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Wolfram Pergler:

Civil Society at War.

**The Development of Working Conditions of Russian NGOs
Engaged in Chechnya from 1994 to 2006**

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Abstract

The following paper analyses the working conditions of Russian NGOs engaged in Chechnya. The time period covered ranges from the beginning of the first war in 1994 to 2006, when new restrictive legislation concerning the work of non-governmental organisations was introduced. Findings are based on interviews the author conducted in the Russian Federation in July and August 2006.¹

The research question is addressed from the theoretical background that Croissant, Lauth and Merkel propose in ‚Zivilgesellschaft und Transformation: ein internationaler Vergleich‘², where civil society is described as an „intermediary sphere between the individual, the family etc. and the political sphere, where mostly collective actors organise and articulate public interests“. Under the conditions of a ‚defective‘ or ‚imitation‘ democracy as exists in Russia today, civil society is in a state of regression (as opposed to a state of stagnation or progression). Pressure on civil society actors by the state is growing and room for manoeuvre is getting smaller.

The analysis will show that working conditions have changed for the worse since the beginning of the second Chechen war in 1999. The conflict in Chechnya is still considered a taboo subject that must not be touched. People or organisations who do so and openly criticise the politics of the president and his administration risk persecution.

Contrary to President Putin’s repeated public statements about the importance of civil society in the Russian Federation, all of the NGO activists interviewed asserted that pressure from the state had grown over the last couple of years. Today’s Russian ruling elite views a strong and independent civil society as a stumbling block on the way to the next Duma and presidential elections.

1 The author conducted interviews with representatives of the following Russian NGOs: Memorial, Moscow Helsinki Group, Committee of Soldiers’ Mothers, Demos Center, Center for the Development of Democracy and Human Rights, Russian-Chechen Friendship Society, Committee Against Torture, International Protection Center, For Human Rights, Russian Red Cross, Mother’s Right, The Institute of Human Rights, Civic Help, Public Verdict, Center for Journalism in Extreme Situations. Besides these Russian NGOs, I also interviewed representatives of the following international NGOs that deal directly with either Chechnya or the development of civil society in Russia: Human Rights Watch, Amnesty International Russia, Heinrich-Böll Stiftung Moskau, Friedrich-Naumann Stiftung Moskau, Carnegie Endowment Moscow, Russian Justice Initiative, Medicines sans Frontieres. Furthermore, I conducted an interview with the late Anna Politkovskaya.

2 Croissant, Aurel; Lauth, Hans-Joachim; Merkel, Wolfgang. Zivilgesellschaft und Transformation: ein internationaler Vergleich. In: Merkel, Wolfgang (Hrsg.). Systemwechsel 5. Zivilgesellschaft und Transformation. Opladen: Leske+Budrich, 2000, pp.9–49.

During the first Chechen war from 1994 to 1996, Russian and international non-governmental organisations (NGOs) – almost all of them dealing with humanitarian issues or monitoring human rights abuses – could work more or less freely in Chechnya. Since the beginning of the second Chechen war and even after its officially proclaimed ending, however, working conditions have gradually gotten worse.

Of the 300,000 to 500,000 NGOs registered in the Russian Federation³, those working on taboo issues like Chechnya or human rights have been in danger of being marginalised or even shut down in recent years. Many NGOs dealing with human rights violations committed in Chechnya (torture, abductions, unlawful detentions, executions etc.) openly criticise the politics of Russian President Vladimir Putin and his administration, demanding that the Russian state fulfil its obligations under the Russian constitution and abide by the various international conventions and treaties it has ratified.

For their outspokenness, such organisations face persecution in the form of smear campaigns in the state-controlled media, politically motivated charges, threats against their staffs and sometimes even direct violence that has, in the worst cases, led to the deaths of human rights defenders.⁴ In a country like the Russian Federation, where freedom of press is almost non-existent, state-controlled TV stations and newspapers are used to create a public opinion that is highly suspicious of these NGOs' work.

