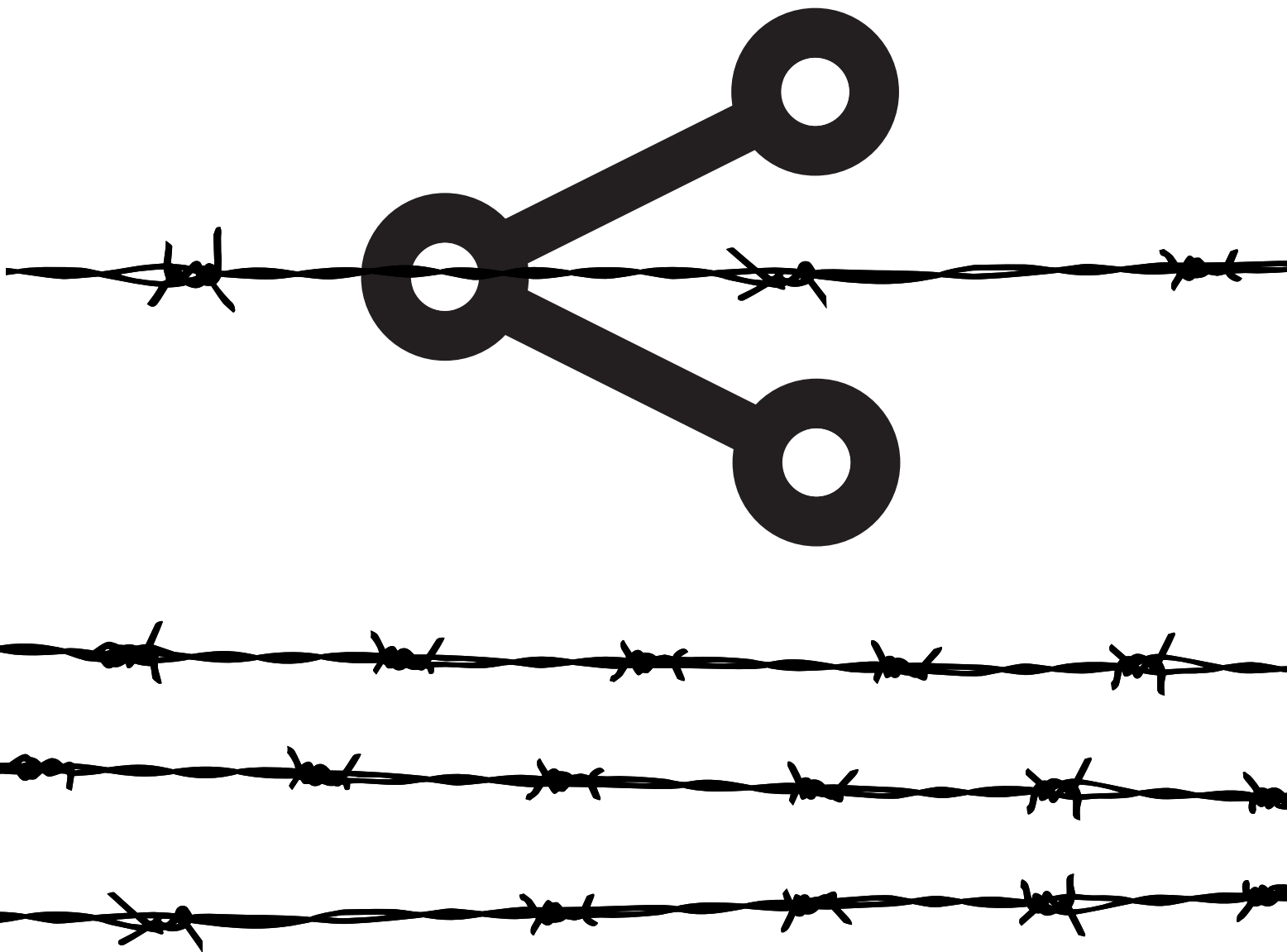


# Sharing worst practice

How countries and institutions in the former Soviet Union help create legal tools of repression.



## Russia's 'traditional values' leadership

Melissa Hooper<sup>154</sup>

### The trend: State enforcement of traditional values

Over the last ten years, the countries of the former Soviet Union have seen a growing trend of legislation aimed at protecting the sensibilities of religious believers in Christian and Orthodox countries from information they deem 'blasphemous' or harmful, and institutionalising the promotion of religious values. Examples range from Georgian legislation that allows 'believers' to engage in private discrimination against LGBT persons in accordance with their religion, to Russian legislation that punishes offence to the sensibilities of Orthodox believers.

The steady development of conservative values-based legislation has been followed in the last five years by growing rhetoric at a grander level that has placed these legislative initiatives within a new context. This new context, described by Vladimir Putin as he prepared to begin his third term as president, is a growing cultural dichotomy – sometimes now called a culture war – between states such as the United States that espouse 'liberal values' and the 'conservative' or 'traditional' values associated with Russia. Within this framework Russians refer to Europe as Gayropa to emphasise its acceptance of altered gender roles and LGBT relationships that Russians deem 'deviant'; a framing that has perhaps been more about solidifying a Russian identity than about describing a culture. And it has contributed greatly to a new Russian identity – that of the global saviour of humanity from the degeneracy of the West.

Indeed, recently Russia has not only espoused internally the values associated with a 'traditional' or religious right agenda under Putin's guidance, but has taken on a leadership role to promote them internationally. This leadership has at least two components, one being leadership by example: the political leadership in Russia works with the Orthodox Church to prepare and pass legislation and to direct public opinion about human rights activists, NGOs, artists and current events. The effectiveness of this campaign – which treats the church as a political force – has been admired and its strategies adopted by conservatives in other places such as Georgia, Latvia and now even Poland. The other component of Russia's leadership in this sphere has been direct pressure on other countries to adopt similar values and legislation that supports them. These countries include Central Asian states such as Kyrgyzstan and Kazakhstan that draw much of their media from Russian language sources originating in Russia, as well as fellow Eurasian Economic Union participants Armenia and Belarus that receive large amounts of funding from Russia.

How has Russia stepped into this role of the global defender of traditional values? What strategies has it used? I argue below that it is not only Russia's relationship with the Russian Orthodox Church that has given it this power, but also its relationship with multinational religious right organisations. I also note that Russia's monopoly on Russian language media, and its recent forays into influencing non-Russian language media, especially in Europe, have not only increased acceptance of the culture war theory globally, but also have helped propel Putin and Russia to a perceived leadership role within this context.

### Russia promotes traditional values agenda internally: Propaganda laws

Russia's recent leadership of the traditional values global agenda has been most effectively shaped by its development of anti-LGBT 'propaganda' laws, which were passed within the country as early as 2006 at the regional level in Ryazan.<sup>155</sup> Yet, the language of 'propaganda of homosexuality' was not confined to discussions of this law or to Ryazan. It seems to have caught on much more widely in the early 2000s in Russia. The first federal law banning 'propaganda' of homosexuality was proposed as early as 2003 by Duma deputy Alexander Chuev. When this effort failed, he proposed it again in 2004 and in 2006.<sup>156</sup> In 2005, Chuev proposed a bill denying teaching positions or other rights in public life to anyone engaging in 'propaganda for homosexuality,' whether

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<sup>155</sup> Why this region was suddenly moved to pass the law is still a mystery, though there is speculation that at least some of the impetus can be traced back to relationships between Orthodox leaders in Russia and Alexey Ledyayev's church in Latvia, which prioritized anti-LGBT legislation as part of its international policy, as well as with the U.S. religious right organization Watchman on the Walls led by Scott Lively (who visited Ryazan in the mid-2000s). See Jeremy Hooper, Scott Lively Stirring Russia's Pot: A Timeline, GLAAD, May 7, 2014, <http://www.glaad.org/blog/scott-lively-stirring-russias-pot-timeline>.

<sup>156</sup> Human Rights First, Convenient Targets the Anti- 'Propaganda' Law & the Threat to LGBT Rights in Russia, pp. 8-9, August 2013, <http://www.humanrightsfirst.org/uploads/pdfs/HRF-russias-anti-gay-ban-SG.pdf>.

through ‘a public speech, work displayed in public, or mass media, in particular including public demonstrations.’ Although the bill ultimately failed, it gained the support of over one-fifth of the 450-member Russian Duma.<sup>157</sup>

### **Federal law prohibiting LGBT propaganda – to protect minors – passes in Russia**

In March 2012, after 11 regional laws had been passed in Russia, and over 20 others considered, the Duma representative from Novosibirsk Oblast introduced the federal law prohibiting propaganda showing LGBT relationships as equal to heterosexual relationships.<sup>158</sup> Draft Law 6.13.1, as it was known, was the subject of great internal discussion, though it did not seem to grab international attention until the law was passed. Yelena Mizulina, leading proponent of the federal law, adopted the language of LGBT rights as part of a deviant and Western-associated identity/norm. When asked about the proposal, she stated that there was a need for the legislation because LGBT persons were falsely presenting their relationships to children as if they were normal. Mizulina has become a force in the Russian community pushing its version of ‘family values’, she is now the head of the Duma committee on the family.

The law passed in the Duma unanimously, 436-0, with just one deputy abstaining from the vote.<sup>159</sup> The final language of the law banned the dissemination of ‘propaganda of non-traditional sexual relations’ among minors, in effect making it illegal to equate straight and gay relationships, and prohibited the distribution of material on gay rights.<sup>160</sup> It introduced fines of up to 100,000 rubles (about 3000 USD at the time) for individuals who use the media or internet to promote ‘non-traditional relations’.<sup>161</sup> Organisations that violate the law can be fined up to 1 million rubles (about 30,000 USD at the time) and closed down for up to 90 days. Foreigners can be detained for up to 15 days and deported, as well as fined up to 100,000 rubles, for breaking the law.<sup>162</sup> The anti-LGBT propaganda legislation was signed by Putin on 29 June 2013, in the face of protests by the US, European countries and the local LGBT community.<sup>163</sup>

While not enforced more than a handful of times, the law ushered in a spike in anti-gay discrimination and violence, as well as immense fear on the part of LGBT groups who not only understood that they might be arrested at a moment’s notice, but also increasingly became targets, as the law legitimised a message that they were unprotected deviant citizens.<sup>164</sup> Many gay and lesbian people were fired from teaching positions in universities and schools,<sup>165</sup> LGBT persons reported an increase in medical personnel refusing them health care, and organisations like the Russian LGBT Network documented an uptick in physical attacks.<sup>166</sup>

The Russian propaganda law and others like it (such as the Lithuanian law passed in 2009) have been found to violate international law principles of freedom of opinion and expression, as well as principles of equal treatment, by the European Court of Human Rights, the Venice Commission and European Parliament.<sup>167</sup> In 2014, the Committee on the Rights of the Child recommended that the Russian authorities repeal the law and ‘ensure that children who belong to LGBTI groups or children of LGBTI families are not subjected to any forms of discrimination by raising the awareness of the public on equality and nondiscrimination based on sexual orientation and gender identity.’<sup>168</sup>

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<sup>157</sup> Human Rights Watch and the European Region of the International Lesbian and Gay Association, “We have the Upper Hand” Freedom of Assembly in Russia and the Human Rights of Lesbian, Gay, Bisexual, Transgender People, June 2007, No. 1, [https://www.hrw.org/legacy/backgrounder/lgbt/moscow0607/5.htm#\\_Toc169499782](https://www.hrw.org/legacy/backgrounder/lgbt/moscow0607/5.htm#_Toc169499782).

