

**Human Rights First Submission to the Office of the High Commissioner for Human Rights
Universal Periodic Review: Russian Federation 2012**

Introduction

1. This report is a submission by Human Rights First to the Office of the High Commissioner for Human Rights (OHCHR) for consideration in its summary of stakeholder submissions for the Russian Federation's appearance before the 16th Universal Periodic Review session, scheduled from April 22—May 3, 2013.
2. As a member of the Human Rights Council, thereby bound by the Universal Declaration of Human Rights, and having ratified the International Covenant on Civil and Political Rights, Indonesia has taken on commitments to uphold the highest standards in the promotion and protection of human rights.
3. Human Rights First would like with this submission to draw attention to two human rights concerns in the Russian Federation: (A) incidence of hate crimes against minorities; (B) growing legal and administrative restrictions, official harassment, government stoked hostility, and official and private violence against human rights defenders, civil society activists, and independent media representatives.

Executive Summary

In addition to the recommendations contained in the final section, this submission makes the following key points:

4. (A) After several years of steady progress in improving law enforcement reaction to bias-motivated attacks that resulted in a significant decrease in reported hate crime violence, in 2012 NGOs are observing the same level of violence as in the previous year. The government response to this serious problem continues to be inadequate. Government officials have on occasion publicly spoken out against racist violence in general, and on individual cases of hate crimes, but with little apparent follow-through. Just as often, officials have sought to downplay the scale of the problem. And despite the relatively sound legal basis with which to address hate crimes as the more serious crimes that they are, those responsible for hate crimes operate with relative impunity, although dozens of skinheads and neo-Nazi sympathizers have been sentenced to lengthy prison terms in recent years.
5. (B) Independent Russian civil society organizations and human rights defenders increasingly face growing legal and administrative restrictions, official harassment, and private violence. Russia's civil society activists and independent journalists continue to face mounting challenges.

The Extent of Violent Hate Crime in Russia

6. Hate crimes against members of ethnic, religious, and national minorities have been a growing problem throughout the Russian Federation. Hate attacks are a daily occurrence in many parts of Russia.
7. The Russian Federation's inability to cope with racially motivated attacks—which claimed as many as many as 500 lives since 2004 and peaked in 2008/2009—manifests itself through vivid reminders of the neo-Nazi movement's potential as a viable threat to public stability and an

aggressive opponent to the Russian government. In December 2010, the uneasy atmosphere in Russia's interethnic relations erupted in extreme violence, when ultranationalist groups were able to quickly mobilize thousands of supporters to spread xenophobic rhetoric and rally in downtown areas. The police were, once again, late in responding to the riots, characterized by numerous ethnically motivated attacks on innocent by-passers on the subway and elsewhere in the city. President and Prime Minister reacted with strong condemnation of both the attacks and the unrest, yet their calls did not lead to arrests or concrete improvements, thereby further reinforcing impunity.

8. The unusually high number of violent incidents—occurring with an alarming frequency and at a rate that is far higher than in any other country in Europe—points to the need for improvements of mechanisms for combating hate crimes. Steady progress over the last several years in the law enforcement reaction to bias-motivated attacks has resulted in a significant decrease in reported violence, yet the scale of the violence continues to be of great concern. According to the SOVA Center for Information and Analysis, there were at least 11 bias-motivated murders and 139 persons were injured in suspected attacks in January—September 2012, compared to 20 murders and 148 people injured in 2011 (37 murders and 368 injured in 2010; 71 murders in 2009 and 112 in 2008). The government's data is not aggregated between violent and speech-related offenses—the police record “extremist” crimes, which often include nonviolent incidents and even cases initiated against human rights defenders. Furthermore, there is no official data that tracks the response of police to crimes with a suspected bias motivation or the disposition of hate crime cases prosecuted in the courts. Widespread underreporting by hate crime victims calls into question the extent to which official monitoring could capture the true extent of the problem.
9. The Russian government has made legal and political commitments within the framework of the Council of Europe, the OSCE, and the U.N. to provide protection from such forms of violent discrimination. Yet the government response to the increased violence has been grudging and feeble. Political leaders' calls for action against extremism have been misdirected by law enforcement officials who have focused their attention on the nonviolent forms of speech prohibited by Russia's deeply flawed legislation on combating extremism, which has been used to silence government critics, rather than on investigating and prosecuting the cases of increasingly brutal violent hate crimes.
10. Although cases of racist murders and serious assaults are likely to generate some attention by the media and may be recorded by nongovernmental monitors, the day-to-day low level harassment is thought to be widely underreported. Victims of hate crimes are often members of vulnerable minority groups and fear risking further discrimination, harassment, and abuse at the hands of law enforcement officials. Given that most hate crime victims in Russia are consequently reluctant to inform police or authorities for fear of official indifference or retribution, many crimes go unreported every year. Thus it is believed that even the most credible nongovernmental figures on hate crimes are very low in comparison to the actual number of hate crimes occurring in the country.

