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The Legacy and Consequences of Jackson-Vanik: Reassessing Human Rights in 21st Century Russia Conference Proceedings

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Conference Proceedings

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WELCOMING REMARKS

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STEPHEN E. HANSON

Stephen E. Hanson (Ph.D., University of California, Berkeley, 1991) is Vice Provost of Global Affairs and the Herbert J. Ellison Professor in the Department of Political Science at the University of Washington. He is the author of *Time and Revolution: Marxism and the Design of Soviet Institutions* (University of North Carolina Press, 1997), winner of the 1998 Wayne S. Vucinich book award from the American Association for the Advancement of Slavic Studies. He is also a co-editor of *Capitalism and Democracy in Central and Eastern Europe: Assessing the Legacy of Communist Rule*, (Cambridge University Press, 2003), a co-author of *Postcommunism and the Theory of Democracy* (Princeton University Press, 2001), and the author of numerous journal articles examining postcommunist politics in comparative perspective.

LARA IGLITZIN

Lara Iglitzin has been Executive Director of the Henry M. Jackson Foundr M. Jar1(o)2(uTJ/TT1 4[6T1 4[T1 4[6TT1 -322(M)-14(.)-321(J)-3(a)-10(c)1(k)-30(s)0(me)1-11

Prior to joining The PBN Company, Mr. Marshall was Executive Vice President of the U.S.-Russia Business Council, in which capacity he authored numerous policy statements on trade and investment concerns faced by member companies and managed the Council's policy agenda and lobbying initiatives with both the U.S. and Russian governments. The author of various articles and book chapters on political and economic developments in Russia, Mr. Marshall has testified before the U.S. Congress and in Executive Branch hearings related to Russia and U.S.-Russian relations, and advised U.S. presidential candidates on Russian affairs and U.S.-Russian relations.

Mr. Marshall received his undergraduate degree in political science from Swarthmore College, and he did his graduate work in Soviet politics and international affairs at the University of Essex (England), as well as Columbia University's School of International and Public Affairs and Harriman Institute. His professional affiliations include the Council on Foreign Relations and The Atlantic Council of the United States.

SARAH E. MENDELSON

Sarah E. Mendelson is Director of the Human Rights and Security Initiative at the Center for Strategic and International Studies (CSIS). She has worked since the early 1990s on a wide variety of issues related to human rights and democracy in the Euro-Atlantic region. Since coming to CSIS in 2001, she has conducted over a dozen public opinion surveys in Russia, tracking views on Chechnya, military and police abuse, religious identity in the North Caucasus, as well as knowledge and ex-

ber of the Moscow Bar Association since 1977. She also is a member of the Expert Council for the Plenipotentiary on Human Rights for the Russian Federation and the Moscow Helsinki Group.

IVAN NINENKO

Ivan Ninenko is Deputy Director of Transparency International-Russia, where he coordinates the Anti-Corruption Online Office (www.askjournal.ru). His previous work experience includes the Heinrich Boell Foundation, the Moscow School of Political Studies, and the “Citizen and Army” NGO. Mr. Ninenko is active in the youth human rights movement in Russia. He is currently pursuing his doctorate at the Higher School of Economics in Moscow, where he also completed his undergraduate and master’s degrees.

IVAN PAVLOV

Ivan Pavlov is the founder and chairman of the Institute for Information Freedom Development (IIFD), Russia’s largest non-governmental organization dedicated to monitoring government agencies and litigating on behalf of citizens and organizations on issues concerning access to government information and other freedom of information issues. Mr. Pavlov was counsel on the high profile ‘environmental espionage’ cases, defending journalist Grigory Pasko and nuclear submarine captain Alexander Nikitin. Recently, Mr. Pavlov successfully defended the St. Petersburg office of the Memorial Historical

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curity and foreign policy. He is the co-author of *An End to Evil* and author of *Hard Line*, a political novel.

WILLIAM POMERANZ

William Pomeranz is the Deputy Director of the Kennan Institute, a part of the Woodrow Wilson International Center for Scholars located in Washington, D.C. In addition, he

Emergency Food and Shelter Program, the National Fuel Assistance Program, the National Creative Arts Program, and many other initiatives.

In 1979 he was appointed by President Carter to a commission to determine the efficacy of building a museum/memorial to the victims of the Holocaust. Upon approval of the commission's report by the Congress and the White House, he was appointed by the President as the Founding Vice Chairman of the U.S. Holocaust Memorial Council of the United States Holocaust Memorial Museum.

Together with his wife, Jill, Mr. Talisman founded the Project Judaica Foundation to create world class exhibitions on Jewish themes and to create and preserve all forms of Judaic culture. His most extensive service has been in Prague with the Jewish Museums, the Jewish and general communities, and at the Terezin camp. During his service as the President of Project Judaica Foundation, he has not only created world class exhibitions but has also opened centers devoted to Jewish history and culture in Cracow and Prague, helping to conserve, exhibit, and protect the unique collections there as well as unearth hidden collections of rare Judaica stolen by the Nazis and held secretly by the Communists, in cooperation with the Center for Jewish Art at Hebrew University and the Legacy Program of the U.S. Government.

Mr. Talisman is now a private consultant with a varied portfolio of interests including the

There is another point I would like to stress. Senator Jackson believed that there should be a close relationship between academic institutions and those in the policy world who help shape our foreign policy. Thus his views were informed by his close contact with many scholars.

The senator studied the facts and, as he said many times, the facts will lead you to the right conclusion. He was also a man of great integrity and had the ability to change his views when the facts and circumstances demanded that his views be changed. He was not afraid to hear opposition and to take other opinions into account.

It is for all of these reasons and because of the Foundation's deep commitment to the cause of a free and just Russian society that we wanted to work with the Kennan Institute on today's conference. The Jackson-Vanik amendment

Panel 1: The Historical Origins of Jackson-Vanik

JOHN HEMPELMANN

I would like to introduce the moderator of our first panel. My good friend Lara Iglitzin is the executive director of the Jackson Foundation and I can assure you that is the reason we are a success. Lara has studied and been active in Russian–U.S. relations for many years. In fact, she knows this topic very well because her master’s thesis was on the impact of the Jackson-Vanik amendment.