In January 2006, a 'spy scandal' erupted when a number of Russian NGOs were accused of espionage by virtue of having received funding from the British government.⁵ Although the British government confirmed that it had indeed been financing civil society development in Russia via official grant programmes, the espionage charges were unfounded and denied by both parties. The spy scandal nevertheless dominated the news for a couple of weeks. One week after the initial broadcast, during a press conference on January 31, Putin denounced foreign foundations as 'puppeteers' pulling the strings of Russian NGOs.⁶ In retrospect, the 'spy rock' [an imitation rock had apparently been used as a dead drop] story appeared to be a means of securing public support for the new legislation on non-commercial and public organisations that was signed into law by the president on January 10.

Besides these attempts in the Russian media to defame organisations that are critical of government policies, so-called GONGOS (government-organised NGOs) have emerged over the last couple of years, competing with 'regular' NGOs for influence and grants. The new species seems to be succeeding in sidestepping and marginalising its independent counterpart.

The foundation of state institutions that influence the development of civil society in the Russian Federation started with the 'Civic Forum' (Grazhdansky Forum) in November 2001⁷ and culminated in the crea-

3 Estimates of the exact number of NGOs vary greatly. During the OSCE Supplementary Human Dimension Meeting on Human Rights Defenders and National Human Rights Institutions in March 2006, Andrey Ermolenko from the Russian Ministry of Foreign Affairs put the number at 500,000, whereas Sergey Vasilyev, head of Rosregistraciya (responsible for registering all NGOs), in a recent interview put the number at approximately 300,000 (cf. <http://rg.ru/2007/05/25/vasiliev.html> [25.5.2007]).

4 Cf. the Human Rights First Report from February 2006 about the Russian-Chechen Friendship Society, which can be downloaded at <http://www.humanrightsfirst.info/pdf/06208-hrd-rcfs-white-paper.pdf> [1.3.2006], as well as the report of the International Helsinki Federation from September 2004 'The Silencing of Human Rights Defenders in Chechnya and Ingushetia' (http://www.ihfhr.org/documents/doc_summary.php?sec_id=3&d_id=3965 [2.3.2006]) and the December 2006 Briefing Paper by the IHF 'Human Rights Defenders at Risk in Belarus, Russia and Uzbekistan' (http://www.ihf-hr.org/documents/doc_summary.php?sec_id=58&d_id=4354 [22.5.2007]).

5 On January 22, 2006, during Arkady Mamontov's programme, 'Spetsialny korrespondent' on RTR-Rossiya. NGOs mentioned included the Moscow Helsinki Group and the Center for Development of Democracy and Human Rights as well as the Committee against Torture in Nizhny Novgorod.

6 Cf. <http://www.kremlin.ru/text/appears/2006/01/100848.shtml> [1.2.2006]. Putin made similar accusations in his state-of-the-nation address in 2004, when he accused some NGOs of working in the interest of foreign funds and not the Russian people. (cf. http://www.kremlin.ru/appears/2004/05/26/2003_type63372_71501.shtml [1.5.2006])

7 More information on the problems surrounding the creation of the 'Civic Forum' can be found in Bister, Anita. Handlungsspielräume der zivilen Gesellschaft in Russland. In: Mangott, Gerhard (Hrsg.) Zur Demokratisierung Russlands, Bd.2 Leadership, Parteien, Regionen und Zivilgesellschaft. Baden-Baden, 2002, pp.154–158 as well as in Fein, Elke. Zivilgesellschaftlicher Paradigmenwechsel oder PR-Aktion? Zum ersten all-russischen 'Bürgerforum' im Kreml. In:

tion of the 'Public Chamber' (Obshestvennaya Palata) in 2005. By law, the purpose of the latter institution is to support the development of civil society in the Russian Federation, to convey feedback from society to the government, and to monitor federal and regional bodies.⁸

Due to its member composition, however, it is very unlikely that a serious critique (especially on subjects like human rights violations in Chechnya) of the Kremlin will ever be voiced.⁹ Independent NGOs have expressed concern that this newly founded institution could undermine their work by claiming to speak for all of Russian civil society.

