

DISCOURSE IN DANGER

ATTACKS ON FREE EXPRESSION
IN PUTIN'S RUSSIA



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IN PUTIN'S RUSSIA**

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INTRODUCTION

Freedom of expression has been one of the worst casualties of Russian President Vladimir Putin's 15-year assault on democratic institutions and values. When Putin first came to power in 2000, he began systematically to dismantle, weaken, or fundamentally undermine democratic institutions, beginning with the press.¹ Despite this frontal attack on the media, some independent voices in traditional media remained strong and the rise in internet access and social media allowed independent online resources to flourish, including internet news sites, blogs, and social media sites. The global "war on terrorism" gave new energy and justification for limits on speech and the government used the opportunity to pass a vague and overbroad anti-extremism law in 2002, targeting speech, publications, groups, and ideas deemed "extremist," a broadly defined notion interpreted subjectively by officials.² Numerous other laws banning or restricting particular types of content, including information accessible to children, LGBT-related information, and expression that offends religious feelings, followed in subsequent years.

Putin, a career KGB officer, joined the administration of Boris Yeltsin, Russia's first president after the collapse of the Soviet Union, in 1996 and became acting president when Yeltsin resigned in 1999. He was first elected president in 2000, and after completing two four-year terms (the maximum a president may serve consecutively), served as prime minister for four years under Dmitry Medvedev. In 2011 the presidential term was changed to six years and Putin won a third term in March 2012 in an election criticized for irregularities and that sparked large protests.³ Since Putin's return to the presidency, the government has successfully pushed for legislative changes to establish stronger state control over all kinds of civic expression and introduced disproportionately harsh sanctions for violating such restrictions. A government-engineered turn toward conservative social values and a surge of nationalism fueled by the conflict in Ukraine have contributed to an increasingly intrusive and restrictive approach to controlling public opinion. Putin has seized upon information as a key weapon in his fight to promote Russia's resurgence in the world, and he has deployed it both by restricting information and expression that could challenge what one commentator calls "Putin's ultra-conservative agenda of patriotism, Orthodoxy, and authoritarianism,"⁴ as well as

Putin has seized upon information as a key weapon in his fight to promote Russia's resurgence in the world.

by proactively populating the space for expression with content that promotes the Kremlin's worldview.

Although the press has not given in without a struggle and some key independent outlets, reporters, and editors continue to speak and publish, state television and a limited selection of other "loyal" outlets dominate today's Russian media landscape. With the mainstream press increasingly toeing the Kremlin line, government restrictions have expanded to encroach upon other cultural spaces and modes of expression, including social activism, literature, art, and theater. Government tactics have included banning or blocking sources of independent information, ideas, and debate, such as news sites Lenta.ru and Grani.ru, ensuring Kremlin-compliant leadership at the major social network *Vkontakte*, waging a propaganda war to promote its version of events regarding Ukraine, empowering the Russian Orthodox Church to impose "Russian values" on theater and art, as well as tarnishing independent civic groups as "foreign agents" and imposing near-complete restrictions on LGBT activism or public expressions or discussions of homosexuality.

The result of this campaign to control and confine the contours of free expression and to populate it with "approved" ideas has been to limit thought and discourse, induce self-censorship, close avenues of public engagement, raise the risks of dissent, and attempt to subordinate universal norms such as the right to freedom of expression under newly constructed and state-imposed "Russian values" that emphasize a strong state, conservative moral values, and traditional relationships over universal, individual rights.



The Kremlin, Moscow

OVERVIEW AND METHODOLOGY

This report begins with a brief overview of relevant Russian laws and international human rights treaties. It then examines the worsening climate for free expression in several key areas, including censorship of online speech, restrictions on information available to children, growing pressure on cultural institutions, and the crackdown on non-governmental organizations.

The report is based on a review of news and analytical reports on freedom of expression in Russia as well as phone, Skype, and e-mail interviews with human rights experts, writers, journalists, and publishers working in Russia.

LEGAL FRAMEWORK

The right to freedom of expression, which includes freedom of speech, the right to seek and impart information, the right to free assembly, and press freedom, is protected by the Russian Constitution as well as international human rights treaties to which Russia is a party.

Constitution of the Russian Federation

The right to freedom of expression is enshrined in Article 29 of the Russian Constitution, adopted in 1993,⁵ which states “everyone shall be guaranteed the freedom of ideas and speech,” and “everyone shall have the right to freely look for, receive, transmit, produce and distribute information by any legal way...the freedom of mass communication shall be guaranteed. Censorship shall be banned.”⁶ The Constitution provides for limitations to fundamental freedoms to the “extent to which it is necessary for the protection of the fundamental principles of the constitutional system, morality, health, the rights and lawful interests of other people, for ensuring defense of the country and security of the State.”⁷

International Legal Provisions on Freedom of Expression and Access to Information

Russia is a signatory to numerous international treaties that protect the right to freedom of expression, as well as the freedoms of thought, conscience, assembly, and association. Freedom of expression is protected by Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Article 10 of the European Convention of Human Rights (ECHR), to both of which the Russian Federation is a state party. Art. 10 states:

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.⁸

Several petitioners have brought cases to the European

Court of Human Rights to challenge Russian laws impacting freedom of expression that involve political speech. While often successful there, the damages and decisions generally have not been implemented. In late 2015, Russia passed a law that will allow the government to disregard rulings from the European Court of Human Rights if they conflict with their Constitution.⁹

Article 19 of the ICCPR states:

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.¹⁰

The United Nations Human Rights Committee, the body that provides authoritative interpretations of the ICCPR’s provisions, has defined freedom of the press broadly, recognizing that journalism may be engaged in not only by professional full-time reporters, but also “bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere.”¹¹

Article 19 of the ICCPR explicitly protects the right of access to information as a component of freedom of expression.¹² The Human Rights Committee has stated that the right of access to information “includes the expression and receipt of communications of every form of idea and opinion capable of transmission to others,” subject to certain limitations described below.¹³ The U.N. General Assembly declared freedom of information to be a fundamental human right during its first session in 1946.¹⁴

Permissible Limitations on Freedom of Expression Under International Law

Under international law, the right to freedom of expression may be restricted in certain specific circumstances.¹⁵ Both the ECHR and the ICCPR allow restrictions for the protection of national security, public order, or public health or morals.¹⁶ Any limitation imposed must satisfy

Amendments to anti-extremism laws have imposed further limitations on expression. In 2013 the executive branch submitted amendments, approved by the Duma, to criminalize public advocacy of separatism.

particular conditions, as the Human Rights Committee has explained:

It is for the State party to demonstrate the legal basis for any restrictions imposed on freedom of expression . . . When a State party invokes a legitimate ground for restriction of freedom of expression, it must demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat.¹⁷

Russian Laws Restricting Free Expression

While freedom of expression was tightly controlled in the Soviet Union, limits were lifted in the early post-Soviet period and free expression, debate, and public conversation greatly expanded.¹⁸ However, since Putin first came to power in 2000, he has led the government in re-building a formidable legal architecture to limit speech and expression. Several of the key laws that restrict or ban expression are summarized in this section.

Anti-Extremism Laws

Russia has passed a series of laws and amendments collectively known as anti-extremism legislation. A core provision, Article 282 of Russia's Criminal Code, imposes criminal penalties for actions aimed to "incitement to hatred or hostility" and "humiliation of human dignity" of a person or a group of people, on the basis of gender, race, nationality, language, origin, attitude towards religion, or affiliation to any social group. The penalties apply to acts committed publicly or through media and telecommunication networks, including the internet.¹⁹

Other provisions of anti-extremism legislation prohibit media outlets from reporting on attacks by groups banned or designated as terrorist by the government without also including comments from Russian security services in the same text. The security forces often decline to comment or do so only after long delays,

impeding media coverage of such attacks.²⁰ The law also forbids reporters from quoting terrorists directly or naming media outlets that are sponsored or controlled by terrorist groups.²¹

Amendments to anti-extremism laws have imposed further limitations on expression. In 2013 the executive branch submitted amendments, approved by the Duma, to criminalize public advocacy of separatism.²² While a law aimed at curtailing violent extremism may have a legitimate place in a democratic society, it must not infringe upon protected expression. In Russia, authorities appear to use the laws to limit information and debate on matters of legitimate public interest, as will be documented below.

Law on Protection of Children from Harmful Information

One of the broadest laws restricting expression is the 2010 Law on Protection of Children from Information Harmful to Their Health and Development and its subsequent amendments,²³ which some activists refer to wryly as the "law on protection of children from information."²⁴

The law applies to any "information that might cause fear, anger, or panic; justify violence and unlawful behavior; or cause a desire to use drugs, alcohol, or otherwise harm one's health."²⁵ It mandates the establishment of unified standards for all mass media products including books, magazines, computer programs, databases, and other audio and visual materials intended for children and requires such materials to be reviewed by a panel comprised of experts in child psychology, physiology, psychiatry, and education, who are appointed by federal executive or regional officials.²⁶ The law requires media products to specify the age of their intended audience through an age rating system that divides information content available to minors into age categories of: under 6 years, 6-12, 12-16, and 16 and older²⁷ and provides content restrictions and guidelines for each age group.²⁸ All information products must declare the age of the intended audience and the law specifies that for printed or visual materials the age designation must be printed

The United Nations Human Rights Committee has said that the gay propaganda law disproportionately restricts the right to freedom of expression of LGBT people and has called on Russia to repeal it.

in type large enough to cover at least 5% of the size of the surface of the package or item for sale.²⁹

The law also prohibits the broadcast of television and radio programs containing information harmful to minors between 7 a.m. and 9 p.m.,³⁰ requires content blocking in places where children could access the internet,³¹ and requires any printed materials containing information deemed harmful to children to be sold in packaging that prevents children from previewing the contents.³² Violations of the law are punished by fines and other sanctions, including possible removal from sale of the media products found to be not in compliance.³³

Amendments to the law have created additional restrictions and penalties, and have included provisions restricting information about LGBT families and relationships. In June 2013 President Putin signed Federal Law No. 135-FZ banning the “promotion of nontraditional sexual relations to minors,” often referred to as the “gay propaganda law.” The law ostensibly aims to protect children from “information promoting the denial of traditional family values,” and passed unanimously save a single abstention in the Duma.³⁴ The gay propaganda law imposes fines for violations, starting at 4,000-5,000 rubles for individuals (approximately \$61-76 USD) and increasing to 800,000-1 million (approximately \$12,237-\$15,300 USD) for legal entities such as organizations and businesses. The fines rise significantly if the offender uses mass media or the internet for “propaganda:” 40,000-50,000 rubles for individuals (approximately \$611-764 USD) up to 1 million (approximately \$15,300 USD) or up to 90 days’ suspension of activities for legal entities.³⁵

The United Nations Human Rights Committee has said that the gay propaganda law disproportionately restricts the right to freedom of expression of LGBT people and has called on Russia to repeal it, as well as to “Guarantee the exercise in practice of the rights to freedom of expression and assembly of LGBT individuals and their supporters.”³⁶

In addition, a new draft law introduced in October 2015 would impose fines of 4,000-5,000 rubles (approximately \$61-76 USD) for public expression of

“non-traditional sexual relations.” If the public display occurs on the grounds of an educational, youth, or cultural institution, the offender could be subject to up to 15 days of administrative arrest.³⁷ The bill and the explanatory note accompanying it underscore the government’s campaign to restrict the rights of LGBT people and suppress all forms of LGBT-related expression. The bill’s authors argue that homosexuality is “socially infectious,” especially for young people, and have publicly accused LGBT people of supporting pedophilia. The debate surrounding this proposed law has fueled dangerous manifestations of anti-LGBT sentiment.³⁸

Insult to Religious Believers

Laws on incitement to hatred and laws on insulting the feelings of religious believers also impose criminal penalties for the expression of particular ideas. In cases brought under these laws, government-appointed experts have the authority to find that speech or expression meets the definitions provided for in the law.³⁹

Article 148 of the Criminal Code criminalizes insulting religious feeling of believers, as broadly defined. The prohibitions encompass “public actions which express obvious disrespect for society and are committed to insult the religious feelings of believers,” and the law imposes penalties that include fines of up to 300,000 rubles or two years’ salary or other income for a period of up to two years, up to 240 hours of compulsory labor, or community service or imprisonment for up to one year. Public acts deemed to insult the feelings of religious believers carried out in places of worship carry stiffer penalties.⁴⁰ Members of Pussy Riot, the punk performance group, were convicted under this provision.