LARA IGLITZIN

Thank you, John. I was also reflecting on yesterday’s standing-room only event on Capitol Hill discussing human rights in Russia and the Jackson-Vanik amendment, where I was quite stunned to recognize the continuing power and, to a certain degree, controversy of the amendment and some of the same arguments being made about how the amendment irritates the Russians. Yet the amendment remains a symbol of America’s dissatisfaction with some of the issues of human rights in Russia even today. So I look forward to a discussion of all these issues. This panel starts by looking back

perhaps for the first time, that there were people in the West, including a majority of the elected representatives of Congress, who were prepared to stand with people who wanted their freedom and prepared to do something about it. When you think of it in its historic terms, the idea of repealing it now seems to me would be tragic.

LARA IGLITZIN

As a Russianist, I have not thought too much about how the Jackson-Vanik has or has not applied to other countries, other than those in Eastern Europe during and immediately after the Cold War. Can you expand on how you believe the amendment might apply or has been

U.S. Holocaust Memorial Council, which as you know then led to the creation of the U.S. Holocaust Museum. Mr. Talisman, we are delighted that you could join us.

MARK TALISMAN

Thank you very much. This conference has been a long in coming. I have been surprised over the years at the lack of interest in talking about this as opposed to repealing it specifically. Before [former Congressman] Tom Lantos died, I had a long talk with him about repeal. He was a friend of many years. I was trying to puzzle out why it was that he felt that repeal was necessary, because from the beginning, Congressman Vanik (who died last year at the age of 95) believed that this amendment was a permanent fixture in American law. He believed that firmly because, I can assure you, using today's methodology in the House of Representatives, it would not pass if it were to be needed and brought up again. There were many attempts to change Jackson-Vanik in many different ways, by extending it and so on, but I do believe that it is an organic piece of legislation, and to lose it is to never have it again.

I do not believe that the world is static. I do not think that anyone does. I think Richard is absolutely right in what he said that there can be times that will be ugly for so many nations, some of which we do not even know the names of. I must add also that it was not in our view, in the House, a "Jewish amendment." It was an amendment that had broad coverage. We had the largest Hungarian population outside of Budapest living in our district, and I can tell you that the Hungarians wanted most favored nation status because, after all, Representative Vanik was a Slav. He had a long history in ethnic politics, and that, for them, was enough reason to give the Slavic nations and Hungary Most Favored Nation status *per se*. And yet, there were still very strong reasons not to do that. And they did not.

There were many, many non-Jews involved who were beneficiaries of Jackson-Vanik. I meet them all the time, I see them all the time, I am introduced now to their grandchildren. It applied to so many different people whom we met in the basements of various clandestine venues while praying. All believers, not only the Jews, were in strife. The Jews were the earliest who were willing to come to the Kremlin wall. I do not know how many of you remember that extraordinary CNN live broadcast showing the truncheon-bearing, black leather-coated KGB agents beating the hell out of them on live television that showed what they endured. This obviously helped us get more votes quickly on the House floor.

I want to just give you a little note on Representative Vanik himself. He graduated from law school at age 16 in Cleveland. Under Ohio law, he had to be 18 to practice law, and so he was in a settlement house in Cleveland during the beginnings of the Holocaust. His assignment under the director of that settlement house was placing babies who were sent to Cleveland and other cities by their parents who were still alive in Germany and elsewhere, but wanted their babies in safety. As a Catholic kid, it gave him nightmares for the rest of his

edy that would do. Those who served in both the Lincoln and Wilson administrations knew that trade with tsarist Russia was as difficult a proposition then as it was later. They were very smart about the fact that, yes, the United States needed raw materials, but not as much as Russia had to offer, and suspensions of trade took place during those two administrations unilaterally.

During the 1970s, the brightness of the staff on the Senate side was beyond belief; it mirrored the brightness of their principals. It was like participating in a kind of heady seminar one would pay a lot of money in an Ivy League school to attend, to be able to come up with this brilliant solution. The problem was that we in the House stood in the way. That is to say, the House comes first according to the U.S. Constitution on matters of tax. So we had to pass it. The House is not a normal body, you might have noticed recently. It never has been. It is actually called, as you might remember, the House of Representatives, for better or for worse, I add. And this kind of issue gives third degree burns to a lot of people.

I want to tell you, because I have not had an opportunity to talk much about this in public—this is iconic legislation in many different ways, one of which is the strategy to actually keep it alive to get it to the Senate. It is a huge problem, as you see with legislation going on right now, to get it to a form that might actually pass and be signed by a president. The percentage of members who had ultimately signed first (i.e. became co-signatories), literally, personally signing on the one copy available to have their name printed as a co-sponsor above the level of simply voting for it, was 25-30 percent, maybe even 35 percent. For George Meany (he was anti-communist) and his friends in the labor movement, it was a no brainer. They quickly understood the issues and they signed it. Representative Vanik and I had the two copies that were going around. In case he missed somebody, I was able to get him.

A key issue was to garner a sufficient number of votes that was not simply a majority-

plus-one (218). Members can forget that they had signed as co-sponsors and when it came time to vote two years later they might vote against their legislation. I had bills in the House defeated after an enormous amount of labor by millions of people because of some peripatetic issues, some last minute lobbying. So my objective in legislation is always to make sure that there is a majority plus 97 or so, so that there is plenty of cushion.

One-third of the members literally were talked into it. The phenomenon that arose here, which must be paid due deference, was that there was a public movement that seemed to have grown out of nowhere: however, in fact, it had grown out of somewhere. The largest single lobbying activity that went on in Washington during the Holocaust on behalf of saving Jews, after it was clearly known what was happening, was an

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fort we could get together as a community and as individuals to escape the horror of not acting properly, not doing something.

So when Jackson-Vanik came along, out came these organizational efforts to try ev

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So as a consequence, when it began to develop that it was actually going to work, you do not take a treasure like that and trash it. You just do not do that. It actually has been proven to work, which is rare for a lot of legislation, and became a model—at least in the conversation about human rights. This is precious to me, because there were so few opportunities that actually have made a difference in my lifetime on the Hill. To have this legislative gem available is a tribute to all who suffered to help make it happen. Thank you.

LARA IGLITZIN

Thank you, Mark. I think one of the remarkable things about this amendment is how it is quite naturally tied in many people's minds to the emigration of Jews since they were by far the largest majority of people who emigrated. Neither Senator Jackson nor Representative Vanik were Jewish, although I think many assumed they were, because why would either of them be fighting so hard for these rights? I think both of them simply believed very strongly in a universal interpretation of human rights.