The greatest danger for the work of independent civil society groups, however, comes from new, restrictive amendments to the laws on non-commercial and public organisations as well as the anti-extremism law.¹⁰ The amendments were seen by many NGOs – Russian and otherwise – as a direct attack on civil society and a possible instrument for the state to shut down any organisation critical of its policies. Pressure from the Council of Europe and the European Union led to a revision of the NGO law¹¹, which was then approved in a modified form by the Russian State Duma in December 2005 with a huge majority of 357 in favour of and only 20 against. The legislation was signed into law by Putin on January 10, 2006 and came into force on April 18, 2006.

The new NGO law gives the state greater power in registering, monitoring and auditing non-governmental organisations. Since all non-governmental organisations are required by law to provide detailed information about their funding, any organisations receiving funding from abroad are likely to be subjected to scrutiny, as are NGOs that were founded by private initiative (in contrast to those established by the state). The new anti-extremism law, on the other hand, stipulates that public criticism of a state organ or official constitutes an extremist act. The law could prove to be a useful tool for silencing critical journalists or NGO activists.

The amendments to the NGO laws required foreign NGOs to re-register by October 2006, a deadline many organisations failed to meet because of bureaucratic difficulties.¹² And in January 2007, the Russian Supreme Court – based on the new law – upheld a decision from a regional court from October 2006 to shut down the Russian-Chechen Friendship Society, an outspoken NGO that documented human rights abuses in Chechnya and openly criticised the Kremlin's strategy in the northern Caucasus.

A few months before, in February 2006, Stanislav Dmitrievsky, head of the RCFS, was given a two-year suspended sentence for 'inciting racial hatred' against Russians. The verdict – which led to a public outcry in Russian and Western human rights circles – was based on Russian Criminal Code §282, which is aimed at hate crimes based on race, sex, religion etc.¹³ The court's decision seemed to be politically motivated: Dmitrievsky had published an article by Chechen leader Aslan Maskhadov calling for peace in Chechnya.

Osteuropa 2, 2002, pp. 158–179.

8 Cf. Federalnyi zakon 'Ob Obshchestvennoi Palate Rossiiskoi Federatsii'. Moskva: Omega-L, 2006, p. 3

9 Of the 126 members of the Public Chamber, one third is nominated by the Russian president, one third by his nominees, and the last third is nominated by the first and second third.

10 The law on public organisations was introduced in 1995, the law on non-commercial organisations in 1996. The anti-extremism law goes back to 2002. The amendments to the first two laws can be found at <http://www.rg.ru/2006/01/17/nko-poryadok-dok.html> [17.1.2006], the amendment to the anti-extremism law can be found at <http://www.rg.ru/2006/07/29/ekstremizm-protivodejstvie-dok.html> [29.7.2006].

11 In the first draft of the law, foreign citizens were not allowed to work for a Russian NGO, and foreign NGOs would have been required to re-register as Russian NGOs.

12 Cf. *Russlandanalysen*#115, 27.10.2006, pp. 15–17 <http://www.russlandanalysen.de/content/media/Russlandanalysen115.pdf> [28.10.2006]. NGOs that had to suspend their activities until they were re-registered by RosRegistraciya included Amnesty International, Human Rights Watch, and the Danish Refugee Council, three NGOs involved in Chechnya. The Russian Justice Initiative, a Netherlands-based NGO that helps bring cases from Chechnya before the European Court of Human Rights, was rejected twice before being finally registered in February 2007. Cf. <http://www.srji.org/en/news/2007/02/27/> [28.2.2007]

13 Cf. <http://www.garweb.ru/project/law/doc/10008000/10008000-039.htm#2029> [28.5.2007]

The trial against Dmitrievsky and the subsequent closure of the Russian-Chechen Friendship society confirmed the fears of arbitrary measures that had been voiced before the new amendments came into force.