Laws Targeting Civil Society

In recent years, the Russian government has also adopted several laws, including the so-called “Foreign Agents Law” and “Undesirables Law,” the impact of which has been to drastically curtail the operations of non-governmental organizations. These laws are discussed in detail below.

REGULATING THE INFORMATION SPACE: ROSKOMNADZOR

One of the government's key tools for controlling information is the Federal Service for Supervision of Communications, Information Technology, and Mass Media (Roskomnadzor). Roskomnadzor is the federal executive authority of the Russian Federation responsible for the control and supervision of mass media including electronic mass media, mass communications, information technology, and telecommunications. It also supervises statutory compliance over personal data use and manages radio frequency services.⁴¹ Only established as a separate agency in 2008, Roskomnadzor has taken on an increasingly powerful and important role in the Russian media landscape, with enormous implications for freedom of expression.⁴² Roskomnadzor effectively exercises control over public media and discussion and has the power to restrict the activity or content conveyed over any form of media, including websites, social media, and print publications including books.⁴³ With the passage of other laws restricting freedom of expression and in particular specific content, such as the Law on Protection of Children from Harmful Information, Roskomnadzor's role has continued to expand.

Generally, Roskomnadzor's oversight is supposed to be guided by the Law on Mass Media, the Law on Information, Information Technology, and Information Protection (Law on Information), and the anti-extremism laws. The agency is empowered to issue warnings to media platforms it deems to be in violation of these laws; three warnings can result in forcible closure of the outlet. Soon after its establishment, Roskomnadzor began to issue warnings to websites and broadcasters concerning specific politically or socially sensitive content. The agency began to attract increased domestic and international attention when it informed media outlets that they were not only responsible for their own content but also for the content posted by commenters in their online forums.⁴⁴

Selective Enforcement

Roskomnadzor has the power to impose crippling fines or remove from publication works deemed inconsistent with Russian law. Since Roskomnadzor does not have

the resources to read and analyze every publication within the scope of the law, enforcement is necessarily selective and open to political influence. The result is an arbitrary and unpredictable approach that leaves content producers guessing what may get them fined or jailed. In practice, Roskomnadzor has broad latitude to take action against media, including social media, for purely political reasons.⁴⁵ The selectivity and, at times, arbitrariness of Roskomnadzor's enforcement protocols create significant uncertainty for writers, publishers, broadcasters, websites and other media producers, often resulting in self-censorship as a way to avoid uncertain rules and arbitrary enforcement. In the words of one writer, "in the absence of hard guidelines (which is the way the Putin government generally likes it, the better to keep the citizenry on its toes), people are left to explore the boundaries of their own bravery."⁴⁶

In practice, Roskomnadzor has become a convenient and powerful tool for the Kremlin to temporarily or permanently disable content across a range of platforms, from social media to traditional publishing. As Maria Stepanova, editor of independent cultural website Colta.ru put it, Roskomnadzor has reawakened people's "internal editors—the voice in your head that consciously or unconsciously makes you question what you are writing or publishing. Does this cross the line? Will this get me in trouble?"⁴⁷

Indeed, many acknowledge that Roskomnadzor is used specifically as a selective enforcement tool by the Russian government. Nabi Abdullaev, former editor of the *Moscow Times*, the leading English language newspaper, said "Roskomnadzor is a very technical agency that only implements concrete political orders or wishes of the Russian leadership. I would say they don't have a political will of their own."⁴⁸ According to Stepanova, the controlling, paternalistic limitations imposed by Roskomnadzor on public discourse have diminished the sense of citizenship in Russia. But, she warns, "don't personalize Roskomnadzor. It is the whole system that is paternalistic and reduces citizens to children who cannot be trusted to think for themselves. It has demolished the idea of expertise, the idea of journalism as a profession, and the idea of education."⁴⁹

Online Media

Roskomnadzor's jurisdiction extends to all online content, including online news sites, social media, and other websites.⁵⁰ When Roskomnadzor receives a court order or a request from a prosecutor with respect to purportedly unlawful online content, they notify the internet service provider (ISP) that hosts the website or online platform. The ISP in turn must notify the website's owners of the problem within three days. If they fail to remove it within three days, or if the site or platform has received more than three warnings, the agency blocks access to the content by entering the pages or site in an official register of banned sites that network operators must block.⁵¹ Owners of a domain name, site, or IP address can remove the banned information and petition Roskomnadzor to unblock the site.⁵² Roskomnadzor's actions and the lack of clarity surrounding the laws affecting online speech have resulted in a broad chilling effect. One study found that "due to the ambiguities of the legislation governing censorship, ISPs responsible for complying with blocking orders 'carry out the widest blocking possible', including sites against which the authorities have no complaints."⁵³

Previously hailed as the last bastion of free expression in Russia, the internet has been a key target of the Kremlin's efforts to control the information space. Tanya Lokshina of Human Rights Watch has described the internet in Russia as "the cyber inheritor of the kitchen, which was the only (relatively) safe place for debate in the Soviet era," since household kitchens were viewed as the ultimate private spaces where people gathered for discussions only with family and trusted intimates. Lokshina has documented a series of government measures to restrict online speech.⁵⁴ Freedom House has ranked the internet in Russia as "not free," citing problems such as obstacles to access, limitations on content, and violations of users' rights.⁵⁵

Online space is a vital outlet for citizen expression and is also an essential outlet for the dissemination of journalism and uncensored information by a wide range of independent media and outlets, civil society groups, and professional associations. Given the resources that the state invests in disrupting independent news distribution, disseminating its own official version of news, and engaging in organized "trolling" both to spread misinformation and to challenge viewpoints it dislikes, the constraints on unfettered expression online compound the problem of a warped and state-dominated information arena.⁵⁶

Government-Approved News

The government's engineering of the information space has not been limited to emptying it of a pluralism of views and independent ideas, but also filling it with an onslaught of Kremlin-approved distortion, propaganda, and misinformation about the conflict in Ukraine as well as the work of human rights groups and other civil society organizations.⁵⁷ Their objectives appear to be both to

spread their version of the truth, and also to undermine and destabilize the very notion of objective information.⁵⁸ As Nabi Abdullaev described:

This void of expression of independent, often professional, value-based and public needs-based public interests is replaced by propaganda of all kinds, mainly by commentaries of state-sponsored actors—both media and individuals—who create a kind of a virtual media reality that is being fed to general Russians. In this reality, Russia is battling off the encroaching West (mainly, Americans) nearly everywhere, including Syria, Donbass, and in Russian courts that slap "foreign agent" stigma on rights and charity organizations. And it works pretty well, given the total approach and the relative high quality of the drama management by the Russian television.⁵⁹

Perhaps the example that has garnered the most attention internationally is the Kremlin-funded television station *Russia Today*, recently re-branded as the more generic *RT*. According to some analyses, *RT* pretends to offer real news, and on some topics does, while in other cases presenting a government-sanctioned version of news and engaging in dubious reporting on a variety of topics.⁶⁰ *RT*'s messaging is thus more complex, and arguably more powerful, than simple heavy-handed propaganda.⁶¹ President Putin has made clear that *RT* was created to "try to break the Anglo-Saxon monopoly on the global information streams."⁶² In a 2013 foreign policy concept note issued by the Ministry of Foreign Affairs, the government made its aims even clearer, stating "Russia will seek to ensure its objective perception in the world, develop its own effective means of information influence on public opinion abroad... and take necessary measures to counteract information threats to its sovereignty and security."⁶³

Russia's takeover of independent television is especially significant because of television's influence and reach in the country. An estimated 98% of households in Russia have access to television as compared with 66% that have internet access.⁶⁴ Studies indicate that Russians also consider information received from television more seriously than information received from the internet. A nationwide survey by the Levada Center, an independent analytical center, in October 2015 showed that 59% of respondents trust information they receive from television completely or to a significant degree, as compared to 37% who trust information they find on the internet. Trust in television has risen over the last three years from only 47% in 2012, a period when the government has intensified its control over information and efforts to restrict free expression.⁶⁵

Anti-Extremism Laws

The anti-extremism laws, the broad and poorly-defined

Previously hailed as the last bastion of free expression in Russia, the internet has been a key target of the Kremlin's efforts to control the information space.

provisions of which impose criminal penalties for “incitement to hatred or hostility, and humiliation of human dignity” of a person or a group of people, based on gender, race, nationality, language, origin, attitude towards religion or affiliation to any social group, has provided ample means for the government’s efforts to regulate and restrict expression. Courts have interpreted the meaning of “social group” very broadly, in at least one case holding that it includes all Russian people.⁶⁶ Konstantin Golava, an LGBT activist from Togliatti, was accused of inciting ethnic hatred for materials he posted on his social media page advocating for a civilian alternative to military service. Russia’s Investigative Service alleged that Golava’s posts were humiliating to members of the social group “Russian citizens.”⁶⁷ Golava eventually sought political asylum in Sweden fearing persecution for his advocacy in Russia.⁶⁸

In September 2015 Dmitry Semenov, an activist with the independent political party Parnas, was convicted of calling for extremism and fined 150,000 rubles (approximately \$2,167 USD) after he reposted a caricature of Prime Minister Dmitry Medvedev on his social media page.⁶⁹ Semenov, who was granted amnesty as part of an amnesty program to commemorate the 70th anniversary of World War II, under which people convicted of minor offenses were allowed early release, had planned to appeal his conviction.⁷⁰ In May 2015, Viktor Shenderovich, a well-known essayist, journalist, and humorist, reported that authorities had launched an investigation against him for suspected extremism after he published an essay on the assassination of opposition leader Boris Nemtsov in March 2015.⁷¹

Flashpoint Ukraine

The conflict in Ukraine precipitated a rash of politically motivated censorship and propaganda unprecedented in recent Russian history. Although the decline of independent media in Russia has occurred gradually as the authorities have toughened restrictions and taken steps to close independent outlets, the conflict in Ukraine accelerated the clampdown. The conflict, which began with mass protests in the capital, Kyiv, in late 2013 and erupted into armed conflict in early 2014 in the eastern part of the country (closer to Russia) gave fresh impetus

to the drive to silence independent voices and replace them with a dominant state narrative. Stepanova noted that the conflict set off:

A year and a half of pure hell. The government reloaded the propaganda machine and you could hear it everywhere: at the doctor’s office, on the tram, in the shops. They were using all their force and in a way it worked—the level of hysteria was extraordinary, and not only among the people accepting state TV as the gospel truth. The effect of such propaganda goes person to person, hand to hand. The level of mutual hate was astonishing. I’ve never felt anything like that.⁷²