Ludmila Alexeeva is someone who has fought for human rights without respect to religion or origin and also believes in it more universally. We are very honored to have her with us. I think you all know that Ludmila Alexeeva is really the soul of the human rights community in Russia, if not internationally. We all look to her for guidance and wisdom. She serves as the leader to so many of the groups, activists, and politicians with whom we work. She is a founding member of the Moscow Helsinki Group. I think both her stature and her role within the community cannot be exaggerated. We wanted to bring in her perspective on the role of the Jackson-Vanik amendment and how it relates to the struggle for human rights today

LUDMILA ALEXEEVA

The Jackson-Vanik amendment adopted by the U.S. Congress in 1974 became a significant event in our country. It is not a secret

that this amendment was a reaction to those in the movement of Soviet Jewry who wanted to move back to their historical homeland, Israel. The movement was born out of anti-Semitism, which became the USSR state policy after the

tion has the right to choose a political system under which the nation wants to live, it is particularly true for the individual. The country where citizens are deprived of these elementary

And I think you are quite right in observing that a repeal of the amendment would be interpreted as a seal of approval for the current state of human rights in Russia. Happily, there is no need to repeal it. It is not interfering with trade in any way. It has no bearing on commercial relations between the United States and Russia. We could, if we wish, extend credits without any limitation to Russia. Russia now receives the effects of most favored nation status. There is confusion about the status of the law. The law is clear: it simply does not apply to Russia. If 20 years from now Russia were to be transformed backward and once again deny its citizens the right to emigrate, then it would once again take effect. But now it has no effect, so there is no compelling argument to repeal it.

MARK TALISMAN

What was the reaction to this discussion on the Hill? Is there any understanding on the Hill about the meaning of repeal as Richard has indicated?

LARA IGLITZIN

I think it is fair to say that a number of Hill staffers seemed to understand the symbolism of Jackson-Vanik and why repeal, at a time of increasing political stagnancy in Russia, could be problematic. I think there was an understanding that it was irrelevant for Russia in terms of emigration and irrelevant because it is not a non-market economy, but discussion at our forum on the Hill did not get into those aspects too deeply.

MARK TALISMAN

I just want to make the point that it is good that you are able to report what went on the Hill and how serious it is now, because it also defines what Jackson-Vanik is not. The human rights movement is alive and well and a lot of work needs to be done independent of Jackson-Vanik in regard to the long list of things going on in Russia under the prime minister.

DISCUSSION

QUESTION

I have two questions: one, I was curious as to what other groups—lobby groups, advocacy groups, etc., other than Jewish groups—helped support the Jackson-Vanik amendment and the fight to get it passed. And my second question is for all of you: what legacy do you think the amendment has had on other legislation, particularly, the International Religious Freedom Act?

MARK TALISMAN

The interwoven relationships were extensive and daily, including organized meetings. There were the believers that I talked about, many of whom were suffering for their practice in basements and otherwise being hassled, if not worse, all over the Soviet Union. The Bahá'í, for example, who had small numbers but still were there, had, and still have, a habit of not lobbying and being in public about their needs like this. So some of us had to do their work on the Hill; it has happened later on in Iran and other places. So support for the amendment was very broad.

RICHARD PERLE

It was a very diverse coalition—human rights groups of all descriptions, the trade unions under the AFL-CIO, for example. It was a galvanizing proposal—and Ludmila Alexeeva might wish to say more about this. It had the same effect on Soviet human rights activists and dissidents and it cheered them enormously. Sakharov is not Jewish, of course. There is no reference to Jews in the amendment, but as the history shows, the Jews were most activist in the Soviet Union, not exclusively, but they were the most activist and they enlisted most of their support outside of the Soviet Union. Many people believe today that this amendment affects only Jews, but, of course, it does not.

QUESTION

I want to follow up on a technicality concerning the congressional annual waivers. Apparently, two presidents, Clinton and Bush have said, "We now call on Congress to act to move beyond the amendment, because it does not apply to Russia." But then this annual process does still take place. So what form of presidential waiver would go past that and would make clear that actually Congress is out of the loop from this point on?

RICHARD PERLE

No waiver is necessary. The waiver has persisted in part—this gets long and complicated—because there had been trade disputes. Unfortunately, what was intended as a very narrow proposition—if you do not allow people to emigrate, you do not get these benefits—has now acquired hangers on in the poultry industry and elsewhere. But the amendment is very clear and administrations that have requested waivers have done so, I think, either without legal advice or ignoring the law for political reasons, because the amendment takes effect until the president declares that a country is in compliance and at that point it ceases to have effect. It has been obvious that Russia has been in compliance for many years.

QUESTION

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happened since Jackson-Vanik in regard to these issues that I would think it would not take too long for bright minds to create a new institutional framework in which the world stands up and says: this is not working—and behaviors need to be changed.

QUESTION

You just mentioned multi-national organizations. Given that there is still a slight possibility that Russia will enter the World Trade Organization (WTO), which requires that members receive unconditional most favored nation treatment, will the consent of the United States to Russia's accession actually mean de facto repeal of the Jackson-Vanik amendment? Would Russia forever enjoy most favored nation treatment, and would the United States, if

STEPHEN HANSON

It is my distinct honor and privilege to be here today to chair the second panel on the topic of “Rethinking the Human Rights Issue and U.S.-Russian Relations.” I also want to say that it has been a pleasure over the last 20 years of my career to work very closely with the Jackson Foundation in Seattle and with Lara Lightzin in particular, as well as with the Kennan Institute and with Blair Ruble and his amazing team. It is really a joy to work with everybody in this outfit and you can see the kind of high quality events that the Kennan Institute and the Jackson Foundation put together.