<sup>158</sup> Human Rights First, Convenient Targets the Anti- ‘Propaganda’ Law & the Threat to LGBT Rights in Russia, pp. 9-10, August 2013, <http://www.humanrightsfirst.org/uploads/pdfs/HRF-russias-anti-gay-ban-SG.pdf>.

<sup>159</sup> Miriam Elder, Russia passes law banning gay ‘propaganda’, The Guardian, 11 June 2013, <http://www.theguardian.com/world/2013/jun/11/russia-law-banning-gay-propaganda>.

<sup>160</sup> Ibid.

<sup>161</sup> HRW, License to Harm: Violence and Harassment against LGBT People and Activists in Russia, December 2014, <https://www.hrw.org/report/2014/12/15/license-harm-violence-and-harassment-against-lgbt-people-and-activists-russia>.

<sup>162</sup> Ibid.

<sup>163</sup> Ibid.

<sup>164</sup> Kieran Guilbert, Russia’s LGBT youth left isolated, victimized by ‘gay propaganda’ law, Reuters, 14 September 2015, <http://news.trust.org/item/20150914000140-wx20w>;

HRW, License to Harm: Violence and Harassment against LGBT People and Activists in Russia, December 2014, <https://www.hrw.org/report/2014/12/15/license-harm-violence-and-harassment-against-lgbt-people-and-activists-russia>.

<sup>165</sup> Joshua Keating, The Chilling Effects of Russia’s Anti-Gay Law, One Year Later, Slate, 9 October 2014,

[http://www.slate.com/blogs/outward/2014/10/09/russian\\_lgbt\\_activists\\_on\\_the\\_effects\\_of\\_gay\\_propaganda\\_law.html](http://www.slate.com/blogs/outward/2014/10/09/russian_lgbt_activists_on_the_effects_of_gay_propaganda_law.html).

<sup>166</sup> Oleg Kucheryavenko, Kirill Guskov, Michael Walker, Cost of indulgence: rise of violence and suicides among LGBT youth in Russia, Health and Human Rights Journal, 18 December 2014, <http://www.hhrjournal.org/2013/12/cost-of-indulgence-rise-in-violence-and-suicides-among-lgbt-youth-in-russia/>

<sup>167</sup> Written statement submitted by the International Commission of Jurists, a non-governmental organization in special consultative status, UN General Assembly Human Rights Council, A/HRC/22/NGO/11, 11 February 2013 [http://ici.wengine.netdna-cdn.com/wp-content/uploads/2013/02/A.HRC\\_22.NGO\\_11.pdf](http://ici.wengine.netdna-cdn.com/wp-content/uploads/2013/02/A.HRC_22.NGO_11.pdf).

<sup>168</sup> HRW, ‘That’s When I Realized I was Nobody’ A Climate of Fear for LGBT People in Kazakhstan, 23 July 2015, <https://www.hrw.org/node/279496>.

Despite this, the Russian Constitutional Court found the Russian law did not violate the Russian Constitution or international principles in 2014.<sup>169</sup>

### **Beyond propaganda laws, other forms of traditional values legislation**

The propaganda law was only one piece of Russia's strategic implementation of a traditional values agenda.

In 2010, the Duma passed the Law on Protection of Children from Information Harmful to their Health and Development, which mandates standards for all mass media for children and requires review by a panel of experts. Amendments to the law restricted information about LGBT relationships that can be shown to children.<sup>170</sup> Similar laws have been passed in the Baltics and have been proposed in Poland. In 2011, Russia began restricting the ability of clinics to discuss abortions.<sup>171</sup> In June 2013 the Duma passed a law banning foreign same-sex couples from adopting children in Russia.<sup>172</sup> In February 2014 a government decree banned unmarried individuals from countries where same-sex marriage is legal from adopting Russian children.<sup>173</sup> A number of countries in the region have similar bans on adoption by same-sex couples – domestic or international (Belarus, Hungary, Lithuania). The City of Moscow banned Pride parades for 100 years, a ban that was upheld in the courts.<sup>174</sup> Pride parades have similarly been banned in Moldova, Belarus, Latvia, Lithuania, Ukraine, Poland and Serbia.

And significantly, just minutes after passing the propaganda law in third reading, the Duma passed a law allowing jail sentences of up to three years for 'offending religious feelings', a legislative initiative launched in response to the Pussy Riot protest in the Cathedral of Christ the Saviour in February 2012.<sup>175</sup> The two laws vastly increased the power of the Orthodox Church in governing everyday life in Russia.

With the passage of these policies, it became clear that certain viewpoints, those that deem LGBT relationships as normal and healthy, would be deemed offensive and subject the speaker to prosecution, whereas speech criticising human rights workers and NGOs, calling them 'traitors' or 'fifth column' (referring to their status as spies) would be protected.<sup>176</sup> Indeed, in March 2016, Patriarch Kirill, the leader of the Russian Orthodox Church, described human rights as 'global heresy' and faced no criticism or consequences.<sup>177</sup> He said that many Christians mistakenly consider human rights 'more important than the word of God.'<sup>178</sup> Media statements like this, which have been made on behalf of both the Orthodox Church and the Russian government, contribute to what might be termed a Russian campaign to redefine human rights as limited by state sovereignty and the family unit. This campaign can also be seen in Putin's speeches and in Russian-sponsored resolutions at the United Nations Human Rights Council.

This trend continued in 2016 with the proposal of legislation by Duma member Ivan Nikitchuk that would have prohibited any display of 'non-traditional sexual relations' such as hand-holding in public.<sup>179</sup> Nikitchuk stated that

<sup>169</sup> Grani.ru, КС запретил расширительно применять закон о запрете ЛГБТ-пропаганды [Constitutional Court prohibited broad application of law prohibiting LGBT propaganda], 25 September 2014, <http://grani.ru/Society/Law/m.233351.html>; GayRussia.ru, Конституционный Суд запретил расширительное толкование федерального закона о запрете гей-пропаганды [Constitutional Court prohibits expansive interpretation of federal law prohibiting gay propaganda], 25 Sep 2014, <http://www.gayrussia.eu/russia/10026/>; Human Rights First, Russian Constitutional Court Rules on Anti-Gay Law, 26 September 2014 <http://www.humanrightsfirst.org/press-release/russian-constitutional-court-rules-anti-gay-law>

<sup>170</sup> PEN America, Discourse in Danger: Attacks on Free Expression in Putin's Russia, pp. 7-8, January 25, 2016, [http://www.pen.org/sites/default/files/PEN\\_Discourse\\_In\\_Danger\\_Russia\\_web.pdf](http://www.pen.org/sites/default/files/PEN_Discourse_In_Danger_Russia_web.pdf).

<sup>171</sup> Adam Federman, How US Evangelicals Fueled the Rise of Russia's 'Pro-Family' Right, The Nation, 7 January 2014, <http://www.thenation.com/article/how-us-evangelicals-fueled-rise-russias-pro-family-right/>.

<sup>172</sup> David M. Herszenhorn and Erik Eckholm, Putin Signs Bill that Bars US Adoptions, Upending Families, New York Times, 27 December 2012, <http://www.nytimes.com/2012/12/28/world/europe/putin-to-sign-ban-on-us-adoptions-of-russian-children.html>; Human Rights Watch, License to Harm: Violence and Harassment against LGBT People and Activists in Russia, December 2014, <https://www.hrw.org/report/2014/12/15/license-harm/violence-and-harassment-against-lgbt-people-and-activists-russia>

<sup>173</sup> The Telegraph, Russia bans adoptions from countries that allow gay marriage, 13 February 2014, <http://www.telegraph.co.uk/news/worldnews/europe/russia/10635821/Russia-bans-adoptions-from-countries-that-allow-gay-marriage.html>; Human Rights Watch, License to Harm: Violence and Harassment against LGBT People and Activists in Russia, December 2014, <https://www.hrw.org/report/2014/12/15/license-harm/violence-and-harassment-against-lgbt-people-and-activists-russia>.

<sup>174</sup> BBC, Gay parades banned in Moscow for 100 years, 17 August 2012, <http://www.bbc.com/news/world-europe-19293465>

<sup>175</sup> Yekaterina Metelitsa, Госдума приняла «закон Pussy Riot» – о защите чувств верующих [State Duma passes 'Pussy Riot law' – on protection of religious feelings], Slon, 11 June 2013, <http://slon.ru/fast/russia/gosduma-prinyala-zakon-pussy-riot-o-zashchite-chuvstv-veruyushchikh-952817.xhtml>

<sup>176</sup> PEN American Center, Discourse in Danger, pp. 20-21, 25 January 2016, [http://www.pen.org/sites/default/files/PEN\\_Discourse\\_In\\_Danger\\_Russia\\_web.pdf](http://www.pen.org/sites/default/files/PEN_Discourse_In_Danger_Russia_web.pdf)

<sup>177</sup> Anna Dolgov, Russia's Patriarch Kirill: Some Human Rights are 'Heresy', The Moscow Times, 21 March 2016, <http://www.themoscowtimes.com/news/article/russias-patriarch-kirill-some-human-rights-are-heresy/563065.html>

<sup>178</sup> Marc Bennetts, Putin Brings God – and potential jail time for atheists – to Russia, Washington Times, 4 April 2016, <http://www.washingtontimes.com/news/2016/apr/4/vladimir-putin-patriarch-kirill-alliance-puts-athe/?page=all>.

<sup>179</sup> Andrew Roth, New Russian legislation could ban holding hands in public if you're gay, Washington Post, 14 January 2016, <https://www.washingtonpost.com/news/worldviews/wp/2016/01/14/new-russian-legislation-could-ban-holding-hands-in-public-if-youre-gay/>; Olga Slobodchikova, Коммунисты предложили сажать за каминг-аут – но не лесбиянок [Communists propose punishment for coming out – but not for lesbians], BBC, 23 October 2015, [http://www.bbc.com/russian/society/2015/10/151023\\_tr\\_communists\\_gay\\_fines](http://www.bbc.com/russian/society/2015/10/151023_tr_communists_gay_fines).

the propaganda law had proved 'insufficiently effective'. However his draft law was pulled from consideration in late January 2016.<sup>180</sup>

Also in January 2016, a Russian Orthodox Church Commission on family issues approved a resolution on priorities to support family life, and notably stated that one of the greatest threats to the family is the effort 'to introduce in Russia a law on the so-called prevention of family violence.'<sup>181</sup> The Commission indicated that such a law undermines the protected family unit. This notion of the inviolability of the family, as against the individual, in order to protect a parent's right over the child, is the hallmark of Russia's traditional values leadership at home, and increasingly also in the international sphere.

The increased links between the Russian Orthodox Church and the Russian government during Putin's current term have been decried by speech and tolerance activists as a source of worry; this relationship was the subject of Pussy Riot's famous performance in the Cathedral of Christ the Saviour in 2012. But this relationship is not only worrisome in Russia. Conservative 'traditional values' churches are focusing more on politics throughout Eastern and Central Europe, especially in countries like Latvia – where Alexsey Ledyaev's megachurch is growing, in Georgia and Serbia where the Orthodox Church holds great sway, and in Poland where the newly-elected conservative government has claimed that it knows the Catholic religion better than the Pope.

This method of fusing conservative religious ideology with political ideology in mainstream media and governance is one that Russia is pioneering as a political strategy, and Eastern Europe and the former Soviet Union are taking notice.

### **Russia's leadership in the international sphere**

In addition to pushing a traditional values agenda internally, Russia has taken its international leadership of and role as the protector of conservative values and religious believers seriously, pushing or supporting consistent legislation in a number of countries. It has either pushed for copycat anti-LGBT propaganda laws, putting the weight of Russian language media behind these laws, in places like Central Asia and Armenia, or borrowed and improved upon strategies that have been used by other governments, for example in the Baltics and Poland.

