Re-Evaluating the Public Sphere in Russia: Case Studies of Two NGOs

THESIS

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Abstract

This thesis explores two Russian non-governmental organizations (NGOs), the Union of Committees of Soldiers’ Mothers (UCSMR) and the Interregional Association of Human Rights Organizations AGORA (Agora). These two case studies apply the public sphere as a theoretical lens in an innovative way in order to rethink Russian civil society. The interactions of these two NGOs with state institutions show that Russia’s NGOs are important social actors who are actively negotiating and contesting the borders between civil and political action.

Operating on the border of state and society, these two NGOs’ depicts a blurry boundary between social actors and a non-unitary state. In order to challenge the boundaries between the political and the civic, Agora and UCSMR’s negotiate through a process of creating public spheres, or pluralizing the voices contesting a certain institution or idea. In these cases, the UCSMR has brought the discourse of human rights to the military and Agora has done the same within the legal system. This contested negotiation occurs in an overlapping field of state institutions, individuals, and social organizations through both cooperation and contestation. These public spheres encompass multiple layers of the state, and play an important role in negotiating the boundaries of political action in Russian society. By rethinking some of the basic assumptions about the state and society, a broader, more holistic understanding of Russia and a more comprehensive picture of Russian civil society emerges. This understanding
highlights the importance of specific publics, groups within society, and how they interact with the state on the level of institutions and individuals in order to articulate their specific visions of what Russian society should be.
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Chapter 1: Introduction

Analyses of Russia today often reduce its political life to the formal politics and official leadership in Moscow. By examining the role of non-governmental organizations (NGOs), this thesis instead looks for how individuals, organizations, and various public actors create their own spaces in which to exercise agency in the post-Soviet Russian political and social context. While Russia’s situation is unique, it contributes to the global discourse of democratization, with which political science scholarship has been pre-occupied since the break-up of the Soviet Union. In the over twenty years since the Soviet Union’s collapse, distinctions between authoritarianism and democracy have proved to be greatly blurred; and Russia is often labeled as a kind of hybrid state, governed through a system of presidential patronalism. Yet, although Russian politics is often opaque to the outside analyst and the local inhabitant, this study aims to get beyond the labels and, through close examination of two NGOs, explain how power is contested at the level of localities and individuals. This, in turn, will uncover the social and cultural understandings that continue to define Russian society and state. By focusing on the role of NGOs in public life as mediators between the state, individuals, and society, this study

finds a dynamically developing civil society in Russia that is in constant renegotiation, adapting to ever shifting “red” lines of political and legal boundaries, and figuring out how to best improve the life of Russia’s population. Restated, by considering what civil society in Russia looks like and how it functions, the thesis will be able to contribute to a broader, more holistic understanding of Russia that looks beyond the Kremlin.

The lessons learned by observing the Russian public sphere extend even beyond the post-Soviet region, and are applicable globally. The analyses of specific organizational models, such as the NGO, can be used to rethink how the concepts of civil society and the public sphere are best understood in Russia. In the modern world, governing structures have increasingly converged; the formal aspects of the state may appear identical, but yet, how can lived differences be teased out and theorized by observing interactions between individuals, social structures, and state institutions?

The NGO is a useful unit of analysis because NGOs are organizations that work on multiple levels, with individuals and with state institutions, as well as (sometimes) across national boundaries. NGOs give individuals a voice, and as I argue, it can be a very powerful voice that creates social change. Some individuals find that they can best articulate their vision of society through the organizational structure of NGOs; this study features the voices of two such people, Pavel Chikov, the founder and director of Agora, and Valentina Mel’nikova, the director of the Union of Committees of Soldiers’ Mothers. They are ordinary citizens who became social activists, empowered by the NGOs they
direct. NGOs also empower the general population, allowing citizens to speak to the state not as an idea, but to specific administrative institutions in specific localities.

Because NGOs negotiate between the individual and the state, the starting point for analyzing them is to place them within the literature on the boundary between society and the state. However, it is necessary to "take seriously the elusiveness of the boundary between state and society" as it emerges from tactics of power (called government), and becomes defined against the population. I argue that by functioning on the margins, as mediators between state institutions and individuals, NGOs are at the very heart of any negotiation of the political and civil spheres of Russian society. NGOs are not part of the state apparatus, yet also not representative of broader society, focused on promoting their own vision of Russia. Yet, every renegotiation of the political sphere results in changes in state policy toward NGOs. This study focuses especially on the 2006 and 2012 laws on NGOs, but also discusses negotiations over the public sphere over the entire post-Soviet period in Russia. The main conclusion is not only that NGOs are the subject of this renegotiation, but that they are active and powerful players in the constant adjustment of

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5 The 2006 NGO law created a registration service that was authorized to monitor and inspect NGOs, making sure that they were following all regulations. NGOs were also required to submit an annual report, highlighting their sources of funding. The most recent legislation concerning NGOs, passed in the Summer of 2012, went a step further by requiring all NGOs receiving funding from abroad and engaged in political activity to register as a ‘foreign agent’ on a specifically created list. The Justice Department was tasked with enforcing the law. Both laws have been seen as highly restrictive to NGOs.
the borders of what is permissible, the “red” socio-political lines that bind political and civic behavior.

The way in which a constantly shifting boundary is negotiated and understood tells a lot about a society, and indeed, several patterns have jumped out. I have found that it is impossible to discuss civil society and NGOs without also talking about the state. Because the “nature of the state can be understood by referring to the politics of civil society," the two concepts are not only linked, but do not exist independently of one another. There can be "no theory of the state without a theory of civil society; [and vice versa] there can be no theory of civil society without a theory of the state."7

The Russian has at least two layers, and it is important to differentiate them, while also acknowledging that the border between them is just as fuzzy and interminable as the border between the state and society. On one hand, is the “deep state,” a sphere of power removed from the everyday life of its citizens, in which power is largely determined by personal relationships between political (and economic) elites.8 This is mirrored in Henry Hale’s description of “patronalism” as “the dominant socio-political framework in Russia

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7 Ibid, p 13
8 An example of this type of analysis can be seen in this excerpt from Whitmore, Brian. *Podcast: All the King’s Men*. January 25, 2013. Radio Free Europe/Radio Liberty. (audio podcast). http://www.rferl.org/archive/ThePower_Vertical/latest/884/884.html: “It has gone by different names, from the collective Putin to Putin's Politburo. But most Kremlin-watchers agree that Russia is not, in fact, governed by formal institutions like the Cabinet of Ministers and the State Duma, but rather, by an informal collective leadership – with Vladimir Putin as its front man and decider-in-chief.”
(and elsewhere in the former Soviet Union),” defined broadly as “a socioeconomic equilibrium in which individuals organize their political, social and economic pursuits primarily around personalized exchange through informal networks.” Politics, then, “becomes a battle of fluid and opportunistic networks competing for the extraction and maximization of rents.” Institutions and individuals matter much less. This part of the state is difficult to explore through NGOs; yet at the same time, these political elites participate in the Russian economy and government, serving as advisors, ministers, directors of state-controlled companies such as Gazprom, and by competing over the state resources, try to improve their base of power.

If political influence is defined by access to the murky top of the Russian regime, where the oligarchs and siloviki share the spoils of the resource economy, then surely all can agree that NGOs have little influence. Still, there is another side to the Russian state, one governed by institutions and administration. In this administrative sphere, the state interacts with its citizens, provides them services; this is the sphere of government. NGOs play a big role in the administration of the country. In this sense, civil society is not separate from the state, but operates through “linkages among NGOs and state

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10 A term referring to the political elites coming out of the soviet military and intelligence structures, such as the KGB; Putin’s rise to the Presidency exemplifies the rise of the silovniki in Russian politics

11 An example of an analysis of political elite’s efforts to extract and maximize rents is the recent change of control of the Rostelekom, the state-controlled telecommunications company, Parkhomenko, Lev. “V bor’be za ‘Rostelekom’ pobehli druzhba I Putin.” Telekanal Dozhd’, March 27, 2013, http://tvrain.ru/articles/v_borbe.za_rostelekom_pobedili_druzhba_i_putin-339750/
structures that shape the opportunity structures of these NGOs and originate from the
history of their organizational development.”12 Christian Frohlich cites a body of new
literature pointing to "relations between NGOs and other public and governmental
structures that are able to institutionalize and facilitate social networks and informal
contacts between actors in the field of struggle over the meanings and goals of social
change in contemporary Russia."13 Social change is understood within the framework of
the governing institutions, as attempts to hold the bureaucracy to the standard of the law.
For the administrative state, civil society is “a coherent, ordered space where individuals
assist the state in the interest of the whole….that is not meant to be a representative
body whose members advocate the particular interests of different constituencies, but
an apolitical body of prominent individuals offering technical advice to improve state
governance.”14 In other words, the world of governance remains separate from the world
of power; NGOs may share in the task of governing, but do not share power.

Just as Brian Taylor “seeks to add a little grey to the generally black picture of the
relationship between Russian civil society and law enforcement,” I also explore “how
NGOs can work cooperatively with the state at the ‘street-level.’”15 This is what might be
called the a third conception of the role of civil society, stressing “the possibility of a

12 Fröhlich, Christian. “Civil Society and the State Intertwined: The Case of Disability NGOs in
13 Ibid, p 374
14 James Richter, "The Ministry of Civil Society?" Problems of Post-Communism 56, no. 6 (2009), p8
15 Taylor, Brian "Law Enforcement and Civil Society in Russia." Europe Asia Studies 58, no. 2 (2006),
p194
more positive relationship of mutual assistance and partnership between the state and civil society.” Civil society can serve not only as a “watchdog” of the government, but also as a “resource” for the government.\textsuperscript{16} Indeed, it can serve both roles simultaneously. This is a vision of a state apparatus that is localized and individualized, one with which NGOs interact on a daily basis, not only in unidirectional repression and resistance, but in cooperation, displacement, and conflict; in other words, constant negotiation. This negotiation takes place on various levels: among individuals, organizations, and institutions; locally as well as nationally.

\textit{Cases and Sources}

This study relies on detailed case studies of two NGOs, the Union of Committees of Soldier’s Mothers (UCSMR), who mediates between families, soldiers, and the military establishment, and Agora, a group of human rights lawyers. In some ways these organizations are very different, yet they are similar in that they both are Russian, rather than foreign NGOs, and both work regionally and on a national level. These NGOs were selected because they give two unique but complementary perspectives on the human rights movement within Russia. Taken together, a more comprehensive picture of Russian civil society emerges.

\textsuperscript{16} Ibid., p196
Establishing themselves as a parallel to the military prosecutor’s office, the Union of Committees of Soldiers’ Mothers created a public sphere out of the military unit, and more generally (but also in a more limited way) out of the Defense Department. Their influence on the local level emerges from the general political and military acceptance of their discourse that the only way to establish a stronger military is through a commitment to human rights for each individual soldier. In other words, they have established themselves as an authoritative and independent voice for the individual soldiers’ human rights.

Unlike the Committees of Soldiers’ Mothers, which began forming during the perestroika period, Agora is relatively young organization, having been founded in 2005. Agora’s activism can also be theorized as an attempt at creating a public sphere out of a state institution, the courtroom, which Agora sees as the key institution to renegotiating the relationship between the state and society. Agora has become an influential voice that has negotiated and expanded the bounds of civil society in Russia, actively contesting the definition of political activity. Although the courtroom is still often used as a tool of political interests, Agora has played an important role in securing human rights activism as accepted within the bounds of civil society, generally protected by the law. However, Agora’s exploration of Russia’s judicial system finds that all application of the law is inconsistent, and that cultivating personal and institutional ties to state organs and
officials, as well as courting public opinion and through the media, are important components of securing justice.

Despite not being the result of fieldwork, this study takes advantage of a vast amount of available primary source material from Russian and English language periodicals. Of course the amount of material surveyed is only a small fraction of what is available, but it, combined with the research of other scholars, constructs a more comprehensive picture of Russian civil society. In addition, in order to frame my argument, I have turned to theoretical literature on civil society and the public sphere, as well as about authoritarian states more generally.

**Defining Public Sphere and Civil Society**

In order for the analysis of two NGOs to lead to broader conclusions about Russia, it is important to engage in brief discussion of how this thesis understands important theoretical concepts such as the public sphere and civil society. If society is “the entirety of social practices” of a given community, civil society is differentiated by three characteristics. First, civil society can be understood as “a part of society in the shape of clubs, associations, networks, informal voluntary organizations, and political

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17 although it does incorporate ideas and experience from spending the summer of 2012 in Russia, mostly in Moscow
18 Chandhoke, Neera. *State and Civil Society: Explorations in Political Theory*. p 167
and non-political networks that stand between the individual and the state.\textsuperscript{19} According to this view, NGOs are organizations standing between the individual and the state; therefore, Agora and the Union of Committees of Soldiers’ Mothers represent a small slice of Russian civil society. Second, civil society can be understood as “a \textit{kind of society as seen in the pursuit of positive norms, values and beliefs, as well as protecting universal humanistic values, freedom and equality.}”\textsuperscript{20} For example, the two NGOs in this study have a very specific idea of the kind of society they want to create, a society that is based on guaranteed human rights for the individual. This thesis examines their interactions with broader society, and with state institutions; how is their vision of society challenged, and how do these NGOs succeed in spreading this vision? Third, civil society can be understood as “a non-legislative, extra-judicial social realm that facilitates public communication, free exchange of opinions, and critical argument.”\textsuperscript{21} This vision of civil society has emerged from the theories of Jürgen Habermas, and will be discussed below, as the basis for my understanding of the public sphere. In summary, civil society is when

\textsuperscript{19} Chebankova, Elena. "The Evolution of Russia's Civil Society Under Vladimir Putin: A Cause for Concern Or Grounds for Optimism?" \textit{Perspectives on European Politics and Society} 10, no. 3 (2009), p395. According to Chebankova this view “derives from the works and political thought of Alexis de Tocqueville” and the “comprehensive revival of this intellectual strand of thought came with the work of Robert Putnam.”

\textsuperscript{20} Ibid., p396. This view “largely has its roots in the ideas of Immanuel Kant who attributed to humans the ability of independent moral judgement”

\textsuperscript{21} Ibid., p396
“people are capable of self-organization… for the resolution of group and common problems… independent of the state.”

Because civil society is defined in opposition to the state, the relationship between civil society and the state is usually seen as civil society’s attempt to limit state power in one of two ways, whether it is seen as a ‘part’ of society or a ‘kind’ of society. First, civil society limits the state because “participation in civil society teaches citizens the norms and values associated with liberal democracy, such as tolerance and compromise.” The approach to civil society “stresses the role of autonomous social organizations as a potential counter-weight to an over-reaching state.”