The second topic for today is going to take the themes from the morning and broaden them a bit. There are three axes to the conversation that we are going to try to bring into play together, and it turns out all three of them are integral and inextricable. On the one hand, we have the historical legacy of the Jackson-Vanik amendment and its universal significance for human rights activists around the world and its potential continuing relevance for countries like North Korea, which deny the right to free emigration and are non-market economies. Thus, we have the legacy of Jackson-Vanik and the issue of how to honor that amazing achievement. On a second axis we have the question of U.S.-Russian relations. There are misunderstandings about the Jackson-Vanik amendment on both sides that complicate the question of how to improve relations with Russia, but in such a way as to achieve other goals that those of us in the room hold dear, including those concerning democracy and human rights. Then there is a third axis, which is the question of human rights in Russia itself and the rather

negative trajectory human rights has taken, particularly in the last decade, which cries out for some kind of U.S. position

negative trajectory human rights has taken, particularly in the last decade, which cries out for some kind of U.S. position

growing steadily, and the 2008 figure is easily triple and quadruple what it had been in recent years. It is nevertheless a primary market for American exporters across the industry spectrum: from aerospace and agriculture and automobiles, to chemicals and information technology, to machinery and manufacturing. And the market continues to grow in its importance. Just as we have become very familiar with the BRIC moniker over the past decade to describe the dynamism of leading emerging markets, PricewaterhouseCoopers (PwC) has recently come out with a new forecast looking ahead over the next couple of decades that places Russia squarely within an “E” of the emerging economies that will match the economic output of the G7 in the next decade, by 2019.

So in terms of the implications for our trade and overall relationship with Russia, I would divide these effects into the symbolic (which I think is a very large, substantial category), and the practical (which is a practically empty category). There is no question in my mind as to the huge symbolism associated with Jackson-Vanik; and because it is symbolically important in the relationship, it is an irritant and I think we have to face that. And ultimately, it is a limiting constraint on the extent of the reset that is currently underway in U.S.-Russian relations, and the reestablishment of the mutual trust and confidence that has been sorely depleted in recent years.

While we have made some positive pronouncements on Jackson-Vanik and what we

merits of possibly having targeted sanctions. As
Chechnya opens six foreign offices in Europe
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haps support human rights activists in Russia. Thank you.

STEPHEN HANSON

Thank you so much, Sarah, for those thoughtful comments, and finally we have Sam Kliger.

SAM KLIGER

Thank you. First of all, I would like to thank the Jackson Foundation for organizing and sponsoring this conference and the Kennan Institute for inviting me. Thank you very much. It is not the first time I am invited to Kennan, and I hope you will invite me again despite the fact that I may be a little bit aggressive today. I will concentrate on the triangle that Steve mentioned.

Basically, we are talking about two angles of the human rights situation in Russia: U.S.-Russian relations and the Jackson-Vanik amendment legacy. The chain of events leading to the Jackson-Vanik amendment is well known; I would like to mention a couple of turning points. When, in 1972, the Soviet regime imposed a heavy tax on education on those individuals who wished to emigrate, protests from the free world immediately followed. By the end of 1972, it became clear that the Kremlin would not get any favorable trade deals as long as the education tax was in place.

The minutes of the notorious Politburo meeting that Richard Perle quoted this morning became available only a few years ago, but I was living in Moscow and I remember that time very well. I do not remember the Politburo meeting, because it was a secret meeting –*sovershenno secreto*– and I was not invited to the meeting, but some smart people created a joke, which was kind of an expression of what was really going on in the Politburo. The general mood within the ruling elite was fear. They said, “Well, if we allow these Jews to go, what is going to happen?” And the joke goes, that Brezhnev and Kosygin are discussing the issue of emigration, and Kosygin (who, allegedly,

was pro-emigration—we do not know exactly, but that was the rumor at that time) says, “So what is the point? We need good relations with the United States, we need to buy grain from them, we need this and that, and this is an obstacle. Let them go!” And Brezhnev goes, “Well, what do you want? If we allow them to go then other people will follow. And do you know what will eventually happen? Only the two of us will stay!” And Kosygin said, “No, only you will stay.” That was the fear that the Soviet authorities had about Jackson-Vanik and the entire idea of emigration.

I would argue Ludmila Alexeeva’s point that this is the only right which remains in Russia. Probably there are some, a few more, but the right to emigrate is something basic, because if you allow people to escape from a totalitarian regime, that de-legitimizes the whole regime.

Like many other Jews who lived in Moscow, I started considering emigration exactly at that time, and I was very enthusiastic about Jackson-Vanik, because I thought that now the pro

of course, was realized after the Soviets invaded Afghanistan on Christmas of 1979 and I, along with thousands of other Soviet Jews, turned into a *refuznik*, in my case for ten years, with all the miserable consequences and stigmas related to this status.

Of course the amendment played a great role, and I would even trace it to one of the factors that contributed to the collapse of the Soviet Union. As I said, in the short run, Jackson-Vanik led to more restrictions on emigration, in the long run it was a big, big victory for human rights. I will quote Anatoly Dobrynin, a former ambassador of the Soviet Union to the United States. In his book he writes, I quote: “Our biggest mistake was to stand on pride and not let as many Jews go as wanted to leave. Instead, our leadership turned it into a test of wills that we eventually lost.” So, as a matter of fact, he admits the impact of Jackson-Vanik on losing the Cold War.

Let’s look now at Russia today. I would confess that I am not a big admirer of the Putin/Medvedev regime; nevertheless, to be fair, I would like to mention eight points related to human rights and civil society in Russia.

To begin with, acknowledging the fact that there are serious violations of human rights in contemporary Russia, there is also a need to acknowledge Russia as a new state—a new player on the international arena, a state that is not identical or even similar to the Soviet Union.

to NGOs, many domestic and international human rights groups successfully operate, though in a sometimes hostile environment.

Eight: in the international arena, though Russia is still nourishing its imperial ambitions—Georgia is the recent example—and playing tricky games on some issues like Iran’s nuclear aspirations, it is willing to cooperate on some important problems such as arms control, space explorations, and nuclear non-proliferation. Russia, and this is now widely recognized, is not a strategic threat to the United States. It is rather, I would call it, an underestimated and even underappreciated natural ally, especially in the war against terrorism.

To summarize and put it into historical perspective, Russia today is less anti-Semitic, more open and West-oriented, less oppressive, more supported by its people and freer than probably any time in its 1,000-year history. There may be some exceptions, like the short period between February and October of 1917 and probably a short period during Yeltsin’s first term in 1994-95.

To put it in geographical perspective, Russia is still a gravitational political and economic center to its Western and South-Eastern neighbors. If we look around, east and south of Russia, we will see Central Asian republics that have problems with human rights; and to the west we will see Belarus and to a certain extent Ukraine.