### **Central Asia – Russian language media influence**

In 2014, two bills, one entitled 'On protection of children from information harmful to their health and development', and one that would have prohibited broadcasting such information, were introduced in Kazakhstan, modeled upon Russia's propaganda law, with its focus on protecting children from supposedly harmful information about LGBT relationships.<sup>182</sup> Russian influence has also appeared in Kazakhstan in the form of legislation regulating NGOs, including limits on foreign funding similar to Russia's 'foreign agents' law – again based on a fear of foreign influence from the West.<sup>183</sup> Neither law has passed. It is possible that Kazakhstan's bid to host the 2022 Olympics led to an initial rejection of the draft propaganda laws. In May 2015, the Constitutional Court invalidated the drafts, stating they contained vague wording and were not in line with the Constitution.<sup>184</sup> Supporters said they may introduce the laws again.<sup>185</sup>

In countries such as Kazakhstan and Armenia, Russian influence seems to include pressuring the governments as members of the Eurasian Economic Union, through backchannel lobbying, to adopt 'Russian-style' traditional values, in the form of conservative values and anti-foreign influence legislation, and specifically anti-LGBT propaganda laws. However, both countries have are wary of allowing outside pressure to dictate their values. After the incursions into Ukraine, Kazakhstan has become more wary of Russian influence, for example its ability to turn ethnic Russians living in Kazakhstan against the government or to divide the nation.<sup>186</sup> The government has

<sup>180</sup> The Moscow Times, New Anti-Gay Law Rejected by Russian Duma Committee, 18 January 2016, <http://www.themoscowtimes.com/news/article/new-anti-gay-law-rejected-by-russian-duma-committee/556217.html>.

<sup>181</sup> Lena Zezulin, The Russian Orthodox Church, the law, and family violence, Wheel Journal, 9 February 2016, <http://www.wheeljournal.com/blog/2016/2/9/lena-zezulin-the-russian-orthodox-church-the-law-and-family-violence>.

<sup>182</sup> Meredith Kucherov, Kazakhstan Following Russia on Gay 'Propaganda' Law, Human Rights First, 24 September 2014, <http://www.humanrightsfirst.org/blog/kazakhstan-following-russia-gay-propaganda-law>.

<sup>183</sup> Catherine Putz, Kazakhstan Considering A New NGO Law, The Diplomat, 19 October 2015, <http://thediplomat.com/2015/10/kazakhstan-considering-a-new-ngo-law/>.

<sup>184</sup> Joanna Lillis, Kazakhstan Strikes Down 'Gay Propaganda' Law After Olympics Outcry, Eurasianet, 27 May 2015, <http://www.eurasianet.org/node/73606>.

<sup>185</sup> Human Rights Watch, 'That's When I Realized I was Nobody' A Climate of Fear for LGBT People in Kazakhstan, 23 July 2015, <https://www.hrw.org/node/279496>.

<sup>186</sup> Joanna Lillis, Journalists Fred as Russian Media Swamps Kazakhstan, Eurasianet, 18 November 2014, <http://www.eurasianet.org/node/70971>.

therefore curtailed Russian media within the country, by requiring that TV stations use Kazakh commercials – a requirement that Russian stations cannot meet – to limit this influence, a method that has also been adopted by Tajikistan and Baltic countries that have outright de-licensed or shut down Russian outlets.<sup>187</sup> Yet, a strong preference for conservative family values remains in Kazakhstan, making it a country to watch for future legislative proposals.

Kyrgyzstan has, more than Kazakhstan, embraced Russian media and influence within the country. Legislators, such as Tursunbai Bakir Uuely, author of Kyrgyzstan's foreign agent-style legislation, has admitted publicly that he was influenced by Russian approaches in developing his draft law on NGOs.<sup>188</sup> As a result of Russian influence, rhetorical trends similar to those in Russia have appeared in public discussions of foreign organisations, who are often called 'traitors' or 'fifth column', and in discussion of LGBT issues.<sup>189</sup> A propaganda law that was even more severe than the Russian law, because it banned all information regarding 'non-traditional sexual relationships,' and carried criminal penalties, was proposed in 2014 and received popular support.<sup>190</sup> The proposal also led to a 300 %increase in violence against LGBT persons, gang rapes, corrective rapes and the firebombing of one organisation.<sup>191</sup> However, Kyrgyzstan's need to balance Russian influence and support against that of the United States, where it seeks additional financial support – especially now that Russia's economic troubles have had significant financial repercussions throughout Central Asia<sup>192</sup> – have created an opportunity for EU and US voices to exert influence that might prevent the law's passage. The law has gone through second reading and is poised for final consideration at the time of writing (April 2016). Russian language media definitely provides support in Kyrgyzstan, with a steady stream of messaging that decries American and Western 'liberal values' that threaten the family and the local way of life, in contrast to the traditional values protective of the family promoted by Russia.

### ***Armenia, Moldova, Belarus – Caught between the EU and Russia***

Armenia and Moldova are increasingly at a crossroads as they are small countries considered by Russia to be within its sphere of influence. While each has received substantial financial support from Russia, most recently, both have rejected propaganda laws in the hope of developing closer ties with the EU.

Armenia cannot ignore Russia's pressure and influence, since Russia is its major patron, especially at a time when Russian support is acutely necessary for Armenia to defend its interests in Nagorno-Karabakh. For its part, Russia needs to increase its power in Armenia to protect what it sees as its sphere of influence, especially in light of Ukraine's increased dealings with the EU and US. To do so, Russia has encouraged influential conservative Armenians from Russia to enter Armenian politics to promote Russian values, and continues to seek an isolated Armenia disconnected from the EU and US and more reliant on Russia.

In 2013, Armenia briefly introduced a proposed law aimed at protecting Armenian family values from public promotion of 'non-traditional sexual relationships' – language similar to the Russian law. Opponents of the law said it was introduced 'in Russia's shadow', similar to the anti-NGO law Russia had pushed for in Armenia, on the basis that NGOs corrupted Armenian society by encouraging 'European values.'<sup>193</sup> However, Armenian authorities were not convinced; sponsors of the bill withdrew it within days, stating that the issue was not a priority for Armenian authorities.<sup>194</sup>

<sup>187</sup> Paul Goble, Nazarbayev Blocks Russian TV in Kazakhstan, Eurasia Daily Monitor, Vol 13 Issue 2, 5 January 2016,

[http://www.jamestown.org/programs/edm/single/?tx\\_ttnews%5Btt\\_news%5D=44943&cHash=2c0e68298c153f528b8e586e5b8e2883](http://www.jamestown.org/programs/edm/single/?tx_ttnews%5Btt_news%5D=44943&cHash=2c0e68298c153f528b8e586e5b8e2883)

<sup>188</sup> Asel Kalybekova, Kyrgyzstan Q&A: Author of 'Foreign Agents' Bill Seeks to Thwart 'Sabotage', 3 October 2013, <http://www.eurasianet.org/node/67580>.

<sup>189</sup> Interview of Human Rights Watch researcher, August 2015, Bishkek; Glenn Kates, 'Traitors' Slur Goes Mainstream in Russia, Radio Free Europe/Radio Liberty, 26 March 2014, <http://www.rferl.org/content/russia-nationalism-traitors-crimea-media/25310606.html>; Theodore P. Gerber and Jane Zavisca, What 18 Focus Groups in the Former USSR Taught Us About America's Image Problem, Wilson Quarterly, Summer 2015, <http://wilsonquarterly.com/quarterly/summer-2015-an-age-of-connectivity/what-18-focus-groups-in-former-ussr-taught-us-about-americas-pr-problems/>.

<sup>190</sup> Catherine Putz, Kyrgyz Anti-Gay Propaganda Law Moves Forward, The Diplomat, 16 June 2015, <http://thediplomat.com/2015/06/kyrgyz-anti-gay-propaganda-law-moves-forward/>.

<sup>191</sup> Andrew North, A Violent Struggle Over National Identity, CodaStory, 3 May 2016, <http://www.codastory.com/lgbt-crisis/kyrgyzstan-homophobia>

<sup>192</sup> Ankit Panda, Central Asia's Ruble Awakening, The Diplomat, 3 February 2015, <http://thediplomat.com/2015/02/central-asias-ruble-awakening/>; Marlene Laruelle, EUCAM Policy Brief: Russia and Central Asia, September 2014, [http://www.eucentralasia.eu/uploads/tx\\_ictcontent/National-PB17-RU.pdf](http://www.eucentralasia.eu/uploads/tx_ictcontent/National-PB17-RU.pdf).

<sup>193</sup> Armine Sahakyan, Armenia's anti-NGO laws inspired by Moscow, EurActiv, 24 March 2015, <http://www.euractiv.com/section/europe-s-east/opinion/armenia-s-anti-ngo-laws-inspired-by-moscow/>.

<sup>194</sup> Dan Littauer, Armenia withdraws proposed Russian-like anti-gay propaganda law, LGBTQ Nation, 8 August 2013, <http://www.lgbtqnation.com/2013/08/armenia-withdraws-proposed-russian-like-anti-gay-propaganda-law/>.

That same year, 2013, Moldova passed legislation that prohibited ‘relationships [other] than those linked to marriage and the family,’ but then repealed the law a few months later.<sup>195</sup> Authorities stated that the repeal was due to Moldova’s interest in signing an Association Agreement with the EU, which occurred in 2014.<sup>196</sup> The repeal was opposed by Russia and by Moldovan religious activists, who gathered in front of the parliament building to try to prevent entry of officials as they came to repeal the law. However, more recently, frustration has grown with the pro-European government, and pro-Russian politicians – who would be inclined to support joining the Russia-led Customs Union over the EU – have gained power.<sup>197</sup>

Belarus, a member of the Eurasian Economic Union (with Armenia and Kazakhstan) has also proposed its own version of Russia’s propaganda law, which was first discussed right after Moldova’s law was proposed in 2013, the year it seems Russia decided to export the propaganda law idea.<sup>198</sup> It was not formally introduced until 2015, and passed first reading in October 2015.<sup>199</sup> It remains under consideration, but has still not been passed. Similar to Central Asia, Belarus’s economic concerns with Russian alignment may provide an opportunity for the EU and US, and may help defeat the draft law at this time. With increased fears of Russia encroaching on Belarus, or gaining too much control, President Lukashenko now may be distancing himself from Russia. Recently the EU lifted most sanctions against Belarus after the release of five political prisoners,<sup>200</sup> and Lukashenko has even threatened to leave the Eurasian Economic Union.<sup>201</sup>

### ***Ukraine and Georgia – Espousing traditional values***

Russia’s promotion of traditional values in politics and media has taken hold in Ukraine and Georgia. Even as the conflict with Russia continues, and as the country’s far-right remains virulently anti-Russian, many conservative Ukrainians espouse Russian-style traditional values.<sup>202</sup> Ukraine was the first country to consider an anti-LGBT propaganda law similar to Russia’s.<sup>203</sup> In October 2012, the parliament passed first reading of a law that would have introduced sanctions for the import, production or distribution of products that promote homosexuality.<sup>204</sup> The law was scheduled for second reading, but did not move forward after President Poroshenko took office, likely as part of attempts to improve Ukraine’s chances of EU affiliation. However, the sensibility linked to passage of the law has not disappeared. A gay pride march in 2015 in Kyiv was met with attacks and firecrackers containing nails injured several police officers, wounding one seriously.<sup>205</sup> An attempt to hold an LGBT Equality Festival in Lviv in March 2016 was cancelled after local politicians and police spoke out against the event, and the venue cancelled the reservations of the organisers.<sup>206</sup> When the event was moved to another hotel, over 200 far-right protesters surrounded the venue shouting ‘kill, kill, kill’; only one police car responded to the distress call from the festival-planners.<sup>207</sup> Eventually, at a court hearing, the judge banned the event. However, the Ukrainian Orthodox Church, while condemning the Pride event in 2015, did call for its supporters not to use force against protesters.<sup>208</sup>

<sup>195</sup> James Nichols, Moldova Overturns ‘Gay Propaganda’ Ban in Anticipated EU Membership Move, Huffington Post, 14 October 2013, [http://www.huffingtonpost.com/2013/10/14/moldova-gay-propoganda\\_n\\_4096947.html](http://www.huffingtonpost.com/2013/10/14/moldova-gay-propoganda_n_4096947.html).