Despite the above-mentioned problems that NGOs encountered because of the new NGO and anti-extremism legislation, some Kremlin-critical NGOs were already facing difficulties posed by earlier laws. In 2006, Memorial, one of the oldest Russian human rights groups and known for its critical positions, was subjected to months-long tax audits that kept the organisation from doing its normal work.

And in July 2006, the International Protection Center, a Russian NGO that brings cases from Chechnya to the European Court of Human Rights¹⁴, was ordered to pay 4.5 million roubles in taxes, a penalty that might lead to the closure of the organisation. This tax order was only the climax in a series of conflicts that had begun in 2005, when the first rulings from the European Court of Human Rights concerning Chechnya found that the Russian Federation had violated the fundamental right to life and the prohibition against torture.

These cases – along with Putin's remarks about foreign donors – demonstrate that funding is indeed a problem for many Russian NGOs. All of the NGOs interviewed claimed that foreign funding alone was keeping them afloat.¹⁵ Since the closure of 'Open Russia', a fund owned by Khodorkovsky [former Yukos chief, now serving a prison sentence for fraud and tax evasion] that supported the development of civil society in the Russian Federation, in March 2006, Russian businesses have shied away from financing Kremlin-critical NGOs. This means that the NGOs that the Kremlin is most suspicious of are the ones most dependent on foreign funding — due to a lack of funding from the Russian state¹⁶ or business community.

Russian officials have repeatedly claimed that the new NGO legislation is no different from corresponding legislation in other countries.¹⁷ The problem with the comparison is that it conveniently omits a number of Russia-specific facts: first of all, the judicial system in the Russian Federation is not independent, and this makes the work of non-governmental organisations far more difficult than in other countries. The Dmitrievsky case was a prime example of the arbitrariness of the Russian court system. Even Russian Foreign Minister Sergey Lavrov has suggested that much depends on the implementation of the new NGO law by the courts.¹⁸

Secondly, NGO reports and materials are not being published by the Russian media. During the first Chechen war, news coverage of the developments in Chechnya greatly influenced public opinion and finally brought an end of the war in 1996. Due to new accreditation rules, however, it has become almost impossible for Russian and international journalists to report directly from Chechnya since the beginning of the second war in 1999.¹⁹ Today, the only Russian newspaper that regularly reports about what is going on in the northern Caucasus is *Novaya Gazeta*, journalistic home of the late Anna Politkovskaya.

14 A founding member of the IP Center and one of its leading lawyers, Karinna Moskalenko, is also a lawyer for Michail Khodorkovsky, a fact many observers stressed as a possible reason for the tax order. Since April 2007, the Russian public prosecutor's office is trying to strip Moskalenko of her status as a lawyer. Cf. *Novaya Gazeta* #35/07, p.5

15 Cf. also „U.S. Cash Is Lifeblood of Dozens of NGOs“ www.themoscowtimes.com/stories/2007/05/18/016.html [18.5.2007]

16 The Russian State Duma allocated 500 million rubles in November 2005 to promote civil society in Russia. This money was distributed by the Public Chamber to 617 Russian NGOs, most of them youth organisations and NGOs helping children, Cf. www.rg.ru/2006/09/15/nko.html [15.9.2006] and <http://www.vremya.ru/2006/171/51/161419.html> [20.9.2006]. During his 2007 state-of-the-nation address, Putin mentioned that the state would more than double this amount the same year. Cf. <http://kremlin.ru/text/appears/2007/04/125401.shtml> [27.4.2007]

17 In February 2006, the Russian Ministry of Foreign Affairs published a chart comparing NGO legislation in Russia, France, Finland, Israel, Poland and the USA on its website. The chart can be downloaded at http://www.in.mid.ru/Brp_4.nsf/arh/249593BCFC395C90C32571210030F220?OpenDocument [1.5.2006] A critical analysis of this chart can be found on the website of the International Center for Not-for-Profit Law, cf. www.icnl.org [25.7.2006]