I would like to mention a couple of moral and pragmatic issues that have to do specifically with the Jackson-Vanik amendment. The United States needs Russian cooperation in many important areas, most urgently in the Iranian uranium enrichment program and in the broader issue of nuclear nonproliferation and energy security. There is a need to cooperate in the global fight against terrorism, from which Russia suffers along with the United States. The United States needs Russia’s assistance in its efforts in Afghanistan and Iraq. And

the list goes on. The Jackson-Vanik amendment is seen by the Russians as a constant irritant and

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doing what we have done for countries ranging from Mongolia to China—that is, bringing up to date the application to other market economies, which Russia obviously is, and proceed that way. So I think the human rights community needs to come to a judgment about the overall impact of the framework and its applicability and usefulness. My cut at this is the very specific application to Russia, which I do think is anachronistic.

SARAH MENDELSON

Thank you, for the question. The peer-to-peer approach, or the idea of the peer-to-peer approach, came about after a lot of interviews with different activists. It turned out that when I went to Moscow in April 2009, Ludmila Mikhailovna was in Washington on the very same days talking to people about essentially the same model of the peer-to-peer dialogue. So the first thing to acknowledge is that among the human rights community there is an interest and the desire, despite the fact that clearly there are very important asymmetries experienced by the two communities. There is a desire to move toward a peer-to-peer dialogue and we need to figure out how to address the asymmetries. I am particularly interested in human rights as a part of civil society, but civil society in Russia and in the United States are much broader than just human rights. What we had in July and what I hope will go forward in some kind of regular meeting would involve peer-to-peer addressing public health issues, addressing education, community economic development, new media. I mean there is really an endless list, and again, there is going to be some as-

The amendment applies to countries that deny their citizens the right and the opportunity to emigrate, if they are also non-market economies. The president need only find that a country is in compliance. That is the only obligation under the law. I believe that Congress has acted in other cases for two reasons: the first is, there is another statute that has not been referred to today, passed in 1951, a classic piece of Cold War legislation, that denied most favored nation status to a list of countries. If you were on that list you could not get most favored nation status. And that had nothing to do with Jackson-Vanik, it preceded it, and it survives to this day, because it has never been repealed. That legislation in 1951 requires Congress to agree to grant most favored nation status. I believe that is the reason why a congressional approval was sought. But there is another reason, and that is political. When Congress believed the time was ripe to confer the benefits on this country or that, they wanted to express themselves. So the other statute—the 1951 statute—would require congressional action. But that congressional approval would take place without any reference

compliance with Jackson-Vanik, which does have some useful activities, though they would like to see this issue addressed. And finally, in response to what Sarah was talking about in the North Caucasus, I believe Oksana Chelysheva was also involved in compiling two volumes of information about specific members of the security forces who were involved in violations of international law in Chechnya, and that documentation, I know, is at the U.S. Embassy

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LARA IGLITZIN

The three panelists from whom you are about to hear happen to be grantees of the Henry Jackson Foundation, and I am proud of that. It is not the reason they were invited and actually I was told by my colleague John Squire at National Endowment for Democracy that many of his Russian grantees are also represented today, so we are glad that we are continuing to support some of the good work that is going on in Russia. I think you will see just how important some of these people are today. We have Alexander Verkhovsky from the SOVA Center; one of the foremost experts on extremism and xenophobia, and one of the people who is doing much of the important monitoring of the current situation in Russia today.

We have Arseny Roginsky, one of the founders and the director of Memorial, the human rights research center. I think for most of you that center needs no introduction. We have worked with Arseny and his group a lot on issues related to ensuring that the Russian people do not forget about the repressions of the Soviet era. I always find Arseny to be one of the most perceptive interpreters of what is going on in Russia.

And we have Maria Chertok from Charities Aid Foundation (CAF) in Russia. We have worked closely with Maria on some joint efforts to help encourage indigenous Russian resources to be developed in Russia. CAF has worked extensively to generate new sources of funding other than U.S. and Western funding sources within Russia. We also worked together on corporate social responsibility. So we should have an interesting contrast of views. I am going to ask Alex to start.

ALEXANDER VERKHOVSKY

Thank you, Lara. Beforehand B-aart.

describe themselves as the human rights movement, the human rights community.

In contrast, a great many groups of the second type find the classical understanding of human rights outdated or even wrong. Groups of the second type may treat those in the traditional human rights movement as allies or opponents and their relations with the government may vary across a broad spectrum. Some of these organizations distort the concept of human rights by opposing the basic principles of a free civil society and these groups may be described as the so-called un-civil society – you know the term, I believe. An extreme example may be the organization that systematically advocates on behalf of persecuted perpetrators of violent hate crimes.

I find it positive, in general, that the term human rights is so widely used in Russia by groups you would least expect it from, but organizations of the first type, which I would include the SOVA Center, must understand that they no longer have a monopoly over this sphere, as it was in 1990s. It appears now, that we operate in a highly competitive environment. Some of our competitors combine their activity for public benefit with fierce criticism of traditional human rights defenders. Some others cause more harm than good, like the organization mentioned above, but they, too, are part of the growing grass-roots activism.

We can often hear that the government's pressure against the human rights movement is made possible by a lack of acceptance of this movement among the general public, but this is not as true. We need to make a more accurate judgment when we talk about this relationship between the movement and the general public; we need more serious sociological research. It may be easier to talk about relationships with the government and I will turn to that.

The strong pressure on the human rights movement and NGOs in general in the years of Putin's presidency was motivated, as I understand, by the desire to eradicate any politically significant pockets of independent activism of

any kind. Strictly speaking, the authorities did not set out to eradicate all dissent, but only political opposition. But the interpretation of the latter has always been extremely broad. This broad interpretation is associated with the high priority attached to national security. It follows the global trend of the securitization of politics, emphasizing the dominant roles of security agencies in the Russian government. The activity of independent NGOs is seen as part of an enemy strategy (the main enemy is the West, and sometimes, radical Islamism); the perception was particularly strong after a series of "color revolutions."

Another reason why independent NGOs, in general, are perceived as part of the political opposition is that at some point many who were part of the Russian human rights movement really positioned themselves as partners or sometimes, as members of the political opposition. When the "orange" scenario disappointed almost everyone who used to admire it, very few human rights groups remained so clearly politicized, but Russian authorities, however, continue to see politics where there are none. Conspiracy theories are very popular among our authorities. In recent years, when all these color revolutions expired or subsided, the Russian authorities relaxed some of their suspicions and their pressure. However, they still considered it crucial to maintain control over everything they perceived as related to politics, including Western funding; this is clear from the last amendments to the law of NGOs.

