek to broker a nationwide ceasefire between some of the major warring parties.

In late 2016 the Russian Federation announced to undo its signature of the Rome Statute for the International Criminal Court (ICC), an echo of president G.W. Bush' undoing the US signature fifteen years earlier. Although it never ratified the Rome Statute, the Russian Federation was a signatory to it since 2000. Now it declared not to have the intention to ratify since the Court failed to meet the expectations to become a truly independent and effective international tribunal. Early in 2016 Russian authorities already complained about the ICC prosecutor's investigation into alleged war crimes committed during the 2008 five-days war between Georgia and the Russian Federation. At the moment of the Russian announcement of the withdrawal, an ICC preliminary war crimes investigation related to the armed conflict in Ukraine was underway. In a report on ongoing preliminary investigations, the ICC prosecutor wrote that the situation in Crimea amounts to a state of occupation, a qualification not shared by Russian Federation's authorities.

Twenty years after signing the ECHR, international intervention in domestic human rights issues in Russia is also under pressure. Between 1998, when the ECHR entered into force for the Russian Federation, and 2015 more than 1,700 cases were brought against the Russian Federation before the European Court of Human Rights. The Court found violations of the ECHR in more than 1,600 of these cases.¹ Since 2015 federal law provides for the Constitutional Court of the Russian Federation to be able to declare decisions by the European Court of Human Rights, as well as those of other international tribunals, to be in contradiction with the Constitution and therefore not to be enforceable. This basically reverses the relationship between national and international law in the Russian legal order. It remains to be seen how serious the impact of this constitutional change will be in specific cases, or what its spillover effects will be, but the political symbolism can hardly be ignored.

¹ Since its establishment in 1959 the Court delivered around 19,000 judgements, almost half of which concerned only five member states: Turkey, Italy, the Russian Federation, Romania and Poland.

What next?

Perhaps *Operation Allied Force* in 1999 was a wake-up call for the Kremlin. Perhaps Russian re-thinking of a Western-focused unipolar world only really started when the relative decline of the West became a prominent topic for politicians, diplomats and international relations scholars around 2008. In either case, the Russian Federation currently positions itself as a power that shapes the future world order and preferably in anti-Western alliances that value national sovereignty and promote respect for traditional values over the protection and promotion of individual human rights abroad, whether by force or by argument.

What does the reinvigorated role of Russia in world politics mean for the protection of international human rights? In the essays that follow experts from academia, think tanks and NGOs further reflect on Russia's role in world politics and the consequences for the international promotion and protection of human rights.

A defining objective of Russia's foreign policy is 'sovereign democracy'. **Rick Fawn** traces the origin of this concept back to policy documents of 2006, situating Russia's reinvigoration of traditional principles like national sovereignty in its growing unease with the country's reduced great power status around the turn of the century. According to Fawn, Russian state authorities have been rather successful in consolidating their alternative views on democracy and human rights in Russia and the region. He nonetheless believes that human rights advocates should counter these state-led narratives, including by conducting and publishing impartial research into human rights violations (by Western and the Russian government alike) and through educational engagement of the younger generation.

In their essay on Russia's role in Central Asia, **Alexander Cooley** and **Matthew Schaaf** affirm that Russia and China challenge international human rights norms and legal frameworks by offering new counter norms, based on security and political stability, the promotion of civilizational diversity and/or sovereign non-interference, and traditional community values. Russia and its allies also start building new regional organizations as alternatives to those of the West, such as the Shanghai Cooperation Organization and the Eurasian Economic Union. According to Cooley and Schaaf, human rights advocates better not turn a blind eye to those new regional legal frameworks, and rather engage with them as potential new advocacy forums to promote, or better, halt the erosion of human rights standards by balancing these counter norms.

Human rights, particularly after the Ukraine/Crimea crisis, have also become entangled in political rivalries between the EU and Russia, that manifest themselves in the EU's Eastern Partnership with post-Soviet states. In his essay, **Alexander Sergunin** argues that the two power blocks fundamentally differ in how they understand the meaning and role of human rights in the present-day world, with Russia insisting on a more contextual interpretation that takes particular cultural circumstances and traditions into account. With human rights having become an instrument for political pressure, Sergunin believes that international human rights organizations should not only criticize the countries' governments but also emphasize common points with the EU and the positive role they can play in conflict resolution.

Bill Bowring's essay is of a more optimistic tone than some of the other contributions. He agrees that Russia is increasingly critical about the involvement of European institutions such as the OSCE and the Council of Europe, in particular the European Court of Human Rights, in Russia's neighbourhoods. Nonetheless, Bowring holds the view that Russia has a long history of engagement with European human rights institutions that has left deep traces in civil society, law and education. The international human rights community should further build on this history and "support in as many ways as possible the activities of the many courageous human rights defenders in Russia".

A consistency throughout the different essays is the importance they allocate to state-controlled media as tools for the regime's counter-narratives on democracy and human rights. **Mikhail Suslov** describes in more detail the formation of Kremlin-led commercial media outlets in his contribution to this volume. He discerns various foreign policy narratives that are being channelled through these TV and social media outlets, including about the rights situation of ethnic Russians living outside the borders. Despite their differences, ultimately they all represent Russia as civilizationally distinct from the West; a West that tries to promote its interests through ostensibly universal human rights which pose a threat to Russian national culture.

How influential are human-rights minded segments of Russia's civil society? Two essays focus on the role in, and impact of, civil society on the construction of Russia's external human rights policy. The first, by **Hanna Smith**, discerns three different groups that represent wider civil society views, each having different degrees of influence on Russia's foreign policy. According to Smith, the 'Westernizers' – the group that Bowring seems to refer to – that favour partnership with the West based on common human rights understanding, is marginalized and discredited. The two most influential groups, with the so-called 'Civilizationists' winning terrain over the 'Statists', emphasize Russia's dis-

tinctiveness from the West. Their power implies a further distancing from human rights, which are being associated with the West. Human rights advocates should therefore find new allies in the other two groups, so argues Smith.

Based on their analysis of changing governmental relations with civil society, **Andrey Demidov** and **Elena Belokurova** also reach the conclusion that international human rights organizations must start investing in dialogue and deliberation with unconventional groups. Traditionally, they were focused on working together with independent NGOs involved in global society. But these are increasingly excluded from foreign policy-making and, under the so-called Foreign Agents Law of 2012, stigmatized and demonized as potential instigators of popular revolutions against Russia's national interests. Government-sponsored NGOs (GONGOs), in contrast, are valued as instruments to increase Russia's soft power in the region and do exert power on Russia's external policies. Even though they may promote different understandings of human rights, they cannot be ignored as political opportunities for international advocacy.

Alicja Curanović's contribution helps the reader understand one of the driving forces behind the 'Russian' human rights doctrine that is promoted in Russia and the region: the Russian Orthodox Church. Her analysis illustrates the evolving close relationship between the political establishment and the Moscow Patriarchate. While the official Church is rather unsusceptible to the views of human rights organizations, and it is uncertain how long the conservative turn in Russia's foreign policy will last, Curanović does believe that some influence could be exerted through other Orthodox churches.

The volume continues with two thematic essays. The first on Russia's position on digital rights and Internet governance by **Alexandra Kulikova**. She describes how principles of state sovereignty, political independence and non-interference form the core of Russia's position in global Internet and ICT-related policy debates, illustrated by its emphasis on state-led governance of the information space. According to Kulikova it is likely that national security and political stability agendas will continue to shape Russia's internal and external policies on digital rights, with its sovereigntist line often trumping individual rights considerations.

The same principle of state sovereignty features strongly in the essay by **Derek Averde** and **Lance Davies** who analyse the Russian Federation's concept of the Responsibility to Protect (R2P). They argue that Russia neither opposes R2P per se nor fully excludes humanitarian considerations in its foreign policy, but that its approach "rests on the inviolability of national sovereignty as the fundamental basis of international order".

Like several other authors, they argue that human rights advocacy groups would be wise to engage with Russia's own views on R2P, sovereignty and human rights, leaning on the expertise of country and regional experts when devising strategies for states like Russia.

The concluding essay is written by **Anna Neistat**, Amnesty International's Senior Director for Research. Giving her own observations of Russia's internal and external human rights policy and practice and reflecting on those of the other contributors to this volume, Neistat sketches the implications for Amnesty's Russia strategy that, she argues, "needs to be developed as part of a more global, multinational, and multi-institutional human rights strategy". While being realistic about the major, growing challenge that Russia poses for the human right movement, she discerns several opportunities and ways for human rights advocacy to be meaningful and effective, internally as well as externally, by minimizing the negative impact of Russia's foreign policy stance abroad.

The views expressed in the contributions that follow are those of the authors and do not necessarily reflect positions of Amnesty International, its Dutch section or the Strategic Studies Team. The editors wish to thank Sébastien Menninga, Nick van der Steenhoven and Jeroen Teitler for their editorial assistance.

Rick Fawn

Russian foreign policy and the promotion of alternative conceptions of democracy and human rights

Having gone in the early 1990s from being increasingly integrated into Western international organizations and remaining, at least rhetorically, supportive of democracy and human rights, Russia is now a state that has systematically and creatively introduced into world affairs a reformulation of the meaning and practice of democracy and human rights. It has also created, with like-minded states, new institutions and mechanisms to lend credibility in its foreign policy to those alternative practices of democracy and human rights. Inter-governmental cooperation within the former Soviet Union, and often even in partnership with countries further afield, has aided the traction of these values, both domestically and internationally. These outcomes make the imperative for the promoters of genuinely universal values of democracy and human rights far more challenging, yet equally more urgent.

Introduction

The policies and practices of Vladimir Putin's Russia present a profound challenge to promoters of democracy and human rights, within that country and beyond. The regime has expended extraordinary amounts of talent, imagination and resources to insulate and make its society fearful of internal and especially external threats. In that project, a duplicitous West uses 'human rights' and 'democracy' as cunning ruses to advance mendacious interests. The practical ability of democracy and human rights advocacy within Russia and to engage internationally with like-minded supporters has become severely curtailed. Nevertheless, some capacity remains within Russian society, despite ever-increasing and coordinated obstacles for political pluralism. Foreign supporters of the Russian human rights movement continue to have every responsibility to disseminate alternative views that challenge the official account of how society can operate and of world events, and to support those who are under great threat for continuing to advocate political pluralism. The aspects of Russian foreign policy that promote these alternative conceptions must also be contested.

The conclusion offers some suggestions. Before that, the earlier post-Cold War conver-

gence of Russian and Western understanding is identified. Then the contribution establishes dimensions for understanding the place of Russia's foreign policy in the wider world: that of the West, of Russia itself, and the role of the global War on Terror. Change and exacerbations of foreign policy relations are then analysed before turning to the future and some recommendations.

The short-lived convergence of Russian and Western political values

Even before the end of the Cold War prospects for democratization, the protection of human rights and the establishment of the rule of law in the USSR/Russia seemed encouraging. At the Paris Summit of the Conference on Security and Co-operation in Europe (CSCE) in November 1990, all countries signed a Charter that stated that "the protection and promotion of human rights and fundamental freedoms and the strengthening of democratic institutions continue to be a vital basis for our comprehensive security".¹ In 1991, and symbolically in Moscow, states of the northern hemisphere agreed that elections, and democracy in general, were no longer strictly domestic matters, but integral to securing international security and therefore a matter of shared international concern (OSCE 1991; see also Bill Bowring's essay in this volume).

How unrecognisable the situation appears now. At the time, the Yeltsin period and, quite frankly, the concessions that the West provided him and the oversights that went along with it (not least Russian accession to the Council of Europe at the height of the first Chechen War), seemed a wonderful political honeymoon. True, much of the Western support was not so much based on Yeltsin's own political efforts but on the fact that he represented the best chance in the middle of a toxic political spectrum. Hitler, we reminded ourselves, needed not one but three (democratic) elections to secure Nazi rule. As chess champion and political activist Garry Kasparov put it, "time and again the United States and Europe turned a blind eye to the crimes and misdemeanours" of late Soviet and Russian leaderships (Kasparov 2015: 6).

Part of the issue is an incompatible three-sided narrative: Western graciousness towards Russia; Russian perceptions of Western duplicity and mendacity; and an enduring sense of Russian encirclement by the West, which is exploited by the regime. The Russian government believed that it was fighting a just and necessary war against extremism in the North Caucasus. That powerful narrative was in circulation before the terror attacks of 9/11 justified a severe disregard for civil liberties in the conduct of widespread, indiscriminate anti-terror operations. Russian foreign policy therefore became one of justifying the fight against terrorism irrespective of political values.

¹ Organization for Security and Co-operation in Europe (OSCE), Charter of Paris for a New Europe (adopted on 21 November 1990). Available at: <http://www.osce.org/mc/39516?download=true>.

The Western perspective of gracious accommodation

From a composite Western perspective – that is, taking the myriad of national policies together and particularly to summarize what major Western institutions did as a whole – Russia was very graciously integrated into a range of cooperation initiatives.

Additionally, this was done, albeit unstated, on a basis that exceeded Russia's economic standing. True, it remained the world's largest state, with vast natural resources, and of course nuclear weapons, but its international standing was otherwise hugely diminished. The Russian economy in the 1990s was in a freefall and was no larger than that of the Netherlands. Even so, Russia was accorded membership of the G7, the forum that thereafter became the G8. Russia was accorded membership of the G8. In military and security terms, Russia gained important access to NATO. It was a member of Partnership for Peace (PfP) and in addition it was granted a particular, even unique, standing with NATO in 1997 with the NATO Founding Act, by which the special mechanism of the NATO-Russia Permanent Joint Council was created expressly for it.² Arguably, Russia was given a free hand in conflicts and indeed in countries neighbouring it that had similarly been inside the Soviet Union. That legacy persists today with Russia's on ground, and rather decisive, position in Abkhazia and South Ossetia, and its decisive role in the Nagorno-Karabakh conflict, as well as its continued military presences in Moldova and Tajikistan.

The CSCE was transformed at the end of 1994 into the Organization for Security and Co-operation in Europe (OSCE), in which every participating state, including and perhaps especially Russia, not only had full membership but effectively a veto on anything that this consensus-based pan-European organization undertook. Until the 2004 enlargement of the EU, Russia had no issue with the European Union and instead enjoyed expanding relations. Not only continued participation in the CSCE/OSCE, but accession to the Council of Europe and the G8, and the granting of a seemingly special seat in NATO appeared to accommodate Russia's status.

A different, dissatisfied perspective on the post-Cold War order

The Russian foreign policy perspective, however, was antithetical: not only were these provisions substandard and insufficient, but they also grew to be humiliating and then threatening. On the political-economic front Russia had, in fact, not yet been granted full membership of the G7 club. That only came in 2002, when (perhaps remarkably, in view

² The full name is: Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation, signed in Paris, France, on 27 May 1997. See NATO (1997) Founding act. Available at: http://www.nato.int/cps/en/natohq/official_texts_25468.htm.

of impeding developments in Russia) British Prime Minister Tony Blair pronounced “it’s a very big step forward and it’s a very strong message of support for President Putin and his reforms in Russia” (quoted in Popeski 2002).

That was a step up for Russia in its relations with the West. After all, PFP was offered to most post-communist countries and was hardly recognition of great power status. Nor did it give Russia any particular access to NATO. The 1997 Founding Act, while important in some regards, followed a parallel offer to Ukraine, entitled the Charter on a Distinctive Partnership.³ Russia’s status could, in Moscow’s view, hardly be comparable to Ukraine’s (and the only mention of Russia in that Charter referred, ironically in view of the 2014 annexation of Crimea, to Moscow’s signature of the Budapest Memorandum, recognizing Ukraine’s post-Soviet borders).

As much as NATO thought its inclusion of Russia afforded due recognition of its status, Moscow did not gain what it deemed commensurate with its power and its security needs: a veto on NATO actions. As the saying went, the then 16 members plus one Russia still did not equal 17. The inadequacy, from Moscow’s perspective, of the NATO-Russian relationship intensified when the Alliance agreed in 1997 to expand eastwards: that strategically decisive piece of real estate to the Russian mind known as Poland, through which three devastating invasions of Russia had ploughed, would now enter NATO. Despite sitting at the proverbial table in NATO Headquarters, Moscow was powerless to stop it. Polish (and Czech and Hungarian) accession occurred in 1999, just as, even worse, NATO, which in Russia’s view had no right to exist after the Cold War, then launched a seemingly spuriously 78-day bombing campaign outside its border, and against tiny fellow Slavic, Orthodox Serbia. This aggression was justified as human rights protection, but NATO’s on-ground ally was the Kosovo Liberation Army, which had twice been on the US State Department’s list of terrorist organizations. So fearsome to the official Russian mind was this NATO attack that the Russian National Security Concept was revised the next year to call NATO a threat to world security (Ministry of Foreign Affairs of the Russian Federation 2000b). The otherwise benign EU, too, had become hostile by the late 2000s; Russian leaders called the European Neighbourhood Policy towards six post-Soviet states (excluding Russia) a zero-sum measure that forced countries to choose between it and the West.

The perceived threats to Russia did not stop there. The seemingly benevolent and inclusive OSCE seemed to work against Russia (and other post-Soviet states) by at least facilitating the revolution in neighbouring post-Soviet states. Even Putin, to 2004, played

³ The full title of the agreement is: Charter on a Distinctive Partnership between the North Atlantic Treaty Organization and Ukraine. See NATO (1997) *Charter on a Distinctive Partnership*. Available at: http://www.nato.int/cps/en/natohq/official_texts_25457.htm.

fully to the terms of international election observation for the Russian Federation. No more. Stemming already from the overthrow of Edvard Shevardnadze in Georgia in 2003, OSCE election observation missions (of which more presently) which were supposed to be neutral if not under the control of all its participating States, were accused of aiding revolution.

But it was also at that time that Putin’s regime began to formulate alternative language and mechanisms for creating a parallel universe for the domestic presentation of ‘democracy’ and ‘human rights’. By 2006 the official conception of Russian ‘sovereign democracy’ was in circulation, whereby political decisions were centralized in order to generate material wealth and societal fairness. Russia would indeed have democracy, but a distinctive and qualified form. In practice it meant that the regime had decided on a particular political values-system implemented through state-controlled media. Moscow’s understanding of human rights was inserted into foreign policy, so that for example, Russian diplomacy articulated the dangers to Slavophones in Estonia and Latvia and could thereby show not only Russians to be in danger but also the West to be hypocritical of its own values. Furthermore, outright duplicity and cunning of Western governments and institutions in only selectively protecting universal human rights could be vividly demonstrated (Fawn 2009; the wider Russian use of international law is treated authoritatively in Allison 2013).

Official Russian counter-distinctions to democracy and how it is achieved started before the promulgation of sovereign democracy, in face of the colour revolutions. The OSCE came under the greatest attack, the Russian government repeatedly calling it a generator of ‘double standards’. Moscow then promoted its own ‘international’ mechanisms for assessing democracy through the creation of international election observation missions. Although Western supporters of the OSCE’s ‘gold standard’ of election observation attacked the methodology of these alternative instruments, their use and production of alternative reports for domestic and regional consumption has continued. These measures are not mere rhetoric and theatre; they perniciously convince domestic populations of the conniving nature of Western governments and NGOs, as well as reinforcing perceptions of Russian vulnerability (the start of these practices is outlined in Fawn 2006).

These developments are particularly mendacious because of their relative success – especially in the increasing domestic absence of alternative information and models – at convincing much of Russia’s domestic population of these alternative scenarios. Added to that would be the coherent, and in many ways inventive, sense of cooperation among post-Soviet states to resist democratization efforts. A Moscow consensus on how to operate an authoritarian backlash to Westernizing democratic impulses has emerged

(see Lewis 2016; Hug 2016; earlier work includes Ambrosio 2009). One need not think, either, that resistance to a supposed Western conception of democracy and the creation of alternative mechanics for presenting democracy in post-Soviet states originate solely in Moscow. Azerbaijan, which formally remained outside of post-Soviet objections to OSCE election observation, has produced extensive alternative mechanisms for presenting an analysis of its electoral processes (Fawn 2015). The adoption in the post-Soviet countries of Russian laws that limit the capacity of the NGOs to operate is a leading example of authoritarian cooperation. Law-sharing for the repression of media and civil society is increasing among post-Soviet states. The validity of alternative norms in Russia is strengthened by the work of regional formations, which offer to the domestic population the reassurance that many other countries are doing the same. What to the wider outside world are repressive, illiberal practices, can therefore seem within Russian society as at least an acceptable regional norm. Structures from within the former Soviet Union, and more broadly too with the Shanghai Cooperation Organization (SCO), allow Russian leaders to point to a wider consensus (for SCO, see esp. Cooley's well-titled 2013 article and the essay of Cooley & Schaaf in this volume).

New laws are but a starting point. Activists are imprisoned on spurious grounds, some killed in circumstances that point to official culpability but with enough procedure and contingent information to give sufficient distance and doubt. All of this, even more perniciously, has occurred in a political-psychological environment reinforced and excused by the regional use of the rhetoric of the global 'War on Terror'.

The global War on Terror

What became the global War on Terror after the 9/11 attacks on the United States benefitted Russian official rhetoric. This was far from the symbolic – Putin gained positive media traction for being the first leader to reach out to US President George W. Bush. He advantageously reiterated that Russia had been the vanguard in defending against violent Islamic extremism, and aligned Russia's anti-terrorist operations with what would become those of the West. For his part, Bush quickly acknowledged that 'Al Qaeda folks' were in the North Caucasus.

Already in the mid-1990s the West had given a mostly free hand to Yeltsin to conduct the first Chechen War as his security organs saw fit. The benefit was that his regime was not (yet) adept at cracking down on civil society and media. Imagery and evidence of atrocities abounded. All the more, then, the culpability, already mentioned, of many Western governments of their permissive stance towards the Russian conduct of the war. And that, too, had deeply corrosive effects on Russian society, Gilligan (2013) provides

a substantive account, including primary sources). What became the second Chechen War, like its first, was deeply entwined in the legitimization of a new Russian government, that of Vladimir Putin. Now, however, the learning curve of restricting media and NGO activism, international and domestic alike, was completed. The government ensured an overwhelming hand in how the war was reported and how society could respond (see for more on Russia's framing and use of media, the essay by Mikhail Suslov in this volume).

What changed?

Two seemingly unrelated developments under Putin added to the existing Russian sense of Western betrayal: political contagion and energy opportunism.

Contagion came from regime change in the post-Soviet neighbourhood. What we know now as the colour revolutions, starting in 2003, traumatized the Kremlin. Georgia, something of a pro-Western upstart even under Edvard Shevardnadze (even he contemplated NATO membership and brought US troops to the country), saw the first removal of a Soviet-era leader. Georgia's Rose Revolution was a combination of domestic initiative, Western democratization assistance, and at least the information basis for showing fraudulent elections, provided by the OSCE's elections and democratization wing, the Office for Democratic Institutions and Human Rights (its abbreviation to ODIHR almost comically being pronounced 'Oh Dear').

Georgia, with under five million people and tucked away in a far corner of Europe, was deemed of little importance to Moscow (although its post-revolution political and foreign policy choices would come greatly to matter to an anxious Kremlin), Ukraine was of an altogether different magnitude. Ten times the population, integral to post-Soviet military-industrial production, strategically situated between Russia and the (just-expanded) EU, presented far greater challenges. Revolutionary overthrow followed in Ukraine in 2004. Even the bastion of old Soviet ways, Central Asia, was not immune: 2005 regime change followed in Kyrgyzstan. The trio of revolutions catapulted Putin into counter-action, including in Russian foreign policy. The colour revolutions coincided with a surge in world energy prices. Those gave the Putin government unparalleled geopolitical permissiveness as state revenues soared.

But the regional challenges to Russian rule did not stop – a second, violent overthrow followed in 2013-14, when Ukrainians generated a second Orange Revolution, in the form of Maidan and then, aching of different proportions for Moscow, as Euromaidan. President Viktor Yanukovich, ousted in 2014 but electorally resurrected later, was back in power with, one could say, a mandate from Moscow to manage Ukraine. Ukraine went

as a far as to attend the EU's Vilnius Summit, where trade agreements were to be signed whose provisions would also bring those countries closer to EU norms. As veteran reporter for Eastern European report and *Economist* editor Edward Lucas summarized on BBC's Radio 4, Yanukovich was "stupid, brutal and terrified of Putin". When, by February 2014 Yanukovich's position was untenable, he fled to Russia, but was allowed only to the neighbouring southern Russian city of Rostov. The Russian regime's response has been to continue – with clever rhetoric and justifications – to restrict civil liberties generally and to suffocate civil society specifically. The diminution, the crippling, of the capacity of independent civil society to operate is staggering. Additionally ominous is the Russian Justice Ministry's tarring of the preeminent Russian public opinion research centre Levada as a 'foreign agent' immediately in advance of the September 2016 Duma elections. Soviet-era dissident Lyudmila Alexeeva (2013) had already warned that it was "absolutely clear that Vladimir Putin's goal ... is to destroy all independent civic activity". The regime benefits also from Russian civil society being divided from the population (McAuley 2015: 310).

And what of the future?

In terms of prediction and prescription: any contribution would be unrealistic if it is overly optimistic about democracy and human rights protection (let alone promotion). First, the person of Putin is simply representative of a wider set of people and of entrenched interests that are hard to conceive of disappearing. Karen Dawisha's (2015: esp. 3, 8, 18) work exemplifies the view of those around Putin as a long-standing cohesive group. She terms this group a 'cabal', one rooted especially in the *siloviki*, those with careers in the military-security structures, but also extended to those who had secured control over the countries wealth in the 1990s and worked with Putin once he secured high office.

Political change, therefore, cannot simply come from removal of a leader or even a group of elites. Additionally, the relative success of their various control mechanisms, including centralization of decision-making and elimination of alternative sources of ideas and political organization, continue to diminish the prospects of alternative sources of political power, even of vision, to operate.

The Putin regime is astute at reading and acting upon past experience, including from its point of view the pernicious influence of the 1975 Helsinki Final Act that introduced to the Cold War international dynamic what we know as the human dimension, and the post-Cold War institutions that grew out of it. Those offices – intentionally largely independent of OSCE political control – such as the High Commission on National Minorities, the Representative on Freedom of the Media, and especially the ODIHR were perceived as not only lending voice but also practical support to illegitimate, even-regime threatening

entities. The Russian regime, often in coordinated activity with like-minded post-Soviet states, has worked energetically, creatively and proactively to limit the cooperation of outside democratizing, human rights-protecting forces and domestic Russian civil society organizations. Repeatedly in international forums Russian representatives have denounced the way in which OSCE democracy and human rights-promoting offices operate; those representatives also, for both domestic and international consumption, offer alternative accounts and understandings of those values (I have tried to detail this, including in the OSCE and the CoE where Russian and Western representatives clash on these issues, in Fawn 2013).

While Russian foreign policy exports its own interpretations and practically attacks, with vivid examples, the counter-productivity of Western 'regime change' in countries such as Iran, Afghanistan and more recently in Libya and to a modest degree in Syria, every effort must be taken to promote democracy and human rights back into Russian society. How? These include countering the alternative histories and explanations provided by the regime and allied media, and documenting the mistreatment of civil society. As much as the Russian regime has embraced social media for their purposes, alternative sources and access still, thankfully, continue. Educational engagement must also continue, in order to inform the youth, especially, of the alternatives to the Russian rhetoric. And also to inform them about Western blemishes, of course. Post-Crimea sanctions are targeted, rightly, at the Russian elite and its abiding interest in access to Western investment, travel and luxuries. These are not intended, at least, against the wider society and especially not against the Russian youth. Exposure to Western (or, really still universal) norms and practices, such as through education, remain essential. At the height of the Cold War exchanges provided a key means of not just developing relations but of forging concrete awareness of political alternatives (see Richmond 2003). This remains indispensable today.

Contingency is also a factor – as much as the regime claims that sanctions are strengthening Russian economic self-reliance, further downturns could foment unrest. Low energy prices are squeezing state capacity to placate parts of the population. The nationalistic chest-beating from the satisfaction of the annexation of Crimea may continue, but already seems tired.

An element of geopolitical optimism still exists, too. Russia does not and should not want complete foreign policy isolation. Its relationship with China, although giving Russia as sense of ideological comradeship, is more a marriage of convenience and one reinforced by strategic resistance to Western ideological impulses. Russia remains the junior partner and a supplier of raw materials, and even fears China's overwhelming economic might.

True, a sports ban on Russian players for state-sanctioned doping might play into the hands of those Russians who like to present the country as being misunderstood and even harmed by a menacing outside world. But national glory also comes from international engagement. The Soviet bloc's Intervision Song Contest (ISC), counterpoint to the Eurovision Song Contest, disappeared, along with many other Soviet propagandistic substitutions; its recent attempt at a revival has failed and Russian efforts have focused on winning the big prize of Eurovision. That is not meant trivially; Russia still seeks international, and especially Western, engagement. And this is a form of leverage.

More specifically, it would be important to continue to use the OSCE and Council of Europe to question, raise awareness and secure information on Russian democratization-resistance. As soft as these organizations may appear, their importance may increase in dealing with Russia if the EU's status, and indeed internal coherence, is affected by Brexit. Irrespective of that, the EU has exhibited dissonance on maintaining sanctions on Russia after Crimea. As much as possible, genuine (not, or certainly not only, government-created) NGOs should continue to be included in OSCE and CoE activities and support. Such practice is not furthering the 'more seminars' argument often inflicted against these organizations, but an essential means of keeping channels open. That Russia has supported the OSCE Monitoring Mission in Ukraine (multiple issues concerning its on-ground effectiveness and operability notwithstanding) is an example of the organization providing means attractive to a regime that has otherwise corroded its human dimension. Furthermore, through the Council of Europe membership, Russian citizens can and have raised legal challenges against the Russian government at the European Court of Human Rights (see Bowring in this collection; I have tried to offer accounts of how international organizations, governments and domestic and international NGOs can work together in face of authoritarian challenges in Fawn 2013). In its foreign policy, the Russian government seeks to legitimize actions in terms of international norms and laws, even if adapted, moderated and implemented in ways that outside activists do not recognize (see Allison 2013). Thus the recognitions of Abkhazia and South Ossetia and the annexation of Crimea were readily 'explained'. Such practices further demonstrate Russian vulnerability and Western opportunity: these all hardly changing facts-on-the-ground, these justifications can be explained and exposed in international forums.