18 In an open letter to prominent Russian NGO activists, who voiced their concern about the new legislation (published on January 18, 2006, in the *Novye Izvestiya* newspaper); cf. <http://www.newizv.ru/news/2006-01-18/38591/> [18.1.2006]

19 Detailed information about the new accreditation rules can be found in Siegert, Jens. Angriff auf die Pressefreiheit. In:

Thirdly, since the last elections to the Duma in December 2003, NGOs have lost the possibility for lobbying; the liberal parties SPS and Yabloko did not manage to pass the 5% mark²⁰ and are no longer represented in the Duma, making it almost impossible for critical positions to be heard in the Russian parliament. NGO representatives claimed that they stopped working with the Duma because nothing could be achieved. During the first Chechen war, leading human rights activist (and former Soviet dissident) Sergey Kovalyov was a member of the Duma and Chairman of the President's Human Rights Commission as well as Human Rights Commissioner for the State Duma until March 1995, when he was removed from that post because of his outspoken criticism of Russia's involvement in Chechnya.

The fact that the courts are not independent, along with the NGOs' loss of influence in the parliament and the state's desire to keep public opinion under control (through the absence of critical media coverage), weakens the position of independent non-governmental organisations. Therefore, to reach the public, Russian NGOs often rely on the Internet. Although it is still underdeveloped in Russia, the Internet is becoming more and more important for Russian NGOs as a means for communicating their work to the Russian (and foreign) public.

The working conditions of Russian NGOs that deal with subjects such as Chechnya or human rights depend on foreign funding (as demonstrated above) as well as the support of international organisations such as the United Nations and the Council of Europe. On paper, at least, Russia has committed itself to upholding standards concerning freedom of assembly²¹ and association not only in its constitution from 1993, but also through its membership in various international organisations including the United Nations, the OSCE and the Council of Europe.²²

Although the Council of Europe was very active in promoting a peaceful solution to the conflict in Chechnya²³ and had a hand in softening the new NGO law²⁴, all of the NGO experts interviewed criticised the West for not doing enough to promote democracy in the Russian Federation. The lack of pressure from the West was especially obvious last year, when Russia chaired not only the G8, but also (from May to November) the Committee of Ministers and was elected to the newly founded UN Human Rights Council.²⁵ Russian (and international) NGO activists attribute this lack of pressure to high oil prices and Russia's newly gained status as an 'energy superpower'.

In addition to pressure (albeit lacking) from international actors, two Russian institutions are crucial for the development of civil society in the Russian Federation: the post of the Russian Human Rights Ombudsman (provided for by the Russian constitution) and the Civil Society Institutions and Human Rights Council under the President of the Russian Federation.²⁶

Hassel, Florian (Hrsg.) *Der Krieg im Schatten. Russland und Tschetschenien*. Frankfurt: Suhrkamp, 2003, pp. 153–172. Oleg Panfilov, director of the Center for Journalism in Extreme Situations, in an interview with the author stated that since 2001, 37 foreign journalists who wanted to report from the Chechen republic have been denied visas.

- 20 In 2005, the 5% mark was raised to 7%, thus making it even harder for small parties to gain seats in the Russian parliament.
- 21 The right to freedom of assembly has repeatedly been violated by the Russian state over the last months in connection with the so-called 'Dissenters' Marches'.
- 22 Although Russia is also a member of the OSCE, it suspended the OSCE's mission to Chechnya at the end of 2002. All of the experts interviewed agreed that the OSCE (at the moment) has absolutely no influence on the political process in the Russian Federation.
- 23 In 2000, after Grozny was completely destroyed by Russian troops, the Council of Europe suspended the voting right of the Russian Federation (until January 2001) and has since then passed numerous resolutions criticising the human rights situation in the Chechen Republic.
- 24 In December 2005, the Council of Europe published a resolution concerning the amendments to the NGO laws that led to a revision of the law. Cf. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2005-0534+0+DOC+XML+V0//DE> [14.1.2006]
- 25 The 'Civil G8' summit (Grazhdanskaya Vosmyorka) on July 3rd and 4th, 2006 was characterised by all of the NGO representatives who participated (and those who did not participate) as a PR-stunt by the Kremlin to show Western leaders that Russia was indeed a democratic country and that the dialogue with NGOs was working perfectly.
- 26 Detailed information about both institutions can be found on the websites of the 'Upolnomochennyi po pravam cheloveka