During Putin's second term, when pressure against all independent civil groups was increasing, many activists faced a difficult choice: to carry on as before and be prepared for even stronger pressure and total denial of cooperation with any government agency; a threat of forced marginalization. An alternative strategy was to enter into a kind of bargain with the authorities in order to leave open the possibility of cooperation with them, and thus, become more effective. However, bargaining required compromise, and in the period following the

quickly from the inside or, especially, from the outside, and we need to bear that in mind in our day-to-day work.

As a researcher of Russian nationalism, I also believe that nationalism is also on the rise in Russia—not only in radical forms. Of course, I am not the only one who thinks so; many people here at the Wilson Center know Marlene Laruelle and she also shares the same view. As modern Russian nationalism is anti-Western, any groups supported from the West will be viewed with suspicion for a long time. Suspicion does not rule out cooperation, as we see it, but it makes some bureaucrats likely to choose less suspicious and more acceptable partners. It means that the government and those non-governmental groups that engage in political cooperation already with the government will continue to set up new civil society structures to replace those associated with the West. While we may make fun of their poor performance and may be shocked by some of their views, these organizations will grow unless the authorities choose to crush any activity, independent or

Yesterday, Ludmila Alexeeva said that the modern human rights movement in Russia increasingly reminds her of the human rights movement in the Soviet Union. Today, Alexander Verkhovsky said that the current Putin regime views the human rights movement as political opposition and, although in principle the authorities are wrong in thinking that, it is their nature to look for politics where there are none. I fully agree with Ludmila Alexeeva, but I somewhat disagree with Alexander. I will explain why, and I will try to do it as a historian does, because I *am* a historian. I will compare the past with today.

The human rights movement in the Soviet Union appeared in the mid-60s. This was a movement against political persecution. It was called the human *rights* movement, because, indeed, it introduced an extraordinary thing: it offered the Soviet society a new discourse – the language of statutory rights. This language could be used by different branches of the dissident movement – national, religious, and others – in their dialogue, and, most importantly, it could be used as a common language in the dialogue between society and the authorities. The majority, although not all, of the human rights activists sincerely believed and directly declared that they were positioned outside politics. But the authorities did not share this belief. The authorities viewed the human rights movement as political opposition. And the most dangerous thing about this opposition, as the authorities saw it, was that it had done away with the traditional Russian discourse – an ideological confrontation. Not the ideological confrontation, but the language of statutory rights – this was the standard of human rights activists back then. So who was right – the politicians or the human rights activists? The human rights activists or the authorities? I believe, the authorities were closer to the truth in that case. The activists took a very narrow definition of politics, which they interpreted solely as a power struggle. In this sense, their movement, indeed, was not political. However, the human rights

activists threatened something far more important than power – they threatened the conceptual foundation of the Soviet regime, the Soviet model of the society/government interaction. There are two fundamental principles behind this Soviet model, which is, of course, Stalin's model. Firstly, it is complete control over all aspects of social life, and secondly, relativiza-

whose central theme was "What is Putinism?" The modern human rights movement infringes on the conceptual foundation of the regime, so the regime naturally treats it as political opposition. Moreover, not only the authorities, but partially the public sees a political opposition in the human rights movement. Why? The Putin regime burned down and wiped out the entire political field. There is no political competition in the country. Political and democratic parties as well as the opposition first were thrown out of the parliament and now have effectively ceased to exist. In this environment, the critical views of the human right activists, no matter how traditional, come across as sharply political. In the public's view, the human rights activists, largely against their will, are gradually occupying the niche formerly held by the political opposition. This burden was laid on our shoulders against our will.

Of course, today's human rights activists continue to claim that they are not involved in politics, but they are trusted less and less in this sense. They do not convince anybody. Their ties to the Soviet human rights movement are becoming increasingly evident. Perhaps you know from the news that recently Ludmila Alexeeva came out several times to demonstrate in support of the 31st article of the constitution "Freedom to peacefully meet and assemble." Last time she was supported by the Memorial Organization; several hundred people, almost 1,000 people, which is quite a number. So what would you call it when Ludmila Alexeeva

claimer: everything I say, it is not a criticism of the human rights movement, that is the last thing I intend to do here and I am full of admiration for what the human rights activists do in Russia. I am saying this because I am not part of the human rights movement; I am rather part of a larger civil society/community, which is a lot more diverse and it is not limited to human rights organizations. So I am making observations from a little outside the immediate human rights community, yet still from the position of someone who is a citizen and an NGO person and one who is very interested and compassionate about what my fellow human rights activists and NGOs are doing. I represent an organization whose main mission is to develop philanthropy and charitable giving in Russia and to facilitate the development of an environment for giving and the participation of different donors in NGO activities. Basically, I look at the topic of today's panel from the position of dis-

nicated; they have a shortcut to the authorities to resolve not just issues of one particular individual, but group issues. Mostly these charities operate in the area of healthcare and access to treatment, because this is something the state is supposed to provide, but does not provide, or provides badly, or too late for people to take advantage of the treatment.

The public is already quite familiar with this kind of activity. They understand how to contribute, they know how to volunteer. It is a fraction, a very tiny fraction of the population, but still the consensus about these activities is already there. So my point is that these activities happen slowly with very limited kinds of causes. I would not argue for mobilizing public resources for political rights or civil rights issues, but there are economic and cultural rights issues that I think would be more appealing and there are ways to structure them in a way that would be acceptable and interesting and could take thei7(l)-2(t)-34(22(t95T*(r)-45(i)-15(g)-305-33(r)o)-s4-8(i)-29(7(l)-2(t2338(7(l)-2(74(uc)-18(6(r)-24(Ba)-9h)-22(a)-9(t

probably be addressed by the Commission on Civil Society, which was created during the Obama visit to Moscow this summer. Since then we have not heard much about this commission. It is another way to help. It is not just money; it is removing the administrative pressure, administrative barriers, and removing organizations from the risk of being closed because they do not comply with some silly reporting and planning procedures.

I think that talking about money and asking for money are both all right because if we do not ask, nobody will give. I do not think human rights organizations have really tried, and it is worth trying to see what kind of reaction they would get.