However, scholars have pointed to three reasons why civil society has been unable to limit state power in Russia, concluding state domination of civil society. These views might be summarized by Habermas’ idea of an ongoing process of “the colonization of the lifeworld,” or “political colonization of everyday life by the state.” More specifically, “first, NGOs—and civil society more broadly—are weak and underdeveloped because of societal attitudes and orientations held over from the communist period… or because of low levels of trust within society and a distrust for

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22 Weigle, Marcia A. "On the Road to the Civic Forum: State and Civil Society from Yeltsin to Putin." *Demokratizatsiya* 10, no. 2 (2002), p118
23 Taylor, Brian D. "Law Enforcement and Civil Society in Russia." p195
24 Ibid., p196
civil-society organizations.” Second, “a major theme in studies of Russian NGOs is their dependence on foreign funding and its largely detrimental consequences.” Third and “most important, Russian NGOs have little or no political influence or access to political processes, and, as a result, that they can neither represent societal interests in the political sphere nor hold government accountable.” According to this last view, although dialogue between NGOs and authorities does exist, there are few signs that NGOs have any real political influence. Achievements in representing and defending the interests of certain demographic groups, such as the disabled, solve specific problems, but do not affect broader understandings of political power. Russia’s NGOs are seen as divided between grassroots and advocacy or structural NGOs. By cooperating with the state on a local level, grassroots NGOs can improve conditions for specific groups, they cannot make social changes. On the other hand, advocacy NGOs try to change social structures more broadly, but are unable to affect state behavior because they have loose ties to society. In conclusion, while limiting the terms of social debate and isolating itself from criticism by advocacy NGOs, the Russian state is dominating civil society

27 Ibid., p30. Cites studies by Sarah Henderson and Valerie Sperling
28 Ibid., p.30
29 Linda J. Cook and Elena Vinogradova. "NGOs and Social Policy-Making in Russia's Regions."
30 Ibid., p37
while simultaneously pursuing goals of improving governance (by working with local NGOs).\textsuperscript{31}

However, this thesis focuses on “the meeting point between voluntary activity and practices of government,”\textsuperscript{32} providing an alternative to the idea of domination of the state of civil society. Instead of seeing civil society in opposition to the state, these two case studies reveal what seems to be a broader phenomenon, “new forms of 'partnership' between the state, the market, and the social.”\textsuperscript{33} In addition to "marking the limits of state authority, the voluntary sector can [also] be seen as a domain of government” by “extend[ing] the \textit{regulatory reach} of government [through the] delivery of public services” and by “extending the government's \textit{rhetorical reach} over themes of community and cohesion.”\textsuperscript{34} Here, “civil society becomes a crucial arena of state legitimacy… function[ing] as a \textit{pluralization} of government through a range of 'civil' agencies - less an expansion of civil society, than an extension of government.”\textsuperscript{35}

Although Passey and Tonkiss conclude that “If public trust and support is tied to the independence of voluntary organizations from government and business, these new

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33 Ibid., p50

34 Ibid., p50

35 Ibid., p50
\end{flushright}
partnerships blur the distinctions as voluntary action comes to be directed in line with larger governmental objectives,” I argue that the opposite is also the case, that the vision and goals of NGOs are adapted by government officials and even by political institutions. Instead of accepting the “idea of civil society as a means of imagining an independent and a critical space of association,” NGOs articulate their vision through the process of creating a public sphere.

This study uses the conception of a public sphere very differently from Jürgen Habermas’ conceptualization as the space between the individual and the state, where “private individuals, rather than agents of the state, come together to participate as citizens.” The public sphere is not an institution or space, but “is rather a process whereby the inhabitants of the sphere constantly monitor both the state and the monopoly of power in civil society.” As mentioned above, a public sphere is “a place of public communication, exchange of opinions and critical argument.” But it is not a single space; rather there are many publics, groups of individuals with a certain vision or goal. Because "there are no natural or a priori boundaries" between what is considered public and private, "what will count as public in the sense of being a matter of public concern

36 Ibid., 50
39 Chebankova, Elena. "The Evolution of Russia's Civil Society Under Vladimir Putin"
will be decided precisely through discursive contestation." These publics strive to create public debates out of matters that were either private, or the exclusive domain of state institutions. The public sphere then, is not a space, but a condition or a process by which a specific public’s (in this case an NGO’s) voice is articulated in the state and society.

So the "public sphere as a particular institution and a particular relational setting" is "a contested participatory site in which actors with overlapping identities… form a public body and emerge in negotiations and contestations over political and social life." Publicity is understood to be emergent from “interstitial networks of individuals and groups acting as citizens,” and not simply 'spaces' or 'worlds' where politics are discussed. Both spaces and people matter in conceptualizing the public sphere; it is embodied by people’s political negotiations as well as located in the spaces in which they interact.

Through a public sphere "an issue becomes political and public when it becomes the object of a generalized discourse about what it should be;" the public spheres of UCSMR and Agora are specific discourses based on human rights, rather than open arenas for general discussion. Creating a public sphere out of the military unit involves

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42 Chandhoke, Neera. State and Civil Society: Explorations in Political Theory, p168
not so much public oversight, but the specific oversight of the UCSMR. On the local level, UCSMR’s vision of human rights guaranteed for every soldier has become their responsibility to maintain. Agora too, bears the responsibility of maintaining and expanding the boundary of civil society; their vision of human rights for every individual is dependent on removing private interests from the courtroom, making the courtroom the institution where the written law becomes real. In essence, each public sphere is not the space between the individual and the state, but the active contestation of individuals, voluntary organizations, state institutions, and other social and political actors.
Chapter 2: Union of Committees of Soldier’s Mothers

As [a] woman organization, taking into consideration the principles of gender equality, we demanded participation in [the] decision making process.43

The soldiers’ mothers understood that to implant the concept of human rights in the Russian military sphere... to defend their children they have to change the state and the society.44

Ida Kuklina, member of the UCSMR Coordination Council

Committees of Soldiers’ Mothers (CSMs) began forming in 1989 and "although they began as a small protest group of about 300 mothers, [and were] initially treated with suspicion by the Russian government and military, [today] soldier's rights organizations are extremely well known and respected in Russian society."45 This section will explore what the growth of this sub-sector of the NGO community reveals about the Russian state and society, specifically focusing on one umbrella organization, the Union of Committees of Soldiers’ Mothers (UCSMR). They are one of the oldest, most prestigious, and according the Guardian, “one of Russia's most powerful non-

governmental organizations."46 UCSMR exercises its power not in resistance to the state ("civil society II"), nor by instilling democratic values in the population that limits the actions of the state ("civil society I"),47 but through various levels of interaction with the state, ultimately changing the way the military functions. In other words, through localized interactions within the military bureaucracy, as well as through the organization of public displays, the Union of Committees of Soldiers’ Mothers has created a realm of public discourse, which I will argue constitutes a public sphere, where before the closed military culture had dominated. Furthermore, they have institutionalized their voice into the military conscription process, and have become mediators, helping individual conscripts and soldiers achieve justice through the courts and military hierarchy. Over the last 20+ years of activism, soldiers’ mothers committees have cooperated with certain state institutions while conflicting with others; their relationship is always unstable, but they have maintained an independent civilian voice within the military, and thus a public sphere.

For people living in Russia, for the soldiers asking for help from the CSM, the state is a concept that, in reality, is broken down to institutions, and even further, to people serving in those institutions. The people serving in the state cannot be separated

47 Civil Society I and II refer the two conceptions of how civil society limits state power, discussed on page 11 and citing Brian Taylor’s article, "Law Enforcement and Civil Society in Russia."
from the society they live in; the social discourses they think in terms of, and their possible behavior is limited by cultural values formed by their understanding of precedent, and by personal considerations and political realities that stem from power relationships, which in Russia, result not so much from institutions, but from personal networks. So in order to better understand the state through the actions of the UCSM, we must take seriously that here can be "no theory of the state without a theory of civil society; [and vice versa] there can be no theory of civil society without a theory of the state." In other words, if culture shapes the behavior of power, it must certainly shape the behavior of those not in power, as well as various organizations, such as NGOs, which are attempting to operate in the society. Like Julia Adams affirms, "states are not 'autonomous' from extrastate cultural forces, but are shot through with circuits of meaning that cut across the state-society frontier." What we see in the next series of examples is how the UCSM interacts with a non-homogenous state, which breaks down into individuals and their networks of power, and how the NGO operates very similarly.

I argue that wrestling control over the lives of the soldier out of the exclusive hands of the military hierarchy, and subjecting military issues to civilian oversight represents a complete reimagining of the relationship of the individual to the state through military service. This contrasts to the view of some analysts that CSMs “have not achieved this

49 Steinmetz, George, ed. State/Culture: State-Formation After the Cultural Turn. p12
goal [radical military reform] in any significant way, but they have made military reform a topic of serious discussion that the Russian government has had to acknowledge and appear to act upon, even while very little serious progress is made because of staunch resistance in Russia's powerful and enormous military sector.\textsuperscript{50} In the words of Julie Elkner, who studied how Committees of Soldier’s Mothers rallied around the issue of \textit{dedovshchina}\textsuperscript{51} in army units during the perestroika period, “grieving soldiers’ mothers symbolized the growing rift between the ‘people’ and the Soviet Army. The ramifications of the \textit{dedovshchina} controversy extended beyond the issue of conscripts’ welfare—in a sense this debate was about breaking down the barriers which separated the military from the civilian world.”\textsuperscript{52} The military was no longer a closed institution whose image was controlled by state officials and military officers, but a public matter that included the voice of a very significant public, soldiers’ mother committees. They were successful in making their vision of a modern military the dominant one among the civilian leadership of Russia. They challenged and eventually won acceptance as a dissenting, but still influential, vision of Russia best served by a volunteer military. By working through state institutions, as well as through public spectacle, this NGO created real society change.

\textsuperscript{50} Sundstrom, Lisa McIntosh. \textit{Funding Civil Society}. p61
\textsuperscript{51} Strictly speaking \textit{dedovshchina} is a quite specific term referring to the informal power hierarchies governing relations between conscripts based on their length of service. In this article I follow the practice widely adhered to in the Soviet media of using the term more loosely to refer to the associated violence in the barracks, and as shorthand for the tyranny inherent throughout the Soviet military hierarchy.
The huge improvement in the quality of military service for the conscript has been accomplished by the creation of a new public sphere, in which "an issue becomes political and public when it becomes the object of a generalized discourse about what it should be."  

Organizing and Creating a Public Sphere

Thinking more broadly about the public sphere, the experience of the Committees of Solidiers’ Mothers allows us to see a public sphere concretely defined not as a space, but embodied in individuals and organizations. By making personal grief public, and by organizing as a collection of community organizations, soldiers’ mothers chose an organizational structure that would allow them to create a new discourse, communicating with both state bodies and with broader society. Because the Soviet army, and its successor, the Russian army, is based on conscription through bi-annual drafts, it is an institution that directly affects almost every family.  Draft evasion is a continuous problem, and young men and their families resort to a wide range of legal (such as pursuing higher education) and illegal (bribing doctors and military officials for health exemptions) techniques of draft evasion. The women who came together in protest, creating numerous Committees of Soldiers’ Mothers, then, collectivized the private

54 This is emphasized in Sundstrom, Lisa McIntosh. *Funding Civil Society*
struggles of every family to control the health and well being of their sons. In other
words, the CSM did not merely bring the issue into the public sphere, but created a public
sphere around this issue whereas none had previously existed.

The issues of civilian oversight over the military and the end of conscription would
not have existed in their present form in the public sphere had it not been for these
women activists. They negotiated on multiple levels, building relationships with military
prosecutors and challenging them to uphold the law, holding public marches and protests
to capture the attention of the wider public and political leadership, writing letters and
petitions to the country’s leaders explaining their positions, and talking to parents,
soldiers, and the commanding officers while visiting local units. Julie Elkner describes
the founding of the Committees of Soldiers’ Mothers as an expression of the
dissatisfaction with the military’s handling of their individual traumas, such as deaths of
their sons or their sons’ conscription from the university. They “played a crucial role” in
shattering the “idealized image of military service” that the Soviet military had
cultivated. Mel’nikova, the head of the UCSMR explained that the early CSMs were
the first to publically acknowledge the myth of military service; whereas before the
subject was a taboo, only whispered about privately, it came into the open as general

55 Elkner, Julie. "Dedovshchina and the Committee of Soldiers’ Mothers Under Gorbachev."
social discourse due to the activism of the CSM.56 Through the actions of the CSMs, “official rhetoric on the beneficial nature of military service for young men’s physical and moral development was displaced by the widespread acknowledgement that for many conscripts, military service was in fact a profoundly damaging and traumatic experience. By the same token, the validity of the official rhetoric that it was every male Soviet citizen’s ‘sacred duty’ to undergo military service was eroded, as the controversy over dedovshchina brought into question the legitimacy of the state’s claim to exact military service from its male citizens.”57

Initially inspired as a protest against the drafting of university students into the Soviet Army at the conclusion of the War in Afghanistan, Committees of Soldiers’ Mothers grew rapidly during the perestroika period. Their actions were part of a larger wave of perestroika inspired social unrest that was sweeping across the Soviet Union, and yet their discourse of human rights for the individual Russian soldier has outlasted any general protest movement. In June 1990, the first CSM national conference was held58, but already in April 1990 the CSM’s official address to the USSR Supreme Soviet summarized their key demands: “the abolition of the Military Prosecutor’s Office and its replacement by an independent civilian body, the establishment of an independent

57 Elkner, Julie. "Dedovshchina and the Committee of Soldiers’ Mothers Under Gorbachev."
58 Sundstrom, Lisa McIntosh. Funding Civil Society. p61
commission on peacetime deaths, termination of the practice of drafting ex-criminals, and the de-classification of statistics on peacetime deaths.” Later that year, in September 1990, they first declared their program of "radical military reform" and proclaimed it to the Supreme Soviet. The second, expanded list of demands included: “public access to barracks, compulsory state insurance for servicemen, legislation decriminalizing desertion on self-defense grounds, abolition of the stroibat,59 and new medical examination regulations and procedures preventing the drafting of conscripts in poor health.60

Numerous public opinion surveys in Russia point to CSMs as one of the key public actors engaged with the issue of military service. First, the Russian “public [is] practically clamoring for serious reform of the military.”61 Second, “an overwhelming number of Russians- 81 percent of our sample—is familiar with the activities of CSM, and third, the CSM is a well regarded and well respected organization.62 Furthermore, according to data from a 2004 Center for Strategic and International Studies opinion poll, 94% believe that officers who tolerate hazing practices should be prosecuted, 75% of the

59 The popular term for the military-construction units located within various Soviet civilian ministries and departments. Mortality and crime rates were especially high in the stroibat, which were notorious for their harsh conditions, poor safety record, corruption, and general neglect of the welfare of the conscripts.
60 Elkner, Julie. "Dedovshchina and the Committee of Soldiers’ Mothers Under Gorbachev."
61 Gerber, Theodore P. and Mendelson, Sarah E. PONARS Policy Memo 288: Strong Public Support for Military Reform in Russia: PONARS, 2003, p5. For example 60% favor a professional army vs. 30% favoring conscripts
62 Ibid., p5; among those who have heard of CSM, 33 percent take a “very positive” view of them, 35 percent take a “somewhat positive” view, 28 percent take a neutral view, and only 5 percent a somewhat or very negative view.
Russian population knows of the soldiers’ mothers’ groups, and 66% approve of their work. The population, through opinion surveys may support the views of the CSM, but it is important to remember that these views were partially shaped by the actions of the CSM. Of course, the CSMs are not the only actors in this public sphere; the institutions and individuals that are part of the state are also in constant negotiation with CSMs. This negotiation began in 1989 and continues to this day, but it takes place in the open.