Indeed, continued Russian engagement with international organizations and norms will sound minimalistic, but they still provide for accountability of government agencies and the projection of alternative political values and orders, and even some support for beleaguered activists. Easily said, but democracy promoters inside and outside Russia need to continue to contest the official Russian unilingual account of democracy today. And in that they are fully deserving of Western support. In turn, every measure must be

taken to promote positive accounts of that very broad, non-exclusivist Western conception of democracy and human rights, and to countermand the sophisticated yet deeply pernicious sets of Russian counter-narratives. The West makes mistakes. Its societies create and face divisive, polarizing issues. But its open and pluralistic ethos ensures that those mistakes and failures are evident. Everyone should know that, and everyone should have the opportunity to experience and participate fully in respectful pluralistic systems, regardless and because of their deficiencies. Our collective, brutal, history gives ample evidence of the costs otherwise.

Alexander Cooley and Matthew Schaaf

**The rise of authoritarian regionalism:
Russia and China's challenge to international
human rights norms and law**

New geopolitical dynamics across Eurasia pose a profound challenge to the international human rights protection regime. International institutions and organizations devised by Russia and China promote alternative legal frameworks that facilitate the erosion of human rights standards and protections established by international human rights law and ultimately strengthen the hand of authoritarian regimes as they target their perceived opponents. In response, governments, international organizations, and activists seeking to preserve and strengthen human rights protections must forcefully resist efforts to water down human rights commitments, keep rights front and centre in their multilateral and bilateral engagements, and support activists on the ground.

Introduction

Since 2001, international interest in Central Asia has intensified as Russia, China, the United States and the European Union have all pursued new regional strategies and adopted a broad range of instruments of soft power and influence. Over roughly the same period, the state of political rights and civil liberties in Central Asia has markedly deteriorated, as authoritarians have consolidated their rule and constricted the space for human rights advocacy. The onset of the 'colour revolutions' in the mid-2000s, the Arab Spring of 2011 and the Ukraine crisis of 2014 have all greatly alarmed the Central Asian regimes, leading to new crackdowns and attempts to control civil society, restrict media freedoms, and squelch street protests.

As a result, the external support of human rights in Central Asia has become inextricably intertwined with regional geopolitical agendas in two main ways. First, Russia and China have strongly backed and frequently copied the Central Asian regimes and their new repressive measures, accusing the West of attempting to destabilize the region by promoting its values agenda and unwanted interference into the region's domestic affairs. Second, within both the United States and the European Union the question of how much emphasis to afford to human rights in regional policy has generated intense internal debates; for example, the sanctions imposed on the Uzbek government following its bloody

crackdown on protestors in Andijan in May 2005 precipitated a divisive debate in both Washington and Brussels about how much leverage the West actually exerts over hardline regimes in the region (Cooley 2008).

Over the same period, a more consequential change in the regional environment, mostly unacknowledged by policymakers, has also taken place: from providing opportunities for the dissemination of human rights norms, standards and practices, the international political and normative environment has increasingly become hostile to the human rights endeavour. Over the last fifteen years Russia and China have expanded their political, economic and legal reach across the region and pioneered new instruments of influence and legal frameworks. Russia has promoted organizations like the Commonwealth of Independent States (CIS), the Collective Security Treaty Organization (CSTO) and, most recently, the Eurasian Economic Union (EEU), which it considers to be the foundation for a future more comprehensive EU-style Eurasian integration. China, too, has rapidly expanded its engagement on both security and economic issues with the Central Asian states. It has channelled many of its initiatives through the Shanghai Cooperation Organization (SCO) – comprised of China, Russia, Kazakhstan, Kyrgyzstan, Uzbekistan and Tajikistan – which has proclaimed itself as a ‘new style’ regional organization that seeks to promote regional understanding and trust, especially in the areas of security and countering terrorism. In the past, sceptical commentators have criticized the actual substantive accomplishments of these organizations, regarding them as ‘virtual’ regional organizations or ‘cheap talk’ shops.

However, while these organizations have often failed to function as effective problem-solving bodies or regional integration mechanisms, they have been more successful as political vehicles. They have grounded the backlash against Western human rights promotion in new legal and normative frameworks and provided mechanisms for participating states to enhance and streamline their cooperation, especially when it comes to collaboration among security agencies. At the same time Western credibility as a promoter of liberal values is at an all-time low, given the damage to US moral authority inflicted by its violations of human rights norms in prosecuting the global War on Terror and the EU's internal struggles in dealing with the Syrian refugee crisis, the rise of illiberal governments in Poland and Hungary, and the UK referendum for Brexit.

In this essay, we overview some of the features of this new environment supported by Moscow and Beijing, highlighting their implications for advocates and policymakers.

New regional laws and treaties

First, Russia and China have promoted new regional organizations and treaties that have been key in seeking to establish new legal frameworks that have facilitated the erosion of human rights standards and protections. Consider the SCO and its 2009 Anti-Terror Treaty and its Regional Anti-terrorism Structure, along with the CIS Minsk Convention (1994).¹

The SCO's Counterterrorism Convention of 2009 created a new, regional legal fabric for combatting the so-called three evils of ‘terrorism, separatism and extremism’. In practice, the treaty creates a web of new extraterritorial rules and obligations that, in the name of pursuing these security objectives, empower domestic security services and erode human rights safeguards. Most important, the treaty obliges member countries to reciprocally recognize designated groups as ‘terrorist’, regardless of their own national laws, due process or reference to standards of proof (Article 10), while further obliging member states to act on requests for extraditions within 30 days regardless of national extradition procedures (Article 14). Another provision (Article 18) explicitly allows members to dispatch its agents and personnel on to the territory of another member to conduct an investigation.

The SCO also has established the Regional Anti-terrorism Structure (RATS), located in Tashkent, Uzbekistan, a cooperation and data-sharing forum for the security services of SCO member states. International human rights watchdogs have been especially concerned at how RATS designates individuals and organizations as “terrorists, separatists or extremists”, noting that there is no transparent procedure for a group to contest its designation or be delisted (HRIC 2011/ International Federation for Human Rights 2012). The list itself seems to have grown at an alarming rate – from 15 organizations and individuals in 2006 to 69 organizations and over 2500 individuals in 2016.² Of special concern to human rights observers is that the RATS blacklist has fostered a regional log-rolling dynamic, where each member country places its own domestic political opponents or ‘extremist’ organization on the expectation that its designations will be reciprocated. In 2009, then UN special rapporteur on Counterterrorism and Human Rights Martin Scheinin expressed “serious concerns” about these SCO data-sharing and blacklisting practices by observing that they were “not subject to any meaningful form of oversight and there are no human rights safeguards attached to data and information sharing” (Scheinin 2009).

1 This section draws on Cooley, A. & M. Schaaf (2017 forthcoming) ‘Grounding the Backlash: Regional Security Treaties, Counter norms and Human Rights in Eurasia’ in: S. Hopgood, L. Vinjamuri & J. Snyder (eds) *Human Rights Futures*, Cambridge: Cambridge University Press.

2 Rymbaev, S. (2016) ‘SCO terrorism fighters are creating a database of suicide bombers’, Region.kg, 13 September. Available at: http://region.kg/index.php?option=com_content&view=article&id=2059:2016-09-13-20-20-53&catid=28:bezopasnost&Itemid=35.

He also noted that, “cooperation between secret services [in the SCO] is exercised without any oversight” and information-sharing is not subject to disclosure.

A similar extraterritorial framework for legal cooperation is the Minsk Convention (formally the Convention on Legal Assistance and Legal Relations in Civil, Family, and Criminal Cases) of the CIS, another grouping of Eurasian states. The Minsk Convention governing legal cooperation among CIS members and the legal status and rights of citizens of CIS countries when within the CIS bloc, provides for similar forms of legal cooperation among members as does the SCO's Counterterrorism Convention. Ratified by Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and Ukraine in 1994, the Minsk Convention also provides for extra-territorial implementation of member states' laws and court rulings, and expedited extradition without the due process provided by courts charged with upholding domestic and international anti-torture and civil protections.

Taken together, these regional frameworks have strengthened security and regime power by offering mechanisms to target political opponents and human rights advocates residing abroad and have offered a mechanism for regional security services to increase and justify their cooperation. They have justified the detention and transfer of Central Asians living in Russia back to the region by Russian security forces and from one Central Asian country to another. Although not substituting or abrogating human rights treaty commitments in any legal sense, these regimes have eroded and muddled the procedures and legal frameworks surrounding important human rights safeguards by providing an at least plausible normative basis for subverting regular extradition procedures and political asylum hearings. For example, as described below, they have also served as a convenient justification for violating basic protections of international human rights law such as the *non-refoulement* principle, under which the return of a person to a country where s/he may be at risk of torture is prohibited.

Against liberalism: the rise of counter norms

The expansion of Russian and Chinese-led regional organizations in Central Asia has also promoted the rise of a range of regional norms that seek to counter liberal democracy and the promotion of universal rights. First, and most significantly, is the counter norm of security and political stability. Following the attacks of 9/11 and the launch of the US-led global War on Terror, counterterrorism has been widely invoked to justify a new consolidation of executive power. Professor of Sociology and International Affairs Kim Lane Scheppele (2007) has termed this a transnational anti-constitutional movement, in contrast to the rights-based frameworks that were built up in the 1990s; this movement

has featured an increase in surveillance and the use of arbitrary detention, the establishment of parallel legal processes for accused terrorists, the expansion of extrajudicial measures such as state-led renditions, and the deepening of security cooperation among internal security services without accompanying transnational monitoring or checks.

In Eurasia in particular, the onset of the so-called colour revolutions of the mid-2000s, in which regimes relatively friendly to the Kremlin were swept out of power following apparent electoral fraud and subsequent mass popular protest, has further equated the promotion of democracy with regime change and insecurity. The Russian government has adopted increasing restrictions on civil society groups – including the ‘foreign agents’ law, the ‘patriotic stop list’ passed by the Russian parliament's upper chamber, and the 2015 law on ‘undesirable’ organizations that banned certain groups, including the National Endowment for Democracy and the Open Societies Foundations, completely, and criminalized any association by Russian citizens with them. Both the Kazakh and Kyrgyz parliament considered so-called copycat laws, based on Russian legislation (see below for more on the Kyrgyz legislation). Finally, the rise of ISIS, and reports of its active recruiting of Central Asians from the region and third countries such as Russia and Turkey, has further prompted governments to justify internal crackdowns in the name of countering terrorism and extremism. In short, the space for pluralism and the activities of civil society is clearly shrinking under the security imperative.

A second counter norm, one that is often pushed by China, is that of ‘civilizational diversity’ and/or sovereign non-interference. Embodied in the founding documents and public statements of the SCO, civilizational diversity, also referred to as the ‘Shanghai Spirit’, meant to celebrate and respect the right of each state and civilization to formulate its own cultural and political values without judgment or external interference. This doctrine stands in contrast to the political and human rights criteria which must generally be accepted to participate in Western international organizations and which proscribe the domestic freedom of action of regimes, and embody certain political values such as the universality of human rights.

A third counter norm, pushed more vigorously by the Russian Federation, is that of the ‘traditional values’ agenda (see also the essays of Alicja Curanović and Bill Bowring in this volume). This has increasingly been offered as a critique of Western emphasis on individual rights and its alleged moral decay, and emphasizes the primacy of official religious institutions such as the Orthodox church, national identity and culture, and the promotion of the traditional family and rejection of other family forms, especially those created by LGBT people (Lukin 2014). Some foreign policy commentators have advocated that this traditional values agenda has also become the normative framework behind the

expansion of the Eurasian Union, while others have sought to fuse the counter norm with the resurgent 'Eurasianism'.

In 2016, the Kyrgyz parliament preliminarily approved a copycat 'anti-gay propaganda law', modelled on Russian legislation though going beyond Russia's law by providing possible jail time for violators. Reports indicate that violence against the LGBT community has increased by 300 per cent in the two years since the legislation was first introduced. Russia has also sought to lead the promotion of 'traditional values' internationally, working pragmatically with states in the Islamic world, the global conservative religious right, and others to advance their shared values (Hooper 2016). For example, Moscow collaborated with Islamic states to pass a resolution on the "traditional values of mankind" at the UNHRC in September 2012, which was heavily criticized by the EU and LGBT rights organizations, and by opposing the creation of a UN expert to research and report on violence and discrimination against LGBT people.

None of these norms, individually, can be said to be the universal alternative to liberalism. However, taken together, the counter norms of security, civilizational diversity and traditional values offer a menu of options for Eurasian governments to justify and legitimize their political crackdown and violations of rights.

Redefining existing institutions and spaces

Another characteristic of the geopolitical shift in Central Asia involves Russia and China targeting the institutional practices, norms and procedures of existing international organizations. During the 1990s, scholars and policymakers assumed that international organizations operating in the region would help to strengthen and disseminate human rights norms. However, we now see that even regional organizations that were predicated on a values platform are now changing their character.

The most important case here is that of the Organization for Security and Cooperation in Europe (OSCE) which, upon its founding, had a 'human dimension' component that was committed to upholding the rights and freedoms embodied in the Helsinki Final Act. However, during the 2000s Russia and the Central Asian states increasingly criticized the OSCE for aligning the geopolitical agendas of the West and as sources of criticism for their domestic practices, and resisted OSCE and its participating states' efforts to uphold the 'human dimension' commitments on human rights, pluralism, and elections (see for more on Russia and its relations with the OSCE Bill Bowring's essay in this volume).

One of Moscow's main targets has been the Warsaw-based Office for Democratic Institutions and Human Rights (ODIHR). Among its many activities, the ODIHR has been responsible for sending comprehensive election monitoring missions. But since the ODIHR established a pattern of issuing critical reports, Russia, backed by the Central Asian states, has led a campaign to change the practices of the ODIHR, including introducing proposals that would reduce the number of election observers, allowing the head of mission to be appointed by the OSCE Parliamentary Assembly (not the ODIHR Office) and reaching its final assessment of a national election in consultation with the host country government. If adopted, these reforms would gut the practice of election monitoring as we know it. Not coincidentally, over the last decade, both Russia and China have also pushed the practice of sending alternative election monitors, both under CIS and SCO auspices, to issue far more supportive evaluations of flawed elections than the ODIHR. Emulating the form, but not the substance of more established monitoring operations, these so-called 'zombie monitors' provide governments with more supportive international assessments to balance out any criticism they receive from Western organizations.

In a similar fashion to election monitoring, China and Russia are leading the way in countering the critical assessments of human rights monitors and civil society organizations by establishing new Government-Sponsored Non-Governmental Organizations (GONGOs). GONGOs challenge the human rights regime not only substantively – by defending and justifying the abysmal human rights records of their governments – but also procedurally. Through their participation in regional conferences, international forums and meetings, GONGOs expend valuable agenda time and organizational resources that would otherwise be channelled into networking transnational civil society organizations that share commitments to upholding the international rights-based regime (see also the essay by Andrey Demidov and Elena Belokurova on the impact of GONGOs and civil society on Russian foreign policy).

Case study: the fate of Central Asian dissidents in Ukraine

The case of Ukraine, a country which has vacillated between European and Eurasian outlooks and between democratic liberalism and authoritarianism, reveals how cooperation under SCO and CIS treaties can severely undermine internationally guaranteed human rights protections such as those provided by OSCE and UN agreements.

For example, in 2006, Ukraine was widely condemned for returning ten Uzbek political activists seeking asylum after fleeing Uzbekistan following the crackdown in Andijan. All ten of the asylum seekers were convicted on trumped-up charges and sentenced to imprisonment between 3 and 16 years upon their forcible return in what the OSCE Chair-

man-in-Office at the time called “a serious violation of the principle of *non-refoulement* and of international commitments undertaken by Ukraine”.³

Through 2010, extraditions in Ukraine were governed exclusively by the Minsk Convention and bilateral agreements.⁴ These agreements are clearly inconsistent with Ukraine's commitment to not return individuals to countries where their torture is likely (*non-refoulement*) and oblige Ukraine and other signatories to accept the court rulings and other judgments of other signatories, essentially forcing Ukraine to accept judgments issued, for example, in Uzbekistan with only a limited ability to reject extradition requests.⁵ In 2012, Ukraine again extradited recognized refugees, an Uzbek and a Russian, who were clearly at risk of torture upon return in what the UN High Commissioner for Refugees called a “deliberate violation of provisions of both national and international law” (UNHCR 2012). Indeed, Ukraine still is not a safe place for those fleeing persecution in Russia and Central Asia, regularly returning or refusing asylum to activists who fled its greatest foe, Russia (Coynash 2016).

Yet Ukraine could also serve as an example of a country that rejects cooperation with authoritarian governments persecuting civic activists. Changes to Ukraine's asylum law have stalled in the parliament, though if passed they would provide some additional protection for activists who are being persecuted in connection with their support for Ukraine and criticism of Russia's actions against Ukraine (Frolov & Arkhipova 2016). More generally, Ukraine has demonstrated a new willingness to reject the authoritarian approaches of its past following the 2014 revolution by engaging the public directly in governance and by decentralizing authority, renewing its commitments to international human rights protections, and creating a more tolerant and pluralistic society. Other changes in Ukraine such as the dramatic strengthening and renewed prominence of its civil society, to the growing desire among Ukrainians to reject the worldview and values associated with Russia, the so-called Russian World (*Russkiy Mir*), and the popularization of human rights and dignity have in many ways moved Ukrainian society and forced the government's hand away from authoritarian approaches. These developments offer some hope that the new norms and procedures advanced by the regional bodies of the EEU and the SCO are not moving the region in one direction and can be resisted.

3 Organization for Security and Cooperation in Europe (OSCE) (2006) *OSCE Chairman expresses consternation at Ukraine's decision to return Uzbek asylum seekers*, February 17. Available at: <http://www.osce.org/cio/47117>.

4 No Borders Project (2012) *Refugees in Ukraine – without a right to protection*. Available at: http://noborders.org.ua/ru/files/2012/01/Refugees-in-Ukraine_short-overview.pdf.

5 Commonwealth of Independent States, Convention on Legal Assistance and Legal Relations in Civil, Family, and Criminal Cases.

Conclusion and future scenarios

In sum, the recent developments in Central Asia suggest that Russian and Chinese-led efforts have changed the regional and international environment from one that prompted the protection of rights and the dissemination of liberal norms, to one where the promotion of rights itself has become entangled in geopolitical rivalries with the West and where new regional legal frameworks and counter norms offer justifications for regimes to erode human rights safeguards. The drawdown of NATO forces in Afghanistan has contributed to US and European disengagement from the region, while Russia's resurgence and China's much-publicized Belt and Road Initiative signal that Moscow and Beijing's interest in influencing governments along with political and social developments across Eurasia will not only endure, but is set to increase.⁶

In this context, it is important for human rights defenders and advocates, as well as supportive governments to confront some of these new regional sites of contestation and external actors.

First, advocates should push Western governments to comprehensively engage with regional bodies of the EEU and the SCO, and on a bilateral basis with individual governments on both their norms, values, and operations, as well as on their potential capacity to solve regional problems or deliver public goods. In other words, rather than ignore the issue of values and rights, they should be part of a more comprehensive Western engagement strategy with these counterpart organizations and their member governments, pushing them to be more transparent about their policies and approaches while discouraging their diffusion of authoritarian norms. The alternative is that the United States and the EU (and its members) risk further marginalizing their concerns about respect for human rights in EEU and SCO members by limiting their discussions to official regional ‘human rights dialogues or working groups’, as opposed to more comprehensive discussions and engagement mechanisms.

Second, governments, as well as executive bodies, representatives, and independent mechanisms and experts of organizations such as the OSCE and UN, should actively resist efforts to water down their human rights commitments and enforcement mechanisms and advance so-called traditional values, ensuring that challenges to democratic and human rights norms in international forums such as the OSCE Permanent Council and the UN Human Rights and NGO Committees, where civil society participation is frequently opposed by authoritarian governments, are resisted and contested.

6 For more on China's Belt and Road Initiative, see the Economist (2016) *Our bulldozers, our rules*, 2 July. Available at: <http://www.economist.com/news/china/21701505-chinas-foreign-policy-could-reshape-good-part-world-economy-our-bulldozers-our-rules>.

Third, local activists should continue their advocacy and struggle for human rights and democracy, and governments and other donors should continue to support them regardless of 'foreign agent' laws, bans on 'gay propaganda', and other provisions that clearly violate human rights guaranteed by a variety of international agreements. This may require them to develop creative ways for this collaboration and support to continue, especially given efforts to restrict international collaboration through passage of 'foreign agent' laws, creating black lists of foreign organizations, the likening of international reporting on human rights to treason, and restrictions on foreign funding of civil society groups.

Finally, governments, scholars, advocates, and journalists should expand their work to understand how regional bodies of the EEU and the SCO function, to provide clear analysis of the real impact on the implementation of counter norms advanced by and through these bodies, and to resist the erosion of key institutions, forums, and agreements necessary to upholding and maintaining international human rights protections.

Alexander Sergunin

Changing Russia-EU relations and their impact on EU's human rights policy in the eastern neighbourhood

Given the current tensions between Brussels and Moscow it is difficult to expect that the EU and Russia will soon stop harsh polemics on human rights and turn to cooperation on the promotion of human rights in the EU's Eastern neighbourhood. However, the author believes that international human rights organizations could encourage Russia and EU to defend and promote human rights in the region by not only criticising the Russian and EaP countries' governments but also offering their expertise and mediation/good services in conflict situations.

A general overview of the EU-Russia relations in the sphere of human rights

The EU-Russia dialogue on issues of democracy, respect for human rights, fundamental freedoms and the rule of law is an essential element of EU-Russia relations. Brussels and Moscow agreed at the St. Petersburg 2003 summit to create a Common Space on Freedom, Security and Justice. A road map agreed in 2005 sets out the objectives and areas for cooperation in this sphere. Biannual meetings of the EU Troika (EU Presidency together with incoming Presidency, Council and Commission) with the Russian counterparts at ministerial level monitor the overall implementation of this Common Space.

Moreover, the Common Space on Research, Education and Culture aims to strengthening and enhancing the European identity on the basis of common values, including freedom of expression, democratic functioning of the media, respect for human rights, including the rights of persons belonging to minorities, and promotion of cultural and linguistic diversity as the basis of a vital civil society in Europe without dividing lines.

In 2005, regular, six-monthly EU-Russia human rights consultations were established. They have provided a substantial dialogue on human rights issues in Russia and the EU and on EU-Russian cooperation on human rights issues in international fora. The EU also maintains a regular dialogue with both Russian and international NGOs on human rights issues.

The EU's agenda in these consultations includes issues such as the human rights situation in Chechnya and the rest of the North Caucasus, including torture and ill-treatment; freedom of expression and assembly, including freedom of the media; the situation of civil society in Russia, notably in light of the laws on NGOs and extremist activities; the functioning of the judiciary, including independence issues; the observation of human rights standards by law enforcement officials; racism and xenophobia; and legislation relating to elections.¹ For its part, Moscow raises matters of concern to it on developments within the EU, including the abuse of adopted Russian children, Russian ethnic minority rights in the Baltic States, as well as human rights situation in some Eastern Partnership (EaP) countries (especially Ukraine)(Yakovenko 2014; Ministry of Foreign Affairs of the Russian Federation 2012).

Brussels tries to support the development of democracy, the protection of human rights and the development of a healthy civil society in Russia first and foremost through the European Instrument for Democracy and Human Rights (EIDHR). In the EIDHR framework the EU works with Russian and international NGOs and with partners like, the Council of Europe and UN bodies in fields such as: penal reform; improving the capacity of lawyers and law enforcement officials to apply the European Convention on Human Rights; combating human rights violations in the North Caucasus; human rights of conscripts in the armed forces; promoting children's rights; and promoting the rights of indigenous peoples.²

EU officials are involved in the observation of human rights-related trials and maintain a network of contacts with Russian human rights defenders. The EU also feels that it is appropriate to make public statements concerning the human rights situation in Russia, usually at times when matters of specific concern arise, sometimes with reference to the situation of individual human rights activists. The EU (European Commission and EU Delegation in Moscow) and those EU member states which have diplomatic missions in Russia confer regularly on human rights issues to discuss how the EU as a whole could promote respect for democracy, human rights and rule of law in Russia.

For its part, Moscow tries to support its compatriots and promote Russian understanding of democracy and human rights as well as its culture and values in the EU and EaP countries through its soft power instruments (Sergunin & Karabeshkin 2015). In 2007, the *Russkiy Mir* (Russian World) foundation was established by a presidential decree

1 European Union External Action. *EU relations with Russia*. Available at: http://eeas.europa.eu/russia/about/index_en.htm.

2 Delegation of the European Union to Russia. *Human Rights and Civil Society*. Available at: http://eeas.europa.eu/delegations/russia/eu_russia/fields_cooperation/human_rights/index_en.htm.

(although with NGO status). The Foundation's main function is to promote the Russian language, culture and education system abroad. For example, the *Russkiy Mir* nominates the best teachers and students of the Russian language and culture for the position of 'Professor of the *Russkiy Mir*' and 'Student of the *Russkiy Mir*'. It also has fellowship and internship programmes for foreign scholars and students to be hosted in Russia. The foundation organizes various conferences, competitions and olympiads on a regular basis (see for more on this the essays by Mikhail Suslov and by Andrey Demidov & Elena Belokurova in this volume).

In 2008, the *Rossotrudnichestvo*, Federal Agency for the CIS (Compatriots Abroad and International Humanitarian Cooperation) was established with nearly the same mission as *Russkiy Mir* but with governmental status under the Foreign Ministry. Today the agency has representative offices in almost all European countries, the United States, Canada and major Asian, African and Latin American states.

In addition to these two main institutions, a number of (often state-affiliated) NGOs, such as the Gorchakov Foundation for Public Diplomacy, the Andrei Pervozvanny Fund, the International Foundation for Working with Diasporas Abroad 'Rossiyane', the International Council of Russian Compatriots, the Library 'Russian-language Literature Abroad' and the International Association of Twin Cities partake in soft power activities.

The Russian higher education system has gradually built up its soft power potential. It is becoming internationalized *via* the introduction of the Bologna Process and has increased the state quota for foreign students to be trained in Russian universities. The frameworks for academic exchanges are diversifying. The state-funded 'slots' for study in Russian universities are distributed through Russian embassies, with 70-100 'slots' for each country annually.

It should be noted, however, that the EU-Russia dialogue on democracy and human rights has been slowed down over the recent years (even prior to the Ukrainian crisis) and at times nearly stopped. Brussels believes that since Vladimir Putin's second presidency (2004-2008) a clear trend toward authoritarianism can be identified and the human rights situation is deteriorating. Moscow disagrees with this observation saying that what the EU calls authoritarianism is in fact 'strengthening of power vertical', 'consolidation of the Russian society' and 'sovereign democracy'.³ The current – relatively stable – state of affairs in politics and society is represented by the Russian political class as an antipode of the anarchy, chaos and fragmentation of the 1990s. Moscow acknowledges the fact

3 This term once popular among the Russian political elites (in the 2000s) is no longer in use.

that the situation with human rights and rule of the law in the country is still far from ideal. For example, in March 2016 President Putin has mentioned that there were 3.2 million human rights violations in Russia in 2015.⁴ However, the Kremlin underlines that in a transitional society and political system things cannot be changed overnight; further democratic reforms are desirable and possible but they should not lead to destabilisation and disintegration of Russia (especially in the current critical situation).

The EU and Russia differ in their basic understanding of human rights' and democracy's meaning and roles in the present-day world (Deriglazova 2013). The EU views all human rights as universal, indivisible and interdependent. It actively promotes and defends them both within its borders and when engaging in relations with non-EU countries. The EU furthermore believes that democracy is the only political system which can fully realize all human rights.

Moscow in principle agrees with this political philosophy but objects to the absolutist, categorical, abstract and non-contextual interpretation of these principles. Particularly, Russian political, academic and religious elites underline that the European (and more generally Western) concepts of democracy and human rights are based on specific religious (Catholic and Protestant) and cultural (European and American) values and traditions which are not universal and for this reason are not fully accepted/shared by other nations, religions and civilizations.⁵ According to this school, the EU (the West) has neither legal nor moral rights to impose its understanding of democracy and human rights on other nations, including Russia. Russia is different from Europe in terms of its ethnic and religious composition, history, culture, values and traditions. According to the Russian mainstream political thinking, Russia should develop a model of democracy of its own, a model which should be based on Russian values and traditions, not the alien ones (Torkunov 2006). Russian politicians and academics draw the attention of their European opponents to the nation's negative historical experiences: almost all socio-economic and political 'experiments' done on the basis of Western models and principles either completely failed (including – most recently – the Marxist/communist project⁶) or had very negative consequences for the country (like the chaotic, ill-advised reforms of the Yeltsin era).

4 BBC (2016) *Putin Reports Large-Scale Violations of Rights and Freedoms of the Russians*, 23 March. Available at: http://www.bbc.com/russian/news/2016/03/160323_putin_human_rights_violations.

5 For example, see Blagovest-info (2006) *Conciliar hearing Human Rights and dignity of the individual*, 1 March. Available at: <http://www.blagovest-info.ru/index.php?ss=2&s=4&id=4803>.

6 The present-day Russian mainstream believes that Marxism was an alien (Western) ideology that has mutated on the Russian soil and degenerated into the Soviet totalitarianism.

As mainstream Russian political thinkers maintain, the 'time factor' is important as well. It took several hundred years for the European nations to develop their democracy model and human rights concept. In this historical context, it is unclear why the EU expects that in the post-Communist countries, democracy is built in just a couple of decades? Russian analysts point out that even not all EU newcomers were able to fulfil all democratic criteria set out by Brussels. There are numerous human rights violations in the Baltic States concerning the Russian ethnic minorities, Roma people rights in some Central and South-East EU countries, freedom of conscience (e.g., the Hungarian Constitution), freedom of press (Hungary, Poland), bans on some professions for certain categories of citizens (Poland and the Baltic States), etc.

According to Russian political thinkers, the EU exaggerates its unity regarding common values and democratic principles. In addition to the examples above, they point out the rise of nationalism, xenophobia, religious extremism, the failure of multiculturalism and tolerance concepts in many EU member-states (especially in the context of the ongoing migration crisis and repeated terrorist attacks). In fact, Brussels is unable to speak with one voice on behalf of Europe; there are many different voices and they are not in tune with each other. In this context, Russian analysts suggest, the EU standing in the field of democracy and human rights looks quite like window-dressing and too ambitious rather than solid and reality-based.

In contrast with the 1990s, Moscow does not want to accept a teacher-pupil type of relationship in its dialogue with the EU. Equally, it rejects the idea of setting benchmarks for Russia's progress in the human rights area which is being suggested by some EU politicians and international human rights NGOs. While in the spheres of economy, environment, research and education Russia tacitly acknowledges the EU as a normative power, in areas of democracy, human rights, culture and values Moscow does not recognise the EU's normative authority.

