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Human Rights in Russia

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On December 12, 1973, when I was released from a KGB special investigation cell in
the Moscow Lefortovo prison, the KGB captain who returned the property that had been
confiscated from me at the time of my arrest refused to give me back a copy of the
Universal Declaration of Human Rights. He exclaimed, "This is an anti-Soviet
document!" The KGB officer ignored my retort that, two days before, Pravda had
celebrated Human Rights Day in connection with the anniversary of the signing of the
declaration.

This episode illustrates the situation at that time with regard to Soviet legislation that
existed only on paper. The USSR passed "its own" laws--laws that sounded suitably
impressive--and in addition it recognized international laws--that is, recognized them in
a purely formal fashion. Thus, in 1973, the USSR ratified both the international treaties
on human rights and, in 1976, the treaties were officially adopted de jure as laws valid in
the Soviet Union. At the same time, however, these laws were totally ignored. Indeed,
during KGB searches, copies of the texts of the Universal Declaration of Human Rights
and the international treaties were actually confiscated.

It is superfluous even to mention that, in reality, Soviet citizens possessed no rights or
freedoms whatever--including the most basic freedoms, i.e., freedom of speech,
freedom of the press, freedom to demonstrate, and freedom of association. At the same
time, dissidents like myself deliberately ignored the conflict between the situation de jure
and the situation de facto, and exercised these rights and freedoms independently
without reference to the authorities. As a result, of course, we became the victims of
government repression.

After Mikhail Gorbachev came to power in 1985, the situation with respect to human
rights gradually began to change. Between 1989 and 1991, the USSR finally: signed the
Optional Protocol to the International Covenant on Civil and Political Rights; recognized
the ability of the International Court at The Hague to resolve disputes over the
application of the human rights conventions; acknowledged the competence of the UN
Committee on Human Rights, the Committee Against Torture, and the Committee on the
Elimination of Racial Discrimination to consider complaints by individuals as well as
cases referred by other participating states; and ratified the Convention on the Rights of
the Child. In addition, the USSR ratified the European Agreement on Medical Treatment
of Foreign Citizens, the Additional Protocols to the 1949 Geneva Conventions, as well
as four International Labor Organization (ILO) Conventions. Nevertheless, Russia (as
successor state to the USSR) is still not a signatory to a number of important
international human rights agreements, for example, the UNESCO Agreement on the
Importation of Educational, Scientific, and Cultural Materials, as well as ILO Convention
No. 105, which focuses on the abolition of forced labor.

During the last few years, a series of USSR and RSFSR laws were adopted to assure
individual rights and freedoms. The subjects of the most important legislation passed in
this area include:

- the mass media
- religious freedom
- declaration of a state of emergency
- rehabilitation of victims of political repression
- rehabilitation of repressed peoples
- criminal investigations
- the Constitutional Court
- parliamentary resolution on registration of public associations
Finally, in April 1992, a section on the "Rights and Freedoms of the Individual and the Citizen" was added to the Russian Federation Constitution. This supplementary section provides a legal basis for bringing Russian legislation into accordance with international standards, emphasizes the intention eventually to abolish the death penalty, and provides for alternative forms of military service (draft legislation for this currently is undergoing revision in the relevant Supreme Soviet committees and commissions) and for compensation in cases of violations of civil rights.

Unquestionably, with regard to the most basic human rights and freedoms, radical changes have indeed taken place. There is now complete freedom of speech--at least in Moscow, St. Petersburg, and other large towns. In fact, speech is now overflowing all bounds: the legal prohibitions against openly fascist or racist propaganda, as well as against calls for the forcible overthrow of the constitutional system, so far have proved almost totally ineffective. One of the so-called "political articles" of the RSFSR Criminal Code, Article 100-1, has been abolished. However, the other "political article," Article 70 (formerly entitled "Anti-Soviet Agitation and Propaganda"), has not been abolished, although it has been given a new name and a new, "more civilized" content.

The law on mass media provides for true freedom of the press--indeed in practice only an economic barrier now remains between potential publishers and their readers. (However, this barrier is a major obstacle in view of the problem of the availability and cost of newsprint and printing presses.) It is precisely as a result of the freedom afforded by this law that Ruslan Khasbulatov, chairman of the Supreme Soviet Presidium, has been attempting to strangle the newspaper Izvestia (which had trodden on his toes) by means of the "noose" that the issue of the newspaper's legal ownership
gave him. However, the Supreme Soviet resolution that Khasbulatov initiated—and personally drafted—has already been appealed to the Constitutional Court.

Article 49 of the constitution finally abolished in unambiguous fashion the former merely "permissive" right to demonstrate, replacing it by an "informational" right (i.e., the authorities now only need to be notified in advance, whereas before their authorization was required). Since the adoption of the resolution on the registration of public associations, new political parties have been springing up like mushrooms. However, so far no actual legislation corresponding to this parliamentary resolution has been adopted.