In order to make military service part of the public sphere, soldier’s mothers first had to express their grief publically. Faced with family tragedy, such as the death of a son serviceman, “to retreat into private grief again,” was the expected behavior of mothers, and “in accordance with accepted social norms in Soviet society.” Many mothers did indeed act this way. However, a select group began using the public displays of their undeniable grief to capture the attention of the broader population and political leaders. Staging demonstrations on the streets and also taking advantage of institutionalized opportunities to make their voices heard, soldier’s mothers began carving out a public sphere. For example, at the October 1991 Congress of Servicemen’s Parents in Moscow a group of these mothers used their grief, “signified by their black headscarves and the

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64 Elkner, Julie. "Dedovshchina and the Committee of Soldiers’Mothers Under Gorbachev."
65 For an example of how political instability in authoritarian regimes can give groups the opportunity to make their concerns an active part of the public debate see Ruthchild, Rochelle Goldberg. Equality & Revolution : Women's Rights in the Russian Empire, 1905-1917. Pittsburgh, Pa.: University of Pittsburgh Press, 2010.
photographs of their dead sons” as their credentials to enter the meeting, in effect, “as license to enter the public sphere.”

Public performance of their grief and their status as mothers gave them a unassailable credibility, that the mothers took advantage of through effective organization.

The CSM’s actions were diverse and included engagement with military officers as well directly engaging the public. For example, they engaged in a combination of “educating conscripts and parents, organizing public awareness campaigns and non-violent protests, pressing authorities on individual complaints concerning human rights violations, inspecting military units, devising legislative proposals and advocating for the rights of conscientious objectors.”

Perhaps, their most critical demand, genuinely open access to military units for soldiers’ parents, underlined their attempt to open the military unit to public oversight. They developed tactics aimed at breaking through the military’s façade of patriotism and the army as the place boys are turned to men. Military units would host soldiers’ mothers, and attempt to impress them with guided tours, banquets, and display barracks and facilities, while hiding the less pleasant reality. Committee member Liudmila Zinchenko relates how the soldiers’ mothers began to break through

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66 Elkner, Julie. "Dedovshchina and the Committee of Soldiers’Mothers Under Gorbachev."
the misinformation, and create their own, more accurate picture of the reality of military service:

The first time we went to a military unit, we were told ‘Oh, now we’ll show you this, and we’ll show you that…’ And then we started to implement ‘dispersion’ tactics—that is, we would arrive at the unit, two or three of us would engage the commander in conversation, and the rest would scatter throughout the unit. And then when we came together again, we’d ask one another ‘What did you see? And what did you see? I saw a bruise. I saw a boy crying. I saw such and such.’ And this general information, as it happened, gave us a complete picture of what was going on in the unit. Because otherwise, previously, all this was veiled, it was concealed from outside view.68

“Such practices enabled the Committee to build up profiles on individual units, instituting an alternative monitoring system and sharing this information with other Committee branches.”69 An effective organizational structure was forming as the mothers found that the only way to achieve their goals was to work together, not only in protest, but also in order to gather information. In addition, “the physical presence of the mothers in the units also combated the isolation of conscripts and acted as a deterrent against violence.”70

As an organization run by volunteer activists, UCSMR exists in a contradiction between an influential lobbying organization and its own struggle to survive and function. On one hand "soldiers' mothers are particularly revered" and officials describe

68 Elkner, Julie. "Dedovshchina and the Committee of Soldiers'Mothers Under Gorbachev."
69 Ibid.
70 Elkner, Julie. "Dedovshchina and the Committee of Soldiers'Mothers Under Gorbachev."
the situation, saying "it's very sacrosanct; as a government you can’t criticize them [soldiers’ mothers organizations]. It's like criticizing motherhood itself of something."

Another official described the Soldiers’ Mothers of St. Petersburg (SMSP), saying "they are strong, they are angry, and they should be... the government doesn’t like them, but respects them." On November 9, 2004 Human Rights Watch honored Natalia Zhukova, the head of the Soldiers’ Mothers Committee of Nizhnii Novgorod, writing that “top Russian military officials are afraid of the Russian mothers. Ms. Zhukova regularly calls military commanders to tell them off.” Their impact cannot be understated: “The soldiers’ mothers’ campaign has helped show ordinary Russians that human rights activism can help improve their lives and has built a constituency for human rights in Russia.” They have redefined the way human rights are understood in Russia, important to every citizen, rather than to an elite group of oppositionalists.

While not an elite group, the UCSMR is a limited public, a small group of dedicated volunteers. Having achieved popularity through mobilized grassroots activism by connecting personal experience to the larger society, CSMs function today in a bureaucratic manner, mediating between individual ‘victims’ and state officials. As the UCSM website states, this organization relies on volunteers that “learn military law, acquire the necessary medical knowledge, master the principles of judicial defense of

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71 Sundstrom, Lisa McIntosh. *Funding Civil Society* p77
conscripts, and learn to use contacts with military authorities and the military justice system with the goal of protecting human rights.”

According to Mel’nikova, on a typical day, four volunteers work in their small office, with additional volunteers stopping by periodically for various meetings; in total, there are about eight active volunteers working for the Moscow branch of the Union of Committees of Soldier’s Mothers. But most of the work of the UCSMR is done at the local level; Soldiers mothers committees can be found across all of Russia. Their organizational model mirrors the institutions they are trying to change; because military garrisons are scattered throughout Russia, an organization supporting soldiers must also work across the vast territory of Russia. Although the CSM has a national office in Moscow, most of their work is done in the provinces by local volunteers.

The UCSMR claims 300 branch offices, and her Interview on the TV channel Дождь, Mel’nikova said that she once calculated that it would take 500,000 rubles yearly to fully support all the regional Committees of Soldier’s Mothers, a goal never realized by the organization. But there are also other committees of soldiers mothers not affiliated with the UCSR. In 1998 the Committee of Soldier’s Mothers became the Union of Committees of Soldier’s Mothers, reflecting a conflict among the leadership of the CSM. Tensions began in 1996 between the leader of the CSM Maria Kibasova and other

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74 Ibid.
leaders, such as Valentina Mel'nikova, who eventually split to form the Union of Committees of Soldiers’ Mothers. According to sources interviewed by Sundstrom, the split followed the 1996 awarding of the Right Livelihood Award and was caused by a combination of disagreements over the prize money (over $80K) and "hunger for power."\textsuperscript{75} These events "created a huge amount of bad blood between the two ambitious leaders" and created a "split of the Russia-wide network of regional Committees of Soldier's Mothers into two camps- those loyal to Kirbasova and those loyal to Mel'nikova."\textsuperscript{76} Although some regional committees are able to maintain relations with both associations, the result is loose organizational structure that largely depends on the relationship of local leaders to the Moscow based leadership.\textsuperscript{77} The organizational upheaval within the Committee of Soldiers’ Mothers in the late 1990s reveals that, just as the state should be analyzed in terms of its institutions and individual officials, the NGO should be seen as made up of individuals who realize personal ambition through its organization structure. Even if an NGO is popular across society, it is not a necessarily representative of broader society, but is rather the voice of a limited public, a specific social group that has a certain vision. Even when leaders share broad vision of what society should look like, sometimes personal ambition or disagreements about organization can dismantle an organization; this is why NGOs must be analyzed as

\textsuperscript{75} Sundstrom, Lisa McIntosh. \textit{Funding Civil Society} p69
\textsuperscript{76} Ibid., p69
\textsuperscript{77} Ibid.
organizations with specific goals, and only then conclusions drawn about larger trends of civil society. Largely dependent on their own funding and volunteers, regional Committees of Soldier’s Mothers are also faced with interacting with the state and the military not as one unitary organ, but as a series of localized interactions.

During a 2001 visit (during the second Chechen war) by a journalist to the office of another one the founding members of the UCSM, Ida Kuklina, the journalist reported the two of them meeting, “in her [Kuklina’s] crowded, tiny office just around the corner from the former KGB headquarters.” That office was “in a state of dynamic disorder, packed with row upon row of office records…15 people…and five computers.” This ‘dynamic disorder’ was due to the immense amount of work that wartime brings: “meanwhile, Ida's next appointment waited patiently just outside the door, as did her next appointment, and her next, with the queue stretching down the hallway.”78 With the military and political leaders focused on a successful outcome in the second Chechen conflict, the human costs, partially embodied by the queue outside the UCSM’s office, were often ignored. CSMs, instead of the state, mobilized to help the Russian soldier, earning them the respect of the Russian population.

Indeed, Although the Committee of Soldiers’ Mothers’ protests were initially concentrated on the anti-dedovshchina campaign, it was through their anti-Chechen war activism that they received international recognition. Just as Committees of Soldiers’

78 Hunt, Swanee. "Mothers of Russian Soldiers Fight for their Sons."
Mothers were establishing themselves across Russia, the Russian invasion of Chechnya in December 1994 gave this organization a new issue to fight for and an international forum. While Lisa Sundstrom points out that pacifist soldiers’ rights NGOs get less support than those focused primarily on improving soldiers’ army experience, in fact CSMs eliminate this distinction, fulfilling both roles. The CSM was one of the most vocal opponents of both Chechen Wars; and yet the poll date cited above points to their popularity in the early 2000s.

The CSM criticized the war, calling into question the Russian government’s role in the conflict. One of the founding members, Ida Kuklina, wrote that “we condemn international terrorism, but we are convinced that majority of the state powers are to blame for spreading this crime.” The government was at fault for putting undertrained and underequipped Russian soldiers into a death trap and saw a peaceful solution as the only way to save their sons. Again, Kuklina points out that the CSM would not stand by idly, and were prepared to appeal to organizations beyond the Russian state in order to end the war:

We tried to find a way to peace in Chechnya, where the chain of arbitrariness, crimes, corruption, mistakes, negligence of people interests and armed forces actions lead to the tragic situation. As a woman organization, taking into consideration the principles of gender equality, we demanded participation in decision making process concerning peace in Chechnya, and warned the President and the State Duma of our intention to

79 Kuklina, Ida. “The soldiers' mothers organization in Russia: how does it work.”
involve the world community through the UN Security Council in the settlement of Chechen conflict.80

In recognition for their anti-war activism, they were awarded with numerous international human rights awards, including the 1996 Right to Life Award,81 the 1995 Rafto prize,82 and several others.83 During the first Chechen War they helped to free Russian prisoners of war, leading a dramatic march to the war-torn Chechen capital, Grozny, as well as organizing numerous other anti-war protests.84 In addition, the CSMs continuously supported individual Russian soldiers through the legal system, offering legal assistance that eventually helped hundreds of soldiers escape charges of desertion and receive proper compensation for their service.85 During the second Chechen War in

80 Kuklina, Ida. “The soldiers' mothers organization in Russia: how does it work.”
83 Other International awards include the 2000 Award of the German Foundation Friedrich Ebert and the 2005 "Georg Elzer - Initiative".
85 Bertrand, Eva. “The military do not know how to work without the Soldiers’ Mothers Committees anymore: Interview with Valentina Mel’nikova.” For example, “In 1991, UCMSR Gorbachev got an amnesty for deserters whose rights had been violated in 1995-96, 500 soldiers who refused to fight in Chechnya for conscientious objection were amnestied and in 1997 an amnesty was declared for all participants in the war in Chechnya, and finally, in 1998, 40,000 deserters whose rights had been violated were amnestied. (translation from French.)”
the 2000s, in an attempt to end the fighting, they organized negotiations in Europe with the head of the Chechen leadership in exile.86

This transformation "from small, weekly protest gatherings of thirty or forty mothers in Moscow in 1989, into cohesive networks of hundreds of committees, covering nearly every Russian region"87 reflects both the development of the organization as a powerful alternative voice and as a social service network. And yet the current head of the UCSM, Valentina Mel’nikova, was interviewed a number of times in late 2012 because her organization was completely broke, and unable to pay not only its monthly rent and utility bills for its office in central Moscow, but had accumulated over two years of unpaid rent and utility bills. In the past, they have been partially funded by the Human Rights Center, but now that the Human Rights Center is also out of money,88 this is the first time UCSM has exhausted its search for money without success.89 As already mentioned, the organization operates on an entirely volunteer labor force, and pensioner women, who are the main activists, have actually contributed funds from their personal pensions to sustain the organization. Other ‘fundraising’ means mentioned include asking

87 Sundstom p70-71
88 Funding of NGOs has become an especially critical issue in Russia since the passage of the 2012 NGO law that forces organizations receiving foreign funding to register as foreign agents.
their soldier clients to chip in to pay for long distance phone calls.\footnote{U ‘Soldatskikh materei’ konchilis’ den’gi: granty ne daiut, v dekabre otkliuchat telefon.” 
\textit{Telekanal Dozhd’}, November 16, 2012, http://tvrain.ru/articles/u_soldatskih_materej_konchilis_dengi_granty_ne_dajut_v_dekabre_otkluchat_telefon-332988/?autoplay=false} Even after beginning a Yandex (Russia’s most popular search engine) fundraising campaign and public pleas for financial assistance\footnote{Mel’nikova, Valentina. \textit{SOS}. Ekho Moskva Blog. November 16, 2012. http://echo.msk.ru/blog/melnikova/951989-echo/ and Davletgil’deev, Renat. "Kofe Breik interview- Valentina Mel’nikova: ‘Soldatskie materi’ zadolzhali pochti polmilliona.”} they were forced to move from their office near the center of Moscow to an office outside the city center, between the metro ring and the M4 ring highway that denotes the edge of Moscow. Their office was small and cramped; yet the physical location was important as the centrally located and the established destination for alleged victims to come for consultations.\footnote{Hunt, Swanee. "Mothers of Russian Soldiers Fight for their Sons." and Davletgil’deev, Renat. "Kofe Breik interview- Valentina Mel’nikova: ‘Soldatskie materi’ zadolzhali pochti polmilliona.”} It was also symbolically close to the center of power, to the buildings housing Russia’s political leadership, including the Duma, FSB, and the Kremlin. But perhaps most interestingly, some human rights activists\footnote{“Soldiers’ Mothers should Ask Defense Ministry for Debt Help.” \textit{RIA Novosti}, November 16, 2012. http://en.rian.ru/russia/20121116/177520931.html} have suggested that the UCSM appeal to the Defense Department for funding, observing that “if the state respects the organization - and its representative [Melnikova] is on the Defense Ministry’s Public Council - how could it have gotten to the point that the organization has nothing to pay with? Couldn't the issue of finding the funds be raised in the Public Council? I think they should turn directly to the Defense Minister.”\footnote{Ibid.} That a
human rights organization recognized internationally for its opposition to state policy could imagine asking for money directly from the Defense Minister demonstrates the cooperative aspect of the relationship between this NGO and the Defense Department.