<sup>196</sup> Ibid.

<sup>197</sup> Mansur Mirovalev, Moldova and the Russia-EU tug-of-war, Aljazeera, 30 June 2015, <http://www.aljazeera.com/indepth/features/2015/06/moldova-russia-eu-tug-war-150623090310129.html>.

<sup>198</sup> Freedom House, Belarus: Freedom in the World 2015, 2015, <https://freedomhouse.org/report/freedom-world/2015/belarus>.

<sup>199</sup> Slava Bortnik, Belarus weighs Russian-style anti-‘gay propaganda’ law, Erasing 76 Crimes, 27 January 2016, <https://76crimes.com/2016/01/27/belarus-weighs-russia-style-anti-gay-propaganda-law/>.

<sup>200</sup> Jennifer Rankin, EU lifts most sanctions against Belarus despite human rights concerns, The Guardian, 15 February 2016, <http://www.theguardian.com/world/2016/feb/15/eu-lifts-most-sanctions-against-belarus-despite-human-rights-concerns>.

<sup>201</sup> Christopher Harriss, Propaganda? Belarus President Lukashenko distancing himself from Russia, International Business Times, 31 January 2015, <http://www.sott.net/article/292152-Propaganda-Belarus-President-Lukahsenko-distancing-himself-from-Russia>.

<sup>202</sup> In this way, the Ukrainian far right resembles the Polish far right, which also despises Russia, yet has begun proposing and passing legislation that in many ways mirrors Russian legislation in its religious focus (such as anti-abortion legislation), curtails LGBT rights (a propaganda law was proposed in 2007), aims to protect believers (the Polish and Russian laws prohibiting offense to believers have almost the same language), and reframing human rights activists as traitors (the head of Poland’s Law and Justice Party has called opposition figures enemies of the state, and has proposed an anti-terror law that would punish individuals for “interfering” in policy decision-making, very similar to the Russian foreign agent law which restricted the “political activity” of NGOs).

<sup>203</sup> Amy McKinnon, The Kremlin’s Reach, Coda Story, 18 January 2016, <http://www.codastory.com/lgbt-crisis/gay-propaganda-law-spreads>;

<sup>204</sup> Written statement submitted by the International Commission of Jurists, a non-governmental organization in special consultative status, United Nations General Assembly Human Rights Council, A/HRC/22/NGO/11, 11 February 2013 [http://ici.wpenline.netdna-cdn.com/wp-content/uploads/2013/02/A.HRC\\_22.NGO\\_11.pdf](http://ici.wpenline.netdna-cdn.com/wp-content/uploads/2013/02/A.HRC_22.NGO_11.pdf).

<sup>205</sup> Randy R. Potts, Kiev Pride: A Success Despite Attacks, The Daily Beast, 6 June 2015, <http://www.thedailybeast.com/articles/2015/06/06/kyiv-pride-a-success-despite-attacks.html>.

<sup>206</sup> Shaun Walker, LGBT festival in Ukraine abandoned after far-right protest, 20 March 2016, <http://www.theguardian.com/world/2016/mar/20/lgbt-festival-in-ukraine-abandoned-after-far-right-protest>.

<sup>207</sup> Ibid.

<sup>208</sup> National LGBT Portal of Ukraine, Київський Фестиваль Рівності відбудеться у травні [The Position of the Clergy on March of Equality], 5 June 2016, [https://www.lgbt.org.ua/news/show\\_2891/](https://www.lgbt.org.ua/news/show_2891/); Randy R. Potts, Kiev Pride: A Success Despite Attacks, The Daily Beast, 6 June 2015, <http://www.thedailybeast.com/articles/2015/06/06/kyiv-pride-a-success-despite-attacks.html>.

Georgian conservatives seem recently to be working with their Russian counterparts, even though the governments of the two countries are at odds. Pavel Astakhov, the Russian children's rights ombudsman, has appeared at conferences on conservative values in Georgia, and the same international and American conservative organisations that work in Russia, such as the World Conference of Families, also work with Georgian conservatives.<sup>209</sup> A 2013 attempted LGBT march was famously met by violent religious protestors that were largely led by religious clerics.<sup>210</sup> Shortly after these violent attacks on LGBT persons, the Georgian Patriarch declared the day a holiday to celebrate family values.<sup>211</sup> And a year after that, the World Congress of Families – an international organisation that unifies religious opponents to LGBT rights, women's sexual and reproductive rights and children's rights – decided to hold its annual conference in Tbilisi.<sup>212</sup> The conference will take place in May 2016, with the participation of both leaders from the Russian Orthodox Church as well as members of state organisations and Putin allies – not just from Russia but from elsewhere, such as Marine Le Pen from France and Larry Jacobs and Allen Carlson from the US.<sup>213</sup> Most recently, Georgian conservatives have drafted a bill that would amend the Constitution to define marriage as a union between a man and a woman, though it does not yet have the 76 votes required in parliament.<sup>214</sup> Advocates for the bill say that they are following the lead of Croatia, Hungary and Latvia, all of which already have constitutional language that bans gay marriage.<sup>215</sup>

Before signing an agreement with the EU in 2014 to allow visa-free travel for Ukrainian citizens, the EU dropped its requirement that the country pass anti-discrimination laws protecting gay and transgender citizens, in light of government reluctance.<sup>216</sup> The government eventually added sexual orientation to its nondiscrimination law in late 2015.<sup>217</sup> In Georgia, consideration of the required anti-discrimination amendments led conservative activists to claim that moving toward Europe is an assault on Georgia's traditional values. Georgian Orthodox Church officials stated that they consider the anti-discrimination legislation 'propaganda' and the 'legalisation of deadly sin'. To appease the church, the government added an exception to the anti-discrimination statute stating that if an action is taken to protect 'public order and morals' it cannot be deemed discrimination.<sup>218</sup> NGOs have spoken out against this change.

While the Ukrainian and Georgian churches play a significant role in supporting these legislative proposals and actions, their leaders often espouse the Russian framing of cultural conflicts between the West and Slavic peoples. In Georgia, economics and media also matter. After Georgian Dream came to power in 2012, it opened the door to Russian media in the country, which had previously been banned.<sup>219</sup> Russian channels are now the most-watched news source.<sup>220</sup> In addition, pro-Russian NGOs have been growing rapidly in recent years, as has trade with Russia.<sup>221</sup> All of this has increasingly presented Russia and Russian views and values, in a positive light. Georgians also seem to be impatient with progress on the side of the EU. In mid-2015, one study indicated that 26% of Georgians were willing to give up ties with the EU and move toward Russia, and 31% were willing to join the Russia-

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<sup>209</sup> Christopher Stroop, Russian Social Conservatism, the U.S.-based WCF, & the Global Culture Wars in Historical Context, The Public Eye Magazine, Winter 2016; <http://www.politicalresearch.org/2016/02/16/russian-social-conservatism-the-u-s-based-wcf-the-global-culture-wars-in-historical-context/#sthash.iYaOTO2S.dpbs>.

<sup>210</sup> Natalia Antelava, What Was Behind Georgia's Anti-Gay Rally?, The New Yorker, 23 May 2013, <http://www.newyorker.com/news/news-desk/what-was-behind-georgias-anti-gay-rally>.

<sup>211</sup> DFWatch Staff, Georgian patriarch declares May 17a day of family values, Democracy & Freedom Watch, 12 May 2014, <http://dfwatch.net/georgian-patriarch-declares-may-17-a-day-of-family-values-92135-28547>.

<sup>212</sup> Christian News Wire, Georgia Chosen As Site for World Congress of Families X, 3 November 2015, [www.christiannewswire.com/news/37076974.html](http://www.christiannewswire.com/news/37076974.html).

<sup>213</sup> World Congress of Families News, World Congress of Families X-Civilization at the Crossroads: The Natural Family as the Bulwark of Freedom and Human Values, Vol. 9 No. 3, April-May 2016, [http://worldcongress.org/pdf/WCF%20News%20April\\_May%202016.pdf](http://worldcongress.org/pdf/WCF%20News%20April_May%202016.pdf); World Congress of Families Part of the Tentatively Scheduled Speakers, <http://worldcongress.ge/content/14-Speakers>.

<sup>214</sup> Peter Montgomery, Country of Georgia Considers Constitutional Marriage Ban, Religion Dispatches – Annenberg: University of Southern California, 19 March 2016, <http://religiondispatches.org/country-of-georgia-considers-constitutional-marriage-ban-hindu-nationalist-leader-surprises-india-with-call-to-decriminalize-homosexuality-no-end-to-anti-lgbt-propaganda-campaign-in-indonesia-global/>; Michael K. Lavers, Georgian prime minister seeks marriage amendment, Washington Blade, 3 April 2014, <http://www.washingtonblade.com/2014/04/03/georgian-prime-minister-seeks-marriage-amendment/>; DFWatch Staff, Georgia may amend Constitution to bar same-sex marriage, Democracy & Freedom Watch, 2 February 2016, <http://dfwatch.net/georgia-may-amend-constitution-to-bar-same-sex-marriage-39970>.

<sup>215</sup> Michael K. Lavers, Georgian prime minister seeks marriage amendment, Washington Blade, 3 April 2014, <http://www.washingtonblade.com/2014/04/03/georgian-prime-minister-seeks-marriage-amendment/>; DFWatch Staff, Georgia may amend Constitution to bar same-sex marriage, Democracy & Freedom Watch, 2 February 2016, <http://dfwatch.net/georgia-may-amend-constitution-to-bar-same-sex-marriage-39970>.

<sup>216</sup> Agence France-Presse, Ukraine eschews visa-free EU travel by blocking law to protect gay people, The Guardian, 5 November 2015, <http://www.theguardian.com/world/2015/nov/05/ukraine-visa-free-european-travel-anti-gay-law>.

<sup>217</sup> European Parliament's Intergroup on LGBT Rights, MEPs welcome Ukraine's new LGBT anti-discrimination clause, 12 November 2015, <http://www.lgbt-ep.eu/press-releases/meps-welcome-ukraines-new-lgbt-anti-discrimination-clause/>.

<sup>218</sup> Cristina Maza, Georgia is a Terrible Place to Be Gay, Balkanist, 24 May 2014, <http://balkanist.net/gay-rights-arent-getting-better-in-georgia/>.

<sup>219</sup> Economist, As Georgia chooses between Europe and Russia, attitudes to homosexuality are caught in the crossfire, 20 May 2015, <http://www.economist.com/news/europe/21651689-attitudes-homosexuality-become-staging-ground-countrys-choice-between-west-and>.

<sup>220</sup> Ibid.

<sup>221</sup> Ibid.



led Eurasian Economic Union.<sup>222</sup> Russian media messaging has also had an effect in Ukraine itself, where pro-Russian militants have dismantled local media stations in Crimea and Eastern Ukraine, and tried to replace them with Russian messaging.<sup>223</sup>

### **Fuelling Russia's leadership: Russia's media monopoly and its relationship with a worldwide religious movement**

Two key aspects of support for these initiatives are Russian language media – largely monopolised by Russia where the government has a stranglehold on the messaging that is presented, and Russia's relationship with worldwide conservative religious strategists that have assisted in its ascendancy to the role of guardian and protector of conservative values.