Just six months after amending the anti-extremism laws to criminalize public calls to separatism in 2013, the government toughened criminal penalties for violations, especially for online speech.⁷³ In February 2014, a law came into effect allowing prosecutors to order internet sites, including blogs and social media pages, to be blocked without a court order.⁷⁴

In February 2015 Roskomnadzor announced new recommendations for Russian mass media on how to write about Ukrainian nationalist organizations, such as Right Sector or the Ukrainian National Assembly. The recommendations stated that media should not describe them in a “neutral” manner and must refer to any organization included in the government’s list of banned organizations with a qualifier such as “radical,” “extremist” or “nationalist.” In addition, any mention of such groups must note explicitly that their activity is banned on Russian territory. Roskomnadzor further noted that failure to comply with these “recommendations” could result in a warning. Although Roskomnadzor modified their announcement a day later, removing the recommendation to use qualifiers when describing nationalist organizations, the message conveyed to the media was clear: Watch your words.⁷⁵

The conflict and accompanying clampdown on expression led to a spate of closures of independent online news outlets, blocking of specific online content concerning Ukraine, and banning of individual sites and social media pages.⁷⁶

In March 2014, just days after Russian troops occupied Crimea, Roskomnadzor announced that it would enforce an order from the Prosecutor General to block access to three major independent news sites, EJ.ru, Grani.ru, and Lenta.ru, as well as the blog of opposition figure Alexei Navalny.⁷⁷ The experience of Lenta.ru, long a leading independent news source in Russia, is particularly telling. Two days before the ban was announced, Galina Timchenko, Lenta.ru's editor since its founding in 1999, was fired over the site's coverage of events in Ukraine. Before Timchenko was ousted, the site was not only one of Russia's leading independent news sources but also one of its most profitable and popular.⁷⁸ Roskomnadzor issued the site a warning for publishing material of "an extremist nature" after it ran an interview with a member of Right Sector, a far right Ukrainian group.⁷⁹ Lenta.ru's owner then replaced Timchenko with Alexei Goreslavsky, who had run Vzglyad.ru, a business news site considered firmly pro-Kremlin. In an open letter posted on Lenta.ru after Timchenko's firing, 69 editors and writers for Lenta.ru protested the developments:

The firing of the independent editor-in-chief, and the appointment of someone who can be controlled by the outside, including directly from offices in the Kremlin, this is a violation of the laws of journalism, of not allowing censorship... Over the past few years, the space of free media in Russia has shrunk dramatically. Some outlets are directly controlled by the Kremlin, others through gate keepers, others through editors who are scared to lose their work. Certain media outlets either have already closed, or will close soon... We certainly expected they would come for us as well.⁸⁰

Banned sites often experience an uptick in visits in the days and weeks immediately following the ban.⁸¹ However, as time goes on, visits drop off. Accessing the sites in Russia requires the use of proxy servers and anonymizers, which impose barriers, and are unwieldy to use on mobile phones (increasingly the preferred devices used by Russians to access the internet).⁸² In the case of Lenta.ru, many journalists who left along with Timchenko followed her to Latvia where she launched Meduza, a site that publishes some original content but functions mainly as a content aggregator, reposting from other sources.⁸³ Meduza, with its Russian readership of just 2.7% of the population, as compared to Lenta's of 12.9%, represents an important symbol of defiance against Russia's tactics, but cannot begin to fill the gap in independent news coverage left by Lenta's demise.⁸⁴

Former *Moscow Times* editor Abdullaev underscores that even though numerous smaller blogs and social media pages that post information are able to operate without

significant interference, the government nonetheless maintains a near-monopoly on news:

The actual news—important information to be exchanged—is not generally produced by bloggers. It is produced by the professional editorial teams. If these teams are disbanded or oppressed to the extent they stop doing meaningful, relevant journalistic work, the online space will not generate them in their stead. The most popular Russian journalist-blogger Oleg Kashin does not write news, he comments on and circulates news written by editorial teams. The team running the very popular website of Ekho Moskvyy radio does not have its own integrated capacity to generate news content, they re-post content created by others. Even Meduza, often seen as a success story of preserving a free media outlet by moving the newsroom abroad, has very little of its own reporting and mainly recycles someone's else content.⁸⁵

The conflict in Ukraine has also resulted in the targeting of many social media groups and users. In March 2014, at the request of the Prosecutor General's office, Roskomnadzor blocked 13 Ukraine-affiliated groups in *Vkontakte*, a major social media network in Russia. In addition, Roskomnadzor pressured *Vkontakte*'s administrators to ban the personal profiles of pro-Ukrainian nationalists. Some of the banned communities had large numbers of followers: "The Ukrainian Revolution" community listed approximately about 500,000 followers, "The Revolution Euromaidan" community had around 390,000 followers, and "Right Sector," a far right Ukrainian nationalist group had approximately 350,000 followers.⁸⁶

In a press release, Roskomnadzor justified the ban alleging "these communities propagandized the ideology of Ukrainian nationalist groups, directly called for terrorist actions and participation in unsanctioned mass meetings." In the same statement, Roskomnadzor warned that "spreading information with extremist content using any internet-based platform to organize that illegal action, is forbidden."⁸⁷

In February 2015 a court in Tatarstan, a region in central Russia, sentenced activist Rafis Kashapov to two years in prison for speech threatening to Russia's territorial integrity and for incitement to hatred for publishing an online article opposing Russia's occupation of Crimea.⁸⁸ A court in Siberia handed down a one-year prison term to Oleg Novozhenin for "propaganda of extremism on social media networks" for posting audio and video materials of right wing Ukrainian groups. Novozhenin's sentence may represent an even harsher approach by the government, as previous sentences for those convicted of promoting extremism online have consisted of fines or suspended terms.⁸⁹



Izvestia newspaper building

Publishing

Although much has been written about Russian repression of internet freedom, less attention has been paid to traditional publishing, a realm that has also felt the weight of government restriction and a climate of caution for authors, publishers, and even bookstores. Roskomnadzor's oversight extends to the publication of new works as well as translations. The government's campaign to establish and promote "Russian" values while attempting to expunge or push into the shadows experiences or ideas that do not conform to official orthodoxy,⁹⁰ relies

on books in ways that both elevate and debase them. By limiting certain kinds of content, for example positive descriptions of homosexuality, or candid accounts of suicide or drug use or by allowing only selective interpretations of history, the government uses books and other publications as a means to transmit and reinforce its own preferred ideals and historical narratives. The government requires that publications containing profanity or any writing aimed at adults (rather than children) be marked with warnings and sold in protective wrapping, as if the contents were pornographic or dangerous and

as if books pose a danger to a public unable to handle them or think independently.

Publisher Ilya Danishevsky, the editor-in-chief of the Time imprint at AST publishing house, calls this a “system of silence and reconstruction of taboos” that goes deeper than mere external restrictions.

In Russia “healthy,” “normal” people don’t speak about same sex relationships or domestic violence, don’t criticize the religious authorities, or discuss the problem of suicide and reasons for it, etc. At a minimum, these topics are all presented as of little importance or interest. For Russia, creating its own unique path and own unique value system higher than any other, it is better to independently uproot itself from the system [of universal values].⁹¹

According to Danishevsky, restrictive laws have led to self-censorship on the part of editors, as well as bloggers, and others. The nebulous rules and their arbitrary enforcement force people to make imprecise calculations about whether they can allow themselves the risk of publishing possibly controversial writings. And “these self-imposed limits sooner or later will rob the reader of various works and, even worse, rob the author from creating them.”⁹² But Danishevsky’s central critique of the propaganda law and other laws that restrict content is that they rest on the false notion that certain behaviors, values, or ideas that the government seeks to restrict are germinated and fueled by writing: “Homosexuality, violence, swearing, and pornography [all restricted by law] did not become reality from books, it is exactly the other way around.”⁹³

There are numerous laws that Roskomnadzor can use to harass publishers; these strictures are marked by vagueness and selective enforcement.⁹⁴ Danishevsky says “it’s worth mentioning that the caricature of enforcement of these laws is due to the flexibility of their formulations.” He recounted that concerns were raised with respect to the laws protecting the feelings of religious believers (see more below) when he decided to publish the Russian translation of Clive Barker’s book *The Scarlet Gospels* and began discussing it with booksellers.

Any moves in this direction, any hint or allusion, immediately raises concerns and feelings of discomfort; the law is constructed such that there is no clear understanding what religious feelings are (and therefore what insulting them entails), what is its core and where are its limits; there is only a kind of “aura of question” that arises, probably similar to that raised by the taboo themes of sexuality before the sexual revolution.⁹⁵

The stakes of running into trouble with the agency

are high.⁹⁶ If Roskomnadzor determines that a book is in violation of a law, the writer, publisher, editors, distributors, and bookstores all potentially face criminal charges.⁹⁷ Danishevsky says that publishers must be willing to operate on the principle “do what is right and what will be will be,” and any preliminary or pre-publication efforts to avoid problems “should be associated exclusively with opposing various forms of the system of self-censorship.”⁹⁸

In another example, highlighting the unpredictability of Roskomnadzor, in early 2015 award-winning *Novaya Gazeta* journalist and prominent LGBT-activist Elena Kostyuchenko released a compilation of articles and essays, *We Have to Live Here* (Нам Здесь Жить).⁹⁹ The book includes a forward by Nadezhda Tolokonnikova, a member of the punk performance group Pussy Riot who was convicted for “hooliganism motivated by religious hatred” in 2012 for an unsanctioned performance in a Moscow cathedral.¹⁰⁰ However, while Tolokonnikova’s piece escaped the censors, Kostyuchenko was forced by Roskomnadzor to omit an article she had written about the Pussy Riot case from her book. She left blank pages in its place to underscore the censorship. *Novaya Gazeta*’s article about the book notes, “As with other heroes of our time, censorship has left its mark on the pages of *We Have to Live Here*.”¹⁰¹

Re-Defining History: *Flags of the World*

Since Roskomnadzor does not have the capacity for complete control over publishing, broadcasting, or online speech, it relies in part on citizen complaints. This system has resulted in numerous cases of action against books or other media for their failure to conform to officially promoted viewpoints based on complaints from individuals or citizen action groups, creating an interesting parallel to the Soviet practice of denouncing one’s neighbors and colleagues.¹⁰² Danishevsky says

In a country that has unofficially banned any criticism of the authorities, in a country where the sole true beliefs are actively implanted through television, where pluralism is semi-prohibited, the desire to complain is in excess. And so if we speak about the fact that a huge part of the population agrees with the “party line,” any differing opinions (including innovations) experience “economic censorship” since the market is confined to conservative, long since regulated positions, and acts according to pre-programmed patterns (as does the consumer).¹⁰³

Russia’s laws restricting expression have not only imposed stark limits on a fundamental human right, but also served to promote particular viewpoints. The scandal that erupted over the children’s book *Flags of the World* (Флаги

“We are all carriers of a Soviet mentality, which means we are infected with the virus of internal censorship.”