**Institutional Acceptance**

After almost a quarter century of work, although most of their initial demands have been met, and service in the Russian army today is vastly improved today compared to service during the perestroika era, during a recent interview on the independent television station Дождь, Valentina Mel’nikova justified the continued work of the UCSMR in two ways. First, UCSMR is still needed to help individual servicemen and conscripts who are trying to challenge the military in some way, either by avoiding conscription or by alleging abuses by officers. Trusting CSMs more than state institutions, such as the military prosecutor, soldiers regularly turn for help to the NGO because they believe that the CSM, unlike the military prosecutor or investigator, will work in the best interests of the individual. Second, the UCSMR is still lobbying for their ultimate goal, the transition of the Russian army from its foundation in the draft into a professional volunteer force under full civilian oversight.95

95 Davletgil’deev, Renat. "Koфе Breik interview- Valentina Mel’nikova: ‘Soldatskie materi’ zadolzhali pochti polmilliona.”
In other words, although initially “the military was unhappy about mothers intruding into the barracks, and argued that this often led to problems, undermining discipline and thwarting commanders’ efforts to transform the conscripts into men,” and though individual officers may continue to hold this opinion today, the UCSM has now been accepted by the political and military leadership of Russia. Mel’nikova said, “In Moscow we do not encounter any problems of cooperation with the military in general, if [they are] reluctant and tensions exist, they are on a personal level, and not in regard to the institutional structure and functioning. Some soldiers still behave in a Soviet [manner], but they are increasingly rare.” According to Mel’nikova, in 2005 a big turning point was realized when the UCSMR was not named as an NGO implicated in the British Embassy funding scandal. It was then that they knew they were accepted as part of the system; local scandals may still occur, but overall the soldier’s mothers "are considered necessary" by the military establishment. This is not to say that they have become part of the state, or captured by it; it is not what some consider a governmental NGO, created by the state for cosmetic reasons. These organizations exist as parallel institutions within

96 Elkner, Julie. "Dedovshchina and the Committee of Soldiers’ Mothers Under Gorbachev."

 “British secret service agents had been funding Russian non-governmental organizations (NGOs) - everything from human rights organizations, to political foundations, or civil liberty groups.” This scandal preceded the 2006 NGO law which created a Registration Service to monitor NGOs, especially those receiving funding from abroad.

98 Bertrand, Eva. “The military do not know how to work without the Soldiers’ Mothers Committees anymore: Interview with Valentina Mel’nikova.”
the military. Most military units have soldiers’ mother organizations that are funded and created by the Defense Ministry, and which in effect do not serve any purpose. They are part of the military hierarchy, and therefore, cannot mediate between individuals and their officers, nor can they advise individuals on how to avoid conscription. They were created as an attempt to challenge the impact of the UCSM, but have had little impact; indeed, often, the wife of the unit officer forms this local committee.99

Although problems of cooperation between CSMs and military officers and officials persist on an individual basis and on a regional level, an issue that I will address next, the military has on an institutional level accepted the UCSM as a mediator between the soldier, the family, and the army unit. Although a certain level of conflict exists, such as attempts a co-option by soldiers mothers committees created by the military, various state institutions realized that they can benefit from cooperation with the UCSMR. By accepting the petitions from individual soldiers, the UCSM acts much like a state bureaucrat receiving a complaint, and by working to resolve that complaint, the UCSM is giving that soldier a chance for justice. They are an example of the concept of pluralization of government, having set up a parallel institution to the military prosecutor. If complaint making can serve as political communication, as Laura Henry argues, the

UCSMR receives complaints and works with legal and military institutions to resolve them.\textsuperscript{100}  

However, the UCSM maintains complete independence from the Defense Department, and Mel’nikova explained that they cannot ask for money from the defense department (contrary to the suggestion cited above) because they are an independent organization whose independence is what allows them to serve the soldier and his family, not the Defense Ministry. On the other hand, the UCSM has now become part of the policy making process, lobbying for legislation and sitting on draft committee boards. As already mentioned, Mel’nikova serves on the Defense Ministry’s Public Council\textsuperscript{101} and in 2007 the Defense Ministry began offering UCSM positions on conscription boards with decision-making power.\textsuperscript{102} The intrusion of civilian, non-governmental ideas into the military is no small shift in the mentality of the Russian military. For example, one scholar noted that military institutions “are notoriously resistant to change, closed to public input, and in Russia, have little effective legislative oversight (Caiazza, 2002, p111).”\textsuperscript{103}

The idea of civilian oversight over the defense department is of course enshrined in the Constitution, but in reality has only been recently accepted by Russia’s political

\textsuperscript{100} Henry L.A. "Complaint-Making as Political Participation in Contemporary Russia." \textit{Communist and Post-Communist Studies} 45, no. 3-4 (2012).

\textsuperscript{101} "Soldiers’ Mothers ’should Ask Defense Ministry for Debt Help."


\textsuperscript{103} Sundstrom, Lisa McIntosh. \textit{Funding Civil Society}, p60; quoted from Caiazza, 2002, p111.
leadership, and represents one of most significant signs of the acceptance of UCSM’s vision. The previous Defense Minister, Anatoliy Serdiukov, who served from 2007 until being sacked in November 2012, was in charge of carrying out the largest reforms of the Russian military since the collapse of the Soviet Union. He was derided and hated by the conservative elements of the defense establishment because he had virtually no defense experience. Yet he was praised by Mel’nikova and in some ways represented the ideas the CSM had first uttered in 1989, civilian control of the military and the elimination of the draft. In an open letter to then President Medvedev published in 2010 in Trud, Mel’nikova criticized the government’s failure to fulfill the reforms to the armed forces that were pledged in 2003, and explicitly encouraged Medvedev to overrule his generals’ objections, forcing them to fully comply with the reform program, which includes a partial transition to professional soldiers under contract.\(^{104}\) In fact, in an opinion piece on the website of oppositional radio station, Эхо Москва, the Union of Committees of Soldiers’ Mothers actually came out defending a Minister of Defense against internal political and military critics, seeing him, more than any other past Defense Minister as a guarantor of human and civil rights for soldiers. This minister agreed to create a constant partnership with the UCSM, a fact that Mel’nikova said was an extraordinary phenomena

in Russian history (явление уникальное для российской истории)\textsuperscript{105} and a sign marking the immense changes that have actually occurred of the past 20 years.

The UCSM’s main demand continues to be the end the draft; they argue this on the grounds that a conscription army doesn’t make economic sense. This idea, completely radical in 1989, had become mainstream by 2010. The reform of the Defense Ministry re-imagined the armed forces much along the lines that the CSM first articulated in 1990. The goal was to transform the Russian army from the Soviet system designed for a massive war, into a lighter, more mobile, better trained and equipped fighting force, utilizing the latest military technology and relying on a force of contract soldiers. Although the draft was not abolished, terms of service for conscripts were further reduced from 1.5 years to 1 (before that, 2 years were required), and outsourcing of non-combat duties, such as cooking and cleaning, became a big goal. Instead of conscripts cooking the meals for their unit, such “non-military” work would be done by hired professionals. This brief sketch is important because it represents the success of the UCSMR’s discourse. While was looking at western military models as templates for their reforms, the UCSM had advocated this change based on the principle of assuring soldiers their human rights. The reason for their popularity with the population and acceptance by the

state is that they unified the discourse of human rights with practical military concerns of efficiency and effectiveness.

However, over the last few years, parts of these reforms seem to have stalled, and Serdiukov has been replaced, perhaps a sign of what many observers see as conservatism winning out in elite power struggle in Russia. While a general discussion of the Russian Defense Department is outside the scope of this study, I will briefly note that while military leaders see Serdiukov’s release as a result of his team’s incompetence, some civil leaders see his willingness to defy the military industrial complex by buying weapons abroad as the ultimate reason powerful interests eventually forced Putin to sack him. Despite the renewed focus on rearmament, and the failure of some of the most progressive reforms, the Committee of Soldier’s Mothers continues to be part of a broader discourse, one that is no longer on the fringes, but whose principles formed the basis of Putin’s military modernization reform program. Indeed, part of the idea of efficiency and effectiveness in the military is rooted in the professionalism and quality of each individual officer. By addressing soldiers’ complaints, they are part of the Defense Department’s attempt to improve the quality of the armed forces.


107 Ibid.
Localized and individualized interactions

Reconceptualizing military justice not only in terms of human rights for the individual, but in terms of military effectiveness is an important acknowledgement to the idea that individuals do not have to be in conflict with the state, but that society and the state are unified. The goal is not only an improvement to soldiers’ lives, but a change in how the military conceptualizes justice, and those deserving of due process. This is not to say that they wholly reformed the judiciary in Russia, but that in this specific field of military justice, abused soldiers can now expect a chance at justice by working with the UCSM, the military prosecutor, and the local court. The importance of even small steps toward securing justice can be seen in the context of testimony by a human rights lawyer: “unfortunately, in our country there is what we call the “telephone law”: the judges call their superiors or political authorities before giving a sentence.”\textsuperscript{108} So military reform is not just a concept discussed among political leaders, but also affects the lives of millions of soldiers on a daily basis. This impact is felt most clearly through the legal system, through which CSMs have consistently worked, and doing so, have come into contact with a state that is dynamic, decentralized, and individualized.

Mel’nikova’s own understandings, as well as numerous case studies, offer an important analytical framework for breaking down the state into the level it is experienced in daily life. She distinguishes between “a general institutional and political conflict, ‘[that] we are unable to pass the army to voluntary service’ and problems with specific individuals: ‘But the officers themselves are also different people, and we do not always succeed quickly and without conflict to decide something in the legal order.’” She continues, explaining that “thus, if tensions exist, they are primarily at people. We address the people responsible for making and enforcing decisions, that is precisely our function... We are an organization that caters to state structures in the interests of its visitors.”

Giving more examples of local conflicts between the UCSM and the military, Mel’nikova emphasized working within the hierarchical system.

When accusations of abuses surface, the UCSM engages with the appropriate level in order to take care of the problem. For example, in the Orenburg region, at the Tomsk garrison now is stationed a large garrison, and the situation is such that although crimes take place continuously and criminal cases are recurrent, nobody tries to understand or solve the problem. None of our efforts with the military command or the prosecutor were successful, so through considerable effort we are obliged to contact the top of the hierarchy, here in Moscow. In general, we try to avoid this because we believe that it is important to act in cooperation with everyone acting and decisions at the appropriate level: if the commander of the regiment must decide, he should decide; if the garrison prosecutor must decide, he should decide. However, if nothing is done, we need to react.

109 Bertrand, Eva. “The military do not know how to work without the Soldiers’ Mothers Committees anymore: Interview with Valentina Mel’nikova.”

110 Ibid. I have paraphrased this quotation, because the article was translated from French and the grammar of the English translation is confusing.
But the army is also divided between the ideals of modern, professional, efficient army, the goal of the reform process, and the reality on each individual military base. Committees of Soldier Mothers actually work with the central military and political establishment toward the ideal, while coming into conflict with local realities. Since "a tremendous degree of regional variation exists among local governments in Russia in all aspects of politics," the same is true for military units. Locally, CSM’s closest cooperation is with military prosecutors, because they do the job military prosecutors are by law required to do; those prosecutors who were just starting out in the early 1990s are today in important positions, and have become accustomed to working with the UCSM. Cooperation however, is no more typical than conflict. The following cases contain examples of both prosecutors filing suits against CSM members, as well as prosecutors working with CSMs to oversee abuses committed by military officers. Likewise, when the CSM cannot work with local actors, they move up the chain of command, and file reports in the mass media to draw attention to the case. In conclusion, the army itself acknowledges the incongruence between the ideal of state military service and the reality of that service; narrowing that gap is the goal of the military reform. And by accepting the UCSM as a mediator, the result looks like a “pluralization of

111 Sundstrom, Lisa McIntosh. *Funding Civil Society.* p106
112 Davletgil’deev, Renat. "Kofe Breik interview- Valentina Mel’nikova: ‘Soldatskie materi’ zadolzhali pochti polmilliona.”
government through a range of 'civil' agencies” rather than “an expansion of civil society” that is in opposition to the state or a promoter of democracy.113

Looking at it this way, the UCSMR are actually working with the military bureaucracy in their reform effort. For example, in one well publicized case involving the Committee of Soldier’s Mothers in Volgograd, a group of 54 soldiers escaped from their unit and marched to the office of the local CSM, accusing their officer of beating them. The local branch of the Committee of Soldier’s Mothers received the runaway group, took statements from each soldier, and sent the information to both the military prosecutor’s office and to Moscow headquarters. That way, when the local military officers attempted a cover-up, abducting the soldiers during the night and taking them back to the base, the Volgograd CSM mounted a public media campaign, attracting a military investigation. Eventually, the soldiers were not charged with desertion and the officer was relieved of his post.114 Another, less shocking, and perhaps more typical example occurred in the Ashuluk training range, located in the Murmansk Region. There, two soldiers contacted the local Committee of Soldiers Mothers, reporting that their working conditions were unsafe. They had been forced to handle explosive shells, which according to military regulations, are to be disposed of only at special technological facilities and by trained specialists. As an example of local cooperation between the NGO

113 Passey, Andrew and Tonkiss, Fran. Trust, Voluntary Association and Civil Society, p50
114 Kuklina, Ida. “The soldiers' mothers organization in Russia: how does it work.”
and government organs, reports state that “activists of the Committee of Soldiers' Mothers of the Astrakhan Region went, jointly with officers from the command of the troops of the Southern Federal District (SFD) and employees of the office of the Ombudsman of the Astrakhan Region, to Military Unit No. 08275 of the Ashuluk training range” and conducted an inspection that “confirmed soldiers' complaints.” Finally, a report was sent by the CSM to the Defense Minister Anatoliy Serdkyakov.\(^\text{115}\)