### **Conservative messaging in Russian media**

Russian language media has played a huge role in garnering support for traditional values initiatives in places such as Kazakhstan and Kyrgyzstan, and to a lesser extent in Tajikistan and Uzbekistan, since large majorities of those citizens speak Russian and engage with Russian-language media, which is almost entirely produced by or with the assistance of Russia.<sup>224</sup> Consulting firm M-Vector has reported that Russian-backed media makes up approximately 90% of the media consumed by Central Asians every day.<sup>225</sup> Similarly, a Kremlin-backed television station is the second most trusted source of political news in Kyrgyzstan, while internet penetration is only 20%.<sup>226</sup> Just recently, news reported significant Russian language media now being beamed into Georgia.<sup>227</sup> Each of these countries therefore has a large Russian-speaking population watching and interacting with media largely controlled by Russia, who are therefore exposed regularly to conservative messaging that emphasises a lack of tolerance towards and even hatred of gay and transgender people. As reported by the BBC, since Russia's propaganda law was enacted, the number of news reports on Russian channels referring to homosexuality has skyrocketed, and nearly all reports are negative or even hostile. The main messaging describes LGBT people as an 'aggressive minority' who are opposed to 'parents fighting to give their children a healthy upbringing.'<sup>228</sup>

Russian language resources on LGBT issues overwhelmingly present certain facts – even citing discredited studies, for example, that children raised in gay and lesbian households are disadvantaged compared with children raised by heterosexual parents. Alternative studies, or the information discrediting this information, is not readily available in Russian.<sup>229</sup>

With Russian government, foundation and other Kremlin-friendly entities buying up media outlets in Europe<sup>230</sup> in places like France, the Czech Republic and Slovakia, Russian messaging is expanding beyond Russian language media and reaching out to conservatives more deeply throughout Europe, bringing its language of a culture war, the evils of Western immoral norms that are imperiling the world, the deviance of Western concepts of gender and its threats to the family, and anti-LGBT beliefs.

### **Connections to the global religious right**

Russia's rhetoric of a culture war between the West and Russia helps Russia set itself up as the guardian of conservative religious values on the international sphere. However, its rhetoric is not new. A similar conflict has been promoted by Christian right leaders in the West, including in the US, for years. While their narrative has traditionally been less geographically focused, it also pits liberal values such as LGBT rights, gender equality and individual control over reproductive rights, against conservative beliefs that give the state or church power to

<sup>222</sup> Economist, As Georgia chooses between Europe and Russia, attitudes to homosexuality are caught in the crossfire, 20 May 2015,

<http://www.economist.com/news/europe/21651689-attitudes-homosexuality-become-staging-ground-countrys-choice-between-west-and>.

<sup>223</sup> Naja Bentzen and Martin Russell, Briefing: Russia's manipulation of information on Ukraine and the EU's response, European Parliamentary Research Service, May 2015, [http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/559471/EPRS\\_BRI\(2015\)559471\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/559471/EPRS_BRI(2015)559471_EN.pdf); Jill Dougherty, Everyone Lies: The Ukraine Conflict and Russia's Media Transformation, Harvard Kennedy Center Shorenstein Center on Media, Politics and Public Policy, July 2014, <http://shorensteincenter.org/wp-content/uploads/2014/07/d88-dougherty.pdf>.

<sup>224</sup> Peter Rollberg and Marlene Laruelle, The Media Landscape in Central Asia, *Demokratizatsiya: The Journal of Post-Soviet Democratization*, vol. 23 n. 3, Summer 2015, <https://muse.jhu.edu/article/587594>.

<sup>225</sup> Paul Coyer, The Media Battle for Hearts and Minds in Russia and Central Asia, *Forbes*, 31 December 2014, <http://www.forbes.com/sites/paulcoyer/2014/12/31/does-public-opinion-matter-to-authoritarian-leaders/#2d527784123b>.

<sup>226</sup> Ibid.

<sup>227</sup> Felix Kartte, Russian beams message into Georgia: 'You belong to us', *Politico*, 7 May 2016, <http://www.politico.eu/article/russia-message-to-georgia-you-belong-to-us-eu-allure-waning-tbilisi/>.

<sup>228</sup> Stephen Ennis, Homophobia spreads in Russian media, *BBC*, 17 January 2014, <http://www.bbc.com/news/world-europe-25778272>.

<sup>229</sup> Human Rights Watch, 'That's When I Realized I was Nobody' A Climate of Fear for LGBT People in Kazakhstan, 23 July 2015, <https://www.hrw.org/node/279496>.

<sup>230</sup> Nicole Gallina, Russia has opened up another front in the Czech Republic, *Euromaidan Press*, 29 March 2015, <http://euromaidanpress.com/2015/03/29/russia-has-opened-up-another-front-in-the-czech-republic/>; Van Herpen, Marcel H. 2016. *Putin's Propaganda Machine*. London. Rowman & Littlefield. Pp. 81-90.

regulate family, reproduction, limits on LGBT rights. Indeed, Russia has ‘copied ... the experience of American fundamentalists’ in developing some of its legislation and ideology.<sup>231</sup>

While it has borrowed this rhetoric to support its moral values leadership, the concept of Russia as a leader meant to save the spiritual world harks back centuries to a popular nineteenth century form of nationalism called Slavophilism.<sup>232</sup> This ideology imbued Russian civilization with a special mission to enlighten other nations, and protect religious believers.<sup>233</sup> More modern religious Russian thinkers expanded this theory to include a type of imperialism and to connect it to the Russian conservative belief in a Russkiy Mir, or Russian World,<sup>234</sup> based on the idea that eventually all Slavs will unite globally and be led by Russia.<sup>235</sup> The concept of Russkiy Mir no doubt plays a part in Russia’s attempts to persuade other regional countries to adopt Russian-style laws. Russia is now expanding this theory to portray itself as the leader in protecting the ‘natural family’ values on behalf of religious conservatives worldwide. Many religious leaders agree that Russia is well-placed to take on this role. World Conference of Families Managing Director Larry Jacobs declared in 2013 that ‘the Russians might be the Christian saviours of the world.’<sup>236</sup>

The Russian Orthodox Church has worked hard in recent years to link its political ideas to those of like-minded leaders in Europe and the USA. It has developed connections with powerful American businessmen with ties to Russia, including individuals connected to the Koch Brothers<sup>237</sup>, and the World Conference of Families, an international network of socially conservative groups funded by the religious right.<sup>238</sup> In November 2010, Russia’s Sanctity of Motherhood organisation presented its first-ever national congress on the issue of solving the ‘crisis of traditional family values.’<sup>239</sup> One of the speakers, Larry Jacobs, offered to create an alliance of American evangelicals in support of Russia’s traditional values crusade.<sup>240</sup> Researchers claim that this alliance marked the beginning of traditional values fervour in Russia and the former Soviet Union.<sup>241</sup>

Local nationalist churches, similar to local nationalist parties in France, Hungary and elsewhere, have also worked to support Russian conservative values leadership by passing local initiatives. A member of this coalition is the Latvian megachurch of Alexsey Ledyaev, a pastor of Russian descent whose New Generation Church based in Riga serves as the nerve centre for a worldwide Christian values movement.<sup>242</sup> Ledyaev has close ties to the American religious right<sup>243</sup>, Watchman on the Walls and Scott Lively.<sup>244</sup> In a recent documentary, Lively called Latvia ‘the battle line where homosexual powers are trying to push their way into the former Soviet Union.’<sup>245</sup>

### ‘Culture War’ messaging in a slumped economy

Putin’s circle has used this rubric of the culture war between Russia and the West to negatively frame the intentions of the US and EU in Ukraine. They began using this rhetoric even before Russia felt the threat of Ukraine joining Europe, at the time when Russia first began aggressively pushing anti-LGBT propaganda laws, in 2013. That year, Chair of the Foreign Affairs Committee in the Duma, Alexei Pushkov wrote on Twitter: ‘The release of [jailed

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<sup>231</sup> Adam Federman, How US Evangelicals Fueled the Rise of Russia’s ‘Pro-Family’ Right, The Nation, 7 January 2014, <http://www.thenation.com/article/how-us-evangelicals-fueled-rise-russias-pro-family-right/>.

<sup>232</sup> Christopher Stroop, Russian Social Conservatism, the US-Based WCF, and the Global Culture Wars in Historical Context, Political Research Associates, 16 February 2016, <http://www.politicalresearch.org/2016/02/16/russian-social-conservatism-the-u-s-based-wcf-the-global-culture-wars-in-historical-context/#sthash.HFaHqaPf.dpbs>.

<sup>233</sup> Ibid.

<sup>234</sup> Christopher Stroop, Russian Social Conservatism, the US-Based WCF, and the Global Culture Wars in Historical Context, Political Research Associates, 16 February 2016, <http://www.politicalresearch.org/2016/02/16/russian-social-conservatism-the-u-s-based-wcf-the-global-culture-wars-in-historical-context/#sthash.HFaHqaPf.dpbs>.

<sup>235</sup> Ibid.

<sup>236</sup> Brian Tashman, World Congress of Families Praises Russian Laws ‘Preventing’ Gays from ‘Corrupting Children’, Right Wing Watch, 13 June 2013, <http://www.rightwingwatch.org/content/world-congress-families-praises-russian-laws-preventing-gays-corrupting-children>.

<sup>237</sup> Adam Federman, How US Evangelicals Fueled the Rise of Russia’s ‘Pro-Family’ Right, The Nation, 7 January 2014, <http://www.thenation.com/article/how-us-evangelicals-fueled-rise-russias-pro-family-right/>.

<sup>238</sup> Cole Parke, US Conservatives and Russian Anti-Gay Laws – The WCF, Political Research Associates, 17 October 2013, <http://www.politicalresearch.org/2013/10/17/u-s-conservatives-and-russian-anti-gay-laws-the-wcf/#sthash.a3H4ulFS.dpuf>.

<sup>239</sup> Hannah Levintova, How US Evangelicals Helped Create Russia’s Anti-Gay Movement, Mother Jones, 21 February 2014, <http://www.motherjones.com/politics/2014/02/world-congress-families-russia-gay-rights>

<sup>240</sup> Ibid.

<sup>241</sup> Ibid.

<sup>242</sup> Christian Telegraph, Christian Movement ‘New Generation’ Celebrated 25<sup>th</sup> Anniversary, Crossmap, 5 December 2014, <http://www.crossmap.com/news/christian-movement-new-generation-celebrated-25th-anniversary-14403>; Phoebe A. Greenwood, Crucible of Hate, The Guardian, 1 June 2007, <http://www.theguardian.com/world/2007/jun/01/gayrights.poland>.

<sup>243</sup> Phoebe A. Greenwood, Crucible of Hate, The Guardian, 1 June 2007, <http://www.theguardian.com/world/2007/jun/01/gayrights.poland>.

<sup>244</sup> Southern Poverty Law Center, Extremist Files: Scott Lively, 2014, <https://www.splcenter.org/fighting-hate/extremist-files/individual/scott-lively>.