On the contrary, the Russian political class and many common Russian citizens believe that some of the so-called 'European values' are not only incompatible with Russian values but also undermine traditional moral, religious and family principles. They refuse to be tolerant to some provocative/extreme forms of the LGBT community's activities and propaganda, Pussy Riot's 'punk-mess' in the Christ the Saviour Cathedral or more recently to the 2015 Charlie Hebdo cartoons of the Prophet Muhammad and Russia's plane downed by ISIS terrorists in Egypt. This does not mean, they continue, that society's reaction to these phenomena should be violent but they should not be allowed or encouraged.

The dynamics of the EU-Russia relations

It was common place to ascertain that the progress in the EU-Russia relations was sort of “a success story” of the post-Cold War radical transformations in Europe. Despite the fact that the whole process was not exactly very smooth, the EU-Russia dialogue in various fields has been developing quite dynamically over the 1990s and 2000s. There was an obvious progress in many spheres of the EU-Russia bilateral relations. These included the Partnership for Modernization (PfM), energy, transportation, information technologies, telecommunications, environment protection, visa facilitation regime, reform of the Russian legal system, dialogue on the human rights *problématique*, education, research and culture. The EU has become Russia's largest trade partner and source of investment, while Moscow is one of the main energy suppliers to Europe. The two actors tried to coordinate both their global and regional strategies to make the world and their neighbourhood a safer place.

The situation has radically changed with the start of the Ukrainian crisis in early 2014. In response to Russia's reintegration of Crimea and support for the pro-Russian rebels in Donbass Brussels has introduced economic and political sanctions against Moscow. The Kremlin has reacted with counter-sanctions against the EU countries. These dramatic developments have seriously undermined the EU-Russian dialogue in many areas, including human rights. It seems now this sphere is perceived by both sides as a platform not for cooperation but for the psychological/ideological warfare in which nearly all methods are allowed.

The regular bilateral human rights consultations did not take place in the aftermath of the Ukrainian crisis. To compensate for the lack of direct talks with Russia on human rights, since September 2014 the EU started the practice of delivering demarches on issues of concern and handing over lists of individual cases. Contacts were stepped up, in Moscow and in Brussels, with Russian civil society organizations.

The EU Delegation in Russia and the EU member states continued their practice of trial monitoring and of visits to human rights NGOs across the country. The EU continued to give financial support to Russian civil society and the EU-Russia Civil Society Forum, in particular through the European Instrument for Democracy and Human Rights (€3 million) and the Civil Society and Local Authorities Programme (€1 million). An EU roadmap for engagement with civil society was adopted by EU Heads of Mission (European Commission 2014).

For its part, Moscow has intensified its propaganda campaign which aimed to, on the one hand, portraying Europe as a bearer of false/immoral/corrupted values and norms and, on the other, accusing the EU of interfering with Russia's domestic affairs under the flag of human rights protection (the vocabulary of the Cold War era). The Russian NGOs funded by the EU programmes or other international sponsors were increasingly targeted and forced to register as ‘foreign agents’ or even be closed (See more on Russia's use of media as propaganda tool, Suslov's essay in this volume).

Whether the resumption of a normal EU-Russia dialogue on human rights is possible in the foreseeable future or not remains to be seen. This, of course, depends on the general atmosphere of the EU-Russia relations and, particularly, on whether the bilateral sanctions will be lifted or not. It is interesting to know, however, that recent international crises, such as the Georgian-Russian military clash of 2008 and the ongoing Ukrainian crisis entailed not only the interruption of the EU-Russia direct dialogue on human rights but also the broadening of a geographic scope of the ideological ‘battlefield’. Now EU-Russia confrontation in this sphere covers the EU's whole eastern neighbourhood. Let's focus on this dimension of the EU-Russia debate on human rights in order to check which obstacles and opportunities exist in this sphere.

Russia's cold shoulder to the EU's Eastern Partnership

In the 1990s and early 2000s Moscow was absolutely positive about EU's regional and sub-regional initiatives and encouraged Russian border regions to participate in various trans- and cross-border collaborative projects. For example, since 2000 Moscow took an active part in the EU's Northern Dimension Initiative that involved Russian north-western regions in a quite intensive sub-regional cooperation with neighbouring countries.

However, when in 2002-2003 Poland (being still an EU candidate country) launched the Eastern Dimension initiative⁷ that was aimed primarily at engaging Belarus, Ukraine and Moldova and – only in the second place – the Russian exclave region of Kaliningrad in this project, Moscow's attitude to Brussels' regionalist projects in the near neighbourhood became more suspicious. Some of the Russian strategists tended to believe that such initiatives had a secret goal to undermine Russia's geopolitical positions in its traditional sphere of influence.

That was the reason why the EU's European Neighbourhood Policy of 2004 got ‘a cold shoulder’ from Moscow and why the latter refused to join the initiative claiming special

⁷ This initiative was never implemented but served as an inspiration for the EaP project.

status in its relations with Brussels. The same attitudes explain why Russia was quite suspicious about other EU regional/sub-regional projects such as the Black Sea Synergy (April 2007), Central Asian Strategy for New Partnership (June 2007), Arctic Strategy (November 2008) and Baltic Sea Strategy (June 2009).

Although the EaP, which was launched in May 2009, has not come as a surprise for Russia it was perceived by Moscow as another ('soft') security challenge in the post-Soviet space. Along with other sensitive issues in the EU-Russia relations, the EaP has become one more source of numerous misunderstandings between Brussels and Moscow. These misunderstandings revealed the fact that the two international players have fundamental differences as regards their visions of the future of the EaP countries and policy methods to be implemented in the region.

Moscow took notice of the fact that the issues of democracy and human rights were an important priority for the EaP. One of the four programme's thematic platforms was specifically devoted to democracy, good governance and stability. It was also planned from the very beginning that the EaP implementation is to be facilitated by an active participation of the non-governmental sector. This led to the creation of the Eastern Partnership Civil Society Forum, which brings together civil society representatives from countries participating in the EaP, including those of the EU. The first forum meeting was held in November 2009 in Brussels. Since then the forum's meetings are being held on a regular basis. To support NGOs financially a Civil Society Facility was established.

The Russian concerns about the EaP can be explained by a number of factors. First of all, from the very beginning Russian politicians and experts believed that the EaP's 'hidden agenda' aims at undermining Russia's geopolitical dominance in Eastern Europe and the South Caucasus (Tarasov 2009). In this sense, the EaP was seen by Moscow as the EU's attempt to withdraw six post-Soviet states from Russia's sphere of influence and establish a sort of protectorate on them. Moreover, the EaP might potentially undermine Moscow's own integrationist projects (Commonwealth of Independent States (CIS), Customs Union, Eurasian Economic Union, Belarus-Russia Union State, *et cetera*) (Zhiltsov 2009).

Second, many Russian experts believed that the EU's main interest in the case of the EaP is building alternative gas and oil pipelines bypassing Russia (such as Nabucco or White Stream). Georgia and Ukraine were considered important transit countries while Azerbaijan can serve both as a source of and transit point for energy supplies. Russian specialists, however, doubted that these plans were realistic and believed that any new energy transport schemes without Russia's participation were doomed to failure.

Third of all, again, from the very beginning there were numerous doubts in the Russian policy making and expert community about the feasibility of democratic reforms by the EaP participants: some of the partner countries (e.g. Belarus under Alexander Lukashenko, Azerbaijan under Il'ham Aliyev, Ukraine – first under Viktor Yanukovich and later under Petro Poroshenko – and Georgia under Mikhail Saakashvili) were/are led by authoritarian or kleptocratic regimes that were/are reluctant to implement any serious democratic reforms and just imitated such reforms.

The Russian diplomats and mass media accuse both the EU and international human rights organizations of double standard human rights policies in the case of the EaP countries. The pro-Russian regimes in Armenia, Belarus and Ukraine (under Yanukovich) are portrayed in the EU official documents and international human rights NGOs' reports as slow in reforms or even undemocratic, authoritarian and corrupted ones (Freedom House 2013; European Commission 2014: 113, 116-117).

At the same time, pro-Western regimes in Georgia, Moldova and Ukraine (under Poroshenko) are characterized as making progress in democratic reforms, good governance and human rights protection (European Commission 2014: 118-125). For example on 17 December 2014 the European Parliament adopted a resolution on the occasion of the ratification by the European Parliament of the EU-Georgia Association Agreement. The resolution highlights Georgia's significant progress in reforms and in strengthening relations with the EU. The resolution recognizes the efforts by the Georgian authorities in the area of democratic reforms, including measures to tackle the reform of the judiciary, and the need to investigate properly and fully all allegations of violations of human rights; the resolution stresses, however, that all prosecutions should be transparent, proportionate and free from political motivation, and should adhere strictly to due process (European Commission 2014: 119).

Despite the vast evidence of torture and killings of regime opponents, prosecution of political opposition, murdering journalists, and the closure of opposition TV channels, radio stations, newspapers and journals, *et cetera* in Georgia (under Saakashvili) and in Ukraine (under the current regime) the EU continues to ignore or stay silent on, these facts. It is remarkable that the EU Annual Report on Human Rights and Democracy in the World in 2014 has only mentioned *in passim* the Odessa tragedy of 2 May 2014 when 48 innocent people were burned down or beaten to death and more than 200 were injured by the Ukrainian nationalists, while human rights violations by the Yanukovich regime and the alleged persecution and intimidation of the Crimean Tatars by the Russian authorities were described at length.

Only recently international NGOs, such as Amnesty International and Human Rights Watch, acknowledged the fact that the Ukrainian security services are practicing kidnapping, abuse and torture in their fight against the rebels in Donbass (Kramer 2016). In contrast with the EU official documents, international NGOs note numerous human rights violations related to prisoners of conscience, freedom of expression and media, torture and other ill-treatment practices, LGBT rights, *et cetera* as well as the lack of effective measures to curb corruption and reform the law enforcement system in the present-day Ukraine (Amnesty International 2016: 378-380; HRW 2016a: 567-602 and 2016b; Freedom House 2016).

For its part the EU condemns Moscow for violation of the rights of Tatar activists in Crimea as well as for its support of the rebels in Donbass, of undemocratic regimes in Armenia, Azerbaijan, and Belarus, and of the separatist republics of Abkhazia, South Ossetia, Nagorny Karabakh and Transnistria.

What should be done?

Given the current situation it is difficult to expect that the EU and Russia will soon stop these harsh polemics and turn to cooperation on the promotion of human rights in the EU's eastern neighbourhood. Having in mind that the EaP is only an element (and not the most important one) of the EU-Russian relations, first, the major barriers to bilateral cooperation should be removed. Among these barriers, the bilateral sanctions, the lack of mutual trust, the lack of a proper legal basis for the bilateral relations (no new strategic partnership agreement to date), and the lack of substantial progress in implementing the EU-Russia Common Spaces concept should be mentioned. Without doing this, the EU-Russia cooperation on human rights (including in the EaP region) will be sluggish or limited.

But – looking at the bright side – even in the current situation some opportunities for human rights community (including HR organizations) to promote a more intense cooperation between the EU and Russia are available:

- I. First and foremost HR community could help the EU, Russia and EaP partner countries to shift their mental paradigms and start their dialogue with finding common points that unite rather than divide them.
- II. Particularly, HR advocates could explain Brussels and Moscow that they should avoid seeing the human rights area as a battlefield and instrument for putting pressure on each other and come back to the vision of this sphere as a platform for cooperation rather than confrontation.

- III. Moreover, both sides should be more transparent and self-critical with regard to their domestic human rights situations to demonstrate their good will and open-minded approach to the subject.
- IV. International HR organizations should push the EU and Russia to be more balanced in their coverage of the human rights situation in the EaP countries. Facts – either positive or negative – should not be ignored. Individual cases should be first double-checked before they are publicized to avoid mistakes or misinterpretation.
- V. HR community should take into account that while Russia remains hostile to the economic/trade aspects of the EaP seeing association agreements and creation of free trade areas between some EaP countries (Georgia, Moldova and Ukraine) and the EU as detrimental to its interests, it does not exclude some limited dialogue on human rights *problématique* both with the EU and EaP countries. The three stakeholders (with the help of reputed international human rights NGOs) should think about specific venues and platforms for cooperative initiatives.
- VI. For example, most of the EaP multilateral platforms, including those on democracy, good governance and stability as well as on the promotion of contacts between people, and flagship initiatives (e.g., the border management programme and good environmental governance) could be linked to similar EU-Russian programmes (via joint training, seminars, exchanges, research projects, *et cetera*). The EU could use for this purpose its instruments, such as EIDHR, Horizon-2020 and Erasmus Mundus.
- VII. HR advocates could encourage the EU and Russia to change focus from national to sub-national level: Brussels and Moscow can encourage the border regions and municipalities of the EaP partner countries and Russia to cooperate. The experiences of the Euroregions and city-twinning in Europe which are based on network-type/horizontal links could be helpful.
- VIII. International human rights organizations, such as Amnesty International, Freedom House, and Human Rights Watch, could be helpful in encouraging Russia and the EU to defend and promote human rights in the region. They can do that by not only criticizing the Russian and EaP countries' governments but also by offering their expertise and mediation/'good' services in conflict situations. These could be: sharing with the above governments and local NGOs data on human rights violations; explaining to them the methodology and indicators used for observing the human rights situation (possibly even developing joint methodology and indicator systems); organizing trainings, workshops and seminars for governmental officials and NGO activists (not only from the political

opposition but for all parties involved or potentially involved/interested); networking between local/national and international NGOs; mediating conflicts between local NGOs and the government and between NGOs themselves; reviving existing multilateral institutions, such as the Eastern Partnership Civil Society Forum and EU-Russia civil society forum with the aim to make them more active in defending and promoting human rights in the region.

Bill Bowring¹

Does Russia have a human rights future in the Council of Europe and OSCE?

This essay argues that despite the Russian regime's clampdown on civil society and apparent desire to defy the judgements of the European Court of Human Rights, there are grounds for optimism. During nearly twenty years of engagement with the Court, a new generation of activists has emerged, which is also conscious of the turbulent history of reform in Russia. For them, as for their counterparts in the West, the fight for human rights is unrelenting.

Introduction

It is now considered by many commentators and perhaps by the general public that Russia has abandoned the human rights orientation which began in the last years of the USSR with Mikhail Gorbachev and perestroika, and which crystallized under Boris Yeltsin with accession to the Council of Europe in 1996 and ratification of the European Convention on Human Rights in 1998. In this essay I seek to show that the reality is more complicated. In order to properly examine the issues which are the subject matter of this essay, it is necessary to have in mind, at least in overview, the historical processes which have led to the creation, in 1991, of the present-day Russian Federation.

Historical and social complexity

Although the Russian Federation is much smaller than the Union of Soviet Socialist Republics (USSR), which collapsed in 1991, it is still the largest state by territory on the planet, with 85 federal subjects including 21 ethnic republics, and an extraordinary ethnic, linguistic and religious diversity. The largest minority, the Tatars, 5.5 million strong, speak a Turkic language, and other minorities, at least 150 of them, speak not only Turkic languages but languages related to Finnish and Hungarian, Finno-Ugric languages, Inuit, Mongolian, and others. A law of 1997 specifies that Russia has four traditional religions, Orthodox Christianity (imported from Byzantium), Islam, Judaism, and Buddhism. There

¹ New developments concerning Russia and the ECtHR are discussed in Bowring, B. (2017 forthcoming) 'Russia and the European Court of Human Rights: Case Law, Compliance and Socialization Effects' in: L. Mälksoo & W. Benedek (eds) *Russia and the European Court of Human Rights: the Strasbourg Effect*, Cambridge: Cambridge University Press.

are more than 2 million Muslims in Moscow, which has a population of 12.5 million. The Russian state has organized Muslims since the 18th century (Crews 2006). The Kremlin regime, which justifies Russia's 2014 annexation of Crimea by reference to the "right of the 'people of Crimea' to self-determination", is alarmed by the possibility of a further break-up of the Federation or at the very least of separatist tendencies. This 'paranoia' is an important factor in the current repression of foreign-funded NGOs, to which I turn below.

Rights in Russia

Some Russian ideologues seek to present Russia as a civilization distinct from the individualistic West, based on collective and Christian values. Indeed, Russia's territory straddles two continents, both Europe and Asia. But since the 16th century Russia has had close ties with Western Europe in terms of reform.

During the time of Catherine II, Semeon Desnitsky, the founder of law as an academic discipline in Russia, studied for his Doctorate in Civil Law at Glasgow University from 1761 to 1767. He wrote the first legal textbooks in Russian drawing from the lectures of Adam Smith on constitutional law, which he attended, and proposed law reform including a constitutional monarchy, jury trial and the abolition of serfdom (Bowring 2013a).

Following Russia's defeat in the Crimean War, Tsar Alexander II abolished serfdom in 1861, and, in his Great Legal Reforms of 1864, fulfilled Desnitsky's mission by instituting trial by jury in the Empire, new Justices of the Peace (based on the English model), a much reduced role for the procuracy, an independent judiciary, and the first Russian Bar, a profession of independent qualified advocates (Bowring 2013b). The Bar continued its independence, under great pressure, in the USSR. The other reforms, abolished following 1917, have been restored to a greater or lesser extent since 1991. I have argued elsewhere that the incorporation of the ECHR into Russian law is not a 'legal transplantation', but a restoration of 19th century reforms. This is one of the reasons for my guarded optimism.

The CSCE/OSCE and its role in the collapse of the USSR

Dov Lynch (2009:5), in 2009 Senior Adviser to the OSCE Secretary General, summarized the origins of the OSCE thus, attributing a key role to Russia:

"The first glimmer of what would later become the Conference on Security and Co-operation in Europe (CSCE) was evoked in the Soviet call in 1954 for an all-European conference. [...] This proposal led eventually to the negotiations on the 1975 Helsinki Final Act where Soviet diplomacy played a leading role. Fifteen years later,

'new thinking' in Soviet foreign policy helped create the context for agreement on the 1990 Charter of Paris for a New Europe. [...] [T]he Charter set a framework of shared values and common purpose across a wider Europe that lasted well into the 1990s."

Russia is still a member and full participant in the 57 member state OSCE and its institutions, for example the Office on Democratic Institutions and Human Rights (ODIHR), based in Warsaw, and the High Commissioner on National Minorities (HCNM), based in The Hague. I have worked in Russia for both these institutions since 1991, including missions in Russia with the HCNM in 2000 and 2010, when the High Commissioner studied the situation of the Ukrainian minority in Russia (second largest after the Tatars) and the Russian minority in Ukraine.

The USSR wanted recognition for the GDR (East Germany) and settlement of post-WW II borders; the West wanted recognition of a wide range of human and minority rights, to which the USSR agreed. Failure to implement these commitments provided legitimacy for the human rights dissidents led by Andrei Sakharov, and, in my view, hastened the process of the rotting away of 'Marxist-Leninist' ideology, laying the basis for its final abandonment by Mikhail Gorbachev from 1986, and its replacement by the concepts of the 'rule of law state', the 'Common European Home', and the supremacy of human rights (Bowring 1995).

Nevertheless, post-Soviet Russia has expressed increasingly forceful criticisms of the OSCE, in particular justified criticism that OSCE monitoring is focused almost exclusively on eastern rather than western member states. At the 2007 Munich Conference on Security Policy, Vladimir Putin stated:

"They [the West] are trying to transform the OSCE into a vulgar instrument designed to promote the foreign policy interests of one or a group of countries. [...] Decision-making procedures and the involvement of so-called non-governmental organizations are tailored for this task. These organizations are formally independent but they are purposefully financed and therefore under control (Kolesnikov 2007)."

Nevertheless, OSCE monitors remain actively engaged in closely monitoring events in the conflict between pro-Russian separatists and Ukrainian government forces in the Donbas, Eastern Ukraine, and have even been criticized by Ukrainian nationalists for being too friendly with the rebels.

Russia's engagement in OSCE processes and mechanisms remains at a high level, and in my view it is unlikely that Russia will leave the OSCE any time soon. For example,

during the German OSCE chairmanship in 2016, a leading Russian pro-regime public figure, Vladislav Grib, was appointed in June 2016 on Russia's nomination as Personal Representative of the OSCE Chairperson-in-Office on Combating Racism, Xenophobia and Discrimination, also Focusing on Intolerance and Discrimination against Christians and Members of Other Religions.²

The Council of Europe

The Council of Europe (CoE) was founded in May 1949, long before the CSCE/OSCE. But whereas the CSCE was the product of 'détente' between East and West, the CoE was a Cold War institution, in the words of leading Western scholars, an ideological counterpart to NATO (Brownlie and Goodwin-Gill 2006: 609).

Its eight founding states were all Western European states. Its 'three pillars' were and are the rule of law, multi-party democracy, and the protection of individual human rights. The USSR and its allies, on the contrary, gave constitutional priority to social and economic rights, especially the rights to work, to pensions and social security, to health and to education. To an extent, they delivered on the constitutional promises. The twin pillars of Soviet international law doctrine were state sovereignty and non-interference in internal affairs.

So the Western allies wanted to show their real commitment to individual rights and civil liberties, and did so by adopting the European Convention on Human Rights (ECHR, modelled on the 18th century French and American declarations of rights), and creating the first human rights court in the world, with the power to interfere in the internal affairs of its members and to deliver binding, obligatory judgements: the European Court of Human Rights in Strasbourg (the Strasbourg Court).

With the exception of the Central Asian states and Belarus, all the states of the Warsaw Pact, all the components of the former Yugoslavia, and all the Union Republics of the USSR have now joined the CoE, and have ratified the ECHR, accepting the compulsory jurisdiction of the Strasbourg Court. The CoE now comprises 47 member states and over 850 million people, from Iceland to the Bering Straits.

² This is typical OSCE wording, see OSCE. *Prof. Dr. Vladislav Grib*. Available at: <http://www.osce.org/node/223936>.

Russia's accession in 1996 was highly controversial both in Russia, where it meant a significant loss of sovereignty and an acceptance of outside interference, and in the West, given that the First Chechen War (1994-1996) was raging within Russia (Bowring 1997; Bowring 2013c). Russian arguments in favour of joining included the desire to make use of CoE mechanisms to protect the rights of the 25 million ethnic Russians who found themselves outside Russia after the collapse of the USSR, especially those in the Baltic states and Ukraine. I myself have represented ethnic Russian and Russian-speaking applicants in cases against Latvia and Estonia. In my view it has been of the greatest importance that ethnic Russians and Russian speakers in EU member states seek redress in Brussels and Strasbourg rather than Moscow.

Russia has also ratified the CoE's Framework Convention for the Protection of National Minorities (FCNM), the European Convention for the Prevention of Torture (CPT), and many other CoE treaties. Russia is pretty good at formal compliance with treaty obligations, as was the USSR, which ratified most of the pre-1991 UN human rights instruments, and even ratified the First Optional Protocol to the ICCPR, with the right to complain to the UN Human Rights Committee shortly before its collapse in 1991. Indeed, Russia has an impressive record of engagement with the FCNM and CPT.

According to Russia's 1993 Constitution (Article 15(4)), adopted after Boris Yeltsin's forcible suppression of the former Supreme Soviet (Parliament), international law takes precedence over Russian domestic law. This principle has been explained and emphasized by the Supreme Court of the Russian Federation in two authoritative Resolutions, in 2003³ on international law, and in 2013 specifically on the ECHR.⁴ Russia now has its third judge at Strasbourg, Dmitry Dedov; his predecessor, Anatoly Kovler, was, in my view, one of the best judges at Strasbourg, very independent, usually voting against Russia, and is now a member of the CoE's authoritative Venice Commission.⁵

³ In English on the website of the Supreme Court of the Russian Federation (2003) *Ruling of the plenary session of the Supreme Court of the Russian Federation no. 5*, October 10. Available at: <http://www.supcourt.ru/catalog.php?c1=English&c2=Documents&c3=&id=6801>.

⁴ In English on the website of the Supreme Court of the Russian Federation (2013) *Ruling of the plenary session of the Supreme Court of the Russian Federation no. 21*, June 27. Available at: <http://www.supcourt.ru/catalog.php?c1=English&c2=Documents&c3=&id=9155>.

⁵ The European Commission for Democracy through Law - better known as the Venice Commission as it meets in Venice - is the Council of Europe's advisory body on constitutional matters, see Council of Europe. *Venice Commission*. Available at: http://www.venice.coe.int/WebForms/pages/?p=01_Presentation&lang=EN.

Since ratification of the ECHR in 1998, more than a thousand cases have been decided against Russia. In many of them the applicants have been assisted by the European Human Rights Advocacy Centre (EHRAC) which I founded in 2003 in partnership with the Russian non-governmental organization Memorial; I represented the applicants in the first six Chechen cases against Russia, and the first environmental case, in 2005.

As at the start of 2016, 10,677 applications were pending against Russia, of which 5,644 were pending before a Chamber of seven judges. To put these figures in perspective, in 2015 the Court dealt with 6,713 applications concerning Russia, of which 6,553 were declared inadmissible or struck out. It delivered 116 judgements (concerning 160 applications), 109 of which found at least one violation of the ECHR. From 1998 to 2015 there were 1,612 judgements finding at least one violation by Russia. Per head of population, Russia is by no means the leader when it comes to successful complaints to Strasbourg: on the same measure, Italy, Poland, Romania and Turkey are ahead. Russia pays some € 32 million this year to the CoE's budget, and there are 62 highly qualified Russian lawyers in the Court's 679 strong registry, reflecting the large number of cases against Russia (see Council of Europe 2016).

In almost every case Russia has paid the compensation (which is termed "just satisfaction" in the ECHR) ordered by the Court. In 2016 the Parliamentary Assembly of the Council of Europe, assisted by the Human Rights Centre at the University of Essex, published a report on the impact of the ECHR in various countries (PACE 2016). The Report identified a number of instances of positive impact.

- I. As a result of a pilot judgement (*Burdov v Russia*) in 2009 over non-enforcement of a domestic court judgement in favour of the applicant, Russia enacted a Federal Compensation Act, as well as a Federal Law to guarantee the effectiveness of the new remedy.
- II. In 2005 the Supreme Court of the Russian Federation followed up the CoM's 2004 Declaration and extended journalists' freedom of expression to criticism of public officials: public officials must accept that they will be subject to public scrutiny and criticism. In 2008 the Court closed a number of applications in view of this change.
- III. Following *Mikheyev v. Russia* (2006) and other, similar, judgements, on account of torture or inhuman and degrading treatment inflicted on persons held in police custody, and a lack of effective investigations into such acts, special investigation units were created within the Investigative Committee, and tasked with investigating particularly complex crimes by police and other law enforcement bodies.

IV. There has been progress in the implementation of the Court's 2012 pilot judgement in *Ananyev and Others v. Russia* concerning inhuman and degrading conditions in Russian remand centres and the lack of an effective remedy. Russia presented and has been implementing an action plan as a result, monitored by the CoM.

V. A number of measures have been taken to remedy numerous violations of the right to liberty, guaranteed by Article 5 of the Convention, owing to unlawful and lengthy unreasoned (or poorly reasoned) detention on remand. Legislative changes were made between 2008 and 2011. Both the Constitutional Court and the Supreme Court have emphasized that a suspect or accused may be detained only on the basis of a valid judicial decision. This was most recently monitored by the CoM in 2015.

I have observed over the years in my own practice at the Strasbourg Court that the Russian representation and its conduct of cases against it has become more professional and competent, and as a consequence the Russian government is winning more cases brought against it. It is in the interests of all concerned, including applicants and judges, that Russia continues to take the Court seriously. In two high-profile cases, *Yukos v Russia*⁶ (concerning the expropriation of the Yukos oil company) and *Georgia v Russia No.2*⁷ (concerning the 2008 '5 day war'), Russia was represented by a British Queens Counsel (senior barrister). The same British barrister has been representing Russia in August 2016 in two weeks of fact finding hearings in Strasbourg on the latter case. These are all indications that nearly 20 years after ratification of the ECHR Russia is unlikely to leave.

I am an optimist for another reason. I have for the last eleven years served as one of the more than a hundred judges for the Russian round of the Jessup International Law Moot Court Competition, with teams of students from at least 45 Russian law schools, from Kaliningrad to Vladivostok. The Competition has just celebrated its 15th year in Russia. In 2014 the fictional case concerned annexation of territory, and it was wonderful to see the Russian students arguing both sides, using arguments for and against the legality of Russia's actions in Crimea.

6 European Court of Human Rights (ECHR) (2011) *OAO Neftyanaya Kompaniya Yukos v. Russia*, Ruling of 20 September, 2011 (final judgement), application no. 14902/04. Available at: <http://hudoc.echr.coe.int/app/conversion/pdf?library=ECHR&id=001-145730&filename=001-145730.pdf>.

7 European Court of Human Rights (ECHR) (2011) *Georgia v. Russia*, Grand chamber hearing on 22 September 2011. Application no. 38263/08. Available at: http://www.echr.coe.int/Pages/home.aspx?p=hearings&w=3826308_22092011&language=en&c=&py=2011.

Judgements of the Constitutional Court of the Russian Federation frequently refer to and follow the jurisprudence of the Strasbourg Court, and law textbooks and legal monographs are full of references. In my view the impact in Russian law of Russia's engagement with the European system for the protection of human rights is irreversible, even if Russia were to leave the CoE. The United Kingdom is more likely to leave at the present moment.

Several steps backwards?

The Foreign Agents Law

A very serious development of recent years has been the ongoing persecution of Russian NGOs (Non-Governmental Organizations), which started in July 2012, when the governing United Russia party introduced a draft law which requires non-profit organizations that receive foreign donations and engage in 'political activity' to register as 'foreign agents'. This is the *Foreign Agents Law*.⁸ In my view the reason for this legislation and ongoing persecution and prosecution of NGOs is the fear of the regime that mass protests such as those which took place in 2012 against election fraud, and in March 2015 following the murder of Boris Nemtsov, were stirred up by NGOs funded by the United States, European Union and other donors, with a view to bringing down the regime. The regime is also increasingly angry at the success of foreign-funded NGOs in taking cases to Strasbourg (for example my own EHRAC cases mentioned above), and campaigning on issues of electoral fraud, corruption, and environmental destruction. The law was strongly criticized by the Venice Commission (Venice Commission 2014).

As a follow-up to this law, on May 23, 2015, President Putin signed the *Undesirable Organizations Law*.⁹ The law bans non-governmental organizations that it deems undesirable as a "threat to the constitutional order and defence capability, or the security of the Russian state". NGOs that do not disband when given notice to do so are now subject to high fines and significant imprisonment.