Another case in which the CSM cooperated with the military prosecutor occurred recently in Mulinsk garrison of Nizhegorod region (Мулинского гарнизона, дислоцированного в Нижегородской области). During an inspection, commanders came to the conclusion that contrary to reports, there was no sign of bronchitis in the garrison. However, it turned out that the unit commander had hidden all the sick soldiers out in a building on the training range, and had left them there for the duration of the inspection. This came to light when a mother of one of the soldiers complained to the local CSM, who promptly turned to the military prosecutor. The prosecutor investigated, and finding that the story was true, gave the commanding officer a strong reprimand (строгий выговор).\(^\text{116}\)


Relationships between local CSMs organizations and the military and political leadership vary widely depending on the region. Sundstrom’s study examines seven regions and each one has a very different situation, showing the individuals matter a great deal in how the Russian government responds social organization. For example, (Velikii) Novgorod’s “powerful” yet “progressive” governor created an “institutionalized channel for NGO input into public policy through the regional Social Chamber.” This Social Chamber had institutional power; it had to review all legislation before it headed to the regional Duma. On the other hand, “[governor] Prusak governed with a fairly centralized hand in the region,” and according to one regional NGO director, the situation was highly dependent on the personality of the governor. She said that cooperation with the NGO sector “is purely a personal characteristic [of the governor]. It’s not a system… and I have real fears that as soon as the governor leaves… the new person who come to power may not adopt [these practices] as a system.” Mel’nikova also described with specific examples of conflicts between the UCSM and the military officials in specific regions, saying “however, the links remain particularly tense with prosecutors in some regions such as Nizhny Novgorod and the Far East. In 2007, following a racketeering case that involved the garrison of Khabarovsk, and the intervention of the UCSM, the

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117 St. Petersburg, Moscow, Vladivostok, Ekaterinburg, Izhevsk, Khabarovsk, and Novgorod

118 Sundstrom, Lisa McIntosh. *Funding Civil Society*, p129-120
prosecutor filed a complaint against me in the newspaper Sem’ia.”119 In the Leningrad military district two cases show what tensions between the CSM, military units, and prosecutors look like, and how the CSM relies on working through a troubled legal system to secure justice for soldiers. Still, the law’s role cannot be ignored because although it doesn’t guarantee justice, or even a fair trial, it is the vehicle through which CSMs works through, the only option for justice in Russia.120

In November 2009 Lenizdat.ru published an article detailing how a member of the military-investigative department of the prosecutor’s office filed a defamation action/suit (иск) in court against the Committee of Soldier’s Mothers and the news source “Operativnoe Prikrytie.” The incident began when a soldier, accompanied by his mother, went to the military prosecutor’s office to complain. The soldier and his mother claim that the officer in the investigative section who received them treated the soldier and his mother rudely and demanded that they take up the complaint within the soldier’s military unit. The soldier and his mother then turned to the local Committee of Soldier’s Mothers, who immediately went up the chain of command of local military officials: to the head of the Investigative Committee, Aleksandr Bastrykin, to the main military prosecutor’s office, to the military prosecutor in the Leningrad Military District. In addition, they

119 Bertrand, Eva. “The military do not know how to work without the Soldiers’ Mothers Committees anymore: Interview with Valentina Mel’nikova.”
120 Interactions within the legal system are very important play a very important role for of civil society organizations in Russia. The legal system will get a more complete treatment in the next section.
published the soldier’s accusations on the website Konkretno.ru. Faced with a military
investigator unwilling to take the soldier’s case seriously, the CSM addressed other
military officials and the mass media, hoping to shine a spotlight on the case and force an
investigation. However, the investigator’s defamation suit was upheld in court. Protesting
the decision, the CSM’s lawyer appealed to the European Convention, which gives legal
right to criticize state officials as long as the criticism is measured and honest
(сдержанной и добросовестной). He argued that the CSM is honest because they
simply reported the accusations of the soldier; they do not have the burden of proof
because they are acting as a judge, sentencing the investigator in court.

In June 2008 Gazeta carried an article attesting to a similar case, in which the
same court, the Kuibyshevski Petersburg court (Куйбышевский суд Петербурга),
upheld another defamation suit filed against the Committee of Soldier’s Mothers after the
CSM published an article alleging that soldiers in military unit 3727 were being forced
into prostitution to collect money for their officers. After a two month military
investigation, no signs of wrongdoing were found; although the accusers (military
officers) demanded 2 million rubles in court, they were awarded only 22,000 rubles
(about $718 on 3/15/2013). The article said that in the end, the soldier who filed the
initial complaint admitted to making up the charges to get out of the army service. This

121 “Voennyi sledovatel’ podal isk protiv ‘Soldatsikh materei.’” Lenizdat.Ru, November 17, 2009,
http://www.lenizdat.ru/a0/ru/pm1/c-1081812-0.html
122 Ibid.
confession may have been given under pressure, as the CSM had other incriminating evidence, such as videotapes of conversations that were not taken into account by the court. The newspaper *Komsomol’skaia Pravda*, publishers of the scandalous accusations, were also accused of defamation, along with the CSM.\textsuperscript{123}

Also, cooperation can exist until a specific abuse is uncovered that threatens the local military officers. “Today we are also in conflict with a garrison of Far East.\textsuperscript{124} We there [in the] Khabarovsk Committee are constantly forced to fight against everyone. Abuses are not always clear, but this was a large area that, when all was going well, maintained good relations with us. But suddenly ... on the one hand, they don’t want to do anything, and the other hand, a system seems to have been established.”\textsuperscript{125} The ‘system’ referred to may be the racket that was uncovered, but the main point is that when officials are threatened directly, the nature of the local relationship changes. Whether or not the relationship with the military officers has changed, the CSM seems to have good relations with the mayor of Khavbarovsk, who in 2010, granted the CSM a

\begin{itemize}
\item \textsuperscript{124} This case was already mentioned; In 2007 the garrison of Khabarovsk faced contract soldier related racketeering charges
\item \textsuperscript{125} Bertrand, Eva. “The military do not know how to work without the Soldiers’ Mothers Committees anymore: Interview with Valentina Mel’nikova.”
\end{itemize}
new office in the center of the city, designating them as “an especially important organization”.

The two case from the Leningrad district highlight the legal system’s ability to issue unjust verdicts, but also that CSM complaints at least secure procedural justice, such as an official investigation. Whether or not the investigation was carried out diligently is impossible to tell, but from the case of the Mulinsk garrison, it is clear that some investigations do indeed find wrongdoing. But without the advocacy of the CSMs forces the military justice system to recognize on a practical level that soldiers are protected by the law. The UCSMR performs services that are not only necessary, but that overlap with the duties of the military prosecution. In addition, they council young men about various ways to (legally) avoid the draft, and there have been cases in which CSM members have been tried in court for aiding draft evasion. Military conscripts are often treated as numbers, necessary to meet recruitment goals, but the CSMs humanize the young men being drafted, making sure the due process is followed.

When a soldier serving in the Altai region disappeared in 2011, his family could not locate him, nor could they get military investigators to search for him. Although the soldier was charged with leaving the unit (самовольное оставление части), no progress was made in the search for him. After getting the run-around by various military

prosecutors and investigators, the soldier’s mother finally turned to the local CSM, who helped get things moving in the investigation and search.\textsuperscript{127} Without the involvement of the CSM, military officials were unwilling to search for the soldier; each department the family turned to merely sent them to another bureau. Only the intervention of the UCSMR could make the military bureaucracy work.

Some cases highlight that the CSM reliance on the legal process often does not lead to the result they desire. In addition to the Leningrad cases described above, in one case, a pacifist who attempted to do the alternative service requirement\textsuperscript{128} instead of serving in the army was charged with and convicted of avoiding the draft. Despite the evidence and witness testimony from the Committee of Soldier's Mothers, he was forced to pay a fine of 130,000 rubles.\textsuperscript{129} At the same time, according to Human Rights Watch “several organizations have begun to win court cases regularly, in cases of draftees refusing to serve based on their right to alternative service.”\textsuperscript{130} Perhaps it depends on the region, the court, and local military command in which these cases are contested.\textsuperscript{131}

\begin{footnotes}
\footnotetext{131}{Sundstrom, Lisa McIntosh. \textit{Funding Civil Society}, p71}
\end{footnotes}
commissions have begun to recognize medically based refusal cases more frequently and no longer dare to bend the conscription regulations in cases overseen by some soldiers’ mothers’ organizations such as the SMSP.” SMSP member Elena Vilenskaia confirmed that "earlier, we got no responses from our applications to the draft commissions. Now, we are getting responses and court cases. We have taught the bureaucrats to read the laws, and this is very important." In addition, "in 1999 Moscow City courts began to accept lawsuits filed by soldiers and parents of deceased soldiers against the military in cases of illegal conscription.”

While Sundstrom does not interpret the articulation of military reform as a goal by government officials as meaningful practical change, the addition of an additional and external voice in the discussion over military culture that is very significant, and has practical results, such as improved access to justice for soldiers and genuine, if incomplete efforts at reform. Despite the fact that CSMs do not win all their cases, and violations of the law continue to occur in military units, the fact that the UCSM has confidence in the judicial system is a huge statement. In February 2013 rumors circulated that the Ministry of Defense was looking to institute temporary 3 month

132 Soldiers’ Mothers of St. Petersburg
133 Sundstrom, Lisa McIntosh. Funding Civil Society, p 71
summertime drafts for students studying at the military departments in colleges. While Mel'nikova ultimately supports the closing of what seem to be analogous to ROTC programs and training military officers only at military academies, her reaction to the news was that the UCSM is prepared to help all students go to court to stop any illegal drafting out of universities. She has enough confidence in the judicial system to oppose any Department of Defense initiatives. Through the courts, the CSM have partially at least broken through the tradition of edinonachalie which makes “the Russian army unusually decentralized in its processes for investigation and rulings on internal legal problems.” Indeed, opening up the military unit to public scrutiny, creating a public sphere that includes military service, is a pluralization of governance on the very local level. Instead of edinonachalie, several voices are heard.

_A Comparative Perspective on Military Justice_

NGOs that are able to influence policy, such as the Union of Committees of Soldiers’ Mothers, do so because they can interact with the state on multiple levels, cooperating within institutions such as Draft Committees, engaging in a general social debate over what a modern military looks like, using individual cases to simultaneously defend conscripts and bring officers whose conduct is not up to standards to the attention

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135 meaning “one-man management,” “undivided authority,” or “unity of command.” In practice, this principle gives commanders of individual units a very high level of control over their troops

136 Sundstrom, Lisa McIntosh. _Funding Civil Society_, p60; Sundstrom quotes Vallance, 2000
of the courts, and consequently, to the military hierarchy. Although their vision of a modern military is one based on a volunteer army, it is clear that volunteerism isn’t any guaranteed for an end to abuses. In fact, a recent article in Rolling Stone Magazine\textsuperscript{137} about rape in the U.S. military highlights just how important it is for soldiers’ rights to be protected by NGOs outside the military hierarchy.

Rolling Stone Magazine contributor and award-winning freelance journalist\textsuperscript{138} Sabrina Rubin Erdely describes a stunning tale of “the [American] military’s culture of sex abuse, denial, and cover-up,” contrasting the ideal of the American volunteer and professional military, the gold standard that the UCSM aspires to emulate in Russia, with the reality of institutionalized injustice and abuse. A “rape” culture has been institutionalized by the closed nature of the military and by formal procedures; in effect, the article questions whether the American military is really subject to civilian oversight. After being allegedly\textsuperscript{139} raped during her service at Fort Gordon, Georgia, Petty Officer Blumer found that the very people who were supposed to be working for her, the Navy prosecutors and JAGs, were actually skeptical of her story from the very beginning. It was not that she had poor lawyers, but what she went through was typical to women (and men) sexually assaulted in the military. American military law sharply deviates from


\textsuperscript{139} the case was eventually dismissed
domestic law in its mild approach to sexual assault, a soldier’s commanding officer has the ultimate say in whether a case goes to court, and that social, professional, and economic pressures make even reporting sexual assault, let alone achieving justice, very rare across all branches of the military.\textsuperscript{140} Because all militaries operate on the principle that military cohesion, the collective unity of the military is put above individual rights. Indeed, that the absolute reliance of Petty Officer Blumer and others like her on institutions that ultimately ended up serving the bureaucracy, not the individual, perhaps should not be surprising. The culture of sexual abuse in the American military points to the difficulty of creating a public sphere internally, within a bureaucratic hierarchy; accountability that flows vertically is perhaps inherently non-transparent.\textsuperscript{141}

\textit{Edinonachalstvo}, interpreted as a “structural feature of the Soviet military”\textsuperscript{142} or a Russian cultural phenomenon,\textsuperscript{143} is actually mirrored in the US, pointing to its more universal acceptance in military structures. Just like in Russia, American military prosecutors work more for the maintenance of military order, than for the rights of the individual soldier.

\textsuperscript{140} Erdely, Sabrina Rubin. "The Rape of Petty Officer Blumer." The article discusses specific statistics, as well as giving a number of women a chance to speak. However, for the purposes of this paper, I will not delve more deeply into the specifics of Officer Blumer’s case.

\textsuperscript{141} There is much more that can be said about bureaucracies and institutions; a more full discussion of this literature is however, outside the current scope of this paper.

\textsuperscript{142} Elkner, Julie. "Dedovshechina and the Committee of Soldiers’ Mothers Under Gorbachev."

\textsuperscript{143} Sundstrom, Lisa McIntosh. \textit{Funding Civil Society}, p60
In Russia the UCSMR “does the work that by law, the military prosecutor is required to do.”\textsuperscript{144} In effect, it functions as a parallel institution, one that is respected by much of society, independent of the military chain of command, and works for individuals, not abstract conceptions of the state. Their transformational change is uniting and gaining acceptance for the ideas of human rights and a modern and efficient military. Of course, UCSMR have not made the Russian military a model of transparency. Just like in America, a discourse of transparency can coexist with institutionalized abuse. But in Russia, operating independently from the military hierarchy, UCSMR is able to create a public sphere, a discourse about justice in the military that is embodied and created by the UCSMR. Military officers and prosecutors are not the only ones with a say about justice for the individual soldier. These abused soldiers have somewhere to go and someone to turn to.