Opinions about the work of these institutions differ: whereas former Ombudsmen Sergey Kovalev (1994–1995) and Oleg Mironov (1998–2004)²⁷ are described by NGO representatives as having been outspoken about human rights violations in Chechnya during their terms, current Ombudsman Vladimir Lukin is said to show no interest in the human rights situation in Chechnya. Unfortunately, the NGOs depend on these kinds of ‘channels’ to get their materials to the presidential administration.

On the other hand, Ella Pamfilova, head of the Civil Society Institutions and Human Rights Council under the President of the Russian Federation, is described by NGO representatives as having an open ear for their problems. NGO representatives involved with both the Lukin and Pamfilova institutions unanimously reported that cooperation with Pamfilova works a lot better.

In summary, it can be said that contrary to President Putin’s repeated public statements about the importance of civil society in the Russian Federation²⁸, all of the experts interviewed asserted that pressure from the state had in fact grown over the last couple of years. While the number of NGOs in the Russian Federation has increased rapidly since the breakup of the Soviet Union, a tendency to create civil society ‘from above’ (as in the case of the Public Chamber) has been observed since President Putin came to power.²⁹ The state’s creation of institutions and organisations that influence the development of civil society can be interpreted as a governmental attempt to sidestep and marginalise independent NGOs.

The analysis of the interviews showed that pressure on civil society actors by the state is growing and room for manoeuvre is getting smaller. Organisations critical of state policies are facing increasing problems. This leads – according to the concept formulated by Croissant, Lauth and Merkel – to a civil society in Russia that is in a state of regression.

In order to function properly, civil society needs to interact with the state. This interaction has become increasingly difficult in recent years. Furthermore, an independent judicial system – one of the main prerequisites for a functioning civil society according to Croissant, Lauth and Merkel – is absent from the equation. This, along with the lack of free media coverage, makes the work of NGOs dealing with taboo issues – such as human rights or Chechnya – an uphill battle.

Although Russian civil society is currently in danger of being marginalised, its role as a democratic corrective is more important than ever in a state with increasing authoritarian tendencies.³⁰ The development of a functioning civil society in the Russian Federation must therefore be seen as a vital stepping stone towards the democratisation of the country. For today’s Russian ruling elite, however, a strong and independent civil society (including critical voices) poses a stumbling block on the way to the Duma elections in December 2007 and the presidential elections in March 2008.

v RF’ (<http://ombudsman.gov.ru/>) and the ‘Sovet pri presidente RF po sodeistviyu razvitiyu institutov grazhdanskogo obshchestva i pravam cheloveka’ (<http://www.sovetpamfilova.ru/>).

27 A history of the post of the Ombudsman (including an explanation why the post was vacant from 1995 to 1998) can be found at <http://ombudsman.gov.ru/institut/a-history.shtml> [20.8.2006].

28 Even as Prime Minister in 1999, Putin stressed the importance of a strong and independent civil society that should control the state. Cf. his essay ‘Russia on the threshold of a new century’, http://www.ng.ru/politics/1999-12-30/4_millennium.html [18.6.2006].

29 Putin even spoke about the ‘formation of a functioning civil society’ during his 2007 state-of-the-nation address. Cf. <http://kremlin.ru/text/appears/2007/04/125401.shtml> [27.4.07].

30 Cf. Uhlin, Anders. *Post-Soviet Civil Society. Democratization in Russia and the Baltic States*. London: Routledge, 2006, p. 1.