According to a July 2015 report by the CoE's Commissioner for Human Rights, Nils Muižnieks (Commissioner for Human Rights 2015), by 29 June 2015 the list of 'foreign agents' included at least seventy NGOs. Of those, only five organizations voluntarily agreed to designate themselves 'foreign agents'. At least twenty NGOs have ceased their activity either in full or in part, including through 'self-liquidation'. The litigation NGO which I

8 Rossiiskaya Gazeta (2012) *Federal Law of July 20, 2012 N 121 –FZ*, 23 July. Available at: <https://rg.ru/2012/07/23/nko-dok.html>.

9 The state system of legal information (2012) *Federal law from 5/23/2015 number 129 –FZ*, 23 May. Available at: <http://publication.pravo.gov.ru/Document/View/0001201505230001>.

founded in 2003, the EHRAC is now representing some sixteen campaigning NGOs in a complaint to the European Court of Human Rights.

The Commissioner registered particular concern as follows:

“The imposition of the label of ‘foreign agent’ on NGOs¹⁰ and the enforcement of disproportionate sanctions are increasingly perceived by the affected organizations as a defamation campaign against those who express disagreement or criticism of the policies pursued by the authorities. The Commissioner’s growing concern is that human rights defenders, including his Office’s long-standing partners in the country, appear to be particular targets of these measures.” (Commissioner for Human Rights 2015, para.70, p. 24)

The Commissioner carries out regular monitoring of human rights issues in Russia, and without the assistance of independent human rights NGOs, his work would be much more difficult.

Most recently, on 2 June 2015, President Putin signed a law on further amendments to the law on NGOs, defining 'political activity' for the purpose of designation as a 'foreign agent', so that practically any NGO activity will be classified as 'political'.¹¹

The Constitutional Court and ECHR judgements

Consternation has been expressed at the judgement of the Constitutional Court of the Russian Federation (CCRF) of 19 April 2016¹², that implementation of the 2013 *Anchugov & Gladkov v. Russia*¹³ judgement of the ECHR (on prisoners' voting rights), is "impossible", because it is contrary to the 1993 Russian Constitution. Article 32(3) of the Constitution prohibits "citizens detained in a detention facility pursuant to a sentence imposed by a court" to vote or to stand for election. The April 19 judgement was the CCRF's first since Amendments to the Law on the CCRF, enacted in December 2015. The Amendments followed the 14 July 2015 judgement of the CCRF, No 21-P,¹⁴ which proposed a mechanism

10 Meaning NGOs – this is the Russian description.

11 Rossiiskaya Gazeta (2016) *Federal Law of June 2, 2016 N 179-FZ*, 2 June. Available at: <https://rg.ru/2016/06/06/obiedinenia-dok.html>.

12 Rossiiskaya Gazeta (2016) *Decision of the Constitutional Court from April 19, 2016 N 12-P*, 19 April. Available at: <https://rg.ru/2016/05/05/sud-dok.html>.

13 European Court of Human Rights (ECHR) (2013) *Anchugov and Gladkov v. Russia*, Ruling of 4 July, 2013 (final judgement), application no. 11157/04 and 15162/05. Available at: [http://hudoc.echr.coe.int/eng#{"fulltext":\["11157/04"\],"documentcollectionid2":\["GRANDCHAMBER","CHAMBER"\],"itemid":\["001-122260"\]}](http://hudoc.echr.coe.int/eng#{).

14 Rossiiskaya Gazeta (2015) *Decision of the Constitutional Court on July 14, 2015 N 21-P of St. Petersburg*, 14 July. Available at: <https://rg.ru/2015/07/27/ks-dok.html>.

for determining whether it is ‘impossible’ to implement a Strasbourg judgement. The word ‘impossible’ is not defined in the judgements or in the amended Law (see Nuzov 2016).

There were *amicus curiae* briefs before the CCRF arguing that the problem could be resolved by interpreting the Constitution, rather than seeking to amend it, which the CCRF cannot do. The CCRF, with three powerful dissents, disagreed, and held that in 1998, when Russia ratified the ECHR, there was no case law under Article 3 of Protocol 1 (right to democratic elections) prohibiting a ‘blanket ban’ on prisoners’ voting. Otherwise ratification would have contradicted the Constitution. However, the CCRF suggested that by an amendment to the criminal law persons detained in Russian ‘open prison’ correctional colonies could be re-classified so that they do not fall within Article 32(2) of the Constitution. If this is done, Russia will in effect implement the ECHR’s judgement. The CCRF emphasized the priority of international law, especially the ECHR, over Russian domestic law, while insisting that it is the final judge in issues concerning the Constitution.

I agree with the CoE Secretary-General, Thorbjørn Jagland (Jagland 2016), that the “... judgment of the Constitutional Court suggests that there is a way to resolve the issue through a change of legislation which would alleviate the existing restrictions on the right to vote”.

In this way Russia may, if it chooses, avoid repeating the collision between the CoE and the UK over prisoners’ voting rights after the 2005 judgement in *Hirst v. United Kingdom*¹⁵ which the UK has simply refused, for political reasons, to implement. Or that of Bosnia and Herzegovina after the 2009 judgement in *Sejdić and Finci v. Bosnia and Herzegovina*¹⁶ (discrimination against Jews and Roma in presidential elections), implementation of which would mean undoing the Dayton Agreements. It is of course the case that it is unwise to make predictions as to future developments in Russia, and experts have time and again been proved wrong. But it is my own estimation that Russia will choose pragmatism over petulance. Russia has benefited from its membership of the CoE, and its principles are now deeply embedded in the Russian legal system.

15 European Court of Human Rights (ECHR) (2005) *Hirst v. the United Kingdom*, Ruling of 6 October, 2005 (judgement), application no. 74025/01. Available at: [http://hudoc.echr.coe.int/eng#{"fulltext":\["74025/01"\], "documentcollectionid2":\["GRANDCHAMBER", "CHAMBER"\], "itemid":\["001-70442"\]}](http://hudoc.echr.coe.int/eng#{).

16 European Court of Human Rights (ECHR) (2009) *Sejdić and Finci v. Bosnia and Herzegovina*, Ruling of 22 December, 2009 (judgement), application no. 27996/06 and 34836/06. Available at: [http://hudoc.echr.coe.int/eng#{"fulltext":\["27996/06"\], "documentcollectionid2":\["GRANDCHAMBER", "CHAMBER"\], "itemid":\["001-96491"\]}](http://hudoc.echr.coe.int/eng#{).

Conclusion

On 25 March 2013 the offices of Amnesty International in Moscow were raided by Russian prosecutors as part of a sweep of more than 41 NGOs. Amnesty said that these searches “reinforce the menacing atmosphere for civil society” (Elk 2013). Nevertheless, Amnesty International’s representative office in Moscow continues to campaign outspokenly, as do Memorial, Agora and many other civil society organizations. As already noted, the future of the Russian Federation is completely unpredictable. President Putin’s high popularity ratings in opinion polls almost certainly reflect the fears of the population as to what might come after him, including the possibility of further disintegration of the Federation. Russia has already been at war with one CoE member, Georgia, and is presently at war with another, Ukraine. NATO is preparing for possible Russian aggression against the Baltic States. Nevertheless, civil society has since 1991 put down deep roots in Russia, and membership of the CoE has transformed Russian law and legal education. On 21-22 November 2015, I participated in the III All-Russian Civic Forum in Moscow, sponsored by the former Minister of Finance Alexei Kudrin, at which more than 1,200 civil society activists and academics from all over Russia spent two days discussing Russia’s predicament and the future of human rights activism, including a workshop conducted by Agora on how best to work round and through the *Foreign Agents Law*.¹⁷ The task for supporters of Amnesty International will be to publicize and support in as many ways as possible the activities of the many courageous human rights defenders in Russia.

17 The program is at Civil Forum (2015) *Program of All-Russian Civic Forum – 2015*. Available at: <https://civil-forum.ru/forums/2015/programm/>.

Mikhail Suslov

**Framing and foreign policy:
Russian media control and human rights**

In this chapter we will see how official foreign policy discourses in Russia make sense and use of human rights issues in international relations. It will discuss the role and influence of propaganda and media control on Russia's past, present and future foreign policy in relation to human rights. It also explains the gap between Russia's adherence to human rights principles in legislation and its criticism of human rights in practical political discourses, identifying three narrative strategies.

Introduction

It would be a gross oversimplification to say that the Russian political elite and legal system are inimical to the idea of human rights. The skeletal structure of Russia's legislative system formed in the 1990s is based on Article 2 of the Constitution (1993) saying that "Man, his rights and freedoms are the supreme value. The recognition, observance and protection of the rights and freedoms of man and citizen shall be the obligation of the State." Likewise, all Concepts of the Russian Foreign Policy (Ministry of Foreign Affairs of the Russian Federation 2000a, 2008 and 2013) stipulate that Russia adheres to "universal democratic values [...] including human rights and freedoms" (Ministry of Foreign Affairs of the Russian Federation 2013). However, the discrepancy between the constitutional norms and Russia's foreign policy discourses has always been gaping. After the Second World War the rhetoric of human rights was instrumentalized for the purposes of complying with the Soviet Union's status as a key member of the United Nations and its Security Council.

Nevertheless, the leaders of the country saw human rights as tools for achieving (geo) political goals rather than as ends in themselves. Today's Russian leadership is also far from the wholehearted adherence to the human rights agenda because, if Russia's political identity in the Soviet times was largely shaped by constructing the temporal opposition with the pre-revolutionary period, today's Russia's identity is being made in opposition to the (imaginary) West. The geopolitical logic of self-perception as an alternative to the West demands that Russia's political elite inevitably tries to attack and revise the core of Western 'soft power' – the human rights doctrine. This is in spite of the obvious benefits

of embracing human rights for the Russians, wanting to enjoy the same standard of life, security, and respect for human dignity as their Western peers.

Propagandistic infrastructure

In the post-Soviet period, in spite of the law on the mass media of 1991 which granted freedom and pluralism of media outlets and the prohibition of an official state ideology in the Constitution of 1993, the formation of the “state-controlled media system in the commercial media environment” (Zassoursky 2004: 21) has been gathering momentum since the early 2000s. By many accounts it reached an acme after the annexation of Crimea. One of the reasons is that the media landscape has changed considerably in the last 25 years, featuring a significant drop in the print-runs of newspapers and magazines, whereas television remained the main and the most credible source of information for the vast majority of the Russians up to date.¹ So the leadership focuses its propagandistic efforts on the nationwide TV channels. Vladimir Putin started his first presidential term with a decisive crackdown on the oppositional TV channel NTV. NTV’s coverage of the first Chechen War (1994-96) successfully raised the audience’s awareness of the atrocities of the military confrontation. An orientation on human rights was central for the channel’s take on the conflict. By the end of the 1990s, popular disappointment in democratic reforms coupled with the widespread sense of insecurity, heightened after a series of bombings of the multistory houses in the autumn 1999, produced a general demand for a ‘strong hand’.² Against this background NTV’s commentators raising the human rights problems were no longer able to compete with populist, right-wing and war-mongering TV anchors on other channels. Soon NTV fell prey to the rivaling media moguls, backed by the Kremlin (Ostrovsky 2015; Pomerantsev 2015). Since this ‘NTV affair’, the rules of the game have changed: oppositional TV channels were no longer tolerated in Russia, whereas some dissenting print outlets with limited impact on the population were allowed to survive (e.g. *Novaya Gazeta*) as a smokescreen for the illiberal turn of the state (for more on the illiberal turn in Russian foreign policy see the chapter of Alicja Curanović).

The advent of the Internet was not a game-changer, although after the Arab Spring, and especially after the waves of protests in the winter and spring of 2011-12, the Kremlin woke up to the growing powers of the social media. This awareness prompted much of the recent legislation aiming to curb down the Internet by means of increasing control

1 High-Tech mail (2014) *Television is the main source of information for most Russians*. Available at: <https://hi-tech.mail.ru/news/levada-tv/>.

2 A series of terrorist attacks killed 307 and wounded more than 1,700 people in Moscow and two other cities. These events made a strong impact on the popular opinion in Russia, comparable to the effects of 9/11 attacks in the US.

over its physical infrastructure, as well as by legislative measures such as laws on the ‘propaganda of extremism’, which resulted in some two hundred criminal sentences for ‘extremism’ on the Internet in 2015 (Iudina 2016). The access to some important oppositional news portals (e.g. *ej.ru*, *kasparov.ru*, *grani.ru*) was banned (from Russia), and their newsrooms emigrated. The state in its turn is trying to effectively colonize the digital landscape. For example, the Ministry of Foreign Affairs has launched various online platforms such as a YouTube channel (since 2012). Likewise, diplomats are encouraged to maintain accounts on Facebook, Twitter and other social networks. Students of the Russian Diplomatic Academy can attend special courses on social networking (Smirnov & Kokhtulina 2012: 35). Additionally, a number of state-sponsored ‘troll farms’ and outsourcing of propaganda to quasi-private social media accounts of popular figures³ with hundreds of thousands and millions of subscribers are effectively shaping the political agenda of the Internet users (Morozov 2011; Oates 2013).

Having secured its grip over the mass opinion domestically, the Kremlin is trying to project its agenda internationally. The flagship state-controlled media for the global audience is RT (formerly *Russia Today*), a TV company established in 2005 by order of the Russian government. RT has recently grown into a serious competitor to the BBC, Al Jazeera, or France 24, wielding generously allocated budgets of some \$ 300 million, 2,500 employees worldwide, and round the clock broadcasting in Russian, English, Spanish and Arabic. RT has reported to have the record of 1.7 billion views on YouTube and a tangible audience in Europe and the United States, as well as a status of the free-to-air television channel in Argentina. Around 2009 RT adopted a more assertive stance in castigating the West’s double standards coupled with actual problems with human rights implementation (Herpen 2015). RT managed to contract leading TV presenters such as Larry King for the programme ‘Crosstalk’, which aired experts and political figures of various persuasion, but clearly privileging anti-American values. In one of the programme’s airings, Larry King criticized the US’s policy of supplanting international human rights by its own political agenda.⁴ Although RT has a 9 per cent budget cut in 2016, its sister company, state-owned news agency *Rossiia Segodnya* with its branch *Sputnik News* (radio broadcasting and online news portals) enjoyed a ten-times surge in finances.

Another way to influence the international audience is instrumentalization of the Russian-speaking diaspora, which came to the fore in the middle 2000s. Russia’s diasporal policy has been fleshed out in a number of websites and print media (e.g. *Russkii vek*

3 E.g. Margarita Simonian, the head of RT, has 417.000 followers on twitter.com; Vladimir Solov’ev, the anchor on state-owned Rossiya-1 TV channel, has 1,45 million followers (as of 28 July 2016).

4 RT (2016) *Universal Justice?*, 20 May. Available at: <https://www.rt.com/shows/crosstalk/343730-international-law-americanization-sovereignty/>.

since 2007, *Shire Krug* since 2006, *Baltiiskii mir* since 2008, *Edinstvo v Raznoobrazii* since 2008). These journals address directly the Russian speakers abroad and are disseminated for free. In practical politics, the concept of ‘Russian World’ [*Russkii mir*] was fine-tuned to wield Russia’s ‘soft power’, and in this capacity it entered into the Foreign Policy of the Russian Federation of 2008 as one of the state’s priorities in the international arena: to defend the Russian-speaking diaspora abroad (Kosachev 2004; 2012; Ministry of Foreign Affairs of the Russian Federation 2008).

The institutional ‘muscle’ behind these journals include *Rossotrudnichestvo*, the state agency for the relations with the compatriots abroad, relaunched in its contemporary design in 2008, and the non-governmental organization *Russkii mir*, created by the initiative and with the financial support of the state in 2007. In 2013 it had a budget of 30 million euro (cf. 15 million in 2010), which gave it sufficient resources to maintain 218 centers in 50 countries and even more ‘cabinets’ (smaller centers) worldwide. *Rossotrudnichestvo* had a budget of 60 million euro in 2013 (cf. 40 million in 2012). Still, one should not overestimate the capability of the state to manipulate its foreign diaspora; in fact, only between 3 and 5 per cent of the Russian speaking expats actively participate in cultural, political and media events, organized by these institutions (Zatulín 2011: 95), whereas the vast majority shuns from any attempts of social and political engagement and very often harbors deep distrust to any initiative originating in the Russian officialdom.

Geopolitical instrumentalization

The rest of the paper will discuss three narrative strategies of dealing with human rights in the context of foreign policy. The first narrative is grounded on the popularity of geopolitics, which provides a deterministic and a ‘science-like’ approach to understanding the past and predicting the future. The central explanatory narrative in the Russian-style realist geopolitics is the idea of an everlasting struggle between continental powers such as Russia and maritime powers, represented by NATO (Suslov 2013). In this narrative, human rights discourses are represented as nothing more than a weapon, hypocritically used by ‘the West’ for the purpose of gaining the upper hand over Russia, Iran, China and other ‘continental’ countries. This argumentation crystallized after the bombing of former Yugoslavia in 1999, which was almost unanimously seen in Russia as the manifestation of the West’s double standard approach. A series of articles published by Natalia Airapetova in *Nezavisimaia Gazeta* in 1999 (controlled by tycoon Boris Berezovskii, who then supported Vladimir Putin’s presidential campaign) mounted a powerful indictment against the human rights movement worldwide as a mercenary activity whose benefactor in the end of the day would always be ‘the West’ (Morozov 2002a).

In response to this perception of human rights as the instrument in geopolitical struggle, the Russian leadership and loyal intellectuals have developed a counter-strategy of reciprocal monitoring of the human rights situation in Western countries, allowing them to accuse the Western countries of neglecting violations of human rights on their own territories. In 2007 the Institute for Democracy and Cooperation was established in Paris, with a branch in New York, financed by the Foundation of Historical Perspective. The Institute has attracted scholars and political figures to discuss political issues on its platforms, and the institute’s actions are occasionally covered on France 24, RT and other media outlets. The New York branch of the institute has published several reports (hosted on the website of the Ministry of Foreign Affairs), criticizing various violations of human rights in the US (Institute of Democracy and Cooperation 2013).

However, the focal point of this strategy is the Russian-speaking diaspora in the Baltic states. The situation with the Russian-speaking population in Latvia and Estonia provided ample opportunities to use the human rights argument as Russia’s leverage over these countries (Kivirähk et al. 2010). For example, in 1999 when the Latvian Parliament (Saeima) adopted a law on the national language, the Russian State Duma issued a statement in which this law was condemned as a ‘recurrence of racial discrimination’ of the Russian speakers. In this vein, the aforementioned journal *Baltiiskii mir* continuously covers the issue of ethnic discrimination and violation of democratic principles in relation to the Russian-speaking diaspora. For example, Maxim Reva, a columnist of *Baltiiskii mir*, observed that Russian compatriots were exposed to “actual cultural and legal genocide” (Reva 2009). Pointing at the large groups of non-citizens of Russian origin in Estonia and Latvia, experts of this foundation claim that these countries have committed uncountable human rights violations but thanks to their membership in the EU and their anti-Russian stance, they are exempted from well-deserved criticism (Demurin & Simindei 2009).

As the extreme development of the utilization of human rights in the diasporal issues, the pro-Kremlin intellectuals and officials adopted a kind of R2P (Responsibility to Protect) doctrine in relation to its ‘compatriots’. Thus, the war with Georgia in 2008 was covered in *Baltiiskii mir* as a clear sign that “Russia [...] will defend us, her compatriots” (Lobanov 2010). Likewise, Valerii Zor’kin, the head of the Constitutional Court, vindicated the annexation of Crimea by the appeals to the principles of R2P, arguing that Russia was impelled to intervene in order to prevent blatant violations of rights of the Russian speakers living there (Zor’kin 2015). (See the essay of Derek Averre and Lance Davies in this volume for more on Russia’s position on R2P.)

'Sovereign democracy' concept

Geopolitical instrumentalization of the human rights doctrine remains an important part of Russia's strategic narrative up to date. It has, however, an inherent limitation: the illiberal turn in Russian politics (see the essay of Alicja Curanović), the suppression of the opposition, and the tightening of state control over the media have all made it increasingly difficult to maintain Russia's image as one of the world's liberal democracies, being under geopolitical attack of its Western enemies. The pro-Kremlin intellectuals have thus come up with a different perspective on human rights – the concept of 'sovereign democracy', which was coined and put into wide circulation in 2005.

The name associated with this concept is that of Vladislav Surkov, one of the main architects of the Putin-era illiberal turn in Russian politics. Drawing on the ideas of Carl Schmitt, Surkov theorized sovereignty as the central political value of absolute importance. The 'sovereign democracy' concept acknowledges human rights and democratic values but vigorously resists the assumption that some external force could impose them (Surkov 2006). The immediate trigger of this new conceptualization was the so-called 'Orange revolution' in Ukraine in 2004–2005. For the Kremlin this was the watershed moment when the fears reigned that the West would use civic activism and human rights concerns to foment a mass uprising and to prepare a coup (Zygar 2015).

The concept of sovereign democracy has been tailored to counteract the principle of humanitarian intervention. In 2012 mildly liberal *Moskovskie Novosti* (owned by the Russian information agency RIA Novosti) published Vladimir Putin's article 'Russia and the Changing World', in which he backed the principle of state sovereignty, 'sanctified by ages'. Today, he argued, sovereignty was being undermined by military conflicts, falsely justified by humanitarian goals, thereby creating a 'moral and legal vacuum'. Further on, Putin resorts to the first strategy, claiming that the human rights movement has been politicized and squatted by 'the U.S. and other Western countries'; in order to counter this, Russia has to identify and criticize violations of human rights in the West.⁵

Already in 2000, the principle of humanitarian intervention was repudiated in the *Foreign Policy Concept of the Russian Federation* (Ministry of Foreign Affairs of the Russian Federation 2000a). The Concept maintains that Russia is not akin to post-war Germany or Japan, and therefore institutions of democracy should grow organically; Russia should pace itself, not succumbing to the 'colour revolutions', sponsored from abroad. Sergei Lavrov, the Russian Minister of Foreign Affairs, explicated his position in an article published in

5 MN (2012) *Vladimir Putin's article in the "Moscow News"*. Available at: <http://www.mn.ru/politics/78738>.

Kommersant (owned by once the richest Russian Alisher Usmanov, loyal to the Kremlin). This paper presented democratic principles, human rights and liberties as universal and as basic values for the whole of humanity, but at the same time Lavrov (2014a) insisted on the right of nations to "remain different, to preserve their cultural identity".

The second strategy, built upon the ideology of 'sovereign democracy', presents international legal obligations as more important than moral reasoning about justice. Valerii Zor'kin, the head of the Constitutional Court and one of the doyens of the Putin-era illiberal turn, professed that for centuries, Russian statehood and society had been kept congruous with traditional values and Christian morals. However, in today's post-industrial world, the force and relevance of these bonds have weakened, so the role of legal means of cohesion must increase. That is why those who put the 'spirit' of democracy and human rights above the 'letter' of the law, open a Pandora's box of lawlessness, where the mighty rule over the weak. What Zor'kin described was the West's encroachments on the legal order all over the world, under the pretext that the 'spirit' of democracy and human rights is above the 'letter' of national sovereignty (Zor'kin 2015).

This approach was legally supported by the decision of the Constitutional Court of the Russian Federation of 14 July 2015, which revisited Article 15, paragraph 4 of the Constitution, proclaiming the priority of the international treaties and agreements, signed by Russia, over the national legislation. According to the new interpretation, the Constitution is the basis of the political subjectivity of the Russian nation and hence it has the highest juridical force. So, if international legislation, such as the European Convention on Human Rights, ratified by Russia in 1996, contradicts the norms of the Constitution, the latter should apply. In practice this means that decisions of the European Court of Human Rights related to Russia could be called in question and deemed invalid.⁶

Multiple civilizations approach

The concept of sovereign democracy remained a powerful narrative strategy, but its conclusions are indecisive. It admits to the universality of human rights but reserves the sovereign right to interpret and implement them without external oversight. However, it does not offer any alternative to human rights doctrine. Besides, the emphasis on legality at the expense of morality is somewhat incongruous with the Russian ethical worldview, notoriously defined by privileging the truth (*pravda*) over the law (*pravo*). So inevitably, the sovereign democracy concept has morphed into another strategic narrative, which

6 Constitutional Court of Russia (2015) *Decision*, 14 July. Available at: <http://doc.ksrf.ru/decision/KSRFDecision201896.pdf>.

assumes fundamental cultural differences between Russia and the rest of the world and rejects the idea of universality of human rights concepts. The civilizational approach to history replaced the Marxist formation approach in the 1990s and has become the main intellectual source of this narrative (Scherrer 2003).

The assumption of the lack of any universal grid of values and morals prompted conservative intellectuals to revisit the human rights doctrine and (partially) cast it away as merely a Euro-centric hegemonic discourse of the global West. In Russia, they argued, the highest value would never be individualistic human rights (Tsygankov 2016). Instead, a communitarian approach of sorts is promoted according to which a human is seen as a part and parcel of her social context, e.g. a community, a tradition, a religious faith and so on. The communitarian logic infers from this that individual rights are secondary to more fundamental rights of a community. To put it roughly, the civilization approach to human rights returns Russia to the Soviet-era skepticism about human rights principles as a cover for bourgeois hegemony, but this time it substitutes class values and interests by those of a culturally defined civilization.

The multiple civilizations approach to human rights stages an anti-Western criticism, different from the 'sovereign democracy' approach. The latter emphasizes the procedural aspect of the defence of human rights as a pretext to violate national sovereignties, not questioning the pertinence of the human rights concept in general. The former stresses that the very idea of the predominance of human rights is detrimental to the 'Russian civilization', because it supplants authentic values by ones imported from abroad. In this context, the term 'spiritual sovereignty' was coined by patriarch Kirill and picked up by the whole gamut of nationalistic NGOs and public figures, most notably by the Izborskii Club organization, headed by controversial writer Aleksandr Prokhanov, and by the Eurasian movement, spearheaded by Aleksandr Dugin. For them, 'spiritual sovereignty' implies that Russia would shun from the Western values simply because they are Western, 'not ours'.

The multiple civilizations paradigm, however, has a weak spot: it prioritizes particularism over universalism (Mälksoo 2014; Morozova 2015). In a way, this model's only universal principle is that there could be no universal principles in everyday life and politics because we all belong to different civilizations.

Conclusions: towards 'Inter-Traditional'?

The Kremlin's grip over the major media outlets is as firm as it has ever been since the fall of the Soviet Union, and the victory of the 'TV set over the fridge' is quite solid. If no dramatic lowering of the living standards happens in the foreseeable future, the Kremlin's

control over the media will probably remain steadfast. Moreover, today we can observe some attempts to work out a new universalism grounded on the rejection of human rights as an unsuitable doctrine for the whole of humanity. This universalism draws on the legacies of pre-revolutionary religious Messianism and Soviet communism. We can tentatively call it the 'Inter-Traditional' model, built upon the traditionalist values of religious morality (Stoeckl 2014). As a case in point we can consider the recent article by Russian Foreign Minister Sergei Lavrov, 'Russia's foreign policy in a historical perspective' (Lavrov 2016). In this paper Lavrov calls for the partnership of civilizations, which would be based on common morality of humans and their adherence to traditional values such as family values and religion. Patriarch Kirill sounded the same note in his sermon of 21 March 2016, in which he attacked the "global heresy of human-worshipping", which had "put human rights higher than the word of God".⁷

The 'Inter-Traditional' strategy can effectively capitalize on the fears and anxieties generated by globalization. But at the same time, 'Inter-Traditional' is ideologically very 'thin' and negatively defined. It hardly has anything to offer ideologically apart from a fundamentalist backlash. All in all, 'Inter-Traditional' is not a serious rival to the universalism of the human rights principles, and it could not be sustained for a long period in a stable political, economic and media environment. The reverse is also true: the state-generated situation of permanent emergency and the unfree press nurture Messianic and illiberal public opinions. What is perhaps more important is the vision of human rights as instruments in the geopolitical struggle as well as their cynical and half-hearted adoption whenever it suits Russia's political goals. This approach to human rights undermines popular trust in moral values (Pomerantsev 2015) in a paradoxical contradistinction with Russia's self-portrait as a bastion of traditional morality.

It has been argued above that the human rights discourses should be contextualized within the bigger picture of Russia's relations with the 'West'. In Russia human rights, like many other things, are more than just that – they are also the markers of national and political identity. The external pressure, such as the decision of the ECHR on the Yukos affair⁸ or the international sanctions against Russia during the Ukrainian crisis, have

7 Russian Orthodox Church (2016) *Address of His Holiness Patriarch Kirill to the Triumph of Orthodoxy feast after the Liturgy at the Cathedral of Christ the Savior*, 21 March. Available at: <http://www.patriarchia.ru/db/text/4410951.html>.

8 European Court of Human Rights (ECHR) (2011) *OAO Neftyanaya Kompaniya Yukos v. Russia*, Ruling of 20 September, 2011 (final judgement), application no. 14902/04. Available at: <http://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=001-145730&filename=001-145730.pdf>. 'Yukos Oil Company' was owned by Mikhail Khodorkovskii, an oligarch with political ambitions. Since Vladimir Putin's ascension to power, the company was harassed with the tax claims and declared bankrupt in 2006, while Khodorkovskii was arrested and sentenced to prison. Yukos shareholders filed a number of complaints to international institutions; in 2014 the ECHR decided to charge Russia €1.86 billion in compensation for the lack of fair trial and protection of property.

been framed by the state-controlled media as Western attacks on Russia, and successfully recycled for rallying mass support behind President Putin. The popular demand for the human rights agenda should emerge domestically, whereas to date, the Russian middle class has been unable to create this demand. First, it traded participation in politics for comfortable consumption in the 2000s when the oil prices were high, then the crackdown on opposition in 2011-2012 muffled the most radical voices of dissent, and finally the middle class was lured by the nationalistic and great-power rhetoric, rampant in the media after 2014. So there is no easy or win-win solution for human rights advocates who will observe either of the two possible scenarios: 1) the spiraling economic and political crisis can create some opportune moments for the democratic change, but it is more likely that it will consolidate the framing of human rights as the enemy's information warfare against Russia; 2) stabilization could free the hands of the regime for international adventurism, but in the long run it would weaken the self-image of Russia as a besieged fortress, and foment the popular demand for human rights.

Hanna Smith

Domestic politics and the role of identities in Russia's foreign policy on international human rights

This article examines the role of identities in Russian foreign policy through an examination of three different foreign policy schools of thought – Westernizers, Civilizationists, and Statists. Each of these has a distinct ideological basis, leading to different implications for international human rights policies. Although Statists have mostly been predominant for the past twenty years, more recently the Civilizationist approach has been gaining ascendancy. This has implications for the rights of both Russians in Russia and migrant workers, and consequently for the work of human rights advocates.