LARA IGLITZIN

I think one of the challenges and one of the things we have learned from working with different NGOs in Russia is expanding the definition of human rights or perhaps casting it in slightly more politically palatable ways that can provide some advantage or connection to society that you might not have otherwise. Alex, I believe that what you were saying about non-traditional human rights is -24(a)-12(d)-37(i)4(t924(i)-2 w)7(e)- 112(b)-7(e)t924(t)-24(h)1(e)-9(r)-10(e)]TJT†(i)-2 is meant by non-traditional human rights?

ALEXANDER VERKHOVSKY

When I used this very unclear term, I meant many different individuals and groups. Some may be related to some social issues. But sometimes it is completely different, for example, bureaucratic structures that represent some ethnic groups. They interpret their activity as fighting for the rights of this ethnic group. I would say they are working for themselves in practice, but they use the same rhetoric. It is not only about Russia, of course, it happens everywhere. There are many people who use human rights language and, in my opinion, they misuse it.

at the same time they are quite welcoming to what is called philanthropy or charity. So there is a whole plan of legislation development to make philanthropy easier or even introduce some tax breaks. There is new legislation about to be adopted about so-called socially oriented organizations, which is equivalent to public benefit, but not really. I am not suggesting that civil society groups should pretend that they are on this philanthropic, sunny side of the road, but there is definitely an opportunity to leverage this positive attitude and this willingness to develop this face of civil society, because civil society can be looked at from different perspectives.

LUDMILA ALEXEEVA

First I would like to respond to Maria Chertok. The popularity of the human rights movement is steadily growing; it finds sympathy among the Russian rich as well. Maria is hoping that sometime in the future our human rights movement will begin to get domestic financial support, including from the rich. However, whether the rich help us or not does not depend on how popular the human rights movement is or how sympathetic the rich people feel (indeed, there are people who feel that way about the movement). They will not help until their businesses become independent from the government. Remember the fate of Khodorkovsky; they will simply be afraid to help us. So it looks like we human rights defenders or perhaps someone else must first free Russian business from its dependence on the government, and only then we can count on the financial support.

Now, regarding the brilliant comments by Arseny Roginsky. I would like to point out just one other way in which the modern human rights movement is similar to the one of the Soviet era. Today, we have the same situation. Just like in the 1970s, the human rights movement attracts very different factions. I spoke about it in my presentation. As a human rights activist, it was natural for me to stand up for Article 31, the constitutional "Right to peace-

ful assembly." But once I started doing it, I realized that all political factions, as well as all non-government organizations, are interested in it. It also interests ordinary people, because they do not have any other way to voice their dissatisfaction with the government, they do not have access to mass media, and for all practical purposes we

sition and human rights cannot be addressed? Because I think, really, the whole strategy that the Obama administration is adopting here depends on the first being true.

ALEXANDER VERKHOVSKY

I think there may be different views here at the table on this question. My opinion is that this commission will be a success on the part of our civil society that is most pro-official. They will benefit from such relationships. For the human

no doubt I would have handed this amendment to him on a silver plate - but only to him.

Believe me, I am no supporter of Medvedev, I never said a good word about him in public, except once when I said that I am ready to support one of his statements. But, you see, we need hope. Just like in Soviet times, we need

rights organizations are largely trusted and my

WILLIAM POMERANZ

How do people begin to exercise their rights?
I think we heard some interesting examples of
how in light of Putinism, people are returning
to traditional methods of asserting their rights,

going if not absolutely perfect at least satisfactorily in my country. Of course we now have a free market, but is it a free market after the Khodorkovsky case? And why did they choose this company, Yukos? Because they are the best, I would say. They paid the biggest amount of the taxes, bigger than anybody else, they were that they are transparent and doing well, they started to express their own views on who should be financed before the elections—whether we should finance civil society, whom should we assist—and they expressed their preferences. After that we found not only Mikhail Khodorkovsky, but also those who did not flee to the West, in prison. And they are now political prisoners together with my other clients.

So, of course it is a free market—but what an ugly form of the free market. And is it a free market actually? Of course we also have freedom of movement. It was the same for Khodorkovsky, who had full rights to move from the Russian Federation and even remain in the United States. He also had the right to move back to the Russian Federation, saying that “I would prefer to be a political prisoner than a political emigrant.” And he was arrested. The same applies to Anna Politkovskaya. She could leave the country, but she preferred to stay there, and not to close her eyes to what happened in Chechnya. She could not tolerate it because she was very honest. And we cannot replace her with somebody else, even though our president said that she was such an unremarkable person that even her death created more difficulties than her work and that no one cared about her publications. By the way, he explained to somebody that it was a pity that you killed her on my birthday; this was a bad present on my birthday. She is nobody; we could easily manage without even killing her. You can manage ideas without killing her, but her death created more problems than her work. I do not know if these people have ears to hear what they are saying, but it was said.

So there is freedom of movement. Nobody would push you to remain in your country, and sometimes they would be happy to see you leave your country. But if you remain in the country, you will be arrested, or killed, or something else. And the responsibility of this lies completely and solely with the a A-4(l)-13(y)-194(A-4(l)-13(y)--1-18(h)-193(t)-28)-3(o)2(u)25(h)-149(b)-5(o)dam(950)-030ie ki, thesnter dmh,

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implement and not only pay the compensation, but also take general measures. That is what we are doing. We do not go to the demonstrations: it does not mean that we do not sympathize with those people who go to the demonstration. We do not use political measures: it does not mean that our lawyers do not have their own political views and opinions. But when I ask my lawyers to come to the demonstrations and be nearby, somebody has to be out of the demonstration to defend people.

So we are very practical and, I am afraid, very pragmatic. But we must not pronounce political slogans, or support, or defend political ideas. If we are professionals we have to stay apart. When Stas Dmitrievsky published his fantastic book, two volumes of which Sarah Mendelson has already mentioned, there is a description of all of the crimes against the Chechen population. This is serious research, but if you read the second volume word by word then you would have the whole picture. And this is not his subjective view; he used only well established and well-checked facts. He used Memorial cases and many other cases. But what we did, meaning our Center, was to publish a *retsenzia* (critique) of his book, explaining that this is research, this is scientific work, huge work. So what we are doing is we keep separate from the politics, because we have, I think and hope, a stronger weapon. And we want to use it to support our people in their very difficult task to defend their rights.