<sup>245</sup> Aarian Marshall, Happy Pride, Just 200 Miles from the Russian Border, The Atlantic: CityLab, 19 June 2015, <http://www.citylab.com/politics/2015/06/happy-pride-just-200-miles-from-the-russian-border/396314/>.

politician Yulia] Timoshenko will provoke EU demands that Ukraine should broaden the reach of gay culture. Instead of victory parades, Kiev will be holding gay-pride marches.<sup>246</sup> The Kremlin similarly referred to Moldova's interest in an accession agreement to the EU (in 2013) as a turn towards gay marriage. Pushkov commented to a newspaper that, as a condition of the agreement, Moldova was instructed to 'organise regular gay-pride parades.'<sup>247</sup> Consistent with its foreign policy, Russia perceives positive views of gay culture on its borders – i.e. in Ukraine – as a symbol of an encroaching Western culture, such that it is not only considered a threat to fundamental values and the gender order of society, but also to its national identity, national security and political stability. Identifying these threats allows Russia to assure not only its own population, but also traditional values conservatives in its perceived sphere of influence, that they must look to Russia to save Europe, and the world, from this degeneration and the threats it poses.

When Ukraine's Maidan protests began, the Kremlin referred to them as the Gayromaidan to try to reframe the situation in a way that might work to Putin's benefit: to suggest that what Ukraine was moving toward was the embrace of gayness, rather than a more general move toward democratic freedoms, pluralism and growth.<sup>248</sup> Putin made clear that the values that Ukrainians looking Westward were buying into were counter to Russian and Slavic values. Downplaying and devaluing interests in individual rights protection, tolerance and pluralism, Putin and his regime equate Western values with gay marriage and with the supremacy of LGBT rights for two reasons. First, this has the effect of suggesting to Ukrainians, or Moldovans, or others in the region who have not yet decided whether to join the EU and US in supporting human rights and open democratic values, that if they do they will become members of a club that does not share their values. At the same time, this messaging also persuades Russians that they do not want to follow in the footsteps of a country like Ukraine – to invite a period of instability by asserting their rights to greater freedoms – and therefore helps protect Putin's rule at home.

While Russian influence in the former Soviet Union and in Europe has been growing over the last ten years, due to its increased economic support of Central Asia and the Caucasus, energy deals with Europe and funding of political parties and politicians, the current economic slump in Russia provides a window of opportunity for the EU and US. Russia's waning financial support to some states has led many, such as Belarus, Armenia and Moldova, to re-consider whether Russian 'values' are really a good fit. If the EU and US take concerted action to support these countries that are on the fence between traditional values and the ideas of equality, growth, and democracy, this may be a time for them to consolidate and solidify movements toward democracy in the region.

The risk of allowing Russia to continue to exert leadership on the traditional values front is that, with its zeal for protecting gender 'norms' and traditional families as against the rights of individuals to equality and respect, Russia will successfully change the global understanding of human rights as inherent in the individual against the encroachment of the state. Indeed, this seems to be Russia's intent, as evidenced by its international rhetoric, UN Human Rights Council resolutions, and the limitations it places on human rights at home. With greater Russian leadership in the sphere of values internationally, the concept of an alternative to individual rights could be established – one in which individual rights must be limited by the interests of groups such as the family (as defined by the state) or the state itself. If the EU, the US and other pro-human rights states want to preserve international human rights norms, they need to act, at the UN, in the realm of international media, and by honouring, expressing and explaining the significance of their own democratic and pluralist-based values.

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<sup>246</sup> Oleg Riabov, Tatiana Riabova, The decline of Gayropa? How Russia intends to save the world, Eurozine, 5 February 2015, [http://www.eurozine.com/articles/article\\_2014-02-05-riabova-en.html](http://www.eurozine.com/articles/article_2014-02-05-riabova-en.html).

<sup>247</sup> Oleg Riabov, Tatiana Riabova, The decline of Gayropa? How Russia intends to save the world, Eurozine, 5 February 2015, [http://www.eurozine.com/articles/article\\_2014-02-05-riabova-en.html](http://www.eurozine.com/articles/article_2014-02-05-riabova-en.html).

<sup>248</sup> Ibid.

## Freedom of the media under attack across the former Soviet Union

Katie Morris<sup>249</sup>

Leaders in the majority of countries of the former Soviet Union have long viewed the expression of alternative viewpoints and dissent as a threat, establishing economic and legislative environments that stifle independent media and limit civic space. Since the Ukraine crisis, the climate for freedom of expression has deteriorated even further: having already brought traditional media to heel, authoritarian leaders are now focused on extinguishing the few remaining spaces for free expression – particularly the internet. National security is often invoked as a pretext for restricting free speech, although the extent and focus of repression differs according to country:<sup>250</sup>

- In Russia, having ensured the dominance of state-owned or state-affiliated media, the government continues to employ legislative tools to silence the few remaining independent voices, increasingly refusing to tolerate any criticism of its policies, particularly with regard to Ukraine.
- In Central Asia, Turkmenistan and Uzbekistan have long been among the most repressive states in the world, and continue to develop new means to prevent dissent. Concerned by the potential for spill-over from Ukraine, their declining economies and the threat from violent Islamic extremism, Kazakhstan, Kyrgyzstan and Tajikistan have undertaken a renewed clampdown on freedom of expression in the name of stability, targeting expression about inter-ethnic relations, protest, political Islam, minority religions and criticism of government. The speed of deterioration in Tajikistan, focused on the political opposition, is very alarming, while regression in Kyrgyzstan is also of concern, given earlier signs of reform.
- The situation in Belarus remains stably repressive, while Azerbaijan seems to have used the diversion of events in Ukraine to accelerate a crackdown on all criticism of the government, waging a crude campaign of repression against independent journalists, bloggers and civil activists alike.
- Finally, despite a far more positive environment for free expression following reforms post-Maidan, Ukraine is nevertheless failing to ensure a climate for pluralistic debate, and specifically with regard to those criticising the war effort or voicing pro-Russian opinions.

This essay addresses trends within three broad categories pertaining to increasing violations of the right to freedom of expression: 1) increasingly restrictive legislative environments, targeting the media online and offline, as well as expression more broadly; 2) the expansion of digital technologies, particularly surveillance, to crack down on freedom of expression; and 3) persecution and harassment of the few remaining independent media outlets, alongside bloggers and social media.

### Increasingly restrictive legislative environments

The legislative environment is extremely dynamic across the region, with governments in several countries frequently amending existing legislation, in order to restrict freedom of expression, in violation of their obligations under international law. The development of legislation covering both media and the internet is often reactive or opportunistic, responding to specific social and political developments in the country, with the aim of preventing expression on sensitive topics, rather than constituting a plan to develop a coherent framework for media or internet regulation.

For example, in July 2014, Russian President Vladimir Putin approved amendments to Article 280 of the Criminal Code, increasing the liability for public calls to action aimed at violating the territorial integrity of the Russian Federation from three to four years and adding increased penalties for using the internet for such calls, stipulating a penalty of up to five years' imprisonment.<sup>251</sup> This was designed to prevent criticism of the Russian government's actions in Crimea, and has since been used against those speaking out on this topic, amidst widespread criticism from human rights groups that charges are groundless.<sup>252</sup> As the conflict continued, in May 2015, Putin extended

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<sup>250</sup> This essay focuses primarily on the context in countries where ARTICLE 19 is working.

<sup>251</sup> RFE/RL, 'Putin Toughens Punishment For Public Calls For Separatism', 22 July 2016 <http://www.rferl.org/content/putin-extremism-internet-law-bill-rights-separatism-ukraine/25466010.html>

<sup>252</sup> For example, in September 2015 a Russian Court in Tartarstan sentenced Rafis Kashapov, an activist, to three years in prison on charges of undermining Russia's territorial integrity and inciting hostility towards the Russian people following his posts on social media, including a piece titled "Crimea and Russia Will be Free from the Occupants!" (See: Human Rights Watch, 'Dispatches: Russia, Crimea, and the Shrinking Space for Free Speech', 28 September 2015, <https://www.hrw.org/news/2015/09/18/dispatches-russia-crimea-and-shrinking-space-free-speech>)

the law on state secrets, in order to classify any information revealing Russian military casualties as a state secret, regardless of whether they occurred during times of war or peace,<sup>253</sup> presumably aimed at preventing the circulation of information about Russian military casualties during covert operations in Ukraine.

Meanwhile, in April 2014, Kazakhstan announced amendments to an existing law on ‘emergency situations’, requiring all media outlets operating in areas where a state of emergency has been declared to submit content to the government for approval prior to publication. While, in extremely limited circumstances, international law permits prior censorship in the interests of protecting national security during a public emergency which threatens the life of the country, this provision is open to abuse as it assumes an automatic derogation from the right to freedom of expression allowing for unnecessary application. Moreover, Kazakhstan lacks safeguards to prevent arbitrary invocation of a state of emergency – for example during times of protest. Adil Soz, a Kazakh media rights advocacy group, believes that the amendments provide a legal basis for the government to prevent the dissemination of information about unrest in Kazakhstan, responding to fears that Kazakhstan might see its own Maidan movement, inspired by events in Ukraine.<sup>254</sup>

Ukraine adopted a package of four laws in May 2015, introducing criminal penalties for propaganda of Communist and/or Nazi regimes and their symbols, providing for up to 10 years in prison for repeated offences or if committed using the media.<sup>255</sup> Since its introduction, the legislation has been used to ban Ukraine’s Communist Party,<sup>256</sup> and has been criticised by the Venice Commission of the Council of Europe for including overly broad provisions that could ‘stifl[e] public debate about... modern Ukrainian history’, as well as explicitly targeting the media, ‘enabl[ing] the authorities to shut down media and/or control media output at their discretion.’<sup>257</sup> The legislation is symptomatic of Ukraine’s desire to cut itself off from its history and extinguish pro-Russian feeling.

The greatest novelty over the past few years is the extension of legislation regulating mass media to explicitly include internet resources – as we have seen in Kazakhstan (2009); Russia (2010; 2014); and Belarus and Uzbekistan (2014).<sup>258</sup> Theoretically, this may confer additional rights and protections for people publishing on the internet; however in reality, given the regressive nature of media law in the region, this confers burdensome requirements on independent journalists and bloggers. Such legislative changes allow for a more efficient crack down on online speech, by increasing internet users’ liability to broadly worded criminal charges, and providing stronger penalties where prohibited information is disseminated on a website recognised as mass media.<sup>259</sup> In some cases, distribution of content specifically over the internet may act as an aggravating feature, thereby incurring additional sanctions – for example, this is the case in Russia regarding incitement to extremism and incitement to separatism, following 2014 amendments to the criminal code.<sup>260</sup> Meanwhile, amendments to the Law on Informatisation in Uzbekistan introduced criminal charges for content posted exclusively online.<sup>261</sup>

Governments are using such legislation to explicitly target bloggers and independent/non-affiliated journalists – the only people still providing independent and critical assessments of events in country – who do not have sufficient resources to comply with extensive media law provisions, nor to protect themselves against extremely broadly worded criminal charges. If facing criminal charges, few have the means to mount any sort of defence, encouraging self-censorship. The clearest example is Russia’s infamous Bloggers Law, which requires bloggers with

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<sup>253</sup> The Guardian, Vladimir Putin declares all Russian military deaths state secrets, <http://www.theguardian.com/world/2015/may/28/vladimir-putin-declares-all-russian-military-deaths-state-secrets>

<sup>254</sup> RFE/RL, Kazakhstan’s Emergency Media Law, 8 April 2014 <http://www.rferl.org/content/kazakhstans-emergency-media-law/25326095.html>

<sup>255</sup> Kharkiv Human Rights Protection Group, Ukraine’s Decommunisation Law hammered by Venice Commission for violating democratic standards, 12 December 2015, <http://khpg.org/en/pda/index.php?id=1450571329>

<sup>256</sup> Amnesty International, Ukraine: Communist Party ban decisive blow for freedom of speech in the country’, 17 December 2015 <https://www.amnesty.org/en/latest/news/2015/12/ukraine-communist-party-ban-decisive-blow-for-freedom-of-speech-in-the-country/>

<sup>257</sup> Venice Commission Opinion no. 823/2015 ODIHR Opinion no. FOE-UKR/280/2015 CDL-AD(2015) 041, Joint Interim Opinion on the Law of Ukraine on the Condemnation of the Communist and National Socialist (Nazi) Regimes and Prohibition of Propaganda of their Symbols’, Adopted by the Venice Commission at its 105th Plenary Session Venice (18-19 December 2015), [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2015\)041-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2015)041-e)

<sup>258</sup> In 2009, Kazakhstan amended its Mass Media law to recognise all internet resources, including blogs, discussion platforms and social media sites, as mass media outlets. A year later, Russia passed a law allowing mass media regulation to apply to internet resources; and in August 2014, Russia’s so-called “Bloggers Law”, entered into force requiring bloggers with more than 3,000 daily visitors to register with Roskomnadzor and to comply with laws governing mass media. In 2014, Belarus amended its Law on Mass Media; and Uzbekistan, its Law on Informatisation, to extend Mass Media law to cover a larger array of internet resources, including bloggers.