U.N. Human Rights Committee and First UPR Review of the Russian Federation

11. In 2009, the U.N. Human Rights Committee expressed concern “at reports of an increasing number of hate crimes and racially motivated attacks against ethnic and religious minorities, as well as persistent manifestations of racism and xenophobia” in Russia, noting a particular

“failure on the part of the police and judicial authorities to investigate prosecute and punish hate crimes and racially motivated attacks against ethnic and religious minorities, often qualified merely as ‘hooliganism,’ with charges and sentences that are not commensurate with the gravity of the acts.”

12. The Universal Periodic Review of the Russian Federation, which also took place in 2009, yielded similar conclusions and offered recommendations for strengthening government response to hate crime. The Russian Federation accepted a series of recommendations to improve state response to hate crime, yet the government’s response remains feeble.

Recommendations for Strengthening Government Response to Hate Crime

- **Law enforcement and criminal justice agencies should publicly commit to investigate allegations of bias motives in specific violent hate crimes, and to provide regular public updates into the investigation and prosecution of such crimes.**
- **Police and prosecutors should be trained in identifying, recording and investigating bias motivations, and in bringing evidence of bias motivations before the courts.**
- **The Interior Ministry should seek to disaggregate current data on crimes “of an extremist nature” so as to report separately on violent crimes motivated by bias. Statistics should provide data disaggregated to distinguish the various forms of bias recorded.**

Restrictions on civil society and human rights defenders.

13. Independent Russian civil society organizations and human rights defenders increasingly face growing legal and administrative restrictions, official harassment, government stoked hostility, and official and private violence. Russia’s civil society activists and independent journalists continue to face mounting challenges.
14. Independent human rights activists are increasingly vulnerable to persecution under a variety of restrictive laws and through the selective application of administrative control measures. They are also the target of threats and physical attacks from the security forces and nonstate actors, as well as of defamatory press reporting and hostile official statements.
15. Activists and independent journalists have been the target of threats and physical attacks from the security forces and nonstate actors, as well as of defamatory press reporting and hostile official statements. The prominent journalist Oleg Kashin of Kommersant was severely beaten by two unidentified people outside his home in downtown Moscow in November, 2010. Kashin, who had covered politically charged themes for the popular daily newspaper, was induced into a coma and suffered a broken jaw, fractures in both legs, and broken fingers. The government ordered a swift investigation, which was placed under control by the Prosecutor-General and Interior Minister. Nonetheless, nobody has yet been held accountable in this attack. Similarly, the authorities have yet to bring to justice the murderers of rights activist Natalya Estimirova, investigative journalist Anna Politkovskaya, internet newspaper editor Magomed Yevloyev, and other prominent voices that were silenced during the past decade. Anna Politkovskaya’s lawyer, Stanislav Markelov, was also gunned down in the middle of the afternoon in downtown Moscow. Anastasia Baburova, a freelance reporter working for *Novaya Gazeta* who was with Markelov,

was shot in the same attack in January 2009. Those charged with the murders of Markelov and Baburova were convicted and sentenced to lengthy prison terms in 2012.