Introduction

There seems little doubt that in the case of Russia the link between domestic factors and foreign policy is strong; as Bobo Lo has written: "One of the most noteworthy aspects of Russian foreign policy in the post-Soviet era has been the extent to which it has been shaped by domestic factors" (Lo 2002: 26). Robert Putnam (1988: 432) states that political leaders can be viewed as trying to achieve their goals in the domestic and international arenas simultaneously. He discusses the two faces of a policy arising from the same social base and argues: "A more adequate account of the domestic determinants of foreign policy and international relations must stress politics: parties, social classes, interest groups (both economic and non-economic), legislators and even public opinion and elections, not simply executive officials and institutional arrangements." Therefore the role of identities defined in the domestic political arena are worthy of closer examination when it comes to the formation of foreign policy and a country's interactions with other countries.

However, this task is not easy. Identity as one of the driving forces in public opinion and in the activities of civil society in Western countries can be expressed through democratic institutions, especially elections, and through human rights, particularly with freedom of speech and with the help of institutions based on the rule of law. In this respect the role of political parties, NGOs and civic activism is central, a pluralistic media landscape is essential, and respect for norms and the rule of law are vital. In the case of Russia

evaluating the possibility for civil society, here understood in its broader sense of civic values, to influence foreign policy presents more of a challenge; political parties, NGOs and civic activism in Russia have a very different societal framework, nature and position from those in Western countries; the media are almost entirely controlled by the state (see the essay by Mikhail Suslov in this volume), and respect for the rule of law is expressed in unpredictable ways.

Therefore tracing the influence of Russian civic values expressed by civil society needs to be done by looking at Russian ideas and beliefs that find support among sections of both the people (civil society) and the political elite (state). The complex issue of Russian foreign policy has often been explained by breaking down the inner groups involved in Russian foreign policy-making, each of which has its own self-image of Russia. This has provided a way of looking at different views on Russia's place in the world, Russian identity and national interests, the nature of the Russian state system and economic models.

Traditionally the common way of breaking down Russian political society into groups is to define three categories in Russian foreign policy thinking (Light 1996; Lukin 1992; Pushkov 1995; Jackson 2003; Zevelev 2012). In this article the three groups are identified as Westernizers, Statists and Civilizationists, following Andrei Tsygankov's line (2010: 4). These represent the main foreign policy schools and are the basis for any sub-groups of foreign policy thinking. In addition, they reflect different views of Russian identity among the broader public, subject to the influence of different interests and ideas. Therefore by proxy they represent the various views of a broader civil society, in the absence of the more obvious institutions of civil society which can be examined in Western countries. The different foreign policy schools each represent, more or less, the place occupied in more open systems by a political party battling for influence and popularity, not only in the eyes of the political elite but also of ordinary Russians. In the next section of this article the three groups are introduced, with particular emphasis on their views on human rights and Russians abroad.

Westernizers – together with the Western democracies?

The Russian liberal school – the Westernizers (*zapadniki*) – have also been called Atlanticists, liberals, democrats and even “international institutionalists”. They come closest to the ideas of institutionalism and liberalism in the Western context. Even if for this group the West is the referent for Russia's evolving state identity, it should not be identified with the Western concept of liberalism as such. In common with other groups, Russian Westernizers consider Russia as a Great Power and therefore see a special place for Russia in international affairs (Smith 2016). Supporters of this group are often associated with

business elites, NGO workers, cultural elites, the educated middle class (reckoned to be 15 per cent of the population) and some journalists.

Russian discourses of modernization have roots in this thinking. They insist that Russia needs to become a modern state in the Western style. Westernizers emphasize the Russian similarity with the West and view the Western civilization as the most viable and progressive in the world. For Westernizers the ideas of multilateralism and international cooperation are essential elements of international politics. Therefore they see the main task of Russian foreign policy as one of joining Western economic, political and military institutions (Sergunin 2007: 46). This policy was at first shared with a different group, the Statists (introduced below), but since the mid 1990s it has been modified. The Statists lost faith in the international institutions led by Western countries failing to accept Russia's Great Power status.

The Westernizers do see the collapse of the Soviet Union as a positive thing, making it possible to finally build a Russian civic state inside the borders of the Russian Federation. This group feels strongly that they are the winners of the Cold War and that they are the ones who actually defeated communism. Their economic policies are based on general free market economy principles and the insistence that economic relations with the newly independent states of the former Soviet Union should be based on free economic zones. With the West the relationship is very much based on the ideas of the market economy where cooperation and competition vary (Clunan 2009: 63). The Westernizers call for strategic partnerships and equality with Western countries. Partnership and equality are possible based on common understandings of human rights and the democratic state system. This, however, was one of the factors that opponents of the Westernizers attacked strongly in the 1990s. The Westernizers' policies towards the West were seen as based on ‘ideological desires’ rather than ‘firm foundations’ (Lo 2002: 46). Other factors that made such views unpopular were the fact that the Westernizers showed little interest in the area of the former Soviet Union, and the fact that they argued that Russia was a normal state with no overarching global mission, like the ones it had in tsarist times (orthodoxy) and in the Soviet Union (communism) (Jackson 2003: 34).

For Westernizers the internal problems in Russian politics arose from the perception that they were ready to sell their country to the West, undermining Russian Great Power identity, Russian values and its sovereignty. Interestingly this argument had less to do with economic factors than with the human rights regime and democratic institutions. The argument was that those advocating human rights and any Western model of rule of law were after Western money (referring especially to NGO activists), and were self-centered individuals neglecting their own people (Morozov 2002b: 417). In the early 2000s this

critique was still marginal and had not yet become part of mainstream politics. However today in Russia those NGOs and activists that speak for human rights and the rule of law according to European conventions or the UN Universal Declaration of Human Rights are seen more as a ‘fifth column’ inside Russian society (Lipman 2015).

Regarding the question of Russians outside of the borders of the Russian Federation, Westernizers agree with the Civilizationist and Statist position that there was a real threat to Russian-speaking minorities in the area of the former Soviet Union (Light 1996: 60). Already in 1992, then Foreign Minister Andrei Kozyrev argued: “If minority rights are not maintained, Europe may face a stream of military conflicts and refugees that will not only disrupt the Helsinki process, so important to the cause of peace and stability, but will also drown human rights its wake” (Kozyrev 1992: 292).

For Westernizers the threat towards Russians abroad, especially in the Commonwealth of Independent States (CIS) area, was more economic in nature. They were afraid of ‘a mass exodus’ of Russian speakers (Light 1996: 60). However, they argued that this concern should be dealt with in the general context of human and minority rights. This policy of involving others (the West) in matters concerning Russians in the so-called ‘near abroad’ and sovereign decision-making (using international institutions) of the state worked against the Westernizers in domestic politics. It differed from the approach of Statists and Civilizationists who see Russia as having sole and exclusive responsibility for Russians living abroad. As Igor Zevelev (2014) has pointed out, this difference became more important with the annexation of Crimea.

In Russian politics today, in the economic sphere the Westernizers are still part of the political elite but in civil society and in foreign policy, they are very much marginalized and discredited. The best ‘weapon’ against the Westernizers in Russian domestic politics has been the argument that the Westernizers, by arguing for human rights and the rule of law according to Western models, have betrayed Russian uniqueness, become puppets of the West, and undermined real Russian values.

Civilizationists – conservatism with a national twist

The Civilizationists are also known as Slavophiles (*slavyanofily*) or nationalists (Neumann 1996). This group derives their arguments from what they call Russian inheritance and values. The Slavophile movement was born in the 19th century. According to Anisimov and Gulyaikhin, the Slavophiles saw the autocratic monarchy as the ideal form of government; they put emphasis on the uniqueness of the Russian people, its history and future, criticizing political and legal forms and the relationship between state and society in the

West. The conclusion of this was that the Western model of government, state-society relations and the legal system was not suitable for Russia (Anisimov & Gulyaikhin 2014: 24). The Civilizationists can be found across Russian society. They are most often associated with the more religious part of the population, as well as with some cultural elites, former communists and the conservative side of the power structures like the FSB, the main Russian security agency.

The Civilizationists see the international environment as hostile. The collapse of the Soviet Union is seen by them as a very negative thing and they see most of the bad things in Russia as due to Western interference. The Civilizationist framework sees Russia mainly as surrounded and threatened by enemies. These threats include democracy and liberal ideas (Jackson 2003: 35). For them the West is a threat to Russian values and the vast land mass is essential for Russian greatness. This has expressed itself very strongly in the question of human rights, which has been labeled as a Western policy of double standards (Morozov 2002b: 416).

The Russian Constitution of 1993 was strongly criticized by Slavophile groups as lacking consideration for the memory of ancestors and traditions of the people; the Constitution “as expected again reflected pro-European utilitarian principles” (Anisimov & Gulyaikhin 2014: 29). One of the Slavophile philosophers from the 19th century, K. Leontiev, saw the Tsar as being above the law, argued that natural rights and freedom of the individual do not exist, and held that “Russian people would not be inspired by the English love for the law” (Anisimov & Gulyaikhin 2014: 27). These ideas and views have had a fundamental effect on Russian politics too. They suggest that there are no natural rights but rights granted by a superior force. This naturally puts the question of human rights on a very different basis from that in Western societies.

Slavophile foreign policy discourse uses mythologized narratives of Russian civilizational uniqueness and ‘mission’. For Civilizationists the idea of the ‘Russian Empire’ has been at the core of thinking. The Civilizationists object to both Western and Asian influence in Russia, seeking Slavic unity. Therefore the Civilizationists define Russia on a strong ethnic basis, which is a key difference between Statists and Civilizationists. Ethnic and assimilated Russians enjoy ‘first class’ citizenship in this framework. For Slavophiles, Great Russia includes Ukraine, called ‘Little Russia’ among Civilizationists, and Belarus, called ‘White Russia’, as well as sometimes Latvia and northern parts of Kazakhstan with their large Russian-speaking populations (Clunan 2009: 71). Also the Slavophiles, like the Statists, do not rule out the use of military force for the protection of the ethnic Russian population (Sergunin 2007: 55). Igor Zevelev (2008) observed in 2008 that this policy of emphasizing ethnicity, redefining Russia in more specific ethnic terms, was to

become the most dangerous undertaking in the entire history of Russia: “Implementation of this project may bring about a revision of state borders and undermine the country’s internal integrity.” In addition to the centrality of ethnicity for Civilizationists, there is an emphasis on the Russian Orthodox Church, which brings the essence of spirituality into Russian society (see for more on this the essay of Alicja Curanović).

Up until Putin’s third term as President, the Civilizationist group was the weakest in the power hierarchy behind the Statists and the Westernizers. But they have now bypassed the Westernizers and came close to overtaking the Statists after the annexation of Crimea and the war in Ukraine, requiring the Russian official position to take a strong Civilizationist turn (Tsygankov 2006b; see also the essay of Curanović in this volume).

Statists – the powerful middle way

Russian Statists come closest to Western realist thinking, and are also known in some writings as Eurasianists, liberal nationalists, or great-power balancers (*derzhavniki*). They can be found among the technocrats and civil servants as well as having a strong representation within the power structures. They also find support in the regions and among less educated parts of the population. Even if the business elite is more often associated with the Westernizers, several big business leaders with connections to the state belong to the Statist group. The group gained influence when President Putin first came to power in 2000 but its process of power consolidation had started already during the 1990s. Inside of this group there is a more liberal wing which sometimes cooperates with the Westernizers, especially in economic matters, and a more conservative side which finds friends among the Civilizationist group. This group, as its name indicates, argues for a stronger role for the state and the revival of Russia’s Great Power status. The Statists wanted to unite the most popular ideas coming from the Westernizers and Civilizationists. Statists believe that foreign policy should be guided by national interests defined realistically with regard to the Russian geopolitical security situation, domestic economic objectives and available resources. During Vladimir Putin’s first two presidencies this line was also called pragmatist. Pragmatism meant that Russia would be ready to cooperate with anyone who saw Russia as a Great Power in the international system (Tsygankov 2006b: 93). This was a factor that differentiated the Statists from the Civilizationists.

The Statists see the state as a central actor governing and preserving the social and political order as well as conducting economic policy. The Statist economic policy is very much connected to state control of economic policies, and so it does not reject altogether the Soviet experience. By emphasizing the role of the state, Statists, without

being explicit, demote the role of civil society. Sergei Markov, political analyst and former member of Russian state Dume, in an interview for *The New York Times* provided a good illustration of the Statist way of conducting policies: “The authorities will attempt to conduct themselves with society as a parent would a child who is crying and demanding some kind of toy. It is not correct to go out and buy the child a toy, but rather distract him with something else” (Herszenhorn & Barry 2011).

Concerning the questions of norms, values and identity, it has frequently been claimed that Russia has a different set of values from the Western world. However this claim has been rejected by Statists in Russia. The Russian argument goes that Russia has its own type of democracy but that its values have the same base as those in the West. When listing differences in the Russian approach to statehood and values, Putin on the one hand stated that pan-human values that are also understood and used in Russia are: freedom of expression, the right to leave the country and other political rights and personal liberties, the right to own property, and the right to create a fortune for yourself. On the other hand, the specifically Russian values mentioned by Putin are patriotism, *derzhavnost* (‘great-powerness’) and *gosudarstvennichestvo* (state-centeredness) (Kolstø 2004: 2). Out of these three, great-powerness and state-centeredness are at the core of Statism and are also among the factors that make a difference in Russia’s relationship to the West.

Furthermore, as part of Statism’s great-powerness, Russian identity is connected to language and it has been emphasized how important it is for Russia to defend Russian speakers outside Russia’s borders. For Statists, territory is a very important element of strength. A. Vladislavlev, influential and long term politician in Russia, and S. Karaganov, today Dean of the school of World Economics and International Relations at the Higher School of Economics in Moscow, wrote already early in the 1990s that “Russia must bear its cross and fulfil its duty by playing an enlightened post-imperial role throughout the ex-Soviet Union” (Sergunin 2007: 57). The Statists view the area of the former Soviet Union as Russia’s sphere of interest. This emphasis on territory and defending Russians and Russian speakers beyond Russia’s borders was present in foreign policy argumentation as early as June 1992, when then Foreign Minister Andrei Kozyrev, often labeled a ‘Westernizer’, wrote: “The Supreme Soviet of the Russian Federation has held for the first time hearings on international human rights and we will show persistent and keen interest in the strict, legal observance of the rights of our compatriots, including Russians and other nationalities. We cannot allow the consolidation of nations within the CIS (or those that did not become members of the Commonwealth) to be accompanied by any infringement of minority rights” (Kozyrev 1992: 291). This policy has been present in both Russian domestic and foreign policy argumentation ever since the fall of the Soviet Union

but intensified during Putin's two first presidential terms. It survived the Medvedev presidency 2008-2012 and returned to the core of policies with the return of Putin in 2012.

Today the Statists have become the dominant group within the Russian political elite. They have carefully constructed a working dualism in their views relating to human rights; a Great Power defends its compatriots beyond Russia's borders and at the same time it can demand that there is no interference in its own domestic affairs through arguing for strong sovereignty. The Statists find their support more in the peripheries than in the big cities and the Orthodox Church is their ally in many policy matters.

Conclusion

The three different schools of foreign policy thinking described in this article are associated with real people, embedded in real institutions and subject to the influence of their own interests but also to broader societal pressures. The ascendancy of one school or another under Vladimir Putin is often the result of responses to popular opinion, or else of the regime's will to push public opinion in one direction or another. The three main schools of Westernizers, Civilizationists and Statists are associated with broader ideas of liberalism, religious conservatism, and state interest, and are linked to those currents in the broader population.

There has been a clear shift since the early 1990s in Russian foreign policy away from liberal and towards more conservative ideas in foreign policy. The current trend is for the Civilizationists to gain more influence over foreign policy, and assuming this continues, it implies a further distancing from notions of individual human rights which are associated with Western values. This will also have foreign policy consequences in relation to both Western countries and to Russia's neighbours in the post-Soviet space. Russia is isolating itself with its human rights rhetoric, even if many authoritarian states in the post-Soviet space struggle to protect individual human rights.

At the same time, the Civilizationist discourse will create strong tensions inside Russia. Even if Statists, who put the state before the individual, are the strongest group, the Westernizers' discourse of Russia as part of the West lives on among many people. Without the West Russia struggles to be a Great Power. The atmosphere of 'you are either with us or against us' reduces the human rights framework for all Russians and brings a halt to the development of the rule of law. The position of non-Slav migrants living in Russia will also become more difficult.

The Civilizationist message poses a unique dilemma for international human rights advocates: the involvement of foreign organizations in Russia is viewed with more and more suspicion, so that receiving support from international human rights organizations immediately makes individuals more suspect and possibly open to more reprisals.

Discourses over human rights and democratization have been too closely linked only with the Westernizers' approach in foreign policy. This should be extended to other frameworks too; by encouraging bringing up human rights in dialogues between churches/religions, and by raising human rights issues in the context of ongoing police and military cooperation. Attention can also be paid to human rights in the framework of already existing agreements where Russia is a participant, in business ethics, and in academic circles a more in-depth analysis of Slavophil and Statist understandings of human rights can be carried out etc. Even if human rights are universal and should apply to all people, a country-sensitive approach as well as a more comprehensive and systematic approach including adding the principles of human rights in existing cooperation areas, would bring the dialogue to a more 'universal' level without encouraging, inside the human rights dialogue, a division between 'us' and 'them'.

Andrey Demidov and Elena Belokurova

**Civil society in Russia's foreign policy:
excluded 'foreign agents' and
pro-Kremlin policy implementers**

The role and involvement of Russian NGOs in the country's foreign policy and relations with other countries has profoundly changed over the recent years. Domestic and international political developments have shaped two main formats and models of such involvement relevant for two groups of NGOs: 1) the group of Russian NGOs, some of which are often labelled 'foreign agents', and Russian NGO members of global civil society forums, and 2) GONGOs, recognized and sometimes established by the Russian state as foreign policy implementers. They act in different forms and models, but both are present in the definition and implementation of Russian foreign policy and Russia's broader role in the international relations.

Introduction

The foreign policy of Russia and its relations with other countries have radically changed in the last fifteen years. The conventional wisdom is that in the aftermath of the collapse of the USSR, Russia's foreign policy has travelled from close collaboration and cooperation with the West, including the European Union and the United States, to a breakdown of these relations and a more assertive position as a state catering to its national interests and promoting its own agenda. At the present day, relations between Russia and the West can be explicitly characterized as an open confrontation. At the same time, Russia increasingly seeks to establish itself within such groupings as BRICS (Brazil, Russia, India, China and South Africa), the Shanghai Cooperation Organization, the Eurasian Economic Union and the Asia-Pacific Economic Cooperation.

This reorientation in foreign policy has noticeably affected the Russian civil society actors and their role in and influence on the country's foreign policy, including the policy in the sphere of human rights. In particular, one can see that as a result of both domestic and international political developments there have been several important moves. First, there has been an open split of perspectives between the Russian state and a segment of Russian civil society, on Russian foreign policy and its role in the international community. Nowadays, the relations between both are characterized as an almost open confrontation.

Second, there has been a rise of a new category of Russian civil society actors who are actually involved in implementation of some aspects of the Russian foreign policy. As a result, two specific models of involvement of Russian civil society in foreign policy relevant for two groups of NGOs have emerged: 1) exclusion from foreign policy-making and implementation for NGOs labelled as 'foreign agents' and other Russian members of global civil society forums, and 2) involvement in foreign policy-making and implementation for a range of Government-Sponsored Non-Governmental Organizations (GONGOs). This essay discusses how these shifts have come about and evaluates future prospects for the Russian civil society in the realm of foreign policy and international relations.

The foreign policy of Russia and civil society over time

Since the collapse of the USSR, the Russian foreign policy has gone through two distinct phases of development. The role of civil society actors, predominantly NGOs, has also evolved throughout these two periods. This section briefly describes this evolution.

The 1990s: pro-western orientation of Russian foreign policy

The foreign policy of a new state – the Russian Federation – in the 1990s was characterized by an intensive rapprochement and cooperation with the West. Internally Russia was in a situation of transition from authoritarianism to democracy. The West or, in other words, the European countries and the US, were seen as the democratic role models to catch up with. This orientation strongly influenced Russian foreign policy: there were clear intentions to learn from the West and embrace the Western models, norms and principles, and there was visible support for or at least a lack of open criticism of, the new allies' foreign policies. Development of civil society was one of such orientations, and the 1990s saw proliferation of civil society organizations supported by American and European donors.

It is practically impossible to trace any direct influence of the emerging Russian civil society on the new foreign policy, as both phenomena were developing simultaneously. However, in that period, both the Western financial assistance and an overall democratic and civil society-friendly orientation of the Russian state created favourable conditions for the Russian NGOs to become involved in cooperation between Russia and Western countries. Importantly, the Russian state viewed NGOs as its assistants in the process of becoming a 'normal' power through inner democratization, importing and diffusion of the Western practices and models of governance, human rights protection and social problem-solving. The latter, for instance, was especially intensive in the regions bordering European countries and later the EU members where NGOs were involved in cross-border

cooperation (Belokurova 2010; Demidov & Laine 2013). Cross-border cooperation was officially considered an important instrument and even a unique format of the EU-Russian cooperation (Liikanen & Scott 2010).

In a sense, the period from the 1990s until Putin's second presidency was a period of consensus between the Russian state and civil society, who both seemed to share common intentions to democratize Russia as well as integrate it into the international community. In this period, civil society actors were implementers of the official foreign policy of integration and cooperation.

The 2000s: the 'national interests' turn and a fallout between the state and civil society

The turn away from friendly and cooperative relations with the West did not occur at the very start of Putin's presidency. Quite the contrary, in the beginning of the 2000s there were still several attempts to rewind and renew these relations that were crumbling down after such events as the Chechen wars, the bombing of Yugoslavia or the Kosovo War in 1999 when Russia blamed the West for betrayal and sidelining. The Russian state was still faithful to its intentions to de-ideologize its relations with the rest of the world despite recurring normative clashes with the Western allies over the NATO expansion or the war in Iraq in 2003 (Romanova 2016).

However, as a result of this confrontation with the West, Russia started identifying itself less and less with the prevailing international order and started opposing what it saw as exclusion through unequal treatment by the West. In 2007, Putin gave his famous Munich speech that signified a turn towards an independent foreign policy with a distinct role for Russia.¹ This role was defined as participation in the stabilization of the international system through reaffirmation of the principles of international law and ensuring multipolarity (Romanova 2016; Kurowska 2014). Moreover, an orientation towards its own national interests was announced as the main principle of Russian foreign policy (Pavlova & Romanova 2014). At the same time, Western, and especially European politicians began to seriously criticize Russia for its refusal to follow the path of democratization. This led to a more and more sceptical position of Russia towards the West (Sergunin 2000, and his essay in this volume). Already in 2003–2005 Russia, for instance, refused to join the newly-introduced European Neighbourhood Policy (ENP) initiated by the EU. It did not want to be just a 'junior partner' of the EU, as was the case with other ENP countries, and insisted on equal financial participation in the ENP implementation (Browning & Joenniemi 2008).

1 Putin, V. (2007) 'Speech and the following discussion at the Munich conference on Security Policy', *President of Russia*, 10 February. Available at: <http://en.kremlin.ru/events/president/transcripts/24034>.

In practical terms, this turn manifested itself in an increasing desire of Russia to influence international politics. Russian opposition to the West has been progressively escalating and transpiring both through demonstrable 'turns' to alternative formats of international cooperation, such as with the BRICS countries, the Shanghai Cooperation Organization (SCO), the Eurasian Economic Union or players such as China, and through perpetual contestation of the Western attempts to invoke the norm of Responsibility to Protect or install the anti-nuclear shield in Eastern Europe (see also the essay by Averre & Davies in this volume). Since the second Putin's presidency, the Russian opposition to the West moved to a level of contesting the doctrine of universal human rights that was labelled as a threat to Russian traditional values and as a concept introduced by the West to put pressure on Russia and other weaker states. In such a situation, human rights organizations are seen as enemies of the Russian state.

Russian civil society and foreign policy: formats of (non)participation

What is the role of the Russian civil society in this remarkably different context? How did these radical turns affect the roles and position of Russian NGOs? This section maps out the multi-faceted reality of the Russian civil society that, on the one hand, came about as a result of the above-mentioned U-turns in Russian foreign policy and, on the other, resulted from inner developments within Russian civil society. The section depicts two main models of (non)involvement of Russian NGOs in foreign policy.

Excluded from the official foreign policy and international cooperation: 'foreign agents' and members of global civil society forums

The first group of Russian NGOs, excluded from, more broadly, any international relations or, more narrowly, any official foreign policy pursued by the Russian state, yet deeply involved in international cooperation, is represented by two sub-groups: 1) those directly affected by the repressive state policy and often labelled 'foreign agents', and 2) those who continue to act as Russian members of global civil society forums yet not as official Russian representatives.

Due to the active international cooperation of Russian NGOs, these actors became closely involved in the global civil society, which is represented by transnational NGOs, international NGO networks and global civil society forums. The Russian branches of Greenpeace, the World Wildlife Fund, Transparency International and other transnational NGOs became visible both within Russia and on the global scene. Russian national and local NGOs, especially the ones in such fields as human rights, the environment, gender, and social policy (social inclusion, anti-poverty etc.) became important actors of global civil society.

By acting in the international arena, they, however, do not represent the Russian state, but work on their own missions, in the interests of their constituents and for the common good as defined by those missions. They are active within global civil society forums and during international negotiations on such global issues as climate change, world heritage protection, gender equality etc.

Sometimes, these NGOs were involved in the formation and even implementation of the official Russian foreign policy, although, paradoxically, that involvement was never initiated by the Russian authorities. One example is participation of the Russian human rights NGOs in the EU-Russia Human Rights Dialogue, a gathering that would always take place one day before the official EU-Russia meetings. For a long time, this practice exemplified a transition period for Russian NGOs, from recognition to full exclusion from foreign policy-making.

The exclusion of independent NGOs from both foreign and internal policy was connected with the general trend that Russian national policy towards NGOs became less favourable, especially after 2004 (more on the change of discourses and policies towards NGOs in Belokurova 2010). Among other things, this shift was connected with the Orange Revolution in the Ukraine, after which NGOs primarily funded by Western foundations and criticizing national policies were demonized as potential threats and organizers of the so-called 'colour revolutions' against the national interests of Russia. As a result, in 2006 new legislation was adopted, which strengthened the government's control over NGOs, especially for those having foreign funding (HRW 2008: 414). This policy was especially strong in 2006-2007, before the parliamentary and presidential elections in 2007 and 2008 respectively.

But, after the re-election of Putin in 2012, as well as after the citizens' mass protest movement 'For Fair Elections', the restrictive policy towards critical NGOs supported by foreign foundations was strengthened. Its new 'faces' are the 2012 legislation on 'foreign agents' that targets domestic NGOs which acquire foreign financial support and carry out so-called 'political activities', and the 2015 legislation on 'undesirable organizations' that targets foreign NGOs and foundations.

To sum up, since 2012, the Russian government's policy towards NGOs involved in international relations and getting support from Western and international organizations and foundations, has changed to a very restrictive one. Although some restrictive measures were introduced firstly in 2006 and 2007, they became severe between 2012 and 2015. As a result of these measures, a whole cluster of Russian NGOs has been officially excluded from any involvement in foreign policy, as described in the previous section. In broad

terms, the space for involvement in various forms of international cooperation for these NGOs has significantly shrunk.

However, Russia's membership in various intergovernmental forums and organizations – the UN, the OSCE, the Council of Europe – still provides a channel for continuing some kind of involvement in international cooperation. The logic of involvement is, thus, similar to the one practiced by many NGOs from countries famous for violations of human rights and is described in literature as the “boomerang pattern”, meaning that “domestic NGOs bypass their state and directly search out international allies to try to bring pressure on their states from outside” (Keck & Sikkink 1998). The primary purpose of such top-down international advocacy is consolidation of effort in order to target domestic governments. Examples of such advocacy include, but are not limited to, the support of Russian citizens in their claims to the European Court of Human Rights, preparation of shadow reports about the Russian situation in different fields to the United Nations institutions, etc.

Another form of international activity of such Russian NGOs is connected with an active participation in the creation and development of international NGO networks, often acting as parallel structures to the official organizations or negotiations. Here, such examples can be named as the Civic Solidarity Platform connected with the OSCE and created in 2011, World Heritage Watch connected with the UNESCO World Heritage Committee etc. Although not connected with the official EU-Russia negotiations, the EU-Russia Civil Society Forum established in 2011 also became visible both in the EU and Russia.

To sum up, although many Russian NGOs active in the global civil society were already labelled as ‘foreign agents’ and excluded from Russian foreign policy, this did not happen to all of them. Thus, many NGOs involved in cooperation for social and environmental problem-solving are not seen as a threat or as ‘foreign agents’. This can be explained both by bureaucratic reasons of inconsistent and selective implementation of legislation, and by low political salience of these issues and, consequently, NGOs. In general, it means that even in spite of the repressive measures of the Russian state towards NGOs, a lot of them are representing Russia in the global civil society without articulating the official Russian foreign policy goals. In such a situation, they enjoy different relations with the Russian government: they can be either controversial or cooperative, they can be closely related or very distant from each other. What is important to bear in mind is that NGOs in this group pursue their own goals and act in accordance with their own missions, more and more often dissimilar to the official positions of the Russian state.

GONGOs: application of ‘soft power’ through cultural foreign policy and production of alternative discourses

Civil society was first mentioned as an actor of Russian foreign policy in the *Concept of the Foreign Policy of the Russian Federation* in 2013 (Ministry of Foreign Affairs of the Russian Federation). The Concept discusses the potential of civil society in the context of the improved use of ‘soft power’. The latter is broadly interpreted by the Kremlin as a complex of measures aimed at improving the image of Russia and enhancing its attractiveness as a political, economic and social model, and essentially includes several types of actions (Sinikukka 2014; Tsygankov 2006a; Sergunin & Karabeshkin 2015). The Kremlin equates invocation of ‘soft power’ with, first of all, the spread of Russia's ideals, values (the ‘traditional’ version of values), language and culture. It also includes promotion of alternative unique Russian discourses and ‘clarification of the Russian position’ on highly contested international norms such as human rights, democracy and the rule of law in order to avoid imposition of any single point of view. Civil society actors are involved in both types of activities associated with application of the Russian version of ‘soft power’.