IVAN PAVLOV

I have to apologize for the level of my English. It is growing very slowly, but much faster than social demand for human rights is growing in Russia. So I am going to speak about the new Freedom of Information Act (FOIA) that is just appearing in Russia. It has been in effect since January 2010, just one month. By the way, it is a strange and very interesting coincidence that the Russian parliament passed this act the same day that President Obama signed his first presidential decree on transparency and open

government in the United States. I just want to say a couple of words about this law. First of all, a very broad category of information is covered by the Russian FOIA. Actually, it covers all information held by governmental agencies and subordinate organizations. I think that this broad coverage is the most positive feature of the law. Second is a presumption of openness. All information is open except some secrets that must be defined under a special federal law. Not another normative legal act, but only federal law can restrict access to information. This is also a very important and progressive thing. Massive amounts of information, which are listed in this law, must be available online.

There is also very good and modern contemporary language that is contained in this federal law. And I think that Russia's path to freedom of information goes through e-government. It is absolutely opposite than the way it developed in the United States or in Europe. Countries in Europe and the United States moved from the freedom of information act toward e-government; we go the opposite e (o)1(l)1 0 Td(-)Tj(g)-40(r)-10Utnij(g4(a)-31)1(e)5(a)3(- law-50)-25(w)7(e)-253(e 4)s on cont opt36aco55(I 36)-142(i)-60(nt)-30(a)30(r)-.2c

and the president answered their demands and ordered the prosecutor's office to figure out if this tearing down of their village was according to the law or not. So this is also quite a change, actually. The current president, Medvedev, has started to react to some calls from civil society, which is really different from what it used to be under Putin. I would not say that they are really

Moscow several years ago to demand changes in police—police were beating young people and that is not how it should be done. On one hand, they may not be ready to support demonstrations for human rights, but they are ready to risk their security and block the main street to protest against this violation of human rights. So it depends also on how you define it. If we stick to the term “human rights,” some core values of human rights are already core values for many people. That may not be emerging demand, but they are ready to protect them when the government steps in to deprive them of these rights.

DISCUSSION

WILLIAM POMERANZ

Thank you very much, Ivan. I just want to first touch upon a common theme that you have all talked about in one way or another, and that is to what extent one can work today within the Russian legal system. You talked about defending property rights, FOIA requests, and even how the European Court works to a certain degree within the Russian legal system. So I am just curious if each of you can comment briefly on to what extent you feel you can work within the present Russian legal system and to what extent you feel, as was discussed earlier, that you need to potentially take a more dissident approach to defend these types of human rights.

IVAN PAVLOV

I think there are many approaches to this. It is up to us. Each human rights defender or human rights activist acts according to their experience and knowledge, and they try to use it as effectively as possible. I am a lawyer; I like to use the courts to defend people and issues. It is more comfortable for me to say some thing in a courtroom than to go to a demonstration, for example. And most important, it is more effective for somebody we are going to defend. I hope that all of us will do our best to do what people expect of us.

KARINNA MOSKALENKO

There are some things that give us some optimism. The Russian judicial system is lacking everything: independence of judiciary, legal representation, finance, everything. And that is why so many cases are tried in the European Court of Human Rights. But it is still a judicial system. It is still not what we had during the Stalin’s regime. That would probably be convenient for the authorities, but they cannot change the constitution and how the Russian judicial system works. The problem with it is that with this lack of independence, all the principal issues cannot be properly defined before the court. Having the courts’ judgments, we can appeal them, we can go, again, to the European Court of Human Rights, and demonstrate that these arguments of the court are not logical or contradict the law. This is an opportunity.

We still have a constitution and we have still a Constitutional Court. And although the majority of the really smart people leave the court, and the last was Mr. Kononov, who could not tolerate what happened in the Constitutional Court any more, still some of the submissions to the Constitutional Court make it impossible to answer in a wrong way and it still is a court. Sometimes we have really interesting decisions from the Constitutional Court that help people and we still use this remedy. It might be a less effective remedy that in the 1990s, but it is still a really helpful remedy. We have access to the international courts, like the European Court of Human Rights and the decisions are binding. And thank you for reminding me about Protocol 14, because that represented the biggest problem that we had. For two years the Russian authorities blocked this

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If you push me to work in our judicial system without the possibility to rise to the standards established by the European Court, I would perhaps give up. Maybe not...maybe I couldn't leave my clients, but I would give up in a sense. I would say that my people would become really, really hopeless. But with these standards, we still can work and assist people. There are some other positive things.

IVAN NINENKO

I have probably the only non-lawyer point of view. I would say that, well, we have some kind of law system, but being active on the streets or

tion about their activities. A Russian district court ruled in favor of us, actually of society, and ruled that these agencies had to create their own websites and post information about their activities. But on the list of these agencies were, for example, the Federal Security Service, the Russian Federal Security Service, the Federal Bailiff Service, and other agencies. There were other cases also. There was a huge amount of litigation before the Russian government decided they would pass this law.

KARINNA MOSKALENKO

I love your approach with the test cases. One of the test cases is Mr. Zaitsev, an investigator, who was involved with the investigation of one very high-ranking corruption case, Tri Kita. When he was very serious to investigate that, he suddenly found that he was accused himself. When the judge tried to look into the substance of the questions and was close to acquitting him, she was dismissed from the case. This is already a very well known fact, and even the European Court, for the first time in history, said that the judge's dismissal was a violation of her rights. Never before had they touched these questions. And the second test case was Yuri Schekochihin, who used to be Chief of the

dium-size business community developing in Russia and I was wondering if any of you on the panel are seeing business demands for a kind of functional approach, a process approach. For example, the way in which the courts act and perform adjudicating commercial disputes arising.

IVAN NINENKO

I would say it is not like the young people are changing something or it is any kind of generational demand. Generally, it is movements that are uniting different people of different ages. Also the young generation, more or less my age and younger, they are enjoying the freedom they have. Sometimes they do interact with the government, like when the police come and beat them, but generally, the rights that are really important for this generation, for example, are that right now they can listen to the music they want to listen to, even the bands that play songs against the government. They can still organize concerts and play their songs and people can listen to them. As I said, you can watch the cartoons you want to watch, have the Internet, where you can generally see movies that are even banned from cinemas—you can go online and watch them. That is probably why they are not really demanding more, because right now their demands are met by what is there.

IVAN PAVLOV

I would add to this discussion of the human rights generation that I think we have a little bit more pragmatism in the human rights