16. In 2012, the Duma approved new strict regulations on nongovernmental NGOs receiving foreign funding, requiring many to register as “foreign agents” and be subjected to additional regulatory oversight. In September 2012, lawmakers unanimously approved amendments substantially broadening the legal definition of treason, expanding the definition to acts that undermine “constitutional order, sovereignty, and territorial and state integrity.” Also in 2012, slander was reinstated as criminal offense and fines for orchestrating unauthorized demonstrations were substantially increased through new legislation. The new broader definitions and restrictions adopted by the Duma can be selectively used to prosecute dissenting voices and civil society activists.
17. Russia’s misuse of “extremism” laws is monitored by the Moscow-based SOVA Center for Information and Analysis. The group’s 2011 report noted that internet freedom in particular is threatened by Russia’s increased efforts to monitor, investigate, and prosecute online speech. The interregional human rights group Agora’s monitoring identified 500 cases of restrictions on freedom of access to the Internet or persecution of Internet users for exercising their right to freedom of expression in 2011. The government targets dissenters by placing publications or media files on the federal list of banned extremist materials, which now stands at more than 1,400 entries. The use or distribution of these texts, images, movies, or songs can lead to warnings, fines, and incarceration. The law is misused against religious groups to ban materials and persecute individual believers and religious leaders. This law also affects members of so-called “nontraditional” religious movements such as the Jehovah’s Witnesses, Scientologists, or followers of Muslim theologian Said Nursi.
18. Since amending the electoral code in 2006, the Russian government gained the right to apply antiextremist legislation against candidates running for public office suspected of inciting ethnic or national hatred. Although this legislation (popularly known as “Article 282”) was adopted to address the problem of violent hate crimes that plagued Russia during the last decade, in reality it is often misused and selectively applied against human rights defenders, independent journalists, and political candidates. Since 2007, candidates from several opposition parties were scrutinized, receiving official “warnings” and court warrants for allegedly “extremist” slogans or platforms. In June 2011, the Supreme Court produced an official clarification stating that criticism of politicians and officials may not be equal to extremism and that it’s okay to criticize religions and social groups in political debates or scientific discussions. Applied in practice, the clarification could considerably limit the misuse of antiextremism in courts, as many such cases revolve around criticizing political or religious authorities.
19. Human Rights First has documented a three-year pattern of selective enforcement of intellectual property (piracy) law aimed at silencing dissent and suppressing free speech. The timing and targets of selective enforcement in the cases Human Rights First has examined make clear that they were not random incidents, initiated by one or two rogue local officials. They involved organizations engaged on issues of national importance, and began with raids and confiscation of equipment and other documentation timed to silence independent voices on those issues.
20. In multiple regions of the Russian Federation, laws prohibiting so-called “propaganda of homosexuality to minors” have been adopted by legislators, instituting discriminatory

restrictions on the fundamental freedoms of lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals and organizations. In addition to the discriminatory laws, the Russian government has continued to deny freedom of assembly and association to gay rights activists, banning gay pride parades and events in multiple cities and denying registration to groups seeking to confront homophobia and promote tolerance and nondiscrimination. In October 2010, the European Court of Human Rights issued a verdict affirming that the 164 bans on gay pride marches and events between 2006 and 2008 were in violation of the constitutionally protected right to freedom of assembly. In April 2011, the ECHR decision in *Alekseyev v. Russia* came into force after the Russian government lost its appeal in Strasbourg. In May 2012, a district court in Moscow issued a ruling banning gay pride parades in the city until May 2112.

Recommendations

- **Protect human rights defenders who continue to be subject to threats and intimidation by promptly investigating all of previous attacks on activists, and by effectively prosecuting all threats and intimidation against defenders in the country.**
- **Amend ambiguous antiextremism legislation to prioritize violent crime and to fulfill Russia’s international obligations to protect freedom of expression, religion, and assembly and association.**
- **Guarantee the rights of all citizens wishing to peacefully exercise their rights to freedom of expression, association, and assembly.**
- **Implement constitutional and international norms guaranteeing freedom of conscience and religion and nondiscrimination against any individual or group of individuals based on their religion; and affirm publicly the equality before the law of members of all religious communities and refraining from using rhetoric that divides groups into “traditional” and “nontraditional.”**