This group of actors is comprised of a wide array of organizations and associations. In legal terms, the majority of them are registered as NGOs, and, due to that fact, are often referred to in the literature as GONGOs. The population of these actors is very diverse and can provisionally be divided into several sub-groups. These include 1) the state-sponsored foundations and NGOs involved in the implementation of the Russian version of development assistance, 2) a network of think tanks, platforms and discussion clubs involved in intellectual production of alternative visions and discourses on world politics (such as Eurasianism etc.), the place of Russia in the world, and human rights, 3) a small number of state-sanctioned and sponsored human rights NGOs, 4) state-supported youth groups, 5) a number of religious groups endorsed by the Russian Orthodox Church. Some analysts suggest including various semi- or paramilitary groups and associations such as Cossacks or the Russian Imperial Movements into a separate category of NGOs. They can be seen as also involved in implementing Russian foreign policy through infiltrating in neighbouring territories such as Donbas; legally they are also ‘NGOs’.

Each of these groups of NGOs are involved in the Russian foreign policy to a different extent and through different means. The primary format for the NGOs from the first group is implementation of Russia's development assistance. Interestingly, the composition of this group of NGOs is closely linked to what constitutes the Russian version of development assistance. In the literature, Russia is approached as a re-emerging donor and largely a donor-in-the-making whose priorities and development aid instruments are in the process of consolidation as the country is defining its place and role in this sphere.

Nevertheless, Russia's development policy and practice already exhibits certain peculiarities: a specific geographical focus (Commonwealth of Independent States (CIS) countries, members of the Eurasian Economic Union as well as SCO and BRICS) and association of the so-called public diplomacy, the Russian operationalization of 'soft power', with development assistance and its implementation by state development agencies such as Rossotrudnichestvo.

Several big NGOs such as the '*Russkiy Mir*' (the Russian World) Foundation, the Gorchanov Fund, Foundation for Support of Compatriots, Moscow House of Compatriots etc. (Lutsevych 2016) act as recipients of state aid for implementation of various projects worldwide, mainly in the CIS countries and the Balkans. There is a lack of data on what projects get funded through these NGOs, due to a lack of transparency about the fund-channeling practices of these organizations. However, an analysis of the websites of these NGOs shows that various educational activities, such as the organization of conferences, trainings, seminars and summer schools for discussion of the so-called alternative visions of the world order and international relations as well as promotion of the Russian language and culture, constitute the lion's share of all the actions.² Some experts claim that the network of these NGOs actively support pro-Russian separatist groupings in the 'near abroad', Ukraine and Georgia (Lutsevych 2016). Yet, the extent of this activity still needs to be empirically established.

The organizations that belong to the second group can often be considered NGOs only in legal terms. Perhaps the term 'think tank' better depicts the type of actions that these associations perform. Production and spread of alternative discourses and narratives on Russia, its values and traditions, its role in the world, world history as well as on a wide range of norms and ideas such as democracy, human rights and the rule of law represent the main sphere of activities of these foundations, discussion clubs and intellectual platforms. Interestingly, these clubs and think tanks played an important role in creating and spreading the discourse of 'soft power'. Alternative readings of history and, since recently, intellectual awareness-raising about allegedly distorted meanings of such phenomena as Nazism and fascism also became important fields of action for these organizations. The latter, as claimed by scholars, also represents one of the central aspects of the Russian normative agenda in foreign policy that became especially prominent during the Ukrainian crisis (Pavlova & Romanova 2014).

² These activities are oftentimes referred to as 'foreign cultural policy'. The Russian government prepared the Concept 'Foreign cultural policy of Russia – year 2000'. The Foreign Policy Concept of the Russian Federation introduces a different term: 'cultural humanitarian cooperation with foreign countries'.

This group is represented by more or less strictly institutionalized and organized associations, clubs and institutes such as the Foundation for Historical Perspective, the Institute for Democracy and Cooperation, World without Nazism, the International Antifascist Front, the Historical Memory Foundation, Essence of Time, the Russian Institute for Strategic Studies, the Valdai Club, the Izborsky Club, and the Institute for Civic Projects (literally 'Institute of Societal Engineering'³). These NGOs act parallel to a wide network of the so-called 'Eurasianists' clubs, associations working on promotion of an alternative 'integration project' on the post-Soviet space based on specific common Eurasian values, and actively cooperating with similar groupings across the post-Soviet space through establishing their offices in those countries (Lutsevych 2016).

The third group of NGOs consists of organizations which can, from some perspective, be defined as advocacy NGOs working on issues of human rights and democracy. However, their reliance on the Kremlin funding as well as the reputation of being affiliated with the state governmental bodies such as Rossotrudnichestvo does not allow seeing them as fully independent. What is more interesting about these actors is their involvement in production of the narrative on human rights, alternative to the Western ones, in close cooperation with state bodies. Having access to the presidential grants programme, which was extended to human rights NGOs three years ago, these NGOs are actively involved in general monitoring of human rights violations abroad, mainly in the Baltic states and CIS countries, or electoral monitoring parallel to official practices of such organizations as the OSCE. Moreover, they actively participate in publishing reports on human rights violations in the neighbouring countries, thus adding to the activities of the Special Representative for Human Rights, Democracy and the Rule of Law at the Ministry of Foreign Affairs since 2011 (Romanova 2016).

Human rights monitoring conducted by such NGOs as Moscow Bureau for Human Rights, the Russian Institute of Electoral law, the Eurasian Observatory for Democracy and Elections or CIS-EMO is not limited to registering the violations of the rights of the Russian-speaking minorities, which certainly occupy the central position, or scrutiny over electoral processes. The published reports cover a wide range of human rights issues such as the situation of Roma minorities, migrants and asylum-seekers, highlighting issues of racism and xenophobia, child abuse, discrimination of the mentally-disabled and prisoners, human trafficking and social rights. It still needs to be established whether the Russian state increasingly relies on these NGOs as providers of such information on human rights violations. If so, this would indicate the emergence of a model of state-NGO relations well known and widely practiced in the West. So far, the scholars notice

³ See also its website. Available at: <http://www.inop.ru/>.

that this link does not function as it should, and the Kremlin, for its reports, relies on the data acquired by the Western NGOs. Yet it can be expected that the relations between the Kremlin and these NGOs might change and move to the practice of information provision.

The participation of youth groups and NGOs in international exchange programmes got more support from the Russian government in the last years'. Thus, although in the 1990s and the beginning of the 2000s these exchanges were mostly developed on the initiative and due to the funding from Western countries, in recent years the Russian state also started to support these exchanges. As an example, the creation and support of the German-Russian Youth Exchange Foundation can be mentioned as well as some other state-funded youth exchange programmes.

As for the Russian religious organizations connected with the Russian Orthodox Church, they were always very active in other countries, but became more active in the last years due to the additional support of their international activities by the Russian state.

Although not directly related to the Russian NGOs, the Russian government endorsement, both rhetorical and material, of the European conservative far right movements and NGOs needs to be mentioned. It is believed to represent one of the very visible examples of dissemination and strengthening of the Russian soft power in the EU countries, which is also implemented through cooperation of the Russian government with both Russian and EU NGOs, political movements and political parties (Political Capital Institute 2014).

To sum up, during the last years we see very significant activation of the Russian soft power policies, which are implemented both through the governmental agencies and GONGOs created for these purposes.

Conclusion

A look at the involvement of Russian NGOs and civil society actors in the country's foreign policy reveals a diverse and mosaic picture. As was described, the Russian civil society can be seen as divided into two big groups of actors, one of which is fully excluded from any official participation in foreign policy yet developing these activities through their independent channels, whereas the other one is increasingly becoming an official implementer of the government's policies. Most interestingly, actors from the second group become progressively involved in activities performed by the ones from the first one. The latter is especially relevant and worrying for the so-called independent human rights organizations and advocates, labelled as 'foreign agents' and systematically pressurized by the Kremlin. These actors now have to compete, both in terms of resources and

symbolic power, with the ones created and endorsed by the Kremlin, which sees these as advocates of the alternative understanding of human rights and other norms and instruments of its soft power. The excluded 'foreign agents' are finding new niches in the gradually shrinking space for their activities, especially in light of decreasing foreign funding (development of philanthropy, use of crowd-funding technologies, closer work with volunteers etc.). Their involvement in the country's international cooperation and relations is far from over.

International human rights advocates face a difficult dilemma. On the one hand, they could opt for strengthening their support to the excluded 'foreign agents' and the Russian members of global civil society forums. However, it is questionable whether this strategy could yield tangible outcomes in the long run, as their return to involvement in the official foreign policy is hard to imagine. Although these actors resent the idea of quitting any attempts to establish a constructive dialogue with the Kremlin, it is too early to see the outcomes of these attempts. In any case, international human rights advocates should closely look at emerging practices to understand their mechanisms and inner logic. Otherwise, a blind continuation of any kind of support of these actors, especially financial, may trigger the Kremlin to harshen its stance towards them and may, as a result, harm these actors even more.

On the other hand, foreign actors may attempt to build some sort of relationship with representatives of the second group, especially with the ones involved in promoting the Russian narratives on human rights and international norms. These attempts will inevitably lead to an increase in contention between these actors and, most likely, a normative contestation with the Russian state. However, given that the major claim of the actors from the second group is the one about the lack of willingness of the Western counterparts to allow for any contestation and dialogue, let alone participate in it, this strategy does not sound as a hopeless exercise and may yield some positive results of dialogue and deliberation.

Alicja Curanović

Religion and human rights in Russia's foreign policy

Since 1991 Russia's foreign policy evolved from idealism through pragmatism to moralizing conservatism. This so-called conservative turn is reflected by the shift in Russia's relations with the West that is increasingly 'othered'. The Russian Orthodox Church is the driving force behind Russian attempts to present its own interpretation of human rights as an alternative to that of the West. Human rights have become one of the strategic platforms of Russian church-state cooperation in the international arena, including the UN Human Rights Council. The conservative turn in Russian foreign policy resulted in a significantly less favourable situation for human rights organizations operating in the Russian Federation.

Introduction

Since the fall of the Soviet Union the elites of the Russian Federation were occupied with the quest for a new identity. In terms of geopolitics, post-Soviet Russia had to decide whether it wanted to be a 'normal' country, a regional power, a major global player or perhaps an empire. There was also a civilizational dimension of this identity dilemma: is the new post-Soviet Russia a European, Asian or Eurasian country? After 25 years since the fall of the USSR, this very dilemma has still not been definitively solved. Yet one could identify a common denominator for the majority of the narratives about the new Russian identity, i.e., Russia is a distinct civilization with its own tradition and culture.

The continuous search for identity made culture (and religion) of strategic importance for Russian politics, since culture and religion are considered by the Russian elites necessary elements for the construction of Russia's new self. Today the Russian Federation perceives the West not as a role model but rather as a negative point of reference.¹ This situation is due to the combination of external (e.g. disappointment with the West's

¹ During the Cold War one of the most important embodiments of the West in the Soviets' eyes was the NATO and later on the so-called 'old' members of the European integration initiatives. Today when Russians refer to the West, they still think of the US, the UK, France, Germany, Italy, the Netherlands, Norway etc. However, with the gradual enlargement of the NATO and the EU, even the former allies of the Warsaw Pact, e.g. Poland, the Czech Republic and Hungary, are more and more often considered a part of the West as well. For the purpose of this essay, the West means roughly the US, Canada (NATO non-European members) and the EU countries.

policies) and internal factors (e.g. rapprochement of church and state) which are beyond the scope of this essay. However, it should be noted that religion and tradition as defined by the Russian Orthodox Church (hereinafter: ROC) have been playing a crucial role in 'othering' the West. This, in turn, has had serious consequences for Russia's interpretation of human rights.

There is thus a connection between Russia's self-identification process (and the inherent dilemma of whether to be alike or the opposite of the West) and Russia's approach to human rights. The more Russia determines itself through opposition to the West, the more likely it is to see human rights as an ideological project aimed at legitimating Western dominance. As Russia started to signal its ambition to regain a major power status, human rights became one of the crucial elements of struggle for an ideological hegemony. In presenting a civilizational alternative to the West, the Russian state is supported by the ROC. Collaboration of the Russian diplomacy and the church in the field of human rights is one of the best examples of the ongoing church-state rapprochement. Religion is thus a factor to be considered when it comes to understanding the dynamics of human rights discourse in Russia and its policy stance on human rights in the international arena.

This essay continues with an introduction of the characteristic features and tendencies of Russia's self-identification process. It is followed by a presentation of the evolution of values and religion in Russia's foreign policy from idealism through pragmatism to conservatism. It is emphasized how this change influenced Russia's attitude towards human rights. Russia's attempts to promote its own understanding of human rights are presented in the context of the tight cooperation of the ROC and the Russian Ministry of Foreign Affairs.

Identity debate: what should Russia be in 21st century?

It is important to note that the status of a (separate) civilization is considered in the Russian public discourse to be an attribute of a major power. The status of a civilization is of strategic importance also because, as one can read in the *Foreign Policy Concept of the Russian Federation* (Ministry of Foreign Affairs of the Russian Federation 2013), civilizations are the main contenders in the global rivalry in 21st century. Acknowledging that cultural dominance is won by the capacity to promote and impose one's own values, the Russian authorities stress the significance of cultural and civilizational sovereignty. In this regard sovereignty also means protecting national culture from foreign influences. Losing Russian cultural distinctiveness would undermine Russian identity, which in turn would endanger the state's existence.

Thus 'foreign' (values, norms etc.) is perceived as a challenge (to say the least) not only to national culture but also to national security. Also the multipolar vision of the world (as opposed to the Pax Americana) supported by the Kremlin has a civilizational dimension. According to Moscow, the post-Cold War global order should be based on the balance of power between the Western civilization and the joint effort of civilizations committed to traditional values – Russia, India and China. It is important to note that both China and India share Russia's ambition to shape a new multipolar world order. Furthermore, they also identify themselves as distinct civilizations. Finally, both New Delhi and Beijing lean towards a pluralistic, non-universal concept of human rights and stress the collective nature of these rights.

Russia legitimizes its claim to a civilizational distinctiveness by presenting its own values which differ from both the European and the Asian ones. The visible rise of the commitment of the Kremlin to traditional Russian values is referred to as the conservative turn and dates back roughly to the third presidential term of Vladimir Putin (since 2012). With taking on this new conservative identity, the Russian authorities frame their actions as based on moral grounds with acknowledgment of the legacy of traditional religions.

As a distinct civilization true to its religious heritage, Russia positions itself in opposition to the West which is presented as a domain of aggressive secularism. Moscow shows ambition to undermine the West's cultural hegemony *inter alia* by questioning its monopoly on the interpretation of human rights. In Western hands, Russia argues, human rights are an instrument for bashing states which do not act in line with the West's policies. In the Kremlin's opinion, the West's approach to human rights is an example of double standards. Therefore, following the reasoning of the ideological framework of the conservative turn, the Kremlin emphasizes the necessity to defend the right of each country to its own interpretation of human rights in accordance with its own traditional values.

Russia's foreign policy: from pragmatism to conservatism

The search for the new Russian identity has been reflected in Russia's foreign policy. The latter was also determined by the general dilemma: to act in line with or in opposition to the West. The choice between these two options is related to values. In the first two years after the fall of the USSR, the Kremlin not only sought rapprochement with the West but was ready to acknowledge the Western model of socio-economical development (democracy, a human rights agenda, capitalism) as universal. Russian political scientists Sergei and Andrei Kortunov (1994) referred to this period of Russia's foreign policy as 'ideological moralism' to underline Russia's unconditional dedication to Western moral standards regarding socio-political solutions.

The failure of the democratic reforms of the 1990s casts a shadow over the image of the West in Russian eyes and ended the period of this initial idealism. The noticeable change came after 1993, when a constitutional crisis and the war in former Yugoslavia paved the way to the course of political pragmatism.² The successor of Boris Yeltsin, Vladimir Putin emphasized his commitment to turning Russia into a 'normal' country, i.e. a pragmatic state with no ideological vision facilitating its actions in the international arena.

Also Sergei Lavrov, the Minister of Foreign Affairs since 2004, confirmed on many occasions that the Russian diplomacy intentionally lacked an ideological underpinning. This can be seen in the *Foreign Policy Concept of the Russian Federation* issued in 2000 (Ministry of Foreign Affairs of the Russian Federation 2000a). Values are mentioned only in the context of democracy, which is considered inseparable from human rights and freedoms. In this document the Russian authorities confirm their strong commitment to developing an international cooperation in the area of the human rights, expanding Russia's participation in relevant international conventions and bringing Russia's legislation into conformity with its international obligations. Judging from the present situation, it is striking that there is no mention of religion, Russian traditional values, or morality. This can be explained by the fact that at the time, human rights were not so much a subject of ideological rivalry between Russia and the West. The occasional tensions were mostly of geopolitical and not ideological nature. Russian authorities did not question the consensus on the interpretation of the universal character of human rights. Even the ROC, occupied with restoring its own position within Russia and the post-Soviet territory, did not pay more attention to this particular issue until later.

The comparison of this document (2000) to the concepts approved consequently in 2008 (Ministry of Foreign Affairs of the Russian Federation) and 2013 reveals the significant change which Russia's foreign policy has undergone since the second presidential term of Vladimir Putin. It moved from declared pragmatism to moralizing conservatism. Although in the concept issued in 2008 there is still no explicit mentioning of traditional values, there are already important references to religion. According to the authors of the document, "a religious factor in shaping the system of contemporary international relations is growing, *inter alia*, as regards its moral foundation. This problem cannot be resolved without a common denominator that has always existed in major world religions." It is noteworthy that the Russian Orthodox Church is mentioned as one of the main partners of the Russian state in dealing with this issue.

² Disputes in the beginning of the 1990s around the shape of the new constitution resulted in a political stand-off between Russian President Boris Yeltsin and the Russian parliament. The crisis was resolved by the use of military force ordered by Yeltsin in 1993.

There are also significant changes in the interpretation of human rights. In the document of 2008 Russia reaffirms its respect for human rights and freedoms on the basis of the Universal Declaration of Human Rights but at the same time calls for "preventing double standards, respecting national and historic peculiarities of each state in the process of democratic transformations without imposing borrowed value systems on anyone". This is a clear reference to the policy of the United States and other Western countries which, in the Kremlin's opinion, are instrumentalizing human rights for the sake of their own particular interests.

Demanding respect for national historic differences is in line with the discourse on civilizational pluralism and particularism. Russia argues that the human rights concept should acknowledge local traditions which are foremost embodied in religion. The document states that Russia finds it important to connect human rights "to the responsibility of persons for their actions, first of all in terms of preventing contempt for the feelings of believers and promoting tolerance, and to strengthen moral foundations in the human rights dialogue".

The latest foreign policy concept (Ministry of Foreign Affairs of the Russian Federation 2013) puts a strong emphasis on civilizational identity. It is stated in the document that "for the first time in modern history, global competition takes place on a civilizational level, whereby various values and models of development based on the universal principles of democracy and market economy start to clash and compete against each other". According to this narrative, values have become one of the main axes of global rivalry, and civilizational sovereignty is – more than ever – of strategic importance. Moreover, Russia explicitly expresses its concerns that "imposing one's own hierarchy of values can only provoke a rise in xenophobia, intolerance and tensions in international relations leading eventually to chaos in world affairs".

Although Russia keeps confirming its commitment to human rights, it also increasingly emphasizes its conviction that the concept is used "to exert political pressure on sovereign states, interfere in their internal affairs, destabilize their political situation, manipulate public opinion, including under the pretext of financing cultural and human rights projects abroad".

Russia's foreign policy has evolved from pragmatism to a policy with a moral underpinning. This shift is due to the general disappointment of Russians with both the failure of the transformation at home and the triumphal foreign policy of the West in the international area. Examples are the expansion of NATO to the East (1999, 2004), the bombardment of Serbia (1999), the American intervention in Iraq (2003) and last but not least

the 'colour' revolutions in the former Soviet republics, which were perceived by Moscow as acts aimed at humiliating Russia.³

In 2008 Sergei Lavrov, previously a personification of Russian pragmatism, stated that foreign policy should be moral and thus deeply rooted in traditional values of world religions.⁴ While the EuroMaidan was unfolding in Kiev in December 2013, Minister Lavrov explained Moscow's engagement in Ukrainian affairs with its Christian obligation to help a neighbour.⁵ Then in 2014, in the midst of the crisis, Lavrov argued that the deterioration of the relations with the West was due to the fact that the latter could not accept Russia's return to its true traditional values.⁶

This change in the tone of rhetoric of the Russian diplomats is correlated with the identity debate and the conservative turn. Russia – a distinct civilization with its own values – does not accept the Western ideological monopoly. The Russian Federation has the ambition to become the advocate of other civilizations which are, in Russia's opinion, pressured by the West to follow its footsteps when it comes to interpretation of human rights. By standing up to the West's aggressive secularism, Russia appeals not only to non-European states but also to conservative circles in Europe and the US. The Kremlin tries to present itself as the last hope of the conservatives to reverse the course of secularism.

What is important, traditional values are frequently interpreted in Russia as those embedded in the tradition of Russian Christian Orthodoxy. 'Traditional' is thus commonly equated with 'religious'. As a result, in the new Russia the ROC has become one of the few public institutions entitled to determine the canon of the Russian tradition and morality. The ROC thus plays an important role in legitimating the conservative turn in the Russian politics. This is also a reason why the Russian diplomacy has intensified its cooperation with the church.

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- 3 The colour revolutions refer to the situation in former Soviet republics (the best known are Georgia and Ukraine), when opposition parties supported by a part of society managed to overthrow the government and install new political parties in power.
- 4 Interfax (2008) *Lavrov calls for strengthening moral foundations of foreign*, 23 October. Available at: <http://www.interfax-religion.ru/?act=news&div=27046>.
- 5 Interfax (2013) *Helping Ukraine is an imperative of Christian Truth*, 19 December 2013. Available at: <http://www.interfax-religion.ru/orthodoxy/?act=news&div=53862>.
- 6 Interfax (2014) *The West is growing apart from Russia due to Russia's return to Christian Orthodoxy, claims Lavrov*, 5 June 2014. Available at: <http://www.interfax-religion.ru/?act=news&div=55525>.

The cooperation between the church and the Russian Ministry of Foreign Affairs

The cooperation of the ROC and the Ministry of Foreign Affairs is a part of a rapprochement of the church and state which happened in Russia after the fall of the USSR (Knox 2005). Although the cooperation between the orthodox hierarchs and the Russian diplomats already took place in the 1990s, the institutional base was set in 2003 after patriarch Alexy II's visit to the ministry. Then an expert working group of the ROC and the ministry was established, which still holds regular sessions. The group is the initiator of joint ventures, organizes conferences, issues publications and so on. In 2015 another body was created – the Committee for International Cooperation within the Council for Cooperation with Religious Institutions at the President's office. Its mandate is to give state diplomacy recommendations regarding international activity, social morality and traditional values.⁷

The cooperation of the church and the ministry has solid foundations for it is driven by common interests. Both parties agree that the post-Soviet area should remain a sphere of dominant Russian influence. They also share the negative view on the impact of the Pax Americana and favour civilizational multipolarity. In the so-called near abroad⁸ the ROC supports the Russian diplomacy by fostering relations of the Russian diaspora with the homeland. Outside the post-Soviet area, e.g. in the Middle East or Latin America, the church helps to promote Russian culture and language and to improve Russia's image. The Kremlin shows its support to the ROC abroad in several ways. Starting with practical issues, such as allowing mass services in the diplomatic headquarters, exchange of information, getting involved in regaining church's real estate lost after 1917 or giving subventions for new places of worship.

Moreover, both parties can rely on each other's support when it comes to diplomatic initiatives. For instance, the Russian President, the Minister of Foreign Affairs and even members of parliament (including the Communist Party) have expressed their concerns about prosecutions of Christian minorities in the Middle East, especially in Syria and Iraq. In 2015 Russia together with the Vatican and Lebanon prepared a draft resolution on the protection of Christians at the UN Human Rights Council in Geneva. The Kremlin

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- 7 A 'personal' factor also played an important role in the development of the cooperation – Minister Sergei Lavrov is known for looking kindly upon the intensification of contacts between his department and the ROC. To the strength of the bilateral contacts testify new 'rituals', such as a common celebration of Easter holiday by hierarchs and diplomats at the Ministry of Foreign Affairs, or the patriarch's blessing on the occasion of the national day of diplomats. Symbolically, in 2015 as a proof of mutual respect Sergei Lavrov was awarded with the order of Sergius of Radonezh, while patriarch Kirill received a honorary doctorate by the Russian Diplomatic Academy.
- 8 The notion refers to the former Soviet republics with the exception of the three Baltic states.

has presented itself as the main protagonist of this cause in the international arena. In this way, it supports the church which considers improving the situation of Christians in this region to be one of its priorities. In return, for example, patriarch Kirill appealed to the US President Barack Obama in 2013 not to bomb Syria, and thus supported Vladimir Putin's diplomatic initiative. The ROC also backed the Kremlin's decision to launch air strikes in Syria in September 2015. Patriarch Kirill referred to them as a 'peace-enforcing operation'.⁹

Human rights are also an important area of church-state cooperation. This topic has turned into another ideological battlefield with the West, and the ROC seems to be the driving force behind it. It should be emphasized that this is an unusual situation for church-state relations in Russia, where the Kremlin usually has the upper hand.¹⁰

Human rights in the agenda of the ROC and the Russian Ministry of Foreign Affairs

The conservative turn has made the ROC an indispensable part of the Kremlin's foreign policy. The ROC is in a position to define what traditional values are. It is not a coincidence that the most important attempt so far to define these values is the document *The Basic Values: the Fundamentals of National Unity* issued by the World Russian People's Council (an organization established and closely linked to the ROC) (Russian Orthodox Church 2011). It was prepared by the Synodal Department for the Cooperation of Church and Society, and, if we can believe the then head of this department, Vsevolod Chaplin, the text was the result of discussion with political parties and different social groups.

9 Patriarch Kirill's preaching, 19 March 2016, see Official Website of the Russian Orthodox Church (2016) *Address of His Holiness Patriarch Kirill on Saturday of the first week of Lent, after the Liturgy in St. Daniel Monastery Stauropegial*, 19 March. Available at: <http://www.patriarchia.ru/db/text/4407803.html>. Archpriest Vsevolod Chaplin even called Russia's military involvement in Syria a 'holy war'. However, this comparison triggered harsh criticism from the representatives of Syrian Christian communities and eventually cost Chaplin his post as the head of the Department for Church-Society Cooperation. 'Russia's fight against terrorists of ISIS was called by the ROC's representative a 'holy war'', see Ria Novosti (2015) Russian Opposition IG terrorists named in the ROC 'holy struggle', 30 September. Available at: <http://ria.ru/religion/20150930/1293510538.html>.

10 The ROC might promote some ideas or projects but it is up to the Kremlin which one of them will be included in the state agenda and thus privileged in the Russian public sphere. The asymmetrical character of the relation between church and state is well seen in case of the church's status. For many years the ROC has tried, unsuccessfully, to convince the Russian authorities to sign a separate agreement (a sort of a concordat) which would strengthen the ROC's position. Similarly, the Kremlin has so far ignored the church's calls for delegitimation of abortion. The recent sidelining of Vsevolod Chaplin, the head of the Synodal Department for the Cooperation of Church and Society, is also seen by commentators as a result of the Kremlin's pressure on the Moscow Patriarchate, see Radio Free Europe/Radio Liberty (2016) An Outspoken Priest Falls From Grace, 28 March. Available at: <http://www.rferl.org/content/russia-chaplin-interview-putin-kirill-orthodox-church-conservatism/27639946.html>.

In order to specify traditional values, which previously had been used in general terms, the document provides a catalogue of seventeen values: faith; justice (meaning "the rightful place of a nation in the international community", i.e. status); peace; freedom (limited by moral obligations); unity (of different ethnic groups, social classes, political groups); morality; dignity; honesty; patriotism (defined as love for homeland, nation, culture, respect for history and readiness for self-sacrifice); solidarity; mercy; family; culture and national tradition (characterized as respect for one's own culture and the tradition of others); prosperity (material and spiritual); diligence; self-limitation (resignation from consumption); and devotion (to the homeland and nation). What is striking in this 'canon' is its prevailing patriotic character. An individual is foremost a member of a community which he/she owes love, respect, devotion, and, if necessary his/her life.

The debate on the approach to human rights has been going on within the ROC since 1999 (Stoeckl 2012: 214)¹¹ but was introduced to the Russian public in 2006 when the World Russian People's Council¹² issued the 'Declaration on Human Rights and Dignity'.¹³

Since then the ROC has been actively promoting its point of view in the international arena, e.g. patriarch Kirill delivered speeches to the UNESCO (2007) and to the UN Human Rights Council (2008). Finally, the Bishops' Council of the ROC adopted "The Russian Orthodox Church's Basic Teaching on Human Dignity, Freedom and Rights" in 2008. Generally, the ROC's stand on human rights is constructed in opposition to liberalism and secularism. Moreover, individual human rights are juxtaposed with rights of community, nation and family (Stoeckl 2014). As the church underlines, freedoms involve duties, e.g. vis-à-vis community, society etc. Last but not least human rights are interpreted by the ROC in an inseparable relation with traditional values.

11 The interest in human rights was picked up and elaborated on in the Department for External Church Relations led back then by the metropolitan Kirill (Gundyayev), the present patriarch.

12 The World Russian People's Council was established in 1993 at the initiative of patriarch Alexy II. It is an international organization closely linked to the ROC that seeks to mobilize people who are concerned about Russia's faith. Council sessions are attended by governmental representatives, leaders of public associations, clergy, science and culture figures, and delegates of Russian communities from the near and far abroad.

13 The declaration was not strictly a Church document but it was generally perceived as the ROC's attempt to probe the reactions to such initiatives.

A closer look at the church's inner debate reveals the evolution in the position of the ROC: from simple opposition to human rights as a foreign concept promoted by the West to a narrative in which the West, driven by aggressive secularism, has forgotten the true (i.e. moral) origins of human rights. In the controversial sermon on the occasion of the Feast of Orthodoxy (20 March 2016), patriarch Kirill called elevating human rights above (outside) God's Law a "global heresy of idolatry of an individual".¹⁴

According to the ROC, in order to understand human rights properly one should acknowledge article 29 of the Universal Declaration of Human Rights (1948) and its connection to the requirements of "morality, public order and the general welfare in a democratic society". Thus 'traditional morality', i.e. morality preached by traditional religions, is the main reference for the correct interpretation of human rights, according to the ROC.