Мира), a Russian translation of a French book by Sylvie Bednar, exemplifies how the current climate of repression can tend toward hysteria triggered by something as innocent as a children’s book. *Flags of the World* contains images of the flags of every country in the world with an explanation of the colors, symbols and shapes used in the flag. KompasGid, an imprint of Eksmo, one of Russia’s largest publishing houses, released the book in May 2013. It enjoyed strong sales and was identified as a potential “hit” by several major bookstores, which displayed it prominently.¹⁰⁴ The entry for Lithuania explained that the color red on the Lithuanian flag represented blood shed by Lithuanians in their battles against German and Russian conquerors.¹⁰⁵

In June, Alexander Khinshtein, a Duma deputy from the United Russia party, the pro-Putin ruling party, saw the book in the bookstore “Moscow” and took umbrage at the entry on Lithuania. He tweeted that the book was “Russophobic” and promised to submit a complaint to the prosecutor.¹⁰⁶ He explained to an interviewer, “Since it happened so long ago, why do we need this topic? I am against the fact that a children’s book, a book published under age category ‘0+’ [intended for children of any age] writes things offensive to my country and my people.”¹⁰⁷ Khinshtein made good on his promise to alert the authorities and submitted a complaint to the prosecutor’s office requesting that the book be investigated for “historical inaccuracies.”¹⁰⁸ The chilling effect of Khinshtein’s tweet and complaint was immediate and unmistakable. The very next day the bookstore returned all unsold copies to the publisher and within a week approximately 60% of all unsold copies were returned by numerous stores and distributors.¹⁰⁹

Vitalii Zyusko, editor-in-chief of KompasGid, highlighted the climate of fear evident in the brouhaha over *Flags of the World* and the role the legal restrictions play in intimidating publishers and booksellers. In another setting, the conversation over *Flags of the World* could have led to robust public debate over matters of public significance—Russia’s historical role in the Baltics, perhaps the meaning of Russophobia—and booksellers could have leveraged the debate to spark sales.

Instead of making money off this book—a deputy said something about it and the book is being discussed—the stores are refusing to sell it. After all, no one banned anything, but everyone has already banned everything internally themselves and incidentally we are accused of Russophobia. Although naturally any laws related to the printed word exacerbate internal censorship. We are all carriers of a Soviet mentality, which means we are infected with the virus of internal censorship—we decide for ourselves in advance what is bad, what is good, what we will get locked up for, what we won’t. It seems to me that the professional community has gotten stuck even deeper in the swamp of internal censorship... Everyone [is] concerned with the question of how to work so that we don’t cause any inspections, any problems, simply so we aren’t fined or put in prison.¹¹⁰

Official History, Self-Censorship and Arbitrary Laws: The Case of *Maus*

In their patriotic zeal, Russian authorities have implemented the laws on expression in ways that privilege an official version of history and Russian identity while exhibiting sometimes extreme and even nonsensical intolerance toward anything that challenges those versions. In December 2014, Russia passed a law banning Nazi propaganda.¹¹¹ Authorities conducted raids of bookstores, toy stores, and antique shops in the months leading up to the 70th anniversary of World War II Victory Day celebrations in Russia to clear them of possible Nazi propaganda. A Moscow toy store was prosecuted for extremism for selling toy soldiers in SS uniforms.¹¹² The “swamp of internal censorship” appears to have led some shops to pull not just historical depictions of Nazism, but also explicitly anti-fascist materials such as *Maus*, Art Spiegelman’s graphic novel about his father’s experiences as a Polish Jew during the Holocaust. *Maus*, first published in Russian in 2013, features a swastika on its cover.¹¹³

A journalist toured bookstores across Moscow in April 2015 and noted that bookstores were “voluntarily” removing *Maus* from their shelves and online catalogs in anticipation of raids.¹¹⁴ Varvara Gornostayeva, editor-in-chief at Korpus, *Maus*’s Russian publisher, argued that the simplistic focus on the swastika was missing the point: “There is no Nazi propaganda in it, this is a book that should be on the shelves on Victory Day. It’s one of the greatest anti-fascist books, with a deep and piercing message.”¹¹⁵ Spiegelman cautioned against “erasing memory,” noting “I don’t think *Maus* was the intended target for this, obviously...But I think [the law] had an intentional effect of squelching freedom of expression in Russia. The whole goal seems to make anybody in the expression business skittish.”¹¹⁶

SHAPING CHILDREN'S MINDS

Protection of Children from Harmful Information

Several of the laws passed in recent years to restrict information have been justified by a purported need to protect children, including the Law on Protection of Children from Harmful Information and, in part, the anti-gay propaganda law. The government's apparent aim is to ensure that younger Russians are exposed only to information that aligns with and reinforces their officially-sanctioned worldview and values, to shape a new generation of dedicated—and compliant—citizens.

Children's literature may have taken one of the biggest hits in recent years, given the far reach of the Law on Protection of Children from Harmful Information and its amendments. Writer and PEN Trustee Masha Gessen describes the profound chilling effect of the law's requirements and describes a "dumbing down" of literature for kids. Many authors and publishers declare the age of intended audience as older than actually intended out of caution, knowing that a declaration found inappropriate could result in fines, withdrawal of publications and even possible suspension of their activities for up to 90 days. "So," said Gessen, "Books for 5-year olds are marketed to 6-to-12-year olds and books for pre-teens are marketed to teens."¹¹⁷

"Non-Children's Books:" Working Around the New Censorship

Some authors and publishers have found creative ways to work within these constraints. Samokat, an independent publishing house of children's literature, publishes a series of books for teens that deal with themes such as sex and sexuality, drugs, and death. Because the topics are considered age-sensitive, Samokat cannot sell the books to their intended audience and instead publishes the series under the label "Non-Children's Books." But Samokat has resisted the classification of its books based only on a few "taboo" topics, and maintains that books that deal forthrightly with difficult and personal topics "are an antidote to lies and deceit, a guide on living by your mind, to honestly and openly confront reality without falling into panic or depression. It is these books that we have chosen for the series 'Non-Children's Books.'"¹¹⁸ Samokat's Non-Children's Books challenge the government's notion that children lack the capacity to think for themselves and must be served a carefully-curated version of the truth.

Samokat sells the books, wrapped so that underage

readers cannot access their contents, with a plain white cover perforated vertically down the middle. The book's title and author are printed in black lettering along with the name of the series. However, "Non" is on one side of the perforated line and "Children's Books" on the other. After readers unwrap the books from their plastic, they can remove the white cover to reveal a printed cover with artwork underneath; when they tear the white cover down its perforation they are left with a bookmark declaring "Children's Books."¹¹⁹

In its note to the series, Samokat's editors confront the constraints they face and appeal for reason:

Samokat Publishing's new series of books touches on issues considered not for children. Therefore we are forced to publish the best works of world young adult literature labeled for ages 16+ or 18+ as required by Federal Law No. 436. However, that deprives their intended audience—young adults—the right to read them! To deal with this absurdity we must rely on the help of those older than 18.

We believe that there are adults who care what their children read. And we hope that thanks to those who understand that literature is not bound by age, our books will make it at the right time into the hands of reading and thinking representatives of the younger generation.¹²⁰

Though the books have escaped censure thus far, Samokat's strategy is not without risks. And the strategy protects the integrity of content at the possible expense of limiting readership. Samokat cannot market the books to children, their intended audience, but must rely on well-meaning adults to put them in children's hands. Irina Balakhonova, Samokat's editor in chief and the recipient of the 2015 Jeri Laber International Freedom to Publish Award, told an interviewer that "In Russia the actions of the government appear precisely aimed at making young people stop reading... or stop reading literature that touches on themes important to their lives: freedom of speech and freedom of choice, personal freedom and its limits, the relationship between the sexes, the body as it matures, drugs, addiction, family and societal relationships, personal responsibility for what is happening around you, ability to empathize, war, death, and others."¹²¹



Irina Balakhonova, editor in chief of Samokat

Lessons of Intolerance

Russia's anti-gay propaganda law has drastically and unlawfully restricted free expression and contributed to a widespread chilling effect on speech, as has been widely documented. The law has had a particular impact on children, severely limiting their ability to receive information about anything LGBT-related or for LGBT-identifying children to connect with others like them or access vital services to help them cope in Russia's homophobic environment. Furthermore, the law and the government's virulently anti-LGBT messaging has enabled an atmosphere that legitimizes violence and intolerance against LGBT people, including children.¹²²

Talking about Difference

At the initiative of acclaimed Russian novelist Lyudmila Ulitskaya, in 2011 the Institute of Tolerance, an outreach organization based at the All-Russia Library for Foreign Literature, introduced a series of books for children and teens on themes of diversity. The project, called "Different, Differences and about Difference," aims to expand children's worldview and teach tolerance. The series, currently numbering 14 titles, includes books on people with disabilities, migrants, and cultural and family differences.¹²³ One book in the series, *Families—Ours and Theirs*, by Vera Timenchik, aroused the ire of a group in the Oryol region, 200 miles southwest of Moscow, which organized a few small protests against the Institute and complained to the prosecutor, alleging the book "rapturously propagandizes homosexuality" because of its reference to a family with same-sex parents. The group said that the tolerance centers (regional affiliates of the Tolerance Institute) instill children with "European values"

including "the formation of positive attitudes toward homosexuality, incest, and pedophilia."¹²⁴

In her response to criticisms of the book, Ulitskaya said that the book's author had no intention to propagandize homosexuality, but underscored that she and her colleagues are concerned about the rise in homophobia.¹²⁵ In February 2014, the prosecutor in Ulyanovsk, a city on the Volga river about 500 miles east of Moscow, launched an investigation into Timenchik's book and Timenchik was called in for questioning by the Moscow Bureau of Investigation, tasked by the Ministry of Internal Affairs with analyzing the book for possible "elements of homosexual propaganda." Although the book was cleared and no further legal action was taken, a climate in which the authors of children's books—or any books—can be hauled to the police for interrogation sends a clear warning signal to others. Although, as Balakhonova told *Ekho Moskvy*, "there are people for whom the very notion of tolerance is upsetting. For whom the whole idea of tolerance toward anyone, no matter who they are who is different, is disturbing."¹²⁶ The government's approach privileges these excessive and biased sensitivities at the expense of protecting the rights of its minorities and other vulnerable groups.

Tanya Cooper, Russia researcher at Human Rights Watch, argues that the propaganda law and other laws on expression are designed to promote self-censorship and stop speech before it happens. Cooper says that the law is a "political tool used by the authorities to 'preserve Russian culture.' They see LGBT relationships and liberal values as imported by the West to undermine Russia. The propaganda law fits with the government's anti-Western rhetoric."¹²⁷

Children-404

Government efforts to suppress LGBT-related expression extend to the online sphere. *Deti-404*, or Children-404, is an online community for LGBT children and youth with a website and pages on Facebook and *Vkontakte*. Its name refers to the error message displayed when an internet page is not found, a clever reference to the government's efforts to censor LGBT-related content, and enforce the invisibility of LGBT people in Russia today. The open part of the forum posts letters from LGBT youth and fosters discussion of the challenges faced by LGBT people in Russia. The project also had a closed forum in which LGBT young people could share their problems with adult supporters in a safe, confidential space and receive online consultations from psychologists. Elena Klimova, a journalist from Nizhni Taigil, a city in the Ural region, launched the project in 2013 when she received letters from LGBT teens thanking her after she published a series of articles on the effects of the propaganda law.¹²⁸

Despite the Children-404 community's importance to many young people, some of whom had contemplated suicide before finding a supportive community

The negative climate for expression, and particularly LGBT activism, has tangible implications for people's lives and safety.

at Children-404, neither it nor Klimova have escaped the reach of the propaganda law.¹²⁹ In January 2014 the prosecutor's office launched an investigation into Klimova for alleged violations of the Law on Protection of Children from Harmful Information, but eventually dropped the case. In November 2014, Klimova faced new charges that Children-404 violated the propaganda law, including for providing "propaganda" that being gay can include having "a sense of dignity and self-respect."¹³⁰