Civil society not only exists in Russia, but is constantly redefining itself in incredibly complex ways, affecting both the state’s and the population’s perception of the Russian reality. Whereas American military justice was sharply criticized by the Rolling Stone article, such a story might not surprise very many people if it had occurred in Russia. Yet, in Russia almost the reverse is true in terms of military courts. “In practice we observe that military courts are more professional than the civil courts… Even though

\textsuperscript{144} Davletgil’deev, Renat. "Kofe Breik interview- Valentina Mel’nikova: ‘Soldatskie materi’ zadolzhali pochti polmilliona.”
of course corruption and incompetence do exist in these courts as well, overall the military courts are more competent.” In fact, this human rights lawyer specifically noted a case that was transferred by the prosecutor from a military to civilian court in order to more easily attain a conviction. Liudmila Yarilena, chairperson of the Soldiers’ Mothers Committee of the city of Vladimir, was charged with aiding desertion when she, “with the help of a doctor, was able to obtain a medical certificate for these young men” so they would not have to return to their units where they had been abused. This contradiction is not missed on Stanislav Markelov, a human rights lawyer specializing in military cases. When asked “So then it may be a good thing that the military are judged by the military?” he answered “Yes, even if this may seem strange. However, if one looks at the issue from a strictly judiciary point of view, justice should be the same for all.”

UCSM is an example of how civil society is adapting to the particularities of the Russian political, social, and cultural environment. Justice should be the same for all, but achieving it is very complicated in Russia. In order to make improve access to justice for a significant social group, soldiers, UCSM has found it necessary to work in parallel to state institutions. It cannot be analyzed through one understanding of civil society. When civil society is conceived “not an institution [but] rather [as] a process whereby the inhabitants of the sphere constantly monitor both the state and the monopoly of power in

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145 Merlin, Aude. “The power of law versus the law of power - Interview with Stanislav Markelov.”
civil society," it becomes apparent that NGOs monitor the state in a variety of ways, in parallel to the state, as well as outside of it.
We consider ourselves as a third generation of Russian human rights defenders (HRDs), a generation that is characterized by our professionalism. We value the contributions of previous generations, including dissidents, in the creation of today’s professional community of human right defenders. However, there are negative aspects of this contribution grounded in the myths and stereotypes of Russian society.  

Pavel Chikov, founder and director of Agora

Officially the Interregional Association of Human Rights Organizations AGORA (Межрегиональная Ассоциация правозащитных организаций АГОРА), Agora was founded in 2005 as umbrella organization unifying three already existing human rights organizations¹⁴⁷, and with the mission of making Russia into a country with a ‘civilized’ (цивилизованным) government. According to one Agora document, a ‘civilized’ government is able to admit mistakes, especially when the innocent are put into prison.¹⁴⁸ Agora director Pavel Chikov must have consciously chosen the name, a Greek word meaning public square, for its connotation of a public space. A civilized government is

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“Правовым и цивилизованным называется не то государство, где никто не попадает в тюрьму по ошибке, а то, которое готово ошибки признать и с лихвой компенсировать весь причиненный такому человеку вред.”
also one that respects individual human rights and works for the best interests of its population. As this case study will show, Agora is pursuing human rights through a strong legal system that operates on European standards. Agora is a diverse organization, which works in media, advocacy, and research; but its main task is in the courtroom. Agora’s lawyers defend NGOs and human rights activists, as ordinary Russian citizens, from abuses in state power. As the third generation of human rights defenders, their environment is different because it comes down to professionalism—knowing the law, researching the case, and applying the law in the courtroom. Agora refers to a Greek public square, but their legal work is focused on the goal of creating a public sphere in the courtroom, a place where individuals are equal before the law.

The main idea of a public sphere is just this, that organizations such as NGOs, individual citizens, and state officials, from the lowest rank to the political elite, all interact on the same field of limited power, "a contested participatory site in which actors with overlapping identities…. form a public body and emerge in negotiations and contestations over political and social life."149 The courtroom includes many of these ‘actors with overlapping identities.’ Representatives of state institutions such as judges, prosecutors, and policemen may identify themselves as citizens, public servants, officials of a certain government branch; individual citizens may simultaneously be defendants, victims, citizens; their lawyers are human rights defenders, citizens, members of an NGO

149 Sommers, Margaret. "Citizenship and the Place of the Public Sphere." p595
such as Agora. In addition, the courtroom is by definition open to the public, and can even become a public spectacle with media coverage and audiences.

Yet, the courtroom has not really been part of the public sphere in Russia. As one human rights lawyer put it, although “no one can prove that the verdicts are in fact given before the end of the hearing, this is common practice. We now call this part of the trial, which is the most important part, when all the main arguments of the defense and the prosecution are reviewed, the ‘clown number,’ because by that time everything has already been decided and the verdict already given.”150 When the law or the courtroom becomes a tool of power, driven by personal or institutional interests of the state or its officials, the courtroom no longer becomes a public sphere. In this case, there is no contestation under the law, but only private interests that use their network or institutional power to achieve the desired result.

It is not only the judicial branch that abuses its power; often, law enforcement agencies and other bureaucrats also apply laws based on some form of self interest. In other words, it is not the letter of the law that is most problematic, but its enforcement. In the Russian Federation legislation is often confined to generalities and delegates to officials the task of creating operational rules... in making rules in Russia, officials face few constraints... As a result, they are more likely to impede or distort the implementation of policies through such techniques as selective non-compliance, virtual or creative compliance, and partial or fully manipulated compliance.151

150 Merlin, Aude. “The power of law versus the law of power - Interview with Stanislav Markelov.”
151 Solomon, Peter H. "Law in Public Administration: How Russia Differs," Journal of Communist
When the executive branch enforces the law inconsistently and selectively, people’s trust in due process decreases; the result is rule by law rather than rule of law.\textsuperscript{152} The most obvious case of selective application of the law was the prosecution of former oligarch Mikhail Khodorkovsky. He was convicted of a number of charges, first in 2005 (and sentenced to seven years in prison), and then again in 2010 was convicted of additional crimes.\textsuperscript{153} But there are countless less visible examples of the law has often served as a vehicle for private agendas. For example, a friend of mine living in a small village outside of Moscow told me the story of how two taxi companies got into a war for the best parking spots next to the train station.\textsuperscript{154} The ‘war’ included tire slashing and physical violence; but more relevant is how each taxi company tried to lobby and bribe local officials to give them the most profitable parking spots. Eventually, arbitration in the courts was decided by the bigger bribe, not an examination of the facts.

It is in such a situation, where private interests determine action, and the impartiality of the court is compromised. The courtroom as a public sphere involves two

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\textit{Studies & Transition Politics} 24, no. 1 (2008). Peter Solomon explains that Russia is not unique in giving civil servants power to interpret the law; indeed, this is the case in all modern states. However, there are specific factors that make law enforcement more arbitrary and determined by individual interests in Russia.
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\textsuperscript{153} At the time of writing, April 2013, he is scheduled to be released in 2017.

\textsuperscript{154} not really a train station, but an \textit{elektrichka} stop on the outskirts of Moscow.
processes. First, inside the courtroom, outside influences are blocked off; the facts of the case lead to the verdict, not the personal interest of prosecutors, judges, or political figures. Second, the Investigative Committee and the Prosecutor’s Office must investigate the case according to legal, not political standards. By bringing the courtroom into the public sphere, Agora is not only fighting for individual people and individual cases, but redefining the relationship between society and the state in terms of specific people and institutions; only when people and institutions that can be challenged in court, then true ‘negotiations and contestations over political and social life’ can occur. Otherwise, people like Khodorkovsky and Naval’ny (who will be discussed later) who challenge the political leadership can be removed from the political scene. The courtroom then, is the place where government officials are individualized, where the different branches of the government can come into conflict just as much as they can collude. The state is no longer just an abstract idea, nor is it united. If the courtroom becomes part of the public sphere, the judgments made become not a tool for vendettas or messages from the political elite to lower ranking state officials or to social groups, but rather an opportunity for true debate over the limits of social action, such as did Pussy Riot really break the law? In this well publicized case, Agora’s lawyers defended the women, getting one of the three accused out of jail time.\footnote{Chikov, Pavel. “Kak novyi advokat Samutsevich vytashchil ee iz tiur’my.” \textit{Forbes}, October 11, 2012, \url{http://www.forbes.ru/sobytiya-column/161280-kak-my-dobivalis-osvobozhdeniya-kati-samutsevich}} Throughout this section we will be
continuously reevaluating the extent to which the courtroom is becoming a part of the public sphere.

While the UCSM emerged out of the turmoil of perestroika, Agora shows that the public sphere can be renegotiated even during Putin’s ‘autocratic’ reign. In fact, Agora was founded at the very height of Putin’s popularity, and right as a succession of color revolutions across the post-Soviet space were creating a backlash from the political elites in Russia. Through the eyes of Agora, Putin’s Russia represents a renegotiation of what is civil society and what is political society. Civil society, including organizations such as the UCSM and Agora, works to change how the state relates to its citizens, but it does so by trying to improve the functioning of the state. It may work with specific institutions, specific people, or may do so by using media to expose issues that the government isn’t satisfactorily addressing. Agora is part of civil society both as a ‘watchdog’ of the state, but also works with governing institutions to improve governance and to create a public sphere out of the legal system. On the other hand, political society or organizations engaged in ‘political activity,’ are interested in changing the leadership of Russia. They believe that governance can only improve through a change from the top, either on the national level or on the local level. However, the continued activism of Agora can be contrasted with the crackdown on the leaders of the post December 2011 protest

156 Taylor, Brian D. "Law Enforcement and Civil Society in Russia."
movement; one is an perceived in society as an expression of civil activism and the other political.

The words of Agora director Pavel Chikov can summarize his perception of Agora’s role in the bigger picture. He says, “we make precedents, pushing the whole system and giving hope to society…[by] making changes to Russian law enforcement and judicial practices to favor individual and civil rights over State's rights.”

According to this view then, the state is contrasted with the individual, in that each has certain rights that are exclusive; increasing the rights of the individual reduces the rights of the state, and vice-versa. These changes are made on a case by case basis; pushing the system involves working on a local level with various state officials, including prosecutors, judges, investigators, and law enforcement, as well as political leaders such as governors and other local authorities. Just as the UCSM is structured as an umbrella organization, Agora is too. Each of the regional human rights groups operate independently, under different circumstances that depend on political conditions in the region. If abstract concepts like human rights, the state, and society are to be understood, they must be understood at the level of local interactions, courts, and government officials. Agora’s national discourse of human rights is mirrored by Russia’s political

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157 Sieca-Kozlowski, Elisabeth. “’We make precedents, pushing the whole system and giving hope to society’ – E-mail interview with Pavel Chikov.”
leadership;\textsuperscript{158} but in practice, it is on the local level that this discourse is tested and lived by individual citizens and NGOs.

\textit{Organizational structure and creating a public sphere}

Agora is structured to make it an effective professional organization, one that can engage in a human rights activism on several levels. Its main task is in the courtroom, but it also participates in a number of civic initiatives, operates a website, and has propelled its director into the spotlight as one of the best known human rights activists in Russia. Its clients include government officials during trainings,\textsuperscript{159} citizens with complaints against the bureaucracy,\textsuperscript{160} and human rights activists targeted by law enforcement.\textsuperscript{161} In 2011 Agora’s actions brought about punishments for 25 leaders and colleagues of violators of human rights and 90 violators of human rights; in addition 29 procedural decisions taken by government agencies were judged illegal.\textsuperscript{162}

\textsuperscript{158} For example, when speaking about reducing corruption
\textsuperscript{160} 930 registered complaints about human rights violations in 2011; Chikov, Pavel. “\textit{Report: Otchet o deiatel’nosti v 2011 godu: Mezhringional’naja Assotsiatsiia Agora.”}
\textsuperscript{161} 24 civic activists and organizations whose right were reinstated in 2011; Chikov, Pavel. “\textit{Report: Otchet o deiatel’nosti v 2011 godu: Mezhringional’naja Assotsiatsiia Agora.”}
\textsuperscript{162} Chikov, Pavel. “\textit{Report: Otchet o deiatel’nosti v 2011 godu: Mezhringional’naja Assotsiatsiia Agora.”}
‘Pushing the whole system,’ means in practice “combating the arbitrariness of the government, [by] working on prominent human rights trials in Russia… defend[ing] human rights activists, report[ing] military and police abuse, medical negligence, and report[ing] on human rights abuses on minors in closed children’s institutions.” More specifically, Chikov reported that “We register about 500 messages on human rights violations per year… About 200 of them concern abuses against human rights activists” which presumably are handled by Agora headquarters.

The other 300 are messages registered by our regional partners. They include primarily deaths in detention (medical institutions, jails, police custody, etc.), tortures, and illegal arrests. After a fact-finding procedure on each of the registered message, around 130-170 cases are brought to the attention of the lawyers yearly. Each year courts convict 60 to 80 government officials, 15 of 20 of them are criminally prosecuted and sentenced to criminal punishment. Victims of such violations between 2004 and 2007 received 5 million roubles (USD 200,000) in compensation.

So Agora and its partner organizations function as receivers of complaints, as investigators, reporters, prosecutors and as defense attorneys. And most importantly they are successful. From these figures and from the earlier citations, it is clear that they can

163 Sieca-Kozlowski, Elisabeth. “’We make precedents, pushing the whole system and giving hope to society’ – E-mail interview with Pavel Chikov.”

164 Sieca-Kozlowski, Elisabeth. “’We make precedents, pushing the whole system and giving hope to society’ – E-mail interview with Pavel Chikov.”
achieve at least partial justice in certain cases, just the UCSM can achieve justice for abused soldiers.\textsuperscript{165}

But Agora is even less a grassroots organization than the UCSM. Agora’s employees are professionals and specialists; it did not grow out of a grass-roots campaign like the UCSM, but was initiative of one man to unite several regional human rights groups in order to give them greater voice. Its director Pavel Chikov reported that in 2008,

At Agora headquarters, there are 10 specialists working: the director, the deputy director, two lawyers, two attorneys at law, two PR-specialists and two accountants. In the offices of our regional partners there are 2 to 8 people working, also lawyers and PR-specialists, so as a whole there are about 40 staff working for Agora. Two well-known regional journalists are working in the community, and two of our attorneys are among the 15 most publicized attorneys in Russia. Most staff work full-time, though dozens of attorneys throughout Russia work with Agora on an ad hoc basis as well.\textsuperscript{166}

Although its main focus is clearly law, and all the member organizations are groups of human rights lawyers, public relations, media, and journalism is very important to the work of Agora. It has even developed its own unique internet news website, which functions as a news portal, has links allowing individuals pose questions to lawyers, and

\textsuperscript{165} It is impossible for me to tell whether the reported punishments actually match the crime committed. \textsuperscript{166} Sieca-Kozłowski, Elisabeth. ‘’We make precedents, pushing the whole system and giving hope to society’’ – E-mail interview with Pavel Chikov
accepts individual stories in a wide variety of human rights categories\textsuperscript{167} submit stories that are then fact checked by Agora’s employees.\textsuperscript{168} Called the Open Information Agency (Открытое Информационное Агентство, it was founded in 2007, in order to provide another avenue for Agora to engage the public and promote human rights. It not only tells the news, but by accepting, vetting, and editing reports from citizens, it makes ordinary people into potential human rights activists that can hold government officials accountable. In 2007 Agora included six organizations across Siberia and the Volga region,\textsuperscript{169} in 2011 it had four partners.\textsuperscript{170} Although its membership seems to fluctuate quite a bit, this news site gives each of these partner organizations a way to publish their cases on a national platform, beyond local news sources.