In this light, the secular West, plagued – argues the ROC – by Christianophobia, is violating human rights of the believers. Interestingly, the West is often compared by the Russian hierarchs to the ancient Rome, where Christians were persecuted. Needless to say that the Roman Empire is presented as a country whose moral decay (e.g. the popular acceptance of homosexuality) costs it its very existence. Following this historic comparison, one should – according to the ROC – conclude that the days of the secular West are numbered. However, there is still hope for Europe. As patriarch Kirill argues, it is not Europeans but European elites which are imposing a policy of de-Christianisation of Europe.¹⁵

Such a distinction (demoralized elites versus healthy masses) fits the discourse of the conservative turn produced by the Kremlin. In March 2015 in Geneva, Sergei Lavrov expressed his concerns about the rise of the aggressive secularism in Europe and the growing problems which European Christians face while manifesting their religiosity.¹⁶ The church and the Kremlin thus speak in one voice and post-Soviet Russia presents itself as the last hope of true Europeans to keep their tradition, identity and faith. With the conservative turn the Kremlin makes it clear that Russia is not a part of the secular West. However, this does not mean that Russia is not a part of Europe. Russia could find common ground with Europe, if only Europe would find its traditional (read: Christian) values again.

14 The Sermon by patriarch Kirill from the official website of the Russian Orthodox (2016) *Address of His Holiness Patriarch Kirill to the Triumph of Orthodoxy feast after the Liturgy at the Cathedral of Christ the Savior Church*,

21 March. Available at: <http://www.patriarchia.ru/db/print/4410951.html>.

15 Official website of the Russian Orthodox Church (2014) *Christmas interview with his holiness patriarch Kirill on TV channel "Russia 1"*, 7 January. Available at: <http://www.patriarchia.ru/db/text/3498045.html>.

16 'Interfax (2015) *Christians in the West, more difficult to assert their rights – Lavrov*, 3 March. Available at: <http://www.interfax-religion.ru/?act=news&div=58031>.

Russian diplomats and the ROC at the UN Human Rights Council

The Russian state's involvement in the debate on human rights is well reflected in the common actions undertaken by the church and the Russian diplomats at the UN Human Rights Council. In 2009 a draft of the resolution *Promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind* was prepared.¹⁷ Next, in 2010, a seminar on *The widening of the human rights concept through a better understanding of traditional values*, held in Geneva, was attended by the representatives of the ROC. In 2011 the abovementioned resolution was issued by the Human Rights Council.¹⁸ According to the ROC, by adopting this resolution the Council confirmed that "freedom, dignity and responsibility are traditional values shared by all humankind". Furthermore, the ROC expressed its satisfaction with the fact that the Council finally acknowledged that "better understanding of traditional values helps widening and a better protection of human rights and freedoms".¹⁹

At the 67th session of the UN General Assembly, in September 2012, Russia confirmed its commitment to the moral interpretation of human rights and again called for establishing a consultative body with representatives of world religions at the UN.²⁰ In recent years Russian diplomats on many occasions voiced the necessity of creating such fora within international institutions. This is another example of a common agenda of Russian state and church. The ROC, with the support of the Ministry of Foreign Affairs, has proposed numerous initiatives to establish consultative bodies with representatives of religions at the UN, OSCE, Council of Europe or the EU. Eventually, the ROC presented as its diplomatic success the establishment in 2010 of the High Panel on Peace and Dialogue among Cultures at the UNESCO, which also included religious leaders. The aim of this diplomatic effort is to influence the debate on human rights at the international institutions.

17 The resolution was presented by the Russian representative and adopted with no votes of support from Western countries (26 for, 15 against, 6 abstained). France, the UK, Italy, the US, Norway and Japan were among states against, while China, India, Pakistan, Nigeria, Saudi Arabia and South Africa voted in favor of the resolution.

See United Nations General Assembly (UNGA) (2010) 'Report of the Human Rights Council on its twelfth session', UN DOC: A/HRC/12/50, 25 February. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/118/28/PDF/G1011828.pdf?OpenElement>.

18 Human Right Council (HCR) (2011) *'Promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind'*, UN doc: A/HRC/16/L.6, 18 March. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G11/119/35/PDF/G1111935.pdf?OpenElement>.

19 United Nations General Assembly (UNGA) (2011) *'Promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind'*, UN DOC: A/HRC/RES/16/3, 8 April. Available at: <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G11/124/92/PDF/G1112492.pdf?OpenElement>.

20 Ministry of Foreign Affairs of the Russian Federation (2015) *Russia's position on the 67th session of the UN General Assembly*, 25 March. Available at: http://www.mid.ru/web/guest/general_assembly/-/asset_publisher/lrzZMhfoYRUj/content/id/1309624.

As Kristina Stoeckl (2012: 277), an Austrian political scientist, rightly notices, the coordinated efforts of the church and the Russian diplomats at the UN proves that the ROC is the driving force in Russia's foreign policy when it comes to the debate on human rights.

Conclusion

Russia's approach to human rights is related to the future of the conservative turn in Russian foreign policy. Experts on Russia differ in their opinion on the conservative turn. Some say it is merely an instrument of the very pragmatic authorities who will forget about it in a flash, if they should seek rapprochement with the West or in any other situation when this ideology stops serving their interests. Others, however, argue that the conservative turn does reflect a genuine change in the mindset of the Russian elite. It is probably impossible to determine unambiguously the true nature of the new Russian conservative wave. However, regardless of this, one should keep in mind the numerous political benefits for the Russian state elite which make the conservative turn something more than an ideological project for a single use. It is enough to notice that Russia's claim to the status of a distinct civilization-protector of traditional values resonates with domestic as well as international audiences. The conservative turn is thus playing an important role as an additional source of legitimacy and an attractive framework for the new Russia's identity.

The Kremlin's involvement in the conflicts in Ukraine and Syria provides a fertile ground for further fostering of the conservative narrative. The Russian Orthodox Church, whose presence in the public sphere is growing, is also interested in strengthening this ideological course of Russian politics. And the church is the key institution engaged in re-interpreting the human rights concept not only in the Russian public discourse but also in the global debate. Even a possible future rapprochement with the West does not necessarily have to mean the end of the conservative turn, which is a bad prognostic for human rights activists working in Russia.

The Russian Orthodox Church, the driving force behind the 'Russian' human rights doctrine, is rather unsusceptible to the influence of human rights organizations, domestic as well as international, since both can be dismissed by the ROC as foreign agents. The church might show some consideration to three actors: other Orthodox churches, a majority of Russian society and the Russian authorities. If the majority of Orthodox churches questioned the ROC's interpretation of human rights, the Moscow Patriarchate could reconsider its stand not to put at risk its position within the world Christian Orthodox community. However, this scenario is highly unlikely. The ROC could tone down the idea of 'Orthodox' human rights, should a majority of the Russian society be outspokenly

against it. Such a situation would undermine the church's authority but as long as the ROC has the state's support, it can afford ignoring critics from civil society. This makes the Russian authorities the crucial actor. The ROC's 'Orthodox' human rights campaign would not have won renown, had it not been included in the state agenda by the Kremlin.

For the Russian authorities the debate on human rights is a part of major powers' rivalry. In order to discourage the Kremlin from embracing the idea of human rights as a non-universal category (but one which is intricately connected to religious tradition) one should deprive this idea of the appeal it has for non-Western countries. China, for example, is playing an important part in Russia's vision of multipolarity coming true. And although China is a secular, formally communistic state, it seems to be eager to play together with Russia the 'tune' of traditional values, despite the fact that this 'tune', as sung by the Kremlin, has religious reverberations. Just like Russia, China is interested in weakening the West's ideological hegemony, *inter alia* in the area of human rights. Beijing's positive approach to Moscow's conservative agenda could be observed during patriarch Kirill's first official visit to China in May 2013. The head of the Moscow Patriarchate was welcomed with the honours reserved only for heads of state and met with President Xi Jinping.²¹ While visiting Beijing, Harbin and Shanghai, Kirill kept underlining the common 'spiritual foundation' of Russian-Chinese relations, i.e. traditional values.²² Talking to the head of the Chinese State Administration for Religious Affairs the patriarch expressed hope that the common spiritual foundation of Russian and Chinese civilizations would provide fertile ground for a bilateral cooperation in the international arena.²³ What is important, during his visit to Moscow on 8 May 2015 the Chinese President was received by the patriarch, and on this occasion he also referred to traditional values.²⁴ This narrative is thus shared by both the Russian and Chinese authorities. Under these circumstances, lowering the appeal of a non-universal human rights concept seems an almost impossible task, especially given the West's relative loss of standing in the world normative order and the rise of non-Western powers. Due to all this, the prospects of human rights organizations working in Russia are rather bleak.

21 Official Website of the Russian Orthodox Church (2013) *Patriarch Kirill: the Church has a role to play in strengthening friendship among nations*, 10 May. Available at: <http://www.patriarchia.ru/db/text/2961750.html>.

22 Official Website of the Russian Orthodox Church (2013) *The head of the Russian Orthodox Church celebrated Mass in Harbin*, 15 May. Available at: <http://www.patriarchia.ru/db/text/2970296.html>.

23 Official Website of the Russian Orthodox Church (2013) *The head of the ROC met with the religious leaders of China*, 13 May. Available at: <http://www.patriarchia.ru/db/text/2967776.html>.

24 Official Website of the Russian Orthodox Church (2015) *Patriarch Kirill met with the president of China Xi Jinping*, 8 May. Available at: <http://www.patriarchia.ru/db/text/4073045.html>.

Alexandra Kulikova ¹

Russia: digital rights in the foreign policy agenda

Russia joined the global Internet governance discourse emphasizing a strong role of states in it, as guarantors of their citizens' rights. Principles of state sovereignty, political independence and non-interference into the sovereign information space are at the core of Russia's stance in global Internet and ICT-related policy debates, even though human rights concerns are often verbally supported. Russia's foreign policy stance on digital rights is much driven by national security and political stability agendas and this security-driven narrative is often at odds with the protection of individual liberties online and offline in the country.

Human rights online: reassessing policy priorities

Those who stood at the origins of the Internet and ICTs often remind us that the digital boom never stemmed from, or intended to consider, human rights or security considerations. But improving our daily life through state-of-the-art functionality ICTs also increasingly represent previously unthought of security threats at the same time opening up new dimensions for human rights infringement as people's lives increasingly shift online.

Having been long in the focus of civil society groups' attention, digital rights considerations are now entering the agendas of less conventional platforms for human rights advocates. Technical community organizations which previously excluded human rights from the realm of their policy-making as relevant to online content development strategies, now have to face a new take on human rights. Protocols and algorithms ultimately represent the choice of values made by their authors as influenced by the normative and legal environment they are intended for. As Laura DeNardis (2009), a scholar of Internet architecture and governance, writes in her book *Protocol Politics*: "Protocols are political. They perform some technical function but can shape online civil liberties in unexpected ways. It is well understood how decisions about encryption protocols must strike a

¹ This essay is written in the personal capacity of the author. Views expressed do not necessarily reflect those of her employer.

balance between providing individual privacy online and responding to law enforcement and national security needs.”² Now the Human Rights Protocol Considerations Group³ has been formed at the Internet Engineering Task Force (IETF) “to research whether standards and protocols can enable, strengthen or threaten human rights, as defined in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), specifically, but not limited to the right to freedom of expression and the right to freedom of assembly”.

The growing multi-layer human rights implications still build on the existing corpora of international human rights law and its application in digital space. The development of new dimensions of human rights considerations will further test the current legal framework and the states’ standing on it.

In July 2016 the UN Human Rights Council (HRC) passed an important, although non-binding and not unanimous, resolution on “the promotion, protection and enjoyment of human rights on the Internet”⁴, which in itself is a reiteration of the core issues at stake when we talk about human rights protection in the digital space. This joint initiative of Brazil, Nigeria, Sweden, Tunisia, Turkey, and the United States reaffirms the fundamental principle at the basis of two previous UNHRC resolutions, that “the same rights that people have offline must also be protected online”.⁵ The resolution in particular recommends that states “address security concerns on the Internet in accordance with their obligations to protect freedom of expression, privacy and other human rights online”, refrain from “measures to intentionally prevent or disrupt access to or dissemination of information online”, and adopt a ‘human rights based approach’ to provide and expand access to the Internet. The resolution also takes note of the recent report of the Special Rapporteur on freedom of expression, David Kaye, to the Human Rights Council (UNGA 2016), which highlights that “unnecessary and disproportionate surveillance may undermine security online and access to information and ideas”.

- 2 In the book she goes on to study the way the new IPv6 protocol (the latest version of the IP protocol essential to perform the addressing function of the global Internet) was designed by the IETF engineers to address the problem of IPv4 exhaustion and the institutional choices made in its favour. See: Mashable (2011) *IPv4 & IPv6: A Short Guide*. Available at: <http://mashable.com/2011/02/03/ipv4-ipv6-guide/#pXi5A7AEkqJ>.
- 3 IETF (2015) *Human Rights Protocol Considerations (hrpc)*. Available at: <https://datatracker.ietf.org/hrpc/charter/>.
- 4 United Nations General Assembly (UNGA) (2016) ‘*The promotion, protection and enjoyment of human rights on the Internet*’, UN doc: A/HRC/RES/32/13, 18 July. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/156/90/PDF/G1615690.pdf?OpenElement>.
- 5 See UNGA resolution in footnote 1 and United Nations General Assembly (UNGA) (2012) ‘*The promotion, protection and enjoyment of human rights on the Internet*’, UN doc: A/HRC/RES/20/8, 16 July. Available at: <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G12/153/25/PDF/G1215325.pdf?OpenElement>.

Russia and China have been reported as opposing, in particular, the adoption of a ‘human rights based approach’ for providing and expanding access to the Internet, as potentially conflicting with domestically adopted policies. They also reportedly oppose the wording taken from the International Covenant on Civil and Political Rights, on the right to freedom of expression “regardless of frontiers” and “through any media of one’s choice”, according to Article 19’s reporting.⁶ Not mentioned in this account, the Russian delegation’s comments⁷ to the draft resolution also stress its concerns about child abuse in content dissemination online as well as the importance of giving equal attention to various human rights online, in particular, not overlooking the protection of user privacy on the Internet. This could be a starting point for understanding Russia’s human rights foreign policy priorities: Russia has consistently stated its sovereign right to develop domestic policies on online content regulation. At the same time, it has also flagged user privacy concerns on a number of platforms since Snowden’s revelations about massive surveillance by NSA and other states’ intelligence services, which also stem from considerations regarding state independence that emerged in the wake of the resulting diplomatic stand-off.

Framing the human rights discourse in foreign policy

Human rights concerns are often voiced in the international agreements and documents Russia adopts and supports. But they are as often set forth in the context of presumably overriding principles of states’ sovereignty and equality, integrity and political independence. For example, this is the way respect for human rights and fundamental freedoms is framed in the BRICS Summit 2015 Ufa Declaration⁸ (see Clause 33-34), and in the latest BRICS Summit 2016 Goa Declaration (2016) with special emphasis on the right to privacy (see Clause 65 in Clauses 64-67).⁹ In the tripartite meeting with India and China earlier in 2016 it was stated that “adherence to universally recognized principles of international law in the use of ICTs, in particular, the principles of political independence, territorial integrity and sovereign equality of states, respect for state sovereignty, non-intervention into the internal affairs of other states, as well as respect for human rights

- 6 Article 19 (2016) UNHRC: *Reject attempts to weaken resolution on Human Rights and the Internet*. Available at: <https://www.article19.org/resources.php/resource/38428/en/unhrc--reject-attempts-to-weaken-resolution-on-human-rights-and-the-internet>.
- 7 UN Web TV (2016) *A/HRC/32/L.20 Vote Item:3 - 43rd Meeting 32nd Regular Session of Human Rights Council*. Available at: <http://webtv.un.org/watch/ahrc32l20-vote-item3-43rd-meeting-32nd-regular-session-of-human-rights-council/5009164474001#full-text>.
- 8 University of Toronto BRICS Information Centre (2015) *VII BRICS Summit Ufa Declaration*. Available at: http://www.brics.utoronto.ca/docs/150709-ufa-declaration_en.pdf.
- 9 Embassy of India (2016) *Goa Declaration at 8th BRICS Summit*. Available at: <http://indianembassy.ru/index.php/en/media-news/press-releases/1744-go-declaration-at-8th-brics-summit>.

and fundamental freedoms, is of paramount importance” (Mitra 2016)¹⁰. In the Shanghai Cooperation Organisation (SCO) draft Code of Conduct for international information security, which Russia has been lobbying in the UN since 2011, Clause 2(1) states that each state voluntarily subscribing to it pledges to “comply with the Charter of the United Nations and universally recognized norms governing international relations that enshrine, *inter alia*, respect for the sovereignty, territorial integrity and political independence of all States, respect for human rights and fundamental freedoms and respect for the diversity of history, culture and social systems of all countries”.¹¹

Human rights language is also present in the latest report on international information security of the UN Group of Governmental Experts on developments in the field of information and telecommunications in the context of international security to the UN Secretary General, with recommendations that “States, in ensuring the secure use of ICTs, should respect Human Rights Council resolutions 20/8 and 26/13 on the promotion, protection and enjoyment of human rights on the Internet, as well as General Assembly resolutions 68/167 and 69/166 on the right to privacy in the digital age, to guarantee full respect for human rights, including the right to freedom of expression” (Clause 13(c)). It also states commitments to international law including “respect for human rights and fundamental freedoms; and non-intervention in the internal affairs of other States” (Clause 26).¹²

The Russian delegation did not endorse the final Statement of the NETmundial Internet Governance Meeting held in April 2014¹³ in Brazil in the wake of Edward Snowden’s revelations about state sponsored surveillance programmes, together with other states and civil society groups dissatisfied with its outcomes (Ermer 2014). Arguing *inter alia* that the role of the UN and ITU in the global Internet governance was disregarded in the outcome document, the official position also noted that “the human rights for the protection of

10 See for more on India’s position in global debates on Internet governance and digital rights: Kovacs & Datta (2015).

11 United Nations General Assembly (UNGA) (2015) ‘Letter dated 9 January 2015 from the Permanent Representatives of China, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan and Uzbekistan to the United Nations addressed to the Secretary-General’, UN doc: A/69/723, 13 January. Available at: <https://ccdcoe.org/sites/default/files/documents/UN-150113-CodeOfConduct.pdf>.

12 United Nations General Assembly (UNGA) (2015) ‘Group of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security’, UN doc: A/70/174, 22 July. Available at: http://www.un.org/ga/search/view_doc.asp?symbol=A/70/174&referer=http://www.un.org/disarmament/topics/informationsecurity/&Lang=E.

13 NETmundial (2014) *NETmundial multistakeholder statement*. Available at: <http://netmundial.br/wp-content/uploads/2014/04/NETmundial-Multistakeholder-Documents.pdf>

privacy against surveillance of telephone conversations and electronic espionage carried out by the intelligence agencies of a number of countries have been ignored in the outcome documents of the meeting”.¹⁴

In December 2015 Russia joined the adoption of the WSIS 10+ Outcome Document of the high-level meeting of the General Assembly on the 10-year review of the implementation of the outcomes of the World Summit on the Information Society¹⁵ previous rounds in Geneva (2003) and Tunis (2005).¹⁶ Looking at the results of the decade-long efforts by the international community to foster the global information society in the digital age, the document contains a whole section on human rights protection in the information society as an integral part of policy-making to achieve sustainable development goals for the following decades. At the same time, as can be seen from the written submission of the Russian Federation, it places much emphasis on strengthening the role of governments as guarantors of their citizens’ rights, and of multilateral UN bodies (rather than multistakeholder initiatives) in further Internet governance ecosystem development and the use of ICTs. Much space in the submission is given to the cybersecurity of ICTs and the resulting risks run by the users.¹⁷

Russia’s domestic roots of its international policy stance on digital rights

Russia’s stance on digital rights in international fora is much driven by the domestic agenda. The sovereigntist line, based on the paramount role of political independence and state integrity priority, is implemented at home through control over information flows, boosted by the geo-political tensions with the West and the increasing global terrorist threats. In such a context, domestic approach to Internet regulation becomes factored into the national security policies and global security discussions.

14 Permanent Mission of the Russian Federation to the United Nations (2014) *Position of the Russian Federation on the outcome of the NETmundial Internet Governance Meeting*. Available at: http://russiaun.ru/en/news/rus_nigm.

15 See for more on the role of other emerging powers in the WSIS: Esterhuysen et al. 2016.

16 United Nations General Assembly (UNGA) (2016) ‘Outcome document of the high-level meeting of the General Assembly on the overall review of the implementation of the outcomes of the World Summit on the Information Society’, UN doc: A/RES/70/125, 1 February. Available at: <http://workspace.unpan.org/sites/Internet/Documents/UNPAN96078.pdf>.

17 United Nations Public Administration Network (2015) *Written submission of the Russian Federation to the draft outcome document of the UNGA High-level Meeting on the overall review of the Implementation of WSIS Outcomes*. Available at: <http://workspace.unpan.org/sites/internet/Documents/UNPAN95313.pdf>.

For example, Russia's content blocking or take-down policies are based on domestic legislation on child pornography¹⁸, suicide and drugs propaganda, extremism and terrorism, and mobilization for unlawful manifestations.¹⁹ However, unsubstantiated bans, as RosComSvoboda, a digital rights civil society group estimates, reach 95 per cent of all blocked resources.²⁰ This is due to the lack of precise guidelines of defining illegal content under these and other categories, as well as to often technically indiscriminate blocking resulting in a number of web resources being not accessible.

The most recent source of concern is the latest counterterrorism legislation – the so-called 'Yarovaya laws', labelled 'Big Brother' laws in the media (signed into law in July 2016, to come into force in 2018) as potentially an unprecedented infringement on user privacy rights to offer more leverage to anti-extremist intelligence powers.²¹ Part of it requires "organizers of information distribution" to store communications content for six months and metadata of these communications for three years, all of it to be available for analysis by law enforcement agencies. Besides, the law contains a requirement for companies to facilitate decryption of encrypted communications. Civil rights groups around the world have already voiced their concerns about the consequences for Russians' constitutional rights and universal civil liberties that would result from the implementation of the law, while its efficiency in reaching declared antiterrorism goals leaves many doubts.²² If successful in implementation, the law not only would presumably infringe on the privacy rights of innocent Russian and foreign citizens, as pointed out by UN Special Rapporteur on freedom of expression David Kaye,²³ it would also weaken the cryptographic protection vital for some online services, thus undermining user trust in ICT products and services and opening doors to cybercriminals exploiting vulnerabilities. The encryption debate is seen as particularly sensitive given the previous calls in the UK to weaken end-to-end encryption and the Apple vs FBI case in the US (Griffin 2015 / Yadron 2016).

18 Rossiyskaya Gazeta (2012) Federal release №5845 (172) Federal Law of July 28. Available at: <https://rg.ru/2012/07/30/zakon-dok.html>.

19 Rossiyskaya Gazeta (2013) Federal Law of December 28, 2013 N 398-FZ. Available at: <https://rg.ru/2013/12/30/extrem-site-dok.html>

20 See Rublacklist.net. Available at: <http://reestr.rublacklist.net/>.

21 Meduza (2016) *The Duma's new 'Big-Brother' legislation kills Russia's Internet companies and hurts ordinary Web users. Here's how*. Available at: <https://meduza.io/en/feature/2016/06/27/the-duma-s-new-big-brother-legislation-kills-russia-s-internet-companies-and-hurts-ordinary-web-users-here-s-how>.

22 Campaign against surveillance. Available at: <http://1984.live/>.

23 Office of the United Nations High Commissioner for Human Rights (OHCHR) (2016) *'Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on freedom of religion or belief'*, 28 July. Available at: http://www.ohchr.org/Documents/Issues/Opinion/Legislation/RUS_7_2016.pdf.

The reasoning behind another resonant law requiring Russian citizens' personal data collection, retention, processing and storage by Internet operators to be restricted to the territory of the Russian Federation, was ostensibly based on Snowden's revelations about foreign state-run surveillance programmes presumably affecting Russian citizens and the necessity to protect the privacy of Russians' personal data by localizing their storage.²⁴ While centralized data storage hardly increases their security, the law stirred a public debate on the resulting increase for SORM (System of Operative-Investigative Measures) user data access capabilities.

A quick glimpse at recent domestic practices suggests that the Russian approach to human rights protection online might justify itself in light of broader security and political stability strategies, but civil liberties seem to be its inevitable victim. In the foreign policy in the meantime, human rights considerations are supported while at the same time offset with statements on the supremacy of the principle of sovereignty in digital policies thus offering leeway for their interpretation.

Defining Russia's position: geopolitical security interests

While the Internet is often conceptualized by the Russian authorities as a hazardous phenomenon, the shaping of the human rights discourse around it has been seemingly much supported, as mentioned above, by Snowden's revelations about other state-sponsored online surveillance programmes and perceived implications for Russian citizens who need to be protected by the state. This is also seen as a strong counterargument in debates about infringement on the Russians' liberties in cyberspace as well as about cyber strategies of other states. This framing helps construe and solidify the security-driven narrative both domestically and in Russia's foreign policies. The current hard economic situation in the country is largely blamed on standoffs with the West over the right for sovereign policies driven by national security concerns. This is traditionally accepted by the majority of the population as a legitimate reason to put up with the deteriorating internal situation and endorse the current governmental policies.

According to a survey conducted by the Center for Global Communication Studies at the University of Pennsylvania and the Russian Public Opinion Research Center (VCIOM) (Center for Global Communication Studies 2015), 49 per cent of all Russians believe that information on the Internet needs to be censored and 42 per cent that foreign countries are using the Internet against Russia and its interests. The public perception of their own rights online looks shaped by a securitist outlook, as are their expectations from the state

24 Rossiyskaya Gazeta (2014) Federal Law of July 21, 2014 N 242-FZ. Available at: <http://www.rg.ru/2014/07/23/persdannye-dok.html>.

authorities in protecting these rights. As long as these expectations are met, this provides for a stable social-political system desired both by the people and their leadership, and demands for more liberties come as a minority voice.

Sustainable so far, this somewhat asymmetrical trust agreement also justifies many restrictive measures adopted in the recent years as described above.²⁵ Maintaining the overall control over the national ‘information space’ thus underlies both domestic and foreign policy. The resulting so-called ‘information warfare’ in the ICT-enhanced public sphere is a tough entrenched battle, and its success is reliant on the trust credit that the leadership has. In Russia’s case it is impressively strong but not limitless, and therefore efforts are taken to sustain and foster the current level of control (Trenin 2016). According to Russian Investigative Committee Chair Alexander Bastrykin, it is time to go as far as to establish an information shield against disinformation and opinion manipulation from.²⁶ At the technological level this is intended to be achieved *inter alia* with the so-called ‘IT sovereignty’, seen as an important political but also long-term economic and societal goal.²⁷

The same principles of state sovereignty and non-interference into the national information space from outside are at the core of Russia’s negotiating stance in the context of international information/cyber security discussions and formats, like the above-mentioned SCO, BRICS, as well as in the UN Group of Governmental Experts on norms of state behaviour in cyberspace, and in the OSCE on confidence-building measures to avoid conflict in cyberspace (Kulikova 2016/2015). They underlie the discussions on human rights protection online or offline on international platforms, as online space reflects the primary role of state sovereignty offline. Therefore, attempts from abroad to share best human rights protection practices and work with the local civil society and academia on the promotion of the human rights approach to policy-making, are likely to be taken as attempts to interfere with internal affairs and to influence the social-political status quo. At the same time, human rights considerations will continue to be endorsed as long as they strengthen Russia’s stance.

25 In August 2016, Russians’ real income shrunk by 8,6 per cent on average, a minimum since 2008, See RBC. *The rate of decline in real incomes of Russians peaked seven years*. Available at: <http://www.rbc.ru/society/19/09/2016/57dfcb1b9a79471bdb6db29f>.

26 *Kommersant* (2016) ‘It is time to put an effective barrier to information war.’ Available at: <http://kommersant.ru/doc/2961578>.

27 The Yarovaya laws look hard to implement in the absence of the necessary IT equipment domestically. See Vedemosti (2016) *Putin instructed to organize in Russia equipment for the implementation of the Yarovaya Law*. Available at: <https://www.vedomosti.ru/technology/articles/2016/07/15/649300-vladimir-putin-poruchil-organizovat-proizvodstvo-oborudovaniya-dlya-ispolneniya-zakona-yarovoi>.

Conclusion

Looking ahead, it seems safe to suggest that the national security-driven discourse will continue to shape Russia’s foreign policies regarding human rights in the digital age. Internally, human rights such as the right to privacy, freedom of expression and assembly will continue to be traded in when needed for the purposes of ensuring security and stability within the country and the region. Internationally, the Russian approach has been consistent in stating the importance of protecting human rights in the context of developing national and supranational cybersecurity strategies. At the same time, Russia places much emphasis on strengthening the role of governments as guarantors of their citizens’ rights, and therefore of multilateral bodies in Internet governance and the use of ICTs. Its sovereigntist line, based on the paramount role of political independence and predominance of state integrity, often trumps individual human rights considerations. In the meantime, the areas with best potential for engaging with Russia on human rights online policy appear to be in the field of concerted international efforts to prevent child abuse online; to work on joint cybercrime and antiterrorist measures while striking the balance to preserve user privacy, freedom of speech and access to content; and to develop guidelines both for states and the private sector on promoting responsible policies in ICT’s supply chain. International human rights advocates must thereby reckon with a strong narrative which frames attempts from abroad to promote human rights online as attempts to interfere with Russian affairs, undermining Russia’s legitimate role as the sovereign ruler over its cyberspace and protector of the people’s interests.

*Derek Averre and Lance Davies*¹

Russia, the R2P and human rights: ensuring responsible protection

Russia's position on R2P is aimed at strengthening its international and regional influence and affirming its legitimacy in a global order underpinned by the principle of sovereign equality. However, it has been increasingly accompanied by values-based narratives – including on human rights – which challenge Western liberalism and may inhibit a more constructive approach to responsible protection.

Introduction

Recent events have generated a colossal amount of scholarly and policy commentary on the concept and practice of the Responsibility to Protect (R2P) – how the international community protects populations from atrocity crimes responsibly and safeguards humanitarian conditions effectively (as outlined in the following section). Russia's approach, particularly in the Syria conflict, has been controversial. Moscow has been widely perceived as obstructing the protection of the Syrian population by vetoing UN Security Council (UNSC) resolutions designed to curb the efforts of the Bashar al-Assad regime to crush the opposition – and indeed of contributing to the killing of civilians and disregard for basic human rights through its military support for Assad since autumn 2015.