Roskomnadzor claimed in a statement that Klimova was not qualified to provide psychological counseling services to children because she is not a trained specialist. In an interview, Klimova replied that Children-404 had 15 trained psychologists working with the online platform. In contrast she said, "what does the state currently offer these teenagers? The answer is obvious: nothing."¹³¹ Klimova eventually lost the court battle and in September 2015 Roskomnadzor added the Children-404 page in *Vkontakte* and the pages of four other online LGBT communities to the list of banned information and ordered the illegal information removed within three days. Under the law, only illegal content must be removed but Klimova said that Roskomnadzor never specified what portion of Children-404's content violated the law.¹³² By September 25, *Vkontakte*'s administrators blocked the page, but the same day the group's administrators created a new page that is currently accessible in Russia.¹³³

The negative climate for expression, and particularly LGBT activism, has tangible implications for people's lives and safety. Regulations that stigmatize and outlaw LGBT content are reinforced by the actions and failures to act of law enforcement. Russia, with one of the highest adolescent suicide rates in the world, refuses to acknowledge its problems of homophobic violence, including violence against LGBT teens, and through the hateful rhetoric of officials and homophobic policies implicitly sanctions it.¹³⁴ A 2014 Human Rights Watch report on violence and harassment against LGBT people and activists in Russia describes how the passage of the propaganda law, combined with official homophobic rhetoric and government inaction to protect LGBT people from violence, created an enabling environment that has allowed vigilantes to harass, threaten, attack, and humiliate LGBT people.¹³⁵ Although Russia's anti-gay propaganda laws ostensibly target adult behavior and are aimed at "protecting" children, they have caused

children real harm. LGBT children and teens are not permitted to be honest about their identities or to seek and receive information about their sexuality, identity, and health. A February 2014 article in Lenta.ru describes the harassment and abuse suffered by a 9th-grade girl after she was publicly outed by an adult male involved in a group of homophobic vigilantes who monitored the girl's activity in social media networks.¹³⁶

Homophobic crimes, even on the rare occasions when they are investigated and prosecuted, are not prosecuted as hate crimes. This official inaction contrasts starkly with official activism against creativity and expression. Organizers of the Moscow International Book Fair cancelled performances of Olzhas Zhanaidarov's *Soul of a Pillow*, a puppet show about an ill boy who befriends his pillow, after the Ministry of Culture, a sponsor of the Fair, threatened to pull its sponsorship after determining the play had homosexual references because the pillow has a male name.¹³⁷ A Ministry official said the play went "against the traditional moral values of Russian culture."¹³⁸

At an April 2014 screening of the film *Deti-404*, a movie about the challenges faced by LGBT teens, in Moscow, police barged into the theater armed with machine guns, interrupting the screening to check the passports of audience members, looking for underage viewers.¹³⁹ According to Cooper, who was in the audience, the police, accompanied by anti-LGBT activists, accused audience members of watching child pornography. In comparison, in October 2014, police failed to protect people attending a closed discussion on the challenges of coming out hosted as part of a week of action against homophobia by Moscow's Sakharov Center, a museum and cultural center devoted to the protection of human rights. No minors were allowed to participate in the discussion for fear of violating the propaganda law. A group of thugs and "Orthodox activists" tried to storm the building and an angry mob of approximately 50 people stood outside the exit. Participants were afraid to leave the building, fearing for their safety. When they called the police to ask for protection, police said they could not respond because the participants had not yet been attacked. When the activists attacked the museum's guards, the police finally responded and the participants left while activists yelled threats and threw eggs at them. Police reportedly did not detain any of the activists.¹⁴⁰

CLOSING INTELLECTUAL AND CULTURAL SPACES

Cultural and intellectual spaces such as the theater, museums, and academia, the vital organs of Russia's rich intellectual and artistic history and crucibles for creativity and discourse, have not escaped the government's assault on freedom of expression. Russia's Minister of Culture, Vladimir Medinsky, a former member of the Presidential Commission Against the Falsification of History and prolific author of history books that have been criticized as revisionist propaganda,¹⁴¹ has publicly called for a "patriotic" cultural sphere, including a patriotic internet, books, video games, radio, and television.¹⁴² Under Medinsky, the Ministry of Culture established new exhibition licensing requirements under which foreign and domestic movies that "threaten national unity or denigrate [Russia's] culture" will be banned.¹⁴³

As in other realms affected by the Kremlin's policy to control discourse, the government has a wide array of civil and criminal laws it can deploy against individuals and institutions that challenge the strictures. In its efforts to control cultural and intellectual spaces, the government also can use quasi-legal means such as limiting funding or increasing direct oversight to bring independent institutions, many of which are publicly funded, into line.¹⁴⁴ Perhaps most striking is the role played by populist activists as Kremlin proxies in promoting the conservative pillars of patriotism, orthodoxy, and authoritarianism¹⁴⁵ in arts and culture by attacking whatever does not fit their worldview. While this method is not unique to attacking cultural institutions, indeed anti-LGBT activists have aided the government's enforcement of the anti-propaganda law,¹⁴⁶ hostile "independent" activists have played a key role in increasing control over cultural and intellectual spaces, in particular theater.

Russian theater, long a source of national pride, flourished in the post-Soviet period and by the early 2000s was among the most vibrant, modern parts of Russia's cultural scene. Mikhail Kaluzhsky, an arts and culture journalist who has also curated theater programs, including at the Sakharov Center in Moscow, described Russian theater in the heady days of the late 1990s and early 2000s as "a beacon of new art and the perfect venue for exploring freedom of expression, even more than literature or cinematography."¹⁴⁷ Now, says Kaluzhsky, in the current closing space for freedom of expression in Russia, "everyone in theater feels the pressure." Just one indication of this pressure is the fact that although Roskomnadzor

does not exercise jurisdiction over theaters, theaters nearly universally comply with Roskomnadzor's regulations on advertising for productions, listing the age of intended audience. Some theaters and directors are also exercising self-censorship or cutting scenes from classic works to avoid triggering unwanted scrutiny. Even classic plays such as Shakespeare's *Romeo and Juliet* may make directors cautious, with its themes of teenage sexuality, defiance of parental authority, and suicide.¹⁴⁸

Government Pressure Against Independent Cultural Institutions

The Russian saying "he who pays orders the music," is a particularly apt description of the growing government influence on contemporary Russian theater. Theater in Russia, unlike literature and film, is heavily dependent on state funding, particularly government culture grants, leverage the government is beginning to use in pursuit of its twin objectives to control the space for free discourse and populate it with Kremlin-approved ideas.¹⁴⁹ In just one example, *Theater*, Russia's foremost professional theater magazine in print since 1937, published what came to be known as the "Ukrainian issue" in December 2014, exploring Ukrainian theater. *Theater* subsequently had its funding cut off and suspended publication for several issues until it was able to find alternative sources of funding. Later, the Ministry of Culture announced the establishment of a working group to review the "effectiveness" of contemporary theater journals and establish principles for funding them.¹⁵⁰

Golden Mask

The Golden Mask, a national theater prize and juried theater festival, is one of the most important institutions in Russian theater. Since its founding in 1993, the Golden Mask has provided support and given prominence to innovative and political theater. Panels of theater experts select productions for the theater festival and juries comprised of actors, directors, choreographers, conductors, and critics select recipients of the prestige Golden Mask award. The members of the theater union selected the expert panels and juries.¹⁵¹

Although the Golden Mask is a non-governmental institution founded by the Union of Theater Professionals, it relies heavily on government funding, leaving it vulnerable to pressure.¹⁵² According to Kaluzhsky, in 2015, the Ministry of Culture "infiltrated" the Golden Mask by insisting

that it would take over selection of the expert panels and juries, compromising the independence of a key cultural institution.¹⁵³ The composition of the panels and juries for the 2016 spring festival, announced in October 2015, caused an uproar amongst theater critics and directors across the country who detected that members of the jury had been selected by the Ministry.¹⁵⁴ “Just out of hygienic considerations, I do not want my productions to be seen and evaluated by people who wrote so many gross denunciations and libels about me and about the theater that I serve,” prominent director Kirill Serebrennikov wrote on his Facebook page.¹⁵⁵ He and several other directors refused to submit their productions for consideration, two panelists resigned, and nearly 100 theater critics sent an open letter protesting the Ministry of Culture’s involvement in the Golden Mask selection.¹⁵⁶

Teatr.doc

Teatr.doc, founded in 2002, is an independent theater collective dedicated to performing groundbreaking documentary plays about life in contemporary Russia.¹⁵⁷ Described as Russia’s “most daring”¹⁵⁸ and “most controversial”¹⁵⁹ theater, Teatr.doc has repeatedly come under pressure by the authorities who have used intrusive legal as well as unofficial means against the theater in apparent retaliation for plays seen as too critical of the Kremlin. In October 2014, the theater announced that city authorities unexpectedly and unilaterally terminated the lease on its small, basement theater in the center of Moscow. Police conducted a raid, filmed by a TV news crew, on the last event scheduled to take place on the premises, a December 30, 2014 screening of a documentary film about Ukraine attended by less than two dozen or so people. Ostensibly responding to a bomb threat, police inspected the passports of all audience members before evacuating them, and searched the premises, damaging some of the theater’s property. Ministry of Culture officials, who accompanied the police, viewed the film, apparently to examine it for possible extremism. City officials then welded the door to the theater shut.¹⁶⁰ The theater and its managing director, Elena Gremina, were investigated for extremism, but the cases were eventually dropped. Gremina said “Of course, there was nothing extremist about any of the stuff we do—we just believe in freedom of expression.”¹⁶¹

After the symbolic and actual shuttering of Doc, as the theater is known to its audiences, a brigade of volunteers turned out to help fundraise for and renovate a new space.¹⁶² But in May 2015, just three months after Doc’s re-opening, it again faced sudden eviction when its landlord, a private company, cancelled its lease without warning. The eviction notice came just after the premier of Doc’s play *The Bolotnaya Square Case*, about the experiences of relatives of people imprisoned after the 2012 anti-Putin protests at Bolotnaya Square in Moscow. Gremina told a reporter that while retaliation against Doc was not made explicit, “I simply see

In the current closing space for freedom of expression in Russia, “everyone in theater feels the pressure.”

a specific chain of events. The first is the premiere of *The Bolotnaya Square Case*, with policemen attending the dress rehearsal, followed by investigations by the Emergency Situations Ministry and the fire department. The second is that I, as managing director of Teatr.doc, receive a subpoena from the Prosecutor’s Office, and the same day our sublet agreement is annulled.”¹⁶³

Insult to Religious Believers

Laws on incitement to hatred and laws on insulting the feelings of religious believers impose criminal penalties for the expression of particular ideas and have been a powerful weapon against contemporary theater and art in Russia. In these cases, government-appointed experts have the authority to find that speech or expression is prohibited under the law, although the definitions are vague and overbroad.¹⁶⁴ Publisher Danishevsky noted,

Culture in Russia is clearly delineated into official and “other.” The Law on Protection of Feelings of Religious Believers is directed at restricting the rights of this “other culture,” that which aimed at real thinking on the human experience in today’s context, while the law is directed at conserving—limiting development, limiting investigation—protecting not only poorly defined “feelings” but rather the power that stands behind the definition of those feelings.¹⁶⁵

Article 148 of the Criminal Code, passed in the wake of the Pussy Riot case, criminalizes insulting religious feeling of believers, as broadly defined. This includes “public actions which express obvious disrespect for society and are committed to insult the religious feelings of believers,” and imposes penalties that include fines of up to 300,000 rubles or two years’ salary or other income for a period of up to two years, up to 240 hours of compulsory labor, or community service or imprisonment for up to one year. Public acts deemed to insult the feelings of religious believers carried out in places of worship carry stiffer penalties.¹⁶⁶