In addition to using media to attract attention to certain human rights issues, by being an interregional organization Agora gives its director, Pavel Chikov an opportunity to attract national attention. He, even more than Valentina Mel’nikova of the UCSM has used the organizational structure of his NGO to become a spokesman for civil society and for human rights. Born in 1978, Chikov is also an example of Russia’s youth’s

\textsuperscript{167} Army, Investigations, Defense of Rights, Doctors, Money, Corruption, Xenophobia, etc. (Армия, Преследования, Правоохранители, Врачи, Деньги, Коррупция, Ксенофобия, etc.)

\textsuperscript{168} “Who we are.” Openinform.ru accessed April 7, 2013. http://openinform.ru/about/show/1/


\textsuperscript{170} Chikov, Pavel. “Report: Otchet o deiatel’nosti v 2011 godu: Mezhregional’naia Assotsiatsiia Agora.” In 2011 only four regional human rights centers were still partnering with Agora, including the Centers in Kazan, Chuvashia, Zabaikal (Chita), and Prikamsk
engagement with human rights. Before founding Agora, Chikov had spent most of his life in Kazan, graduating with a doctorate in law from the Kazan State University before initiating and becoming the first chairperson of the Kazan Human Rights Centre from 2001 to 2004. Then he moved to Moscow, working in another NGO, Open Russia. From his student days, Chikov’s whole life has been dedicated to defending human rights, he has also worked for law enforcement. From 1998-2000 he was an assistant to an investigator in the prosecutor’s office. From 1999-2001 he worked as an attorney and served as the director of the Committee for the Defense of Human Rights of the Republic of Tatarstan. In addition to initiating the creation of the Agora Association in 2005, Chikov currently serves on the Presidential Council on Civil Society and Human Rights, created in 2004 as part of a Kremlin initiative to create a channel of communication between the government and civil society. It has been criticized by international observers as being the Kremlin’s attempt to control civil society. It is strictly an advisory body, and in 2011 a shake-up in membership and the resignation of the head of the organization was criticized as presidential meddling in the organization.

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171 Sieca-Kozlowski, Elisabeth. “’We make precedents, pushing the whole system and giving hope to society’ – E-mail interview with Pavel Chikov.”
172 Led a student organization for three years called “international public rights,”
Chikov’s activism through the Presidential Council on Civil Society and Human Rights can be interpreted as participation in a institutionalized channel of dissent, his activism as a head of a lawyers organization is similar in that it works with the government institutions, yet differs because it engages individuals on a personal level, sidelining bureaucracy and reducing human rights to individual cases.

Cooperation between the NGO and state institutions has been shown to be important for the UCSM, and the same is true for Agora. Chikov clarifies that unlike some human rights NGOs, Agora is “indeed open to building relations with authorities.” An example that he recounted speaks to the how relationships between individuals matter in cooperation between state officials and NGOs. Chikov is sure that:

> good relations with government agencies can benefit NGOs. For example, we can promote our ideas and values to the staff of certain agencies that work with people (for instance police, bailiffs, and correction officers). And they, on the other hand, get essential information and skills…Interaction with authorities, in the spirit of diplomacy and flexibility, while at the same time uncompromising of its fundamental values,… is a source of influence.\(^{176}\)

> Although establishing working relationships is important, it is sometimes difficult, and the success often varies depending on the specific officials working in the region. At the same time there is a clear distinction between state officials on the local level and the federal level. Although Agora and its partner organizations “have ties with

\(^{176}\) Siewa-Kozlowski, Elisabeth. “‘We make precedents, pushing the whole system and giving hope to society’ – E-mail interview with Pavel Chikov.”
the heads of public relations departments, deputy ministers and ministers at the regional level… at the federal level, top positions are closed to the public.” The regional government administration is much easier to work with, and “except for some particular people, there are no levels that cannot be reached the regional level.” Still, conflict is just as common as cooperation. In order to establish personal relationships with important local government officials, “first you need to make those guys pay attention to you via a professional PR representative or personal contacts. Otherwise it is hard to cut through a number of stereotypes and myths about human rights defenders. The second important condition is professionalism, including professional ethics. Authorities, the mass media and NGOs all prefer to work with professionals.” Because “personal relations are primordial in Russia,” NGOs must work hard to establish them if they want to accomplish their goals. For example,

sometimes, especially in regions where we are new, we face misunderstanding. [Government officials complain to him, saying] ‘We allowed you to conduct training on human rights for our policemen, and a couple of days later, you accuse one of our policemen of torture.’ Of course, we try to make clear that there are no - and cannot be - any correlations between the two. Sometimes, one profound conversation is enough. In other cases, it takes several years and sometimes it remains unresolved.\textsuperscript{177}

\textsuperscript{177} Sieca-Kozlowski, Elisabeth. ‘‘We make precedents, pushing the whole system and giving hope to society’ – E-mail interview with Pavel Chikov
Cooperation between local government and NGOs is a big part of Agora’s work, and usually occurs through a number of civic initiatives, most prominently in the fields of health, police reform, and prison reform. Several funded projects for 2011 focus on improving life for those living with HIV. One project involves creating a database for cases featuring abuse of people living with HIV, while another project is working on creating a legal service for patients living with HIV and other infectious diseases. Other issues addressed include internet freedom, army suicides, arbitrariness in police, medical negligence, and providing guidance and experience in interaction between drug addicts/users and government structures.

This is important because while Agora and state institutions such as the Ministry of Health of the Interior Ministry may differ in their methods, they are both working towards reform of existing practices. The state’s centrally inspired reform initiatives, such as the reform of the police, they are very difficult to carry out. For example, in one of Chikov’s interviews he brought up an example of the attempted reform of the police forces. This is a special interest of his; he has written a book on the subject, and has also submitted a report to the Presidential Council on Civil Society and Human Rights. According to him, the decreed recertification of police officers has been a sham because

of lack of civil oversight. Instead of opening up the police officer recertification process to members of civil society, such as NGOs and media outlets, the Ministry of the Interior appointed its own oversight committee. The result was that no significant reform occurred. In some regions, such as Chechnya and Tatarstan, the police force wasn’t even touched, while in Moscow officers had to pass a test. 180 State institutions such as the Interior Ministry are resisting civic oversight, but it is becoming increasingly clear that without civic oversight by independent NGOs, reform is impossible. By trying to keep all power within the institutions of the state, the political leadership is not able to create the changes they desire.

Because it defends NGOs and human rights activists in court, Agora is linked to not only its own civic initiatives, but with NGOs working in a diverse variety of fields, whose reporting is bringing problems out of the darkness and into the light of public debate. For example, two years after Sergei Magntski died in pre-trial detention, the situation of those holding cells remains atrocious. However, at least now there is finally talk of reform. Some of this credit, according to Chikov, goes to the human rights activists (правозащитники). Before the whole system was hidden from public view, but now civilian monitoring is helping put pressure for change. Health care is especially bad

and 5000 people die yearly in pre-trial holding cells (СИЗО). The Ministry of Justice trying to hand down problem of health in prisons (specifically holding cells) to the Ministry of Health; however, the Ministry of Health is fighting against this extra responsibility. The reason the conditions are especially bad in isolation pre-trial cells is because they require special permission from the prosecutor to see the inmate. In other words, they are the most inaccessible.181 Instead of a state oppressing civil society, we see a situation in which social activism, usually organized through NGOs directed at various causes, is pressuring the state to improve its services, or else taking over the provision of those services. 182

Another example, somewhat removed from Agora’s direct involvement, is nevertheless important on illustrating the limits of local activism in creation of a public sphere. Alfred Evans’ study of the Khimki Forest protests is an example of how local activists can make an issue part of the public sphere, but that their public sphere is extremely limited and localized. Protesting against a planned road construction through the Khimki Forest ecological preserve, local residents, ecological activists appealed to the president and other authorities to stop the construction of this road. Evgeniia Chirikova,


leader of the movement to defend the old-growth forest in Khimki, from highway construction, told the magazine The New Times the following:

You understand, my thinking is absolutely local: in other words, I don’t think in grand terms, like some people do, but in terms of the view out of my window. It is very important to me that I can walk out of my building with my children and find myself in an environmentally sound place. And that no one can take that away from me. My immediate surroundings are very important to me. And when I felt that being taken from me, my consciousness shifted, and I understood that without a normal country you are not guaranteed even of your immediate surroundings, and they can take from me anything they want: my business, my child, and not only the environment in which I live. In other words, for me a normal country is one in which my rights are respected.183

Evans gives numerous other examples of such local protests, organized around a specific event or issue, that have taken place in Russia between 2005 and 2010. Often the protesters achieved their demands, but they did so by appealing to the state. Laura Henry’s study, “Complaint-making as political participation in contemporary Russia” can inform not only an analysis of such protests, but also how political participation is changing today in Russia. She traces “a vision of complaint-making as a means for citizens to influence political outcomes – and as a variety of political participation. In this sense, political participation is any activity intended to influence the government policy, personnel, or practice in such a way that either supports or opposes the status quo.”184

However, complaints are an individualized action a “generally an isolated activity based

184 Henry L.A. "Complaint-Making as Political Participation in Contemporary Russia."
on a personal grievance embedded in a specific context” and therefore, “the complaints process does not build ties among citizens, generating the social capital that is thought to be the beneficial result of other forms of political and civic engagement.” If individual complaints do not create public sphere, and localized protests create a public sphere out of specific issues, before dispersing, the human rights NGOs that I am studying are doing something different. They are creating public spheres out of state institutions, the military unit and conscription process for the UCSM, and the courtroom for Agora. By working to reform people and practices of government they are turning isolated complaints and cases into a broader movement for change.

Courtroom as a Public Sphere

The courts play a central role in human rights activism when the courtroom becomes the part of the public sphere, a place of mediation between the state and society by transforming the interaction between state organs with power and citizens to a relationship equal before the law. In order for the courtroom to be truly part of the public sphere, the judicial branch must not only be independent from the executive branch, but also be independent from private interests and influences of extra-state networks; Agora works toward both of these goals.

\[^{185}\text{Ibid.}\]
The fact that President Medvedev spoke publically about the need to increase the independence of the judicial system\textsuperscript{186} speaks to the perception that Agora is working within the discourses of improving the state, not as an oppositional political force. Indeed, this is what Marcia Weigle has observed: Russian civil-society activists do not see themselves as a permanent opposition to an authoritarian-oriented state. They adhere to a ‘strong state – strong society’ model: the institutionalization of state power is a prerequisite for civil society development, and a strong civil society is vital to ensuring the state’s democratic orientation.\textsuperscript{187}

According to human rights lawyer Stanislav Markelov, Russian law in not only not independent from external influences, but is “arbitrary” because it is “unstable” and because it is not “based on precedent,” being a “codified legal system, based in the legal Romance and Germanic system,” rather than on “systems based on jurisprudence of past decisions, like the \textit{common law} Anglo-Saxon system.”\textsuperscript{188} So in practice, it often happened that the exact same civil suit would get different results in different courts. and explained that “in theory Russian law develops thanks to cases that have been termed “strategic” that can bring “a change in Russian justice,” a change which can influence it beyond the people directly involved in the trial.” Although in theory “the crowd of

\begin{footnotesize}
\begin{enumerate}
\item Taylor, Brian D. "Law Enforcement and Civil Society in Russia." p3
\item Merlin, Aude. “The power of law versus the law of power - Interview with Stanislav Markelov,” 80
\end{enumerate}
\end{footnotesize}
mainstream cases just follows the lead of these few crucial cases, like the tail of a comet,"\(^{189}\) in reality “given identical cases, even if a case has been won in one region, not only will this decision not be considered as a reference in another region, but everything must begin again from scratch and one can expect very different reactions.”\(^{190}\) Agora’s legal work exemplifies this reality; they repeatedly are forced to argue the same type of case in.

The law matters to the extent that they form a framework of possibilities, which the various actors in the society try to adapt to. In determining the extent of the justice in the trial, the practical application of justice, individual judges and government officials, as well as the relationship between the lawyers and the state officials matter a great deal. Although Agora wins quite a few cases, it certainly does not win all of them, and surely, many it doesn’t even take because of the unlikelihood of winning. In defending themselves from government inspections, Chikov says that “our relations with authorities almost never help. There are only two things that help: (1) a good reputation and maximum publicity for our work and (2) a highly qualified legal defense team.”\(^{191}\) This is similar to the tactics of the UCSMs in their court cases; instantly report violations to the local and national media in order to bring attention to the situation, and rely on the courts

\(^{189}\) Ibid.
\(^{190}\) Ibid.
\(^{191}\) Sieca-Kozlowski, Elisabeth. “’We make precedents, pushing the whole system and giving hope to society’ – E-mail interview with Pavel Chikov.”
to arbitrate. The more media attention, and the greater scrutiny of the case, the greater
chance that the professionalism of the argument and the facts of the case become the
deciding factor, rather than behind the scenes relationships or agreements.

Still, the courts are imperfect upholders of the law, and the letter of the law and its
enforcement are two completely different things in Russia. “Under the 2006 law and
implementing regulations the Registration Service can inspect NGOs annually and
demand access to an organization's documents, including confidential documents.
Although the 2008 Human Rights Watch report concludes, “thereby, the Russian
government has very broad discretion to oversee and control NGOs,” Alexander
Stepanov, the chief of the department for relations with non-commercial organizations at
the Registration Service, “stated that as a rule access to confidential documents is not
sought during inspections.”

Additionally, although “the law and regulations
institutionalize a system under which even minor administrative infractions can result in
the organization being dissolved,” the same Alexander Stepanov “assured Human Rights
Watch on February 13, 2008, that in practice such dissolutions do not happen.”

Although it is easy to dismiss the testimony of Stepanov, who has an interest in

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192 Choking on Bureaucracy: State Curbs on Independent Civil Society Activism
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portraying his organization as complying with the European Union’s human rights standards, \(^\text{194}\) individual cases mostly confirm his statements.