<sup>259</sup> The Criminal Codes of Belarus, Russia, Kazakhstan and Uzbekistan all include increased penalties for certain crimes when committed by a mass media outlet – for example, in Belarus, media outlets face more severe penalties for libel; defamation; insult of the President; calls to harm Belarus’s national security; in Kazakhstan, media face more severe penalties for defamation, libel and insult charges, and calls to separatism or terrorism.

<sup>260</sup> SOVA Centre, ‘Inappropriate Use of Anti-Extremist Legislation from January 2014 through August 2015, in Brief’, 10 September 2015 <http://www.sova-center.ru/en/misuse/reports-analyses/2015/09/d32768/>

<sup>261</sup> IRIS 2014-10:1/32, Uzbekistan Statute regulates blogging, <http://merlin.obs.coe.int/iris/2014/10/article32.en.html>

more than 3,000 daily visitors to register with Roskomnadzor, the state media regulatory body, and to comply with the same legislation as traditional media.<sup>262</sup> Uzbekistan's Law on Informatisation also expanded the definition of a blogger to include any 'physical person, who posts on his/her website and/or pages of others' websites on the Internet generally accessible information of a socio-political, economic and other nature, particularly for its discussion by users,<sup>263</sup> and imposed extremely burdensome requirements on them, including an obligation to verify the truthfulness of information before posting.

Authorities have also sought to limit access to information by introducing new legislation and strengthening the powers of regulatory bodies to block online content without a court order, in violation of international standards.<sup>264</sup>

In December 2013, the Russian Law on Information, Information Technologies and the Protection of Information was amended to grant the Prosecutor General and his deputies the power to directly order Roskomnadzor to block information deemed to contain illegal content such as incitement to unsanctioned public protests and to 'extremist' activities.<sup>265</sup> Combined with 2012 amendments to the Law on Protection of Children, which allowed Roskomnadzor to blacklist and remove information deemed harmful to children, this further strengthened the authorities' ability to arbitrarily remove content and removed safeguards that allow content owners to challenge unfair removal. Changes to the Russian law were swiftly followed by amendments to legislation in Belarus, Kazakhstan and Uzbekistan, enabling relevant government bodies to block websites without court orders – often on arbitrarily defined grounds of national security.<sup>266</sup>

States use blocking as a crude way to try to regulate the internet and limit the freedom to exchange information and ideas online, rather than focusing on legitimate restrictions, recognised under international law, such as child pornography. Indeed sites across the region are regularly blocked by governments in order to stifle dissent. A notable case of this is the blocking of various social media and independent news websites in Tajikistan on the evening of 4 October 2014, following the publication of critical reports about the government of Tajikistan, as well as open letters by the opposition movement 'Group 24', based outside Tajikistan, calling on people to gather for an anti-government rally in Dushanbe.<sup>267</sup> In Russia, opposition sites, Grani.ru, Kasparov.ru and EJ.ru, have been blocked since March 2014 on the grounds that they 'contain calls for illegal activity and participation in public events held in violation of the established order.'<sup>268</sup>

A lack of transparency over blocking processes makes it very difficult for website owners to challenge decisions to remove content. In Central Asian states, governments frequently deny having blocked websites<sup>269</sup>; while in Russia, notices from Roskomnadzor to remove content do not need to specify what content was problematic or why. Failure to respond to a warning to take down the content within 24 hours, however, can lead to the website in question being completely blocked and the imposition of serious administrative sanctions. Such lack of clarity leads to self-censorship to prevent websites being blocked. Alongside these relatively newer legislative projects, numerous broadly worded charges remain on the Criminal Codes of countries across the region – and some have had their scope or penalties extended – and are evoked in similar ways across the region to suppress dissent. Defamation charges remain a widely used tool for preventing criticism of government officials and public figures. Despite positive overtures towards reform a few years ago, a number of countries have recently strengthened defamation provisions and continue to actively apply them.

For example, Russia decriminalised defamation in 2011, only to reintroduce defamation as a criminal offence in 2012 on Putin's return to the presidency. Meanwhile, despite partially decriminalising defamation in 2011;<sup>270</sup>

<sup>262</sup> Human Rights Watch, 'Russia: Veto Law to Restrict Online Freedom' 24 April 2016 <https://www.hrw.org/news/2014/04/24/russia-veto-law-restrict-online-freedom>

<sup>263</sup> IRIS 2014-10:1/32, Uzbekistan Statute regulates blogging, <http://merlin.obs.coe.int/iris/2014/10/article32.en.html>

<sup>264</sup> The UN Special Rapporteur on Freedom of Expression has clearly stated that blocking provisions should be clearly laid out by law; any determination on what content should be blocked must be undertaken by a competent judicial authority and any blocking decision must be based on a clear law, necessary and proportionate. (See: <http://www.ohchr.org/Documents/Issues/Opinion/A.66.290.pdf>.)

<sup>265</sup> Cappello M. (ed.), Regulation of online content in the Russian Federation, IRIS extra, European Audiovisual Observatory, Strasbourg, 2015

<http://www.obs.coe.int/documents/205595/264641/IRIS+extra+Regulation+of+online+content+in+the+Russian+Federation.pdf/92fbc3f-b736-4c7f-a12d-534b198a26a5>

<sup>266</sup> Freedom House, Freedom on the Net 2014, <https://freedomhouse.org/report/freedom-net/freedom-net-2015>

<sup>267</sup> ARTICLE 19 and PEN International, Submission to the UN Universal Periodic Review of Tajikistan, September 2015,

[https://www.article19.org/data/files/medialibrary/38110/ARTICLE-19\\_-PEN-Intl-&-English-PEN-Submission-to-UPR-of-Tajikistan.pdf](https://www.article19.org/data/files/medialibrary/38110/ARTICLE-19_-PEN-Intl-&-English-PEN-Submission-to-UPR-of-Tajikistan.pdf)

<sup>268</sup> Human Rights Watch, Russia: Halt Orders to Block Online Media, 23 March 2014 <https://www.hrw.org/news/2014/03/23/russia-halt-orders-block-online-media>

<sup>269</sup> For example Tajikistan denies involvement in the blocking of social media sites on 3<sup>rd</sup> October (described above): <http://www.osce.org/fom/125218>

<sup>270</sup> The Telegraph, 'OSCE hails Kyrgyzstan decision to decriminalise libel', 19 July 2011, <http://www.telegraph.co.uk/news/worldnews/asia/kyrgyzstan/8648135/OSCE-hails-Kyrgyzstan-decision-to-decriminalise-libel.html>

Kyrgyzstan adopted amendments to its criminal code in 2014, undermining any progress, by introducing a clause prohibiting the dissemination of ‘knowingly false messages about the commission of crimes’, effectively re-criminalising defamation. A month previously, Kazakhstan, which already had eight criminal provisions prohibiting defamation, amended its criminal code to include a new offence of ‘knowingly disseminating false information’, which includes both facts and opinions and provides for up to 10 years in prison. Even where defamation has been fully or partially decriminalised – for example in Tajikistan – excessive civil defamation cases, which lack fair protections and defences, provide a mechanism to prevent criticism of governments and stifle small media outlets.<sup>271</sup>

States also retain various legislative acts and criminal charges with the stated aim of preventing violent extremism. While this is a legitimate aim in itself, such laws fail to precisely define ‘extremism’, or other key terms<sup>272</sup>, and confer broad powers on the state, which allow for disproportionate restrictions on the right to freedom of expression.<sup>273</sup> These are aggressively used throughout the region. In Russia, where a court may order the closure of media outlets and websites if it deems them extremist, Roskomnadzor frequently issues warnings on spurious matters to newspapers and websites, whereby three such warnings precipitates a court trial to consider closure.<sup>274</sup> Similarly, clauses included in criminal codes aimed at preventing incitement to discrimination, hostility or violence, a legitimate aim under international law, lack clear definitions, enabling arbitrary application.<sup>275</sup>

### **The expansion of digital technologies to crack down on freedom of expression**

Governments have sought to strengthen their surveillance powers, to increase state access to communications (both private and on social media), while also cracking down on anonymity and encryption. Given high levels of censorship and regressive legislation, this poses a significant threat to freedom of expression, where anonymity is vital to allow individuals to meaningfully express themselves – a fact recognised by the United Nations Special Rapporteur on Freedom of Expression.<sup>276</sup>

Since the late 1990s, Russia has gradually increased the capabilities of its ‘System for Operational Investigative Measures’ (SORM), initially developed in the Soviet Union, which requires Internet Service Providers to install equipment that directs all internet traffic to an FSB terminal – enabling them to monitor all internet activity, including private communications.<sup>277</sup> Some level of SORM capabilities almost certainly exists in other post-Soviet countries; although it is difficult to assess the extent of this given the lack of transparency around questions of national security. Certainly, increasingly alarmed about the threat of popular protest, other states in the region have looked to expand their SORM capabilities: since 2011, Belarus, Ukraine and Kyrgyzstan have all used Russian technology suppliers to update their systems.<sup>278</sup>

At the same time, a number of states have sought to outlaw anonymity. For example, in Russia Roskomnadzor stated that the aim of the infamous ‘Bloggers’ Law’, which requires real name registration of bloggers, was to de-anonymise popular internet pages to ensure that those writing online could be held responsible for what they publish.<sup>279</sup> Belarus has legislated to ban anonymisers, which allow internet users to circumnavigate censorship and

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<sup>271</sup> For example, in February 2013, a Dushanbe district ordered the newspaper, Imruz News, to pay 50,000 Somoni (approximately USD 8,000) in compensation for “moral harm” under Article 174 of the Civil Code, which protects honour, dignity and business reputation. The case concerned an article published in 2012 about the son of Rustam Khukumov, head of the Tajik Rail Road, who was sentenced to 9.5 years imprisonment in Russia for involvement in narcotics trafficking and later released in a prisoner exchange for Russian pilots in Tajikistan. The defence argued that it was reasonable to publish the article, as it did not contain offensive material, and was based on information published in many Russian newspapers. (See: ARTICLE 19 and PEN International, Submission to the UN Universal Periodic Review of Tajikistan, September 2015, <https://www.article19.org/data/files/medialibrary/38110/ARTICLE-19,-PEN-Intl-&-English-PEN-Submission-to-UPR-of-Tajikistan.pdf>)

<sup>272</sup> Kazakh legislation prevents the ‘promotion’ or ‘glorification’ of extremism.