Pressure from Activists

The last several years have seen a series of protests by

ultra-Russian Orthodox activists against prominent Russian theaters and museums and specific productions or exhibitions. Some of these protests have included raids on theaters, disrupting plays in progress, and vandalizing art works. Kaluzhsky calls this an “unholy alliance” between the government and the Orthodox Church that serves both sides and in which the government tacitly delegates responsibility for enforcing state-approved public morals through informal and often violent means.¹⁶⁷

Cultural Vigilantism

A self-styled missionary named Dmitry Tzorionov, who calls himself “Enteo,” has led members of his conservative Christian group “God’s Will” in raids and demonstrations against cultural events. In August 2015, the group attacked an exhibition called “Sculptures We Don’t See,” on display in an exhibition space off Red Square in Moscow. “God’s Will” activists rushed the exhibition, shouting that the works were offensive, calling for criminal prosecution of artists for “mocking” religious symbols, and damaging several exhibits. Enteo and fellow protestors smashed part of a sculpture by acclaimed sculptor Vadim Sidur, and ripped a linoleum engraving from its plinth and stomped on it.¹⁶⁸ In late 2013 Enteo and members of his group rushed onto the stage during a production of Oscar Wilde’s *An Ideal Husband*, at Moscow’s famous Chekhov Theater, decrying “blasphemy” and “sodomy,” shouting, throwing microphones, and scuffling with the actors and security guards.¹⁶⁹ The group has also staged a “flashmob” at Moscow’s Darwin Museum, which included showering visitors, mainly schoolchildren, with religious leaflets,¹⁷⁰ and an “inquisition” at the Moscow offices of Yabloko, an opposition political party, that included seizing all the group’s publicly available leaflets and materials and burning them.¹⁷¹ They have also assaulted LGBT rights activists and supporters of Pussy Riot.¹⁷²

While a spokesman for the Moscow Patriarchy, part of the leadership of the Orthodox Church, disavowed a connection between Enteo’s actions and religion in a statement on his Facebook page,¹⁷³ law enforcement gives the group a relatively free hand. After the August art vandalism, Enteo received a sentence of 10 days in jail for minor hooliganism, another member of the group received a five-day sentence, and two members were fined 1000 rubles (approximately \$15 USD).¹⁷⁴ Enteo had never before been held accountable for disruptions and attacks on cultural events.¹⁷⁵ By contrast are the harsh sentences against Pussy Riot and the government’s repeated investigations and prosecutions of performance artist Pyotr Pavlensky. Pavlensky faces three years in prison for his performance “Freedom” in which he burned tires and waved a Ukrainian flag to echo the protests in Kyiv’s Maidan square. He is currently in custody pending investigation on charges of vandalism for setting fire to the door of the headquarters of the Federal Security Service (FSB) to protest repression.¹⁷⁶ While Pussy Riot

and Pavlensky took specific aim at Putin and his policies in their performances, Enteo held a public lecture to address Putin’s connection to God and “whether Putin will become God ‘by grace.’”¹⁷⁷

“Blasphemous” Opera

Official and unofficial forces converged to shutter the Novosibirsk State Academic Theater for Opera and Ballet’s production of the Wagner opera *Tannhauser*. The modern-day interpretation of *Tannhauser*, which premiered in December 2014, included explicit imagery that aroused the ire of the Orthodox Church. The Metropolitan, or regional bishop, announced that the production offended Orthodox believers in violation of the law and filed a complaint with local authorities against Boris Mezdrich, managing director of the opera house and Timofei Kulyabin, *Tannhauser*’s director.¹⁷⁸ After a preliminary investigation into the complaint found no basis for charges, the Metropolitan asked the prosecutor to reopen the case. This time the prosecutor charged both men with offending the feelings of religious believers. Although a Novosibirsk court acquitted Mezdrich and Kulyabin in March 2015, the Orthodox Church organized large demonstrations outside the theater and the Ministry of Culture launched a probe into the allegedly blasphemous production, leading ultimately to culture minister Medinsky firing Mezdrich for “‘deliberate mockery’ of religious belief.”¹⁷⁹

Many in the arts community saw the *Tannhauser* case as a turning point. Numerous prominent artists and public figures spoke or wrote in support of the production.¹⁸⁰ Despite Mezdrich and Kulyabin’s acquittal on criminal charges, the message to creative risk-takers was clear. To many the case underscored the cumulative chilling effect of Putin’s effort to promote a particular set of “Russian values” using the law and its proxies. An expert at the Sova Center, which monitors extremism and xenophobia, called the case “the latest milestone in the direction towards censorship, either by the state or by the Church.”¹⁸¹ According to one commentator, Mezdrich and Kulyabin’s acquittals were not a happy ending. Instead,

The Orthodox hierarchy and the repressive machine managed to make a strong case for self-censorship. And that’s a more desirable outcome for the Putin regime than a highly publicized, protest-generating guilty verdict that would have created new martyrs for Russia’s battered creative class. The result will be a self-censoring media, a cautious movie industry, a largely timid theater community.

Today’s oppressive atmosphere in Russia doesn’t resemble the era of Communist uniformity. It doesn’t express itself with the crude methods of totalitarianism, but a series of mild reminders to toe the line and follow the moral majority.¹⁸²

REINING IN CIVIL SOCIETY

The government's restrictions on expression have extended to realms beyond the media and internet. In its efforts to shape the information space, including who is able to control and disseminate information, the government has waged a vicious campaign against non-governmental organizations. This campaign, part of the Kremlin's pursuit of the "authoritarianism" pillar of its policy, has targeted human rights organizations—that by definition promote universal rather than "Russian" values and seek to hold Russia to international standards—as well as a wide range of other groups. Environmental groups, organizations that work on social issues, and many others have been forced to restrict their activity or operate under the constant risk of administrative sanctions or closure.

Foreign Agents Law

In 2012 Russia adopted amendments to the law regulating non-governmental organizations (NGOs), requiring any NGO that receives foreign funding or engages in "political activity," defined vaguely under the law, to register as "foreign agents," an extremely pejorative term in Russia universally understood to mean spy or traitor. The requirement to register as a foreign agent applies even if the foreign funding does not actually pay for "political activities." The government makes the determination of whether a group's activity meets the definition of political activity not according to the group's own charter but on its "involvement in the logistical or financial organization of, or participation in, 'political acts' aimed at influencing the decision making of public authorities, changing public policy, or influencing public opinion with respect to government policy."¹⁸³ The law appears intended to marginalize and demonize civil society groups.¹⁸⁴ Russia's civil society sector and especially its robust human rights community, many of whom receive grants from foreign sources, resolutely refused to register as foreign agents.¹⁸⁵

After the law's passage, the government launched a wave of intrusive inspections into hundreds of NGOs, after which 55 groups received warnings not to violate

the law and 20 received notice of violations requiring them to register as foreign agents.¹⁸⁶ The Ministry of Justice, the agency responsible for NGO registration, filed administrative and civil cases against NGOs and NGO leaders for failing to register as foreign agents or abide by the law. In 2014 amendments to the foreign agents law expanded the Ministry of Justice's authority to designate independent groups as foreign agents without their consent. Many groups have contested the Ministry of Justice's designation or notification of violations in court, but most have lost their suits. In April 2014 the Constitutional Court upheld the law.¹⁸⁷

The Foreign Agents Law has enormous implications for freedom of expression. It directly targets ideas and actions that the government finds objectionable or inconvenient—so-called "political activities" as defined however the government wants. The terrible choice the law offers NGOs—to refuse foreign funding, which for many would mean stopping work, or brand themselves "foreign agents"—is no choice at all and has already resulted in the silencing of more than a dozen NGOs working on issues such as human rights and the environment. As of February 2015, at least 13 organizations have taken the decision to shut down rather than bear the foreign agents designation and, as of December 2015, the Ministry of Justice listed more than 100 organizations on its register of foreign agents, including four that registered voluntarily.¹⁸⁸ Recently, authorities in Komi, a northwestern republic of Russia, demonstrated the power of that designation. The authorities burned over 50 books allegedly published with the support of the Soros Foundation, which was classified in November 2015 as an "undesirable" organization.¹⁸⁹ Although the Ministry of Culture attempted to distance itself from the incident, calling it "totally unacceptable," Komi authorities claimed they had destroyed the books in accordance with an order from a presidential envoy.¹⁹⁰ The Human Rights Committee expressed its concern over the law and its "adverse impact on the freedom of expression, assembly, and association," and urged Russia to repeal it.¹⁹¹



Protesters attached stickers with the words “lie,” “xenophobia,” and “censorship” to a poster with federal media outlets’ logos.

Undesirables Law

Federal Law No. 129-FZ of May 23, 2015, which sailed through approval by the Duma, authorizes the government to shut down or ban the activities of foreign or international NGOs found to undermine state security, national defense or the constitutional order. It provides for penalties such as fines and jail time for violations.¹⁹² Most troublingly, however, the law also provides severe penalties for Russian individuals and organizations found to have “involvement” with foreign organizations deemed “undesirable.” Although the law does not define “involvement,” it appears to prohibit Russian individuals or organizations from working for, receiving funds from, participating in the activities of, or distributing information from undesirable groups. The Prosecutor General has the authority to declare an organization “undesirable” based on information received from other law enforcement bodies, but the procedure, uncontested in court, is non-transparent and the law does

not provide for organizations to be informed that they are being reviewed, so they may only find out about the undesirable designation after the fact.¹⁹³

In July 2015, the Prosecutor General made apparently the first finding that an organization is “undesirable” under the law. It announced that the activities of the National Endowment for Democracy (NED), a US-based organization that funds civil society and human rights activities, “pose a threat to ‘constitutional order of the Russian Federation, defense potential and security of the state.’”¹⁹⁴ In a statement, NED responded that the “true intent of [the undesirable and other] laws is to intimidate and isolate Russian citizens.”¹⁹⁵ In addition to declaring the Open Society Foundations an undesirable organization, as noted above, the US-Russia Foundation for Economic Advancement and the Rule of Law has been designated undesirable and its president Mark Pomar has been banned from Russia until 2025.¹⁹⁶

CONCLUSION: NAVIGATING THE CLOSING SPACE

Self-censorship is a growing concern. Several writers noted the almost subliminal existence of an “internal editor.”

Selective enforcement of the laws restricting expression has had both a chilling effect on the climate for free expression and a destabilizing effect. Although independent websites and sources continue to exist, their very existence is in question. Casual threats by Roskomnadzor that it will block Facebook and Twitter ring as real possibilities, not exaggeration.¹⁹⁷ In a fit of exasperation with the absurdity of this climate, a local newspaper in Saratov reported the suicide of a young teen under the headline “In Saratov, After an Argument With Her Parents a Schoolgirl Did Something For Certain Reasons,” underscoring the gaps in the story imposed by the law.