The law on religious freedom allows for uninhibited practice of every conceivable religious denomination. Articles 142 and 227 of the RSFSR Criminal Code, under which believers were persecuted, have been abolished.

The law on criminal investigations contains provisions for ensuring the observance of human rights in connection with the activities of the "Special Services" (security organs). The law prohibits secret searches under pain of criminal prosecution of those responsible, while the bugging of telephone conversations and the opening of mail are permitted only in cases of grave crimes, and then solely if authorized by a prosecutor. Citizens are given the right to review information relating to them that has been obtained and put on file by the "Special Services."

After the "good news," it is now time to turn to the "bad news." Unfortunately, in some areas of Russian life, the mass violations of legality that were characteristic of all the preceding decades of Soviet history are still practiced today—indeed virtually to the same extent.

The humiliating institution of residential registration ("propiska") remains in existence almost unchanged, although officially it was "abolished" by the USSR Constitutional Review Committee as well as by the USSR president. The tragic situation in the armed
forces has undergone no essential improvement. The hazing "tradition" still continues whereby soldiers are savagely beaten up by their fellow servicemen, causing serious injury, sometimes even death. (In 1991 over 5,000 servicemen died from various causes while in uniform.)

As before, criminal justice remains one of the worst problem areas of Russian society. In recent months, two major changes were effected in theory in the realm of criminal procedure:

1. Defending counsel now has the right of regular access to their clients from the moment of the suspect's arrest or from the moment that the charge is read to the accused (whereas formerly, in most cases, access was not permitted until after completion of the preliminary investigation). Defending counsel also has the right to be present at all interrogations of the suspect.

2. There is now the right to court review of the legality of an arrest and of any extension of the period a suspect is detained.

However, in actual practice--just as was the case in earlier times--following the arrest of a suspected criminal, the investigator very frequently is interested not in the search for truth, but in getting confirmation of the accusation from the suspect. In such instances, the investigator literally beats the required statement out of the accused either with his own fists, or alternatively with the assistance of specially selected convicts (known as the "press-gang"). Subsequently, any "confessions" made by the defendant in court about the way in which his statements were extorted from him typically are ignored as "lacking confirmation." As a consequence of this situation, out of a total of 5,020 complaints received by the Supreme Soviet Committee on Human Rights as of August 9, 1992, 1,153 complaints related to wrongful convictions.

After the treatment of suspects, the most painful question with which the committee has to deal is that of conditions in prisons and corrective labor camps. The committee has
received 410 complaints in this area. The following is only a partial list of the problems encountered: overcrowding, chronic illnesses and the unavailability of proper medical treatment, beatings of prisoners, harsh punishments for disciplinary infractions of any kind, and--worst of all--arbitrary conduct on the part of the staff of the penal system.

It was only very recently, in June 1992, that after a long struggle the Russian Parliament adopted amendments to 41 articles of the Corrective Labor Code, amendments that had been proposed by the Supreme Soviet Committee on Human Rights. These changes reflected the provisions laid down in the Minimum Standard Rules for the Detention of Prisoners.

During the last few years, new types of human rights violations have been added to the "traditional" mass violations listed earlier. The creation of independent nation-state formations on the territory of the Russian Federation has been accompanied in some regions by the persecution of individuals for their personal convictions, arrests of members of the political opposition to those in power, refusals to register opposition political parties and public associations, bans on public meetings and demonstrations, the forcible breakup of meetings and demonstrations, restrictions on dissemination of information critical of the authorities, as well as harassment of independent journalists.

In regions where conflicts are occurring between different nationalities, the bombardment of built-up areas, resulting in the death of peaceful inhabitants, has become an everyday occurrence. Similarly common are forced deportations, acts of terrorism, pogroms, the taking of hostages, and torture of individuals.

Mutual intolerance between different nationalities is becoming increasingly widespread. In particular, the term "persons of Caucasian nationality" is now being used all over Russia. Anti-Semitism is blossoming conspicuously. At Cossack assemblies, resolutions are being adopted to evict various other nationalities from their places of settlement--Armenians, Meskhetian Turks, or the aforementioned "persons of Caucasian nationality."
At this point, the main obstacle to resolving the problem of human rights in Russia lies in the low level of legal consciousness of the people--notably the intelligentsia and state employees--and in the absence of respect for the law and lack of the habit of automatic observance of the law. These characteristics were engendered over many generations--certainly over the last 74 years of Russian history, possibly indeed over the country's entire history.

As many good laws as one could possibly wish for may be passed in Russia, but until a generation of citizens is formed that is brought up to respect the law, progress toward a law-based society will continue only at a snail's pace. Whether there is hope for the emergence of such a citizenry at any time in the future remains unclear.

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