What is often overlooked is that Russia's position on R2P is largely similar to that of other emerging powers such as China, India and Brazil. While most (though not all) Western scholars and experts agree that R2P has become an established norm (see Gallagher & Ralph 2015: 3), Russia and many non-Western states are suspicious about the potential for its abuse by some of the established liberal democracies, as highlighted by the NATO-led intervention in Libya in 2011. Several factors are at play here. Historical identities and domestic politics incline the emerging powers to accentuate cultural and civilizational specificities when assessing intra-state conflicts and human rights policies. The exigencies of regional security dynamics, particularly where issues of sovereignty and self-determination collide, may influence their views. Finally, global power shifts prompt them to reassess norms and try to negotiate an international order that reflects

¹ This paper is an abridged and adapted version of Averre & Davies (2015).

their enhanced status. As Justin Morris (2013: 1278) argues, “the boldness of the stance adopted by R2P-sceptics such as Russia and China may ultimately come to owe as much to the dynamics of global power distribution as to specific normative bearings”.

R2P as a global norm

The atrocities perpetrated in the Balkans and African conflicts in the 1990s, and debates over the legality of NATO’s intervention – which took place without a UNSC resolution – in the Federal Republic of Yugoslavia (FYR) to protect the Kosovar population, led to the keynote 2001 report by the Canadian International Commission on Intervention and State Sovereignty (ICISS). The report asserted that states have internal responsibility towards their own peoples and external responsibility to react as members of the international community in cases of serious human rights abuses (ICISS 2001, VII-VIII; see also Evans & Sahnoun 2002). The ICISS sought to close the gap between the established and emerging states by shifting the emphasis away from the liberal discourse of intervention, which tended to pit the human rights of individuals against the sovereign rights of states (Chandler 2012: 219), and elaborating key principles for responsible protection on which the major powers could find consensus. The principles were just cause, where intervention may be warranted if large scale loss of life results from deliberate state action or neglect; the precautionary principles of right intention, last resort, proportional means and reasonable prospects; and right authority, namely the UNSC. States in favour of intervention should formally request the UNSC’s authorization and the permanent five (P5) members should agree not to apply their veto power if their vital state interests are not involved or obstruct resolutions authorizing intervention with majority support (Breau 2006: 433-5).

The 2005 World Summit Outcome (WSO) document adopted a narrower reading than the ICISS by affirming the responsibility to protect civilians from four ‘crimes’: genocide, war crimes, ethnic cleansing and crimes against humanity (sections 138, 139).² The 2009 UN report *Implementing the Responsibility to Protect* (UNGA 2009) subsequently reaffirmed the emphasis on states’ responsibility to protect populations rather than the right of humanitarian intervention as such. The report recognized three ‘pillars’: first, the enduring responsibility of the State to protect its populations from the four ‘crimes’ referred to in the WSO document; second, the international community’s responsibility to support states to meet the demands of the first pillar; and third, the responsibility of member states to respond collectively when a state is failing to provide protection, which may include coercive measures under chapter VII. R2P was thus made distinct from coercive intervention:

² United Nations General Assembly (UNGA, 2005) ‘2005 World Summit Outcome’, UNGA document A/Res/60/1, 24 October. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>

it is aimed at strengthening rather than undermining sovereignty and preventing serious human rights abuses through diplomatic and non-military measures (Evans 2012). The UNSC retains its primacy as the sole body authorized to sanction military action. A majority of member states also rejected the ICISS recommendation to include criteria for decision-making about the use of coercive intervention unless mandated by the UNSC under a chapter VII response (Breau 2006: 438; Murray & Hehir 2012: 391-2).

R2P thus constitutes an important norm – that a state’s sovereignty is contingent on observing a responsibility to protect its population – with important practical implications for the international community’s approach to dealing with the most serious abuses of populations. However, it does not create any legal obligations for states to intervene and leaves open the question of the particularistic interests of states acting within the UN-centred international system and their perception of what constitutes fundamental human rights.

Russian views on R2P, intervention and human rights

Russia’s attitude towards R2P has been shaped by a series of Western-led interventions, starting with NATO’s intervention in the FYR and closely followed by the US invasion of Iraq, which caused deep divisions in the international community. In Russia’s eyes, the NATO-led campaign in Libya – initially aimed at pre-empting attacks by Gaddafi forces on sections of the population – went beyond the protection of civilians, distorting the mandate obtained under UNSC resolution 1973 (on which Russia abstained but did not veto) to secure a no-fly zone.³ Moscow had in fact voiced support for protecting the Libyan population (Churkin 2011), accepting that Gaddafi had lost legitimacy and that the Libyan National Transitional Council could take over. However, after Gaddafi’s overthrow the NATO operation was interpreted as an elaborate cover for regime change, perceived by Moscow as illegitimate (Zhukova 2011; see also Evans 2012). The consensus reached with other UN member states over responsible protection was thus outweighed by Russia’s concerns about whether and when it should serve to prompt military intervention. Russian Foreign Minister Sergei Lavrov declared that Libya was the culmination of consistent attempts by some Western states to undermine the fundamental principles of contemporary international law (Lavrov 2013a).

The Libya intervention has in turn had a direct impact on Russia’s approach to the Syria conflict. Russia has supported the Assad regime and repeatedly vetoed draft UNSC resolutions which would impose sanctions and potentially lead to external interference on the

³ United Nations Security Council (UNSC) (2011) ‘Resolution 1973’, UN document S/RES/1973, 17 March. Available at http://www.nato.int/nato_static/assets/pdf/pdf_2011_03/20110927_110311-UNSCR-1973.pdf

Libya model, in favour of a negotiated transition sponsored by the UN and the League of Arab States. Moscow has repudiated Western claims that the Syrian opposition groups constitute a coherent force capable of taking over from Assad and argued that the “legal authorities of Syria are still supported by a significant part of society who not without foundation fear anarchy, collapse of law and ethnic cleansing” (Pankin 2013). It has also warned that regime change would bring about the disintegration of Syria as a sovereign, independent, multi-confessional and multi-ethnic state (Lavrov 2013c) and rejected Western representations of the Arab spring as a struggle for democracy against dictatorship, arguing that this oversimplifies the political, ethnic and confessional complexity of the region.

While supporting the concept of R2P, Moscow calls for strict adherence to the 2005 WSO document reading: it is the state’s own responsibility to protect their populations from the ‘four crimes’ with international support (ICRtoP 2014). Russian arguments focus on pillar 1) emphasizing that the principle of sovereignty as responsibility strengthens rather than weakens the state by ensuring the stability of legitimate government, thereby facilitating humanitarian conditions – and pillar 2) whereby international efforts should be directed towards a prevention strategy aimed at eradicating root causes of conflicts. However, prevention should not, in Russian eyes, entail the promotion of democracy but rather should facilitate grass-roots peacebuilding measures conducive to local needs and realities.⁴ Russian statements in the UN General Assembly debates have made clear that “the key to success of any international assistance is greater consideration of national ownership” (ICRtoP 2014).

The third pillar has caused most disagreement and heightened tensions between the established and emerging powers. Russia’s approach reflects a particular understanding of the relationship between statist and humanitarian norms, with a powerful narrative registering concerns over the humanitarian casualties that may stem from the violent overthrow of the incumbent regime: it is the legality of the means, rather than the humanitarian principle itself, over which Moscow has raised grave reservations. Lavrov has repeatedly warned against the politicized nature of selective unilateral intervention and harked back to the rejection by UN member states of calls for R2P to include explicit criteria to guide decision-making on when to intervene (Lavrov 2013b). President Putin himself has stated that using force only within existing legal norms “represents the *absolute* value” (Putin 2013), one widely accepted as a basic principle in interstate relations.

⁴ See Zhukova (2011). This idea is reflected in UN documents. Paragraph 13 of Implementing the Responsibility to Protect (2009) recommends that UN member states “move from identity-based politics to the effective management, even encouragement, of diversity through the principle of non-discrimination and the equal enjoyment of rights” (emphasis added). The World Summit Outcome document (2005, section 135) states that “while democracies share common features, *there is no single model of democracy...* [we] reaffirm the necessity of the respect for sovereignty and the right of self-determination” (emphasis added).

Russian experts interpret customary law, such as the Universal Declaration of Human Rights, as “containing only moral-political commitments” of UN member states, while “attempts to interpret these political norms as equivalent to international legal norms, or even having priority over them, are not justified from a legal point of view and do not meet Russia’s interests” (Khlestov 2003). Legitimacy thus derives less from ethical considerations than from the legal rules-based constitutional order enshrined in the UN. The original purpose of creating the UN – “to prevent another major war among great powers – not to create a humanitarian utopia”⁵ – remains paramount for the Russian political establishment. As one authority on R2P, Aidan Hehir, has argued, the “‘legalised hegemony’” enshrined in the veto powers of the P5 remains central to the UN, which functions only if it “work[s] with, rather than in opposition to, the realities of power” (Hehir 2013: 151-2).

Russia’s normative challenge to Western liberalism

Russia’s position over R2P has been described as typical of “self-interested spoiling by illiberal governments who reflect neither the wishes of their own citizens or world opinion” (Murray & Hehir 2012: 401). However, Moscow’s policy in the past has not been uniformly obstructive. In the 1990s it supported interventions with a humanitarian remit through peacekeeping, the delivery of aid and protection of citizens; even after the Kosovo crisis, it was willing to engage with the post-conflict peace effort on the ground and contribute to the development of an agreed legal interpretation of humanitarian crises. It has supported UN missions in some African states where humanitarian abuses have occurred (though it has opposed others; see Allison 2013: 61 & ff). Russia did not question whether it was legitimate for the UN Security Council to become involved in Syria in spite of the fact that the conflict there was a largely domestic affair (Bellamy 2015: 168).

However, Russia’s defence of sovereignty increasingly reflects concerns about the challenge posed by the ‘transformative agenda’ of liberalism to the legitimacy of states within Russia’s own neighbourhood (see Allison 2013: 14, 16, 110). This is evident in the current Ukraine conflict, which started as a popular revolt against Viktor Yanukovich’s corrupt and nontransparent regime and culminated in his overthrow and the installation of a liberal, pro-Western government. This challenge impacts on Russia’s approach to R2P. The onus on the state to protect responsibly is interpreted by Russia as privileging ‘regime stability’, as shown by its support for governments in the largely authoritarian Eurasian space. The systemic change that Western intervention threatens to bring about has led Russia to believe that its regional interests are being undermined. Legitimate

⁵ Plesch cited in Murray & Hehir (2012: 393). In a recent UNSC debate Lavrov (2015) cited Dag Hammarskjöld: “The United Nations was not created in order to bring us to heaven, but in order to save us from hell”.

Russian arguments – and those of other emerging powers – about the danger of R2P escalating into coercive intervention have thus become linked with ‘realist’ geopolitical narratives.

This increasingly normative challenge to the human rights-based intervention inspired by Western liberalism comes at a time when the perceived decline in the power of liberal states is impacting on the political sustainability of the humanitarian movement (see Ralph 2015: 4). A recent Russian official statement is explicit:

“In contrast with Western states, who position [the UN Council of Human Rights] as a kind of “rescue team” to react effectively to violations of human rights in conflict conditions and crisis situation, we see its role as assisting the development of constructive and maximally depoliticised inter-state dialogue on key thematic issues of the human rights agenda... Forcing a unilateral interpretation of human rights norms, dishonest use of human rights for political aims, and attempts to undermine the basic principles of international law on the pretext of guaranteeing human rights are unacceptable. We continue to proceed from the assumption that the state bears fundamental responsibility for the observance of human rights on its territory... the use of arguments about human rights violations as a motive for interference in internal affairs or for applying the concept of “responsibility to protect” is unacceptable (Ministry of Foreign Affairs of the Russian Federation 2016).”

The liberal notion that the main threat to individual human rights comes from the irresponsible actions of states is thus contested by Russia’s political elite. In a speech at the UN Council for Human Rights Lavrov (2014b) has argued that:

“For joint efforts to promote and defend human rights to be effective, they should be implemented in strict compliance with generally recognised norms and principles of international law... no country or group of countries have exclusive authority to unilaterally create a new “code of conduct” which is not based on a universal framework. The imposing of personal interpretations of human rights standards can only aggravate intercultural and intersectorial disagreements, risk provoking a conflict between civilisations and disrupt the efforts to create a sustainable system of global development.”

For Russia, legitimacy rests on traditional moral and spiritual values safeguarded by the state, which are under threat from liberal ideology. Replacing international law with a hierarchical system of morality based in Western interpretations of human rights would only heighten conflict over inequalities in the international order and deepen divisions

over the rules of international society.⁶ As a leading R2P advocate has argued in relation to Asian approaches, “the norm of non-intervention remains a *moral imperative*, not simply a legal inconvenience to be discarded at the whim and will of the West” (Thakur 2001: 34). Put simply, differences with the West are due not simply to obstructionism by the emerging powers – which do engage in various ways with the R2P norm – but to the disregard of their legitimate concerns by the liberal democracies.

Libya and Syria have highlighted these diverging understandings of responsible protection as Russia, China, India, Brazil and other emerging powers pursue their global order preferences. Although these states differ in terms of foreign policy, domestic political order and attitude to human rights, their positions on R2P reflect some fundamental similarities. Like Russia, they maintain a very cautious approach to coercive intervention, which should be used a last resort, and emphasise prevention and the need to strengthen the sovereignty of the state, as well as the exclusive authority of the UN in decision-making within a multilateral order based on sovereign equality. Brazil has engaged robustly with R2P since the WSO 2005 document but is still driven by traditional arguments over strengthening the UNSC and sovereign equality. Chinese officials and experts, while voicing differing opinions over R2P and the extent to which human rights abuses can be seen as a threat to international peace and security, also support the primary authority of the UNSC to authorize the protection of citizens and the notion that the use of force should be a last resort. India has seen a lively domestic debate but – particularly since the Libya episode – has been sceptical and cautious about R2P and has retreated towards the sovereignty norm.⁷

Sovereign equality – but also sovereign responsibility

The trend towards global human rights, though constrained by the pluralist international political order, does influence the practices of the emerging powers, however. In demonstrating their influence in shaping global norms, they must be seen to be fulfilling their special responsibilities and engage with evolving universal norms such as R2P to promote global public goods (see Gallagher & Ralph 2015; Foot 2014). Indeed, their

6 Hurrell (2003: 29-30) notes that, while there is greater support for the idea that international society should promote justice and human rights, “peoples, nations, and communities have an identity and seek the protective and expressive power of the state to further that identity. If state sovereignty provides the basic institutional framework, it is self-determination – most commonly national but often shading into cultural and religious – that has come ever more to provide the political power and the moral meaning to the idea of living in a world of states and an international society”.

7 It is beyond the scope of this paper to examine in detail the approaches of the emerging powers, but see Bellamy 2015; Foot 2014; Bloomfield 2015; Arantes 2014; Virk 2015; Stuenkel & Tourinho 2014; Liu & Zhang 2014; Jaganathan & Kurtz 2014.

contribution to developing instruments at the disposal of the international community in terms of prevention and post-conflict peace-building, and the mechanisms of accountability for authorising coercive intervention in cases of gross violations of human rights – as raised in the Responsibility while Protecting concept put forward by Brazil⁸ and that of Responsible Protection articulated by the Chinese scholar Ruan Zongze (see Bellamy 2015: 180) – will be crucial.

The principle of sovereign equality within a pluralist world order is a constant theme in Russian foreign policy narratives. Russia's Ambassador to the UN has cautioned against breaching the “democratic functioning principle [of the UN] – the sovereign equality of all states without dividing them into leaders and led” (Churkin 2015). The 2013 version of Russia's Foreign Policy Concept warns that “it is inadmissible that, under the pretext of realizing the concept of ‘responsibility to protect’, military interventions and other forms of external interference are carried out which undermine the foundations of international law based on the principle of sovereign equality of states” (The Ministry of Foreign Affairs of the Russian Federation 2013).⁹

The tension between the universal human rights imperative of ending mass atrocities and the realities of historically-rooted national attitudes to intervention is one that Russia struggles to come to terms with. Despite its rhetorical engagement with R2P, Moscow is often perceived in the West as blocking constructive ideas and effective diplomatic mediation to mitigate humanitarian abuses. It has refused to rein in its veto power in the UNSC over Syria and has not put sufficient pressure on the Assad regime to exercise responsible protection, allowing Assad to exacerbate the crisis and resist the establishment of legitimate inclusive governance. As discussed above, it tries to separate human rights from the debate over R2P, including at the UN. Russia's readiness to contribute to the future of human rights protection is likely to be contingent on improvements in political relations with the Western liberal democracies – which at the time of writing appear a distant prospect.

8 United Nations General Assembly (UNGA) (2011) ‘Annex to the letter dated 9 November 2011 from the Permanent Representative of Brazil to the United Nations addressed to the Secretary-General Responsibility while protecting: elements for the development and promotion of a concept’, UN document A/66/551-S/2011/701, 11 November. Available at: http://www.un.org/ga/search/view_doc.asp?symbol=A/66/551

9 A leading R2P scholar argues that the principle of sovereign equality has liberal roots; the notion that states are entitled to equal rights and self-government regardless of internal social and political arrangements “is firmly embedded in the United Nations Charter and in much of contemporary international law” (Welsh 2010: 427).

Conclusion

Russia's position over R2P, rooted in the WSO document and situated within an international legal framework that privileges the sovereign equality of states, accords with the consensus among the emerging powers. Responsible protection must be achieved by states themselves, albeit with international assistance; international involvement should be in tune with local conditions (see Bellamy 2015: 181). The second pillar of prevention should constitute the basis for action, rather than recourse to coercive intervention under the third pillar, which must be implemented solely through the UNSC, exercise proportionality and be used a last resort. Russia's approach does not exclude humanitarian considerations but rests on the inviolability of national sovereignty as the fundamental basis of international order; human rights norms, as understood in and promoted by the West, do not constitute a central element of its foreign policy. In dealing with Russia – and indeed with the other emerging powers (see Bloomfield 2015: 51) – advocacy groups will have to consider national approaches to human rights as well as to the political calculus which underpins specific R2P cases. Human rights advocates would do well to engage more closely with country and regional experts when devising strategies for states like Russia.

Russia's involvement in Syria, together with its use of force in Ukraine – widely perceived as illegitimate, despite Moscow's reference to the need to protect citizens – prompts three conclusions. First, the Libya and Syria conflicts appear to have raised the threshold for the implementation of effective protection against atrocity crimes. Second, Russia's normative vision of a pluralist global order challenges some of the fundamental ideas of the Western liberal community; a ‘clash of values’ narrative has reinforced normative divides and complicated relations with the West even further (Averre 2016). Third, Moscow is prepared to rely on power politics to respond to the neglect of its national interests by a declining West (see Thakur 2013: 62). This does not mean that Russia will refuse to engage in international debates on the relationship between human rights and sovereignty, and on the legitimacy and legality of R2P and the mechanisms to enforce it. However, interpreting the context of Russian decision-making and the international and domestic factors that shape its professed values is crucial. A “more constructive and self-critical dialogue on global peace and security governance” (Benner et al. 2015: 3) between Western countries and Russia is needed to enable effective and responsible protection in the future.

Anna Neistat

How to counter a counter-narrative?

Civilizational diversity and traditional values are key concepts in sophisticated attacks on human rights by the Russian government. Russia's international counterparts appear to be at a loss when faced with its growing influence, arrogance, and impudence. Nonetheless, old style large-scale repression is hardly possible in Russia's 'imitational democracy' and the country is not seeking international isolation. This offers opportunities to support and strengthen internal voices critical of Russia's human rights record at home and abroad.

“Who would grasp Russia with the mind?

For her no yardstick was created:

Her soul is of a special kind,

By faith alone appreciated.”

These words, written in 1866 by Russian poet and career diplomat Fyodor Tyutchev, have remained relevant through centuries. Russians themselves often use this mantra to justify the country's – and their own – uniqueness and its exclusive status compared to other nations. And Russia's international counterparts at times cite it to demonstrate how impossible it is to understand Russia and the Russians, and to build a constructive, mutually respectful relationship.

Today, as this collection of essays clearly demonstrates, Russia again uses its claim for uniqueness to backtrack from its international obligations, counterpoise itself to the broadly defined West and challenge the whole body of principles of international human rights.

Twenty-five years after the dissolution of the Soviet Union, the hopes that Russia would become a reliable, law-respecting international counterpart, have been shattered. The return to repressive domestic policies and an aggressive, cynical foreign policy is more evident each year, and the international community at various levels appears to be at a loss, not knowing what to expect and how to address this.

As various authors note in this volume, in recent years Russia has more and more boldly presented the agenda of *civilizational diversity* and *traditional values* as a key counter-narrative to the concept of universality of human rights.

Russian authorities have gone even further than their Soviet predecessors, painting an apocalyptic picture of intercultural, civilizational conflict resulting from ‘unilateral’ interpretation of human rights norms and their use for ‘political purposes’.

Russia has also become much more sophisticated in its attacks on human rights both at home and abroad. These attacks include using unprecedented levels of propaganda, aimed at both domestic and foreign audiences (see Suslov’s essay in particular), and furthermore a number of indirect methods such as creating alternative organizations and treaties (see Cooley and Schaaf’s essay), and eroding and substituting the internationally recognized human rights principles – rather than rejecting them altogether (as, among others, Fawn describes in his contribution to this volume).

Amnesty International has been working on Russia for decades, supporting political prisoners and documenting a wide range of human rights violations inside the country as well as, increasingly, in the context of Russia’s role in the international arena.

There is no doubt that over the last years the situation has again been deteriorating rapidly. Domestically, freedoms of association, assembly, and expression are under constant attack.

The notorious registry of NGOs considered to be ‘foreign agents’ by now contains dozens of entries, requiring the NGOs concerned to put this stigmatizing label on all their publications and observe onerous reporting requirements, defiance of which entails hefty fines and criminal liability. More and more foreign organizations are labelled ‘undesirable’ on the grounds of posing a “threat to the country’s constitutional order, defence or state security”, with the immediate effect of rendering their presence, and any activity on their behalf, unlawful.

Public protests are infrequent, since permission to hold them are rarely granted, and those who defied the ban or the rules are penalized through fines and detention.

State-run or state-controlled media channels, including the ones produced for foreign audiences, like Russia Today, produce unthinkable amounts of pure propagandistic materials and twist facts mercilessly, while a few remaining independent outlets and journalists face attacks and harassment. The control over mass media has by now extended

over the Internet (as also Kulikova describes in her essay on Russia’s position on Internet governance and digital rights), with thousands of websites blocked by order of the state media regulator, and individuals facing criminal prosecution for online postings.

Internationally, Russia is pursuing a dual policy of aggressive and shamelessly hypocritical actions aimed at intimidating opponents and restoring its super-power status with much more nuanced and sophisticated tactics of strategic alliances with non-Western partners. It maintains its positions and influence in the key international and regional institutions while it simultaneously defies international mechanisms that are not deemed suitable. And increasingly Russia interferes – through financial investments, espionage, and hacking – in political processes in the West.

Examples of the former include the annexation of Crimea and continued support to separatists in eastern Ukraine, as well as the political and military support of president Bashar Al-Assad’s forces in Syria, which has resulted in thousands of casualties, indiscriminate destruction of civilian property, and massive displacement, as well as in ongoing impunity for perpetrators due to Russia’s blocking of UN Security Council’s action referring Syria to the International Criminal Court.

Russia’s double-faced, hypocritical foreign policy can be illustrated by Russia’s growing engagement with BRICS grouping (and the creation of its own financial body, the New Development Bank) and the Shanghai Cooperation Organization, its refusal to honour its obligations before international bodies, such as the European Court of Human Rights, and recent revelations about Russia’s alleged interference in elections in the United States and some European countries.

As indicated in earlier volumes of this *Shifting Power and Human Rights Diplomacy* series, and in the introduction to this volume, analysis of the voting behaviour of emerging powers in the UN Security Council on human rights issues shows that Russia, together with China, is leading an international coalition that is increasingly reluctant to use the UN to criticize the human rights records of other states (see also Ferdinand 2014). Elsewhere this group of UN member states has been dubbed the Axis of Sovereignty and it has been argued that “the Russian and Chinese vetoes are a permanent impediment to progress on human rights issues” and that “if the Russian (and Chinese) influence over the UN on human rights subjects at the UN remains unabated” the UN risks becoming even more paralysed (Gowan & Brantner 2008).

Simultaneously, Russia invested heavily in building its international image and aggressively promoting its own understanding of human rights and democracy. It has done this

through bilateral relations and new regional institutions, resulting in a spill-over effect with other states in the region – and in Europe – accepting Russia’s version of democracy and even adopting similar repressive laws.

Notably, and somewhat surprisingly, Russia’s key international counterparts appear to be at a loss when faced with Russia’s growing influence, arrogance, and impudence. For years, they simply chose to look the other way and pretend that Russia’s abusive war in Chechnya, arms supplies to rogue governments, aggressive anti-Western rhetoric and domestic crackdown were just minor bumps on the country’s otherwise steady path towards democracy and rule of law.

It was not until the war with Georgia, the Magnitsky case (a Russian lawyer who died in prison after exposing high-level corruption), and annexation of Crimea that the international community started to wake up. Yet, the condemnation and even sanctions which finally followed, seemed to be too little and too late to influence Russia’s behaviour at home or abroad. If anything, Western sanctions and criticism have been strategically played by the Russian leadership domestically to boost the patriotic, anti-Western moods.

Under these circumstances, devising a strategy aimed at improving the human rights situation in Russia and at minimizing its destructive influence internationally is a challenging task.

Such a strategy should be based on a twofold approach. First, it must rely on an understanding of the nature of Russia’s current political and socio-economic realities, and use this understanding to develop efficient, and perhaps non-conventional, ways of engagement with the Russian public, civil society groups, and, to the extent possible, its leadership. This could involve, as many authors argue above, engaging with non-traditional actors such as the Russian Orthodox Church. And second, it must recognize that any Russia-focused human rights strategy cannot exist and be successful in isolation and needs to be developed as part of a more global, multinational, and multi-institutional human rights strategy.

To be relevant and effective in our work in and on Russia, human rights organizations need to acknowledge that what we see there is a fairly new political phenomenon. Russia is not, as some are trying to claim, on the way to becoming a neo-fascist, totalitarian dictatorship, nor is it on the way back to its Soviet empire days. Instead, nowadays, Russia is a classic example of what political scientists have labelled a *hybrid regime*, a ‘non-liberal’, ‘imitational democracy’, or an ‘electoral authoritarianism’.

In such regimes, democratic institutions are decorative, rather than real. Elections are held, but their outcome is irrelevant since the same people remain in power. There are various mass media channels, but most of them report the same, state-generated or controlled message. Civil society organizations are allowed to exist, but unable to operate due to severe administrative restrictions (or, as Demidov and Belokurova illustrate in their essay, government-run NGOs are being set up as soft power tools of the government). And political opposition is not banned, but is too weak and passive to play a prominent role.

Such regimes are very different from totalitarian dictatorships because they rely on a passive rather than an active position of the population (as famous Russian political scientist Ekaterina Shulman shows in one of her recent articles¹). While the authorities enjoy overwhelming support, confirmed through elections and opinion polls, this support is passive.

This has several implications. Firstly, large-scale repressions, typical for totalitarian regimes, are hardly possible since they require active participation of a significant part of the population. Secondly, authorities are particularly concerned about the active minority (which includes independent journalists, human rights activists, bloggers, and other civil society actors) which it sees as a threat – this explains dozens of repressive laws which in theory a government with such overwhelming popular support should not need. Thirdly, and most importantly, it also means that opportunities exist to support this active minority and to find ways to sway at least some of the passive majority into a more active position.

Amnesty International’s Russia strategy is heavily focused on helping Russian NGOs to develop, strengthen and disseminate positive messages, and on promoting an understanding of the value and contribution of these organizations and human rights defenders for the well-being of Russian citizens, Russian society and the state. And, at the same time, on convincing the authorities that maintaining space for civil society and human rights defenders is crucial for Russia’s international image and its inclusion as an equal counterpart in international fora. As Demidov and Belokurova argue, such engagement should not be limited to traditional, long-standing partners, but should involve starting a dialogue with other civil society groups, including the government-controlled ones.

The strategy also involves developing a narrative and focusing on issues that would resonate with the majority of Russians – such as the right to health, or abuses in the judicial system. It involves, in other words, demonstrating in practical terms that international human rights norms that Russia has signed up to are there to protect the citizens themselves rather than to undermine Russia’s credibility in the international arena. As

1 Shulman, E. (2014) ‘Kingdom of Political Imitation’, *Vedomosti*, August 15. Available at: <http://www.vedomosti.ru/opinion/articles/2014/08/15/carstvo-imitacii>.

part of this trend, it is crucial to demonstrate to the Russian society the objectivity, independence and value of international organizations – including by wide dissemination of materials and information documenting human right violations in other countries.

In terms of Russia's foreign policy, it would be naïve to expect dramatic changes that would turn Russia into a protector and promoter of human rights overnight. It is important to continue to expose Russia's unlawful military actions, destructive interventions in various international bodies, and support of abusive regimes. It is important to use existing mechanisms that Russia is part of – such as the Council of Europe, the Human Rights Council, and many others – to call Russia to account. And, as Cooley and Schaaf suggest, to engage with new institutions such as the Shanghai Cooperation Organization (SCO) and the Eurasian Economic Union (EEU) which could become potential new advocacy forums to halt the erosion of human rights standards by balancing the counter norms that Russia and China try to spread through these institutions.

It is equally important to pressure Russia's international partners to keep Russia's domestic and international human rights record high on the agenda in their bilateral and multilateral interactions. As some of the authors argued, Russia is not ready for, and is not seeking, international isolation. On the opposite, despite its arrogant policies, it is still constantly seeking opportunities for engagement and recognition – including with the West (e.g. see both Sergunin's and Bowring's essays on Russia's relations with Europe and its institutions). Finally, without trying to be overly optimistic, it is not inconceivable to find areas where Russia would be able and willing to render its support for human rights values internationally or in a particular country situation (abolition of death penalty or support for humanitarian aid delivery could be such examples), and such opportunities should not be overlooked.

There is no question that the situation inside Russia and its international stance, including its strategic partnerships with non-Western, illiberal regimes in the region and globally present a major, growing challenge for the human rights movement. And given the developments in Europe, the United States, and more globally, this situation is not likely to improve imminently. Nonetheless, one should remember that the seemingly indestructible totalitarian system empowered by the Soviet Union and dominating significant parts of the world for many decades, eventually crumbled and crashed, and on its ruins many states have developed into functional democracies and active, positive international players. For someone like me, who had lived through this transition, it is a stark reminder that change is possible, and that as human rights activists we have an ultimate responsibility to continue supporting Russia's struggling civil society, whose survival is crucial for this change to happen.

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