According to the source, after a fight with her parents an 11th grade girl committed an act that it is forbidden to discuss according to Art. 15 of the law on information, under which mass media are forbidden from publishing information about means of committing suicide and appeals to commit suicide. The reason for the event was that something that media are forbidden to publish according to Art. 15 of the law on information.¹⁹⁸

According to Nabi Abdullaev, the former editor of *The Moscow Times*,¹⁹⁹ these laws have galvanized bureaucratic arbitrariness, with Russian officials applying them at their own discretion.²⁰⁰ Abdullaev, who resigned as editor after new ownership changed the paper’s distribution to weekly and altered editorial policies, explained this by the shift in priorities of the Russian government,

Whatever main goals it pursued in the past, today its ultimate priority is survival of the regime... Any uncontrolled public initiative—from protecting wildlife in a natural park to defending human rights to operating a free media outlet—inevitably runs against the interests of officials, either local or federal, and is perceived and openly portrayed as

a foreign-backed attempt to undermine the regime. Thus, [these initiatives] either have to be constrained, or compromised, or ended entirely. The government works hard not to allow any free association around any ideas—even patriotic ones... or any causes—including harmless ones like supporting young scientists.²⁰¹

In the end, Russia's numerous laws on expression not only impose stark limits on a fundamental human right, but also distinctly privilege the content of some expression over others. Books as such are not banned, but books offering particular views are vaunted and available while others never make it to the bookstores. There is no shortage of news about Ukraine so long as the news reports only what the Kremlin decrees. It is acceptable to vilify LGBT people and deprive them of their jobs, sense of personal safety, and rights to private life but not acceptable to portray a loving LGBT family. What is lost is the freedom to choose, to seek and receive alternate viewpoints. Abdullaev lamented the "loss of freedom" itself:

Now, everyone has to do his cost-benefit analysis of whether it is safe or not to express this or that opinion. It leads to self-censorship in the weaker media outlets, or to painful moral choices in the stronger ones—editors have to live with the idea that a certain article or a commentary can result in the crackdown on their media organization, with the risk of their teams losing jobs, at best. The same applies to campaigners of all kinds who now are fearful of conducting any rallies or demonstrations. In this atmosphere of fear, a certain incalculable amount of public good that could have been achieved... is getting lost.²⁰²

According to Maria Stepanova, Colta.ru's editor, in the wake of the closure of so many independent media outlets

and websites in Russia, the staff at Colta.ru feel a certain obligation to continue, although its status as one of the few independent sites also makes it increasingly visible to the authorities.²⁰³

Self-censorship is a growing concern. Several writers noted the almost subliminal existence of an "internal editor," a voice in your brain preventing you from writing, or maybe even thinking, certain things, things that can "complicate" your life.²⁰⁴ The challenge is to recognize the voice and to reflect on it. As Stepanova says, however, the real challenge is "if you are thinking not about just one article but the whole website, your staff, the future. Maybe we shouldn't name names or write things a certain way so we can continue our work. But if we notice the voice, we can push ourselves."²⁰⁵

Stepanova described the situation of Russian media as "deeply hybrid," a knowing yet melancholy assimilation of the Kremlin's classification of the conflict in Ukraine as a "hybrid war," one which blends conventional and unconventional, regular and irregular, cyber and information warfare.²⁰⁶ The situation, she says,

is not so simple. It is not completely barren earth. And that is what is so sad. The authorities are trying to show that there is no objective truth, and no difference between good and evil. Everything is relative. But that means that no good really exists. The authorities don't say 'we are good and they are bad.' They only say 'we are doing what everyone else is doing. What we are doing is normal.'²⁰⁷

This attempt to locate the current Russian reality in some kind of normalizing context is a particularly pernicious threat to the real freedoms to exchange ideas and access information. If there are no truths, only relativity, information and ideas become meaningless and nothing is lost when the right to information and ideas is whittled away.

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APPENDIX 1

PEN AMERICAN CENTER LETTER TO THE RUSSIAN EMBASSY IN WASHINGTON, D.C.

January 11, 2016

His Excellency Ambassador Sergey Kislyak
Ambassador of the Russian Federation to the United States
Embassy of the Russian Federation
2650 Wisconsin Ave. NW
Washington, DC 20007

Dear Ambassador Kislyak,

I am writing on behalf of PEN American Center, an organization of writers dedicated to defending free expression and celebrating literature, and part of a network of over 140 PEN Centers worldwide. We are currently preparing a report on free expression in Russia, including Russia's compliance with its obligations to protect free expression under its Constitution, the European Convention on Human Rights, and the International Covenant on Civil and Political Rights. The report focuses primarily on access to information online and free expression in cultural and intellectual areas including book publishing, children's literature, and theater.

We are preparing to release the report at the end of the month, and would like to give the Russian government the opportunity to have its views included in the report. We would appreciate any response the government would like to offer to the following questions by Friday, January 22.

1. In recent years the government has taken steps to block or remove materials from many online sources of news and information, including the websites of news media outlets and social media sites. What measures is the government taking to uphold its obligation to protect freedom of the press for all media outlets, regardless of the views expressed by those outlets, and to protect the freedom to seek and impart information for all citizens?
2. Several laws passed in recent years, including the 2002 anti-extremism law and its subsequent amendments, the 2010 Law on the Protection of Children from Harmful Information and its subsequent amendments, and the law criminalizing insulting the feelings of religious believers, have been widely criticized for violating the right to free expression. Is the government considering any measures to amend or repeal these laws to ensure they comply with Russia's obligation to protect free expression?
3. In determining whether to grant state funding to news media and to cultural institutions, does the government attempt to influence the content produced by those institutions awarded funding?
4. The United Nations Human Rights Committee has noted its concern that Russia's law requiring non-governmental organizations that receive foreign funding or engage in political activity to register as "foreign agents" has an adverse impact on freedom of expression, assembly, and association, and has urged the government to repeal or revise the law. Does the government intend to repeal the law or to amend it to ensure that it is in compliance with Russia's obligation to protect free expression?

Thank you for your attention, and I look forward to your reply.

Sincerely yours,

Katherine Glenn Bass
Deputy Director, Free Expression Programs
PEN American Center

APPENDIX 2

RESPONSE FROM RUSSIAN EMBASSY TO PEN REQUEST FOR COMMENT

Received January 26, 2016

Unofficial translation

About observance of free expression in the Russian Federation

1. The Constitution of the Russian Federation (paragraph 1, article 29) declares the freedom of ideas and speech as a natural and inalienable right of every person. Under freedom of thought we understand a guarantee of government's non-interference in the process of personal opinion and beliefs shaping, people's protection against any other kind of interference, prevention of ideological dictatorship, violence or control over a person. At the same time no one may be forced to express its views and convictions or to reject them.

In terms of a right for freedom of speech implementation everyone possesses a right to freely express its opinion and beliefs on a wide range of subjects of public, state or other nature orally or in writing, at the meetings, political rallies or by other means.

Legal barriers against abuse of the freedom of speech and thoughts are established at the constitutional level by a ban on propaganda or agitation instigating social, racial, national or religious hatred and strife. Propaganda of social, racial, national, religious or linguistic supremacy is prohibited (paragraph 2, article 29).

The essence of the principle of the freedom of information is developed in the paragraph 4, article 29 of the Constitution of the Russian Federation which stipulates that everyone has "the right to freely look for, receive, transmit, produce and distribute information by any legal way".

The Mass Media operates based on accessibility and openness of the data, primarily of that related to the government bodies and local authorities. Among Mass Media constitutional guaranties the following should also be mentioned: freedom of economic activity and the right of private property (articles 8, 34, 35 of the Constitution of the Russian Federation); principle of ideological diversity, envisaging that no ideology may be established as state or obligatory one (article 13); norms entailing responsibility for officials for concealment of the facts and circumstances posing a threat to the life and health of people (paragraph 3, article 41); norms

securing the right to reliable information about the state of environment (article 42), freedom of creative activity and teaching, protection of intellectual property (paragraph 1, article 44), openness to public hearings of the Federal Council of the Russian Federation (paragraph 2, article 100), openness to public of hearings in courts (paragraph 1, article 123), etc.

Citizens of the Russian Federation are guaranteed with the fundamental human rights declared by the world community. Among legal instruments in this sphere are: Universal Declaration of Human Rights (UDHR) of December 10, 1948; International Covenant on Civil and Political Rights of December 16, 1966; the European Convention for the Protection of Human Rights and Fundamental Freedoms adopted in Rome on November 4, 1950; Declaration of the Heads of State of the Commonwealth of Independent States on the International Human Rights and General Freedoms Obligations adopted in Moscow on September 24, 1993; Commonwealth of Independent States Convention on Human Rights and Fundamental Freedoms adopted in Minsk on May 26, 1995.

The Federal Law "On Information, Information Technologies, and Information Protection", No. 149-ФЗ as of July 27, 2006, foresees Mass Media's right for search, obtainment, transfer, production and distribution of information, application of information technologies as well as information protection.

Legal Act of the Russian Federation "On Mass Media" № 2124-1 of December 27, 1991 (hereinafter - Mass Media Act) sets a legal framework for mass media status and activities, defines key terminology used in this field (i.e. mass information, mass media, production, media editorial boards, journalist, etc.); discloses the requirements of inadmissibility of abuse of the mass media freedom; defines legal for Mass Media organizational activity (foundation, registration, etc.) and dissemination of mass information, establishes legal status of the Media, media representatives and their relations with individuals and organizations, intergovernmental cooperation in the area of mass information; stipulates responsibility for non-compliance with the law in this sphere.

In accordance with the Law Mass Media Act (article 3) "censorship of mass information, that is the demand made by officials, state bodies, organizations, institutions or public associations to agree in advance on the content and materials (except for the cases when the official is the

author of the interviewee) as well as suppression of the dissemination of messages and materials and separate parts thereof is forbidden". Thus, despite mass media ownership, any interference into its editorial policy is illegal.

Mass media participation in the elections or referendum are regulated by a separate bunch of laws. According to article 48 of the Federal Law of June 12, 2002 № 67-ФЗ "On basic guarantees of electoral rights and the right of citizens of the Russian Federation to participate in a referendum", citizens and public associations are entitled to conduct election campaigning, referendum campaigning within legal boundaries. With that, campaigning along with other lawful methods can be shown on TV channels and periodical publications, i.e. Mass Media.

The Ministry of Communications and Mass Media (hereinafter referred to as Minkomsvyaz) is the main federal executive body responsible for drafting and implementing government policy and legal regulation in the field of mass communications and mass media, including electronic media (development of the Internet, television [including digital], radio broadcasting and new technologies in these fields), printing and book publishing.

The Federal Service for Supervision in the area of Communications, Information Technology and Mass Media (hereinafter referred to as "Roskomnadzor") is affiliated to Minkomsvyaz. This institution executes state control and supervision, including compliance with legal acts of the Russian Federation in the sphere of mass media and mass communications, TV and radio broadcasting; it is in charge of Mass Media registration, updates federal registers and license registers; issues permits for the dissemination of foreign periodic printed publications on the territory of the Russian Federation, etc.

The Federal Agency on Press and Mass Communications (hereinafter referred to as "Rospechat") is also overseen by Minkomsvyaz of Russia. It provides state services, manages government-owned property in the sphere of press, mass media and mass communications, including public computer networks of electronic mass media information, printing and publishing.

Rospechat cooperates with the Russian Book Chamber (affiliated to Minkomsvyaz of Russia). It forms data bases on printed media, maintains bibliographical and statistical records of the printed materials released on the territory of the Russian Federation; registers mandatory copies of the periodic printed publications based on federal statistical supervision forms №1-И (Mass Media) and obligatory editor's copies.

Besides federal agencies of the executive branch, the state authorities of subjects of the Russian regions and local bodies help to promote the right to information.

Therefore, in Russia there is a comprehensive legal mechanism of implementation and protection of citizens' right to information.

Currently in the Russian Federation a universal and

complex approach protecting freedom of speech and expression has been adopted.

It contains several moments. Firstly, ban on obstruction of journalists' activity.

The Criminal Code of the Russian Federation (article 144) establishes penalties for obstructing lawful professional journalist activities by forcing to spread or refuse to spread information. The sanctions became more severe if the act is committed by the person using his/her official capacity.