<sup>273</sup> For example, the Kyrgyz Law On Countering Extremist Activity enables the authorities and the prosecutor’s office to demand the dissolution of NGOs and religious organisations engaged in ‘extremism activity in violation of human rights’. Similarly, the activities of mass media involved in the distribution of extremist materials may be terminated. In the absence of a clear definition of ‘extremist activity’ or what constitutes a ‘violation of human rights’ this is a very broad power, which is clearly open to abuse.<sup>273</sup> For example, see: ARTICLE 19 Legal Analysis, ‘Kyrgyzstan: Law on Countering Extremist Activity’, December 2015, <https://www.article19.org/data/files/medialibrary/38221/Kyrgyzstan-Extremism-LA-Final.pdf> Similarly, the Russian Law on Extremism.

<sup>274</sup> U.S. Department of State, Bureau of Democracy, Human Rights and Labor, ‘Country Reports on Human Rights Practices for 2015: Russia’ <http://www.state.gov/i/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dld=252893>

<sup>275</sup> See for example, Freedom House, Freedom on the Net 2015: Kazakhstan, <https://freedomhouse.org/report/freedom-net/2015/kazakhstan> This charge has been criticised by the European Parliament (<http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B8-2016-0375&language=EN>)

<sup>276</sup> Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/HRC/23/40, 17/04/2013, PARA 47.

<sup>277</sup> CSIS, Reference Note on Russian Communications Surveillance, 18 April 2014, <http://csis.org/publication/reference-note-russian-communications-surveillance>

<sup>278</sup> Privacy International, In ex-Soviet states, Russian spy tech still watches you, 10 January 2013, <https://www.privacyinternational.org/node/338>

<sup>279</sup> The Calvert Journal, ‘Mass media law for bloggers comes into effect’, 01 August 2014, <http://calvertjournal.com/news/show/2952/mass-media-law-for-bloggers-comes-into-effect>

access banned resources.<sup>280</sup> Several states, including Kazakhstan and Tajikistan, routinely block anonymising sites.<sup>281</sup>

Governments have long sought to regulate encryption technologies, while Kazakhstan has looked to go even further and ensure government access to encrypted data, announcing in December 2015, that all internet users would need to install a 'national security certificate' that would act as intermediary between them, and websites, allowing the government to access all encrypted transactions occurring within the country.<sup>282</sup> It is currently not clear if this will go ahead, however, as it is difficult to understand how it would be technologically implemented.

### **Harassment and intimidation of independent media and bloggers**

Pervasive surveillance and broadly-worded, aggressive legislation expedite the application of charges to silence independent media or bloggers writing about abuse of power or expressing dissent. This is facilitated by ambiguous interpretation of laws and the absence of an independent, impartial judiciary.

There are two broad approaches to the application of criminal charges to restrict expression: first, the abuse of broadly-termed legislation and charges, outlined in section one, which gives a veneer of legality to politically-motivated prosecutions; and second, the more crude application of trumped up criminal charges, such as blackmail, fraud or narcotics. While Russia has increasingly focused on the first approach,<sup>283</sup> Azerbaijan, which has led the most aggressive crackdown on freedom of expression of any state in recent years, tends to have favoured the latter.<sup>284</sup> Meanwhile, the most repressive states, including Kazakhstan, Tajikistan and Uzbekistan, employ a combination of the two – often applying multiple charges against those they deem a threat.<sup>285</sup>

It would be impossible to list all examples of the abuse of criminal charges to restrict public interest journalism in this publication. Some of the most egregious recent cases include:

- In Azerbaijan, Khadija Ismayilova, an independent award-winning journalist who prominently investigated government corruption in Azerbaijan, remains in prison. She was jailed in December 2014 and sentenced on 1 September 2015 to seven and a half years on charges of libel, tax evasion, illegal business activity and abuse of power.<sup>286</sup>
- In Kazakhstan, in November 2015, Yaroslav Golyshkin, the editor-in-chief of Versiya, an independent newspaper in Kazakhstan, was convicted to eight years in prison on charges of financial extortion. The charges were made after the newspaper published an article implicating a local Governor's son in the rape of a woman.<sup>287</sup>
- In Russia, Sergey Reznik, known for investigative reporting on corruption in Southern Russia, received three years imprisonment on charges of insult and misleading authorities. He was already serving an 18 month sentence on similar charges.<sup>288</sup>
- In Tajikistan, Mahmadyusuf Ismoilov, a journalist from Asht known for his reporting on corruption among local authorities, was sentenced to eleven years in prison in April 2014, after being convicted on charges of blackmail and fraud.<sup>289</sup>

<sup>280</sup> Global Voice, 'Belarus Bans Tor and Other Anonymizers', 25 March 2015 <https://advox.globalvoices.org/2015/02/25/belarus-bans-tor-and-other-anonymizers/>

<sup>281</sup> Freedom House, 'Freedom on the Net 2015: Kazakhstan', <https://freedomhouse.org/report/freedom-net/2015/kazakhstan>; Eurasianet, 'Tajikistan Blocks Websites Again, Holds Anti-Riot Simulation', 6 October 2014 <http://m.eurasianet.org/node/70326>

<sup>282</sup> Digital Report, 'Experts Concerned Kazakhstan Plans to Monitor Users' Encrypted Traffic', 5 December 2015 <https://digital.report/experts-concerned-kazakhstan-plans-to-monitor-users-encrypted-traffic/>

<sup>283</sup> See, for example, the SOVA Centre for extensive monitoring on how anti-terror legislation is applied in Russia (<http://www.sova-center.ru/en/misuse/>)

<sup>284</sup> Although this has been expedited by changes to legislation governing NGOs, increasing the vulnerability of activists and human rights defenders to criminal charges concerning financial crimes.

<sup>285</sup> An example of this is the ongoing campaign against Nakanune.kz, successor to Respublika, an independent newspaper which was highly critical of the Kazakh authorities, until its closure was forced in 2012, on charges of extremism. In December 2015, charges of narcotics possession were brought against Yuliya Kozlova, a journalist with the paper, who was acquitted in a rare not-guilty verdict in February 2016. The site's owner, Guzyal Baydalinova remains in pre-trial detention, charged with "deliberately spreading false information". See: <https://www.article19.org/resources.php/resource/38229/en/kazakhstan-raid-on-nakanune-kz-aims-to-silence-critical-reporting>

<sup>286</sup> The Guardian, 'Azerbaijan journalist Khadija Ismayilova vows to continue fight from prison'. 1 September 2015

<http://www.theguardian.com/world/2015/sep/01/azerbaijan-khadija-ismayilova-verdict>

<sup>287</sup> Open Dialogue Foundation, 'Kazakhstan: The oppression of journalists and bloggers', 22 January 2016 <http://en.odfoundation.eu/a/7228,kazakhstan-the-oppression-of-journalists-and-bloggers1>

<sup>288</sup> Committee to Protect Journalists, 'Imprisoned Russian journalist sentenced to new three-year jail term', 22 January 2015 <https://cpi.org/2015/01/imprisoned-russian-journalist-sentenced-to-new-thr.php>

<sup>289</sup> ARTICLE 19, Central Asia: Legalised harassment of journalists must stop, 8 September 2016 <https://www.article19.org/resources.php/resource/38096/en/central-asia-legalised-harassment-of-journalists-must-stop>



Worryingly, and despite progress on media freedoms, Ukraine has also applied unfounded criminal charges to silence unwanted expression. Ruslan Kotsaba, a blogger and journalist, has been held in pre-trial detention since February 2015, after he was arrested on charges of treason and obstructing the work of the armed forces, following the publication of a video on YouTube, in which he criticised the armed conflict in Eastern Ukraine and called upon Ukrainians to reject military conscription.<sup>290</sup> International standards set a high threshold for determining when speech may be restricted, which Kotsaba's video clearly did not meet. As such, the decision to prosecute him is an attempt to silence legitimate expression considered undesirable by the Ukrainian state. As well as targeting well known journalists, criminal charges are increasingly brought against ordinary internet users, many of whom have limited influence over others. The purpose of such prosecutions, which are often widely covered in local media, seems to be to set precedents of impermissible speech, and to encourage self-censorship among the internet community.

In February 2016, a Russian court in Yekaterinburg sentenced Ekaterina Vologzheninova to 320 hours of 'corrective labour' for 'inciting hatred and enmity on the grounds of ethnicity', following posts on the social media site, Vkontakte, criticising Russia's annexation of Crimea.<sup>291</sup> A month later, Viktor Krasnov, a resident of Stavropol, was charged with insult of the religious convictions or feelings of citizens, following comments on the social media site, Vkontakte, in which he crudely criticised God and the Bible.<sup>292</sup> In both cases, human rights activists who have viewed the texts in question believe the charges to be unfounded. Meanwhile, in March 2015, a Kazakh court convicted Tatiana Shevtsova-Valova under Article 174 of the Criminal Code, 'incitement to hatred', after posting comments on Facebook in support of the policy of Russia in the conflict with the Ukraine, which were deemed as insulting ethnic Kazakhs.<sup>293</sup> She was the first social media user to be prosecuted for incitement online, and received a four-year suspended sentence. Throughout the year, incitement charges were brought against several other bloggers and social media users.<sup>294</sup>

This judicial harassment of journalists, bloggers, and activists is occurring in environments where physical and other forms of harassment are increasingly tolerated. The efforts of state media in Azerbaijan to discredit independent media and critical NGOs has been criticised by the European Court of Human Rights<sup>295</sup>; however, this practice is hardly exclusive to Azerbaijan. Such attitudes create a permissive atmosphere for attacks against those criticising the government and impunity for attacks against journalists and civil society remains a problem across the region.

## Conclusion

New legislation and technologies are enabling governments to crack down on freedom of expression both on and offline. While Russia tends to grab the headlines, the situation is in decline across the region. With Turkmenistan and Uzbekistan as possible exceptions, governments have not yet been successful in fully shutting down all free debate and discussion; however, it is clear that they are inspired by one another to implement increasingly repressive legislation and practices. New restrictions do not just target well-known journalists or dissidents, but increasingly ordinary people, often expressing themselves online, creating a chilling effect that encourages self-censorship. A lack of avenues for seeking recourse to justice, related to the weak rule of law and no transparency in how governments operate, further encourages this.

Finally, while the context in Ukraine is notably different from those previously listed thanks to recent media reforms, it is important that pressure is exerted on the government to demonstrate its commitment to the universality of human rights, including a respect for plurality and protection of minority views, even where these are considered abhorrent by many in society.

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<sup>290</sup> ARTICLE 19, 'Ukraine: Government must release blogger imprisoned for over a year on treason charges' 9 February 2016

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<sup>291</sup> Human Rights in Russia, 'Person of the Week: Ekaterina Vologzheninova', 29 February 2016, <http://www.rightsinrussia.info/person-of-the-week/ekaterinavologzheninova-1>

<sup>292</sup> RFE/RL, 'Russian Man Could Be Jailed For Saying God Doesn't Exist', 2 March 2016 <http://www.rferl.org/content/russian-man-could-be-jailed-for-saying-god-doesnt-exist/27585757.html>

<sup>293</sup> RFE/RL, 'The Victims Of Kazakhstan's Article 174', 2 March 2016, <http://www.rferl.org/content/qishloq-ovozi-kazakhstan-article-174/27527738.html>

<sup>294</sup> Ibid

<sup>295</sup> Press Release of the ECHR on the case of Rasool Jafarov ECHR 097 (2016) 17 March 2016 [http://hudoc.echr.coe.int/eng-press#{"fulltext":\["69981/14"\]}](http://hudoc.echr.coe.int/eng-press#{)