The person could face imprisonment for up to six years if these acts were combined with violence against a journalist, his/her relatives or causing damage or destruction to their property as well as with a threat of such violence.

Crimes against journalists are prosecuted under federal law in accordance with Article 63 of the Criminal Code of the Russian Federation that stipulates more severe punishment for crimes committed against a person or its relatives carrying out professional activity or a social duty.

Secondly, information sources protection. According to Russian law, a journalist has the right not to reveal a source. There must be a special court decision to disclose the source of information.

The law of the Russian Federation of December 27, 1991 № 2124-1 «On Mass Media» (hereinafter Mass Media Act) stipulates the right of a journalist to present his personal judgments and assessments in reports and materials signed by him/her.

However, article 43 of the Mass Media Act guarantees an individual or organization the right to demand from an editorial body a denial of information that has been made public and doesn't correspond to reality discrediting his/her honor and dignity. Same rights apply to the legitimate representatives of the individual if the individual is not able to require an official rebuttal. If the editorial house has no proof that the information presented is real, its rebuttal should be officially stated in the same media.

The rebuttal procedure of unreliable information is described in the article 44 of the Mass Media Act. Same act foresees legislation for infringement of media freedom (including journalists' actions) by civilians, public officials and public associations.

2. Enacted by the Russian State Duma and approved by the Federation Council of 18 July, 2012 the federal law "On amendments to federal law "On children protection from information and other legislative acts of the Russian Federation" № 89417-6 (hereinafter – the federal law) is aimed at child protection from information harmful to their health and development, including materials distributed on the Internet.

According to the legal act an automated information system—"Unified Register of domain names, website references and network addresses that allow to identify

websites containing information forbidden in the Russian Federation” is being created.

New data is included in the Unified Register in accordance with:

1. The decisions of an executive body authorized by the Government of the Russian Federation, regarding to the following information containing:
 - a. pornographic images of minors;
 - b. engagement of minors as performers during entertainment events of pornographic nature;
 - c. manufacturing and use of narcotic, psychotropic substances and their precursors; places of acquisition of drugs, substances and their precursors;
 - d. ways to commit a suicide, as well as calls to commit a suicide.
2. The effective court decision on recognition of certain information distributed on the Internet as information prohibited for distribution in the Russian Federation.

With that, the decision to include data into the Register can be contested by the web site’s owner, hosting provider or mobile network operator who provide internet access according to court decision.

Besides, Federal Law stipulates the procedure of the information expert review that can be initiated by governmental or local bodies, legal entities, individual entrepreneurs, civil organizations, and citizens. In case of disagreement with expert evaluation, an interested person can contest the decision in court.

It is worth noticing, that in recent years the legislation regarding forced blocking of prohibited Internet resources has become more severe in a number of countries.

For example, in Great Britain since 2006 the ban on the distribution of the child pornography and other inappropriate materials is done by blocking access to illegal websites (the list of those is shaped by key internet providers, telecommunication companies, law-enforcement agencies and civil society).

In Denmark, Finland, Italy, Norway, Sweden, Switzerland, New Zealand, and Malta have a special system against child pornography distribution (Child Sexual Abuse Anti-Distribution Filters, CSAADF). It eliminates any possibility to browse websites where child pornography is distributed.

In CSAADF member countries such excessive blocking that implies inability to visit websites that use the same domain addresses as child pornography recourses is considered beneficial as it has a restraining effect over domain names holders and hosting providers.

“Bill C-22” entered into force in Canada in December, 2011 obliges all telecommunication companies, e-mail operators and other Internet actors to inform law-enforcement agencies on the facts of child pornography distribution on the Internet.

Russian Federation State Duma Committee on Family,

Women and Children Affairs carries out a regular monitoring of regulatory compliance practices for future update of legislation in the area of children’s information security.

Special attention is paid to offences of extremist nature that require immediate prosecutor’s response aimed at anticipation of extremist activity. According to Federal law of July 25, 2002 №114-ФЗ “On Counteraction of Extremist Activities” publications inciting manifestations of extremism that are associated with the spread of unreliable information, distorted information or leading the situation towards ethnic, religious or national confrontation are prohibited. Mass Media materials that promote extremist activities, i.e. religious discord, exclusiveness, superiority or inferiority on the basis of spiritual beliefs, attitude towards religion, etc. are also considered of extremist nature.

3. Government interference into Media affairs is prohibited by the Constitution of the Russian Federation, Mass Media Act and other legislative acts as it is a direct violation of professional independence of both public and private media. Also Government provides financial support to the Media, including the above mentioned grants and subsidies in order to provide access to information granted by the Constitution of the Russian Federation.

The federal bodies on a regular basis inform the socially important media about significant public activities, providing timely details on current events.

Taking into account the size of the Russian Federation and the fact that a big part of Russia’s population lives in underpopulated areas and difficult terrain, that due to economic reasons, are of no interest to media business, the federal Government provides physical and financial accessibility of different information resources – free TV and radio broadcasting (10 TV and radio channels), press (additional free edition of “Rossiyskaya Gazeta” for low-income population, subscription benefits for local and a big number of regional and federal newspapers and magazines).

Moreover, considering the rapid development of the Internet into consideration, the Government has undertaken a mission to create all necessary infrastructure to provide communities of 500 and more people with wide-band internet access, which had never been fulfilled by private providers, because even in 20 years it will never pay back such for a wide and ramified network spread all over the country, including places with severe climate and geographical conditions.

4. The main legislative acts that regulate NPO activities in Russia are Federal Act №82-ФЗ “On public Organizations” of May 19, 1995 and Federal Act №7-ФЗ “On non-profit Organizations” of January 12, 1996.

Corresponding Russian legislation and its law-enforcement practices are subject to change according to changes in civil society. In order to make civil organizations more transparent, in July, 2012 amendments to both laws “On

public Organizations” and “On non-profit Organizations” were introduced. Those amendments imply that national NPOs that receive financial and material support from abroad and are engaged in politics should register in Russia as “NPO performing as foreign agent”. This measure provoked massive criticism from our “partners” who consider this with the help of several Russian NPOs as an illustration of pressure upon civil society. It is obvious that this approach is biased and non-objective.

Foremost, the current legislation of the Russian Federation does not forbid Russian NPOs to receive funding from foreign sources or to carry out any political activities. Secondly, the Constitutional Court of the Russian Federation in the decree №10-II of April 8, 2014 directly indicates that the introduction of the term an “NPO as foreign agent” has no negative connotation and no negative image of their activity is created and therefore can not be interpreted as manifestation of distrust or desire to compromise such NPOs. NPO’s recognition as “foreign agents” does not imply any legal consequences ending up in termination of the organization. Thirdly, NPO is recognized as “foreign agent” irrelevant of its political assessments of the state policy (both positive and negative). Fourthly, on March 8, 2015 Federal law №43-ФЗ introduced amendments to Russian legislation under which public organizations or associations included in the “foreign agent” register can withdraw from it. From 2012 to January 2016 out of 227,000 Russian NPOs only 113 have been included in the “foreign agent” registry (21 of them have been already excluded from the list).

Russia is undertaking measures to provide more transparency not only among Russian, but also foreign public strictures operating on our country. This causes negative feedback from our western “partners”.

According to Federal law of December 28, 2012 №272-ФЗ “On measures applied to people violating fundamental human rights and freedoms of citizens of the Russian Federation” (amended by Federal Act №129-ФЗ of May 23, 2015) only activity of a foreign or international NPO, which constitutes “a threat to the basis of the constitutional order of the Russian Federation, defense capacity or security of the state”, may be deemed undesirable on the territory of our country by the General prosecutor of the Russian Federation or his/her deputies. Such a decision is made based on aggregate information from interested state bodies, as

well as requires compulsory consultation with the MFA of Russia, avoiding preconception. Such NGO’s are not allowed to open branch offices in Russia, implement any projects, as well as carry out financial or assets operations. Involvement of individuals in similar activities will give lead to administrative or criminal liability (in case of numerous violations). Currently the Register includes four NGO’s, all of them from the U.S.: NED, Open Society Foundations, OSI Assistance Foundation and U.S.-Russia Foundation for Economic Advancement and the Rule of Law.

It is important that Russia’s measures to streamline political activity of non-governmental organizations, Russian and foreign alike, do not contradict its international obligations in the field of human rights.

According to article 10 and 11 of the European Convention on Human Rights (ECHR, 1950) the freedom of expression and assembly are subject to certain restrictions that are necessary in democratic society in the interests of national security, territorial integrity or public safety, as well as for prevention of disorder and crime. According to article 16 of the ECHR “nothing in articles 10, 11 and 14 [on the right of freedom of expression, assembly, and non-discrimination] shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens”. In a similar way articles 19 and 22 of the International Covenant on Civil and Political Rights (1966) indicate that the right for freedom of expression and the right for freedom of association may fall under restrictions, which are prescribed by law and are necessary for the protection of national security or public safety, public order.

Neither are they something special in the world practice: any form of foreign influence on internal political processes becomes subject of scrutiny by public authorities in every country facing this problem. Restrictive rules on public organizations can be found in the legislation of many countries, including the United States, Great Britain, France, India, China, Belgium, Germany, Czech Republic, and Israel. According to renowned international research centers and media (International Center for Not-for-Profit Law, The Guardian, Thomson Reuters Foundation). Since 2012 only more than 90 legal acts regarding more severe regulation of associations, their activities and foreign financial support have been or will be adopted in different countries.

ENDNOTES

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11 U.N. Human Rights Comm., General Comment No. 34, Article 19: Freedoms of Opinion and Expression ¶ 44, U.N. Doc. CCPR/C/GC/34 (September 12, 2011) *available at*: <http://www2.ohchr.org/english/bodies/hrc/docs/GC34.pdf> (noting, in addition, that any accreditation schemes to enable privileged access must be applied in a non-discriminatory manner, based on objective criteria, and “taking into account that journalism is a function shared by a wide range of actors.”); *see also* Special Rapporteur on the Situation of Human Rights Defenders, Fourth Rep. on the Situation of Human Rights Defenders ¶ 122, U.N. Doc. A/HRC/19/55 (December 21, 2011), *available at* http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-55_en.pdf (stating that the “protection of journalists and media workers active on human rights issues should not be limited to those formally recognized as such, but should include other relevant actors, such as community media workers, bloggers and those monitoring demonstrations.”)

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15 ICCPR at art. 19 (3) (restrictions on freedom of expression are limited to situations which implicate the rights of others or for the protection of national security, public order, public health, or morals); General Comment No. 34 at ¶ 21. See also Art. 10(2) of the ECHR.

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Crimea, and the Shrinking Space for Free Speech, Human Rights Watch (September 18, 2015), <https://www.hrw.org/news/2015/09/18/dispatches-russia-crimea-and-shrinking-space-free-speech>. See also Peter Roudik, *Legal Provisions on Fighting Extremism: Russia*, Library of Congress (April 2014), http://www.loc.gov/law/help/fighting-extremism/russia.php#_ftn28; Maria Kravchenko, *Inappropriate Enforcement of Anti-Extremist Legislation in Russia in 2013*, SOVA Center for Information and Analysis (June 4, 2014), <http://www.sova-center.ru/en/misuse/reports-analyses/2014/06/d29660/>. The maximum penalty for incitement to violation of territorial integrity of Russia is four years’ imprisonment, and for calling for separation in the media is up to five years in prison. Федеральный закон от 28.06.2014 № 179-ФЗ “О внесении изменений в отдельные законодательные акты Российской Федерации”

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28 *Id.*, Art. 7-10.

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31 *Id.*, Art. 14.

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