It is also important to take into account that Stepanov is only speaking for the Registration Service, and in fact, “numerous state agencies, ranging from the tax inspectorate to the sanitation inspectorate, may inspect NGOs to ensure compliance with government regulations.” \(^\text{195}\) Motivations vary, and malicious intent does not have to inform inspections; instead, abuses of power often occur when officers feel pressure to mean certain quotas. For example, Chikov argues that the many abuses occur because law enforcement agencies are trying to reach a certain goal. There was a recent dispute over the work of bailiffs/officers of the justice (судебный пристав) in their work trying to enforce court decisions. Chikov supported their use of creative means to enforce court orders because they work for the strengthening of judicial power, unlike most law enforcement agents, who work for strengthening executive power. Still, abuses often occur because they are pressured to meet a quota of a certain number of solved cases within a certain time period. \(^\text{196}\)

These inspections are nothing new however, and Agora and other NGOs have learned to defend themselves in court. Agora was also audited in 2009, accused of tax

\(^{\text{194}}\) As a member of the Council of Europe since 1997 and party to the European Convention on Human Rights (ECHR) since 1998

\(^{\text{195}}\) Choking on Bureaucracy: State Curbs on Independent Civil Society Activism

evasion because they didn’t pay taxes on grant money. This accusation was made despite the fact that they had defended other organizations from similar accusations in the past.\textsuperscript{197}

Agora also saw a round of inspections from state organs in 2007. “The Registration Service conducted a planned inspection of Agora in May 2007,” and according to Chikov, “it was triggered by a request from the authorities.” In 2007 Agora was challenging the recently adopted 2006 law on NGOs, and challenging Registration Service’s decisions in court. Often, widespread inspections in response to specific triggers, such as a new law or, according to Chikov, in response to orders from above.\textsuperscript{198}

In addition, inspections by various organizations often occur either simultaneously or in close concurrence.

Around the time of the Registration Service inspection, the group was also audited by the Tax Service, the economic crimes department of the local police inspectorate, and by Rosfinmonitoring (the Federal Financial Monitoring Service)… Agora’s three partner organizations—the Kazan Human Rights Center; the Human Rights Center of Chita; and Shield and Sword—were also inspected in 2007 by the Registration Service (as was its partner organization in Mari-El, The Individual and the Law). Three of them were also inspected by the tax service, and one by the economic crimes department of the local police inspectorate.\textsuperscript{199}

During A 2008 interview Chikov largely reiterated what Human Rights Watch had reported, showed just the extent that NGOs are subject to inspection:


\textsuperscript{198} Sieca-Kozlowski, Elisabeth. “‘We make precedents, pushing the whole system and giving hope to society’ – E-mail interview with Pavel Chikov.”

\textsuperscript{199} \textit{Choking on Bureaucracy: State Curbs on Independent Civil Society Activism}
Agora and its four regional partners suffered from 20 different inspections (from Rosregistratsiya, police, FSB, the Financial intelligence etc.) in 2007 alone. In total, our small community of human rights groups has faced more than 60 different threats to their security since such monitoring started in July 2006.200

But it is equally important to note that although inspections may be triggered by orders from above, from the political elites, the result usually not the closing of the NGO. Chikov explained that “defending civil activists and NGOs has been our business for the last three years. Thus, we know how to defend others and how to defend ourselves. We had about 40 cases involving NGOs vs The Ministry of Justice in the last two and a half years. In 32 of them, we managed to restore the NGOs’ rights in court, including Agora’s and one of our partner’s – the Kazan Human Rights Centre.”201 Furthermore, Human Rights Watch reported that “Agora has won three cases against the Registration Service in Kazan courts, and six in other regions.”202 Additionally, when all five of Agora’s member organizations “were issued warnings for administrative infractions by the

200 Sieca-Kozlowski, Elisabeth. "‘We make precedents, pushing the whole system and giving hope to society’ – E-mail interview with Pavel Chikov.”

201 Ibid.

202 Choking on Bureaucracy: State Curbs on Independent Civil Society Activism; for example, “In one of the Kazan cases, the court ruling handed down on October 29, 2007, obliged the Federal Registration Service to respond to a memorandum documenting allegedly illegal actions taken by Registration Service officials in 2006 and 2007. Agora had submitted the memorandum to Sergei Vasiliev, director of the Federal Registration Service, on June 7, 2007”
Registration Service, Agora and the Kazan Human Rights Center were successful in their appeals to annul the warnings in court proceedings.\textsuperscript{203}

Another case, cited in length, gives one example of the legal process that often ensues as NGOs attempt to counter the efforts of the Registration Service.

On November 8, 2006, the Ioshkar-Ola City Court granted a motion by the Mari-El Registration Service to dissolve Mari Union. The Registration Service argued that since the organization had failed to provide reports notifying the service that it was still active, it no longer existed as a legal entity, and that it had failed to inform the Registration Service that it had elected a new head of the organization. Mari Union acknowledged it had not submitted the report but appealed on the grounds that the court did not evaluate all circumstances of the case and that the organization was indeed functioning. On December 27, 2006, the Supreme Court of the Republic of Mari-El revoked the ruling and referred the case to a lower court for review. On February 6, 2007, the Ioshkar-Ola City Court refused the Registration Service's request to dissolve Mari Union, noting that even though the organization failed to submit reports to the Registration Service, the organization had not terminated its activities—it produced publications, organized cultural events, and submitted reports to the Tax Service and Pension Fund.\textsuperscript{204}

There is also evidence showing the difficulty of NGO challenges in the courtroom, especially when relationships exist between the judges and the targeted government institutions. For example, “informal personal relations affect lower-profile cases, particularly at the local level. Olga Gnezdilova, legal advisor to Interregional Human Rights Group – Voronezh/Chernozemie said, ‘It is useless to appeal Registration Service actions in court. Until 2006 the Registration Service and the district court were

\textsuperscript{203} Choking on Bureaucracy: State Curbs on Independent Civil Society Activism
\textsuperscript{204} Ibid.
located in the same building and almost merged together. In three years we were not able to win a single case against the Registration Service."205 Pavel Romanov, who at the time of Human Rights Watch's research was a lawyer for Agora, also noted that personal connections are of paramount importance in the courts: "In Chuvashia people who had previously worked for the Registration Service and prosecutor’s office now work for courts. They also transfer their relations and connections."206

Although Chikov indicated that Agora prefers to work through the Russian judiciary, other NGOs have focused on reforming of the Russian judiciary through the European Court of Human Rights. By brings cases to Strasburg, NGOs are helping Russian citizens achieve justice, but are also trying to instill the European standard of human rights in Russian courts. As a member of the Council of Europe since 1997 and party to the European Convention on Human Rights (ECHR) since 1998, Russia is required to abide by all rules by the International Court of Human Rights. Sometimes, however, European standards do not translate well to the Russian system. According to the already cited human rights lawyer Stanislav Markelov:

The irony is that the human rights advocates have made the situation much worse…They obtained the abolition of the additional investigation procedure. Before, when a judge saw that a case was not sufficiently strong, it was sent back to those in charge of the investigation with the mention that the case could not be examined in its present state. Very often, that meant the case was closed or suspended. So as not to have to

205 Ibid.
206 Ibid.
pronounce a non-suit, the judge would send the case back and the case would die out in the hands of the investigators. When this became no longer possible, the judges had to take on and bring to completion cases where evidence was very scarce or even non-existent. Since the number of non-suits has not increased, [in practice] completion means a sentencing.  

Since joining the ECHR, the European Court of Human Rights (ECtHR) has become important because the Russian Constitution “specifies that any international law ratified by the government is automatically considered to be applicable as domestic law, without requiring any additional domestic legislation (Article 15(4) of the Russian Constitution).” Legal organizations within Russia, such as (but not limited to) Agora have been very enthusiastic at using this new avenue to achieve justice and to reform the judicial branch. “With approximately 40,000 applications pending decision in the Court's pipeline by the end of 2011, Russia has 26.6 percent of all pending cases.” For some, “such as Russian lawyer Elena Liptser, maintain that the rulings carry revolutionary potential, by providing incentives for the government to change its human rights conduct and prevent violations as a reaction to the cost and workload imposed by the sheer volume of case rulings against it at the Court.” But in order to make cases decided at the international court a systemic change, rather than an individualized appeal process,

207 Merlin, Aude. “The power of law versus the law of power - Interview with Stanislav Markelov.”
209 Ibid.
NGOs have tried to pressure the government even beyond litigation at the ECtHR, trying “to prod the Russian government toward better implementation of the Convention and the Court's rulings. The tactics they have used have ranged from monitoring ongoing human rights violations and Russian government execution of ECtHR judgments, to press releases to publicize this information, round tables to discuss the issues with relevant actors, and membership on government advisory councils.”

On the other hand, according to Chikov, Agora tries to work primarily with the Russian judicial system and only challenge at the European Court of Human Rights occasionally; still, it “promotes and defends human rights and civil liberties as stated in the European Convention on Human Rights… at the national level and work internationally only in relatively low number of cases. We believe victims can and must restore their rights at the national level.” But as a representative from the Society Memorial pointed out, the European Court of Human Rights is not really an international body; a Russian judge sits on it, and its decisions have the force of Russian law.

One important recent example occurred in February 2013 when 11 NGOs issued a joint suit to European Court of Human Rights alleging that the 2012 NGO law was a

210 Ibid.
211 Sieca-Kozlowski, Elisabeth. “’We make precedents, pushing the whole system and giving hope to society’ – E-mail interview with Pavel Chikov.”
human rights violation. Their ultimate hope is that if European Court rules for them, the Russian law will have to be amended. Although this process may take years, as soon as the European Court accepts the case, a three party dialogue will begin between the Russian Ministry of Justice, the European Court, and lawyers representing the 11 NGOs who filed the suit. At this point, the NGOs hope that this dialogue will affect how domestic courts interpret the new law. However, the results of this effort are still uncertain. According to the lawyer who wrote the cases, his argument is especially complicated because it is based on the concept of the law being a “potential threat.” Because the law has not been applied to any NGOs, they can’t challenge it in Russian court as victims. The suit is arguing that the 2012 NGO law is a ‘systemic’ violation; that the very law and the threat that it entails is a violation of human rights even if it is not actually used.213

Just like the view that “the [2006] NGO law is only one of several means the government has used to harass and control certain types of NGOs,”214 NGO also have means of securing their interests and adapting to new laws. While the preliminary results of the 2012 NGO law, which limits foreign funding, has hurt many NGOs, it has also created further cooperation and funding of NGO community. One new imitative is a new loose coalition called the Civic Federation (Гражданская федерация), which unites the

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213 Ibid
214 Choking on Bureaucracy: State Curbs on Independent Civil Society Activism

various human rights organizations across Russia and encourages greater cooperation between them. “Financed by Mikhail Prokhorov's political party Civic Platform and other sponsors,” it envisions a horizontal association of likeminded people, many of them of the younger generation, who are interested in improving Russia. However, this is not an oppositional political movement; they want to work within the current system, and not attempt to overthrow the current ruling elite.\textsuperscript{215} It is also important to keep in mind that the new [2012] NGO law is just now beginning to be implemented, and just as in 2006, after that NGO law was adapted, there will be a period of testing and maneuvering in order to adapt to the execution of the new law.

In fact, two years after the 2006 law on NGOs created the Registration Service, that department was scrapped. Chikov said, “We believe that the President's decision to exclude registration and control of NGOs from the Russian Register Service and its abolition on October 1, 2008 was a result of the active work of a number of Russian human rights groups, including Agora, in 2006-2008.” So the Registration Service that was highlighted in so many of the examples cited above does not exist anymore. Today NGOs are registered with the Ministry of Justice, and it has been the federal prosecutors who have initiated the current campaign of inspections. NGO activism has other results as well that hint at a direct effect on policymakers. Chikov “also thinks that we had a

similar impact on the dismissal of the Defense Minister Sergey Ivanov in 2007.”

His replacement Anatolii Serdyukov, was discussed in the previous section as a symbol of civilian oversight over the Ministry of Defense.

Both NGO laws, passed in 2006 and 2012, claim to hold NGOs to the standards that they are holding the government to, namely transparency and accountability. “The authorities justified the requirement that NGOs report on foreign funding by referring to the need to oversee the influx of foreign money into the country and to prevent it from being used to interfere with Russian domestic affairs.” In an interview with the newspaper Росийская Газета (Russian Gazette), federal Registration Service director Sergei Vasiliev said, “The purpose of the reporting is to make NKO work transparent: where the money is coming from – legal or physical persons, how much and how it was spent, also some other parameters. That is why some are making a fuss and do not want to show that financing is coming from foreign sponsors.”

In fact, the 2006 NGO law actually forbid foreign funding for NGOs in draft form, but that part of the bill was later scrapped. However, in 2012, a new NGO law returned to the issue of foreign funding, vowing to eliminate foreign funding for political activity. Defining political activity,

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216 Sieca-Kozlowski, Elisabeth. “’We make precedents, pushing the whole system and giving hope to society’ – E-mail interview with Pavel Chikov.”

217 Choking on Bureaucracy: State Curbs on Independent Civil Society Activism; This quote refers to the 2006 NGO law; however, the discourse on NGO accountability has not changed.
however, became the task of the Ministry of Justice; Agora’s role in that process will be examined in this next section.

**Limits to the public sphere: Response to 2012 NGO Law**

In July of 2012 a new law was passed, going into effect in November 2012, which makes voluntary organizations engaged in political activity and receiving funding from abroad register as foreign agents. This law has been subject to wide debate in both Russia and especially abroad, seen by many Western observers as part of the Kremlin’s continuing crackdown on civil society and political opposition that followed Putin’s election and inauguration. But the reaction of Agora, other NGOs, and government officials to the new law paints a more complicated picture of the interaction between NGOs and state institutions. While there is already evidence that the new law has substantially hurt the funding of many NGOs, Agora played an important role in testing the law, paving the way for other NGOs to respond to it and revealing the instability the new law has created, which is currently being negotiated by civil and state actors.

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| 219 | for example, the UCSM’s lack of funding discussed in the last section |
On October 31, 2012 the Ministry of Justice announced it was ready to create a register of foreign agents according to the recently passed law, and that it was accepting applications for this register. All decisions regarding the registering of NGOs will be handled by the central department on NGOs within the Ministry of Justice in Moscow, and not delegated to the Ministry of Justice’s regional branches. So the status of Agora, based and Kazan, and their partner organization Shield and Sword, based in Chuvasia, would be decided not locally, but in Moscow. Upon this announcement it was already clear that the Ministry of Justice wants to centralize their control over the interpretation of this law, and doesn’t trust its regional centers to uphold their interpretation. It is also important because all future challenges to its decisions about registration as a foreign agent will be argued in Moscow courts. Agora’s immediate reaction was that it would immediately begin testing how the law will be applied. The vagueness of the law centered on the term political activity, and as we will see, interpretation of that phrase determines a large part of the effect of the entire law.

In order to “study the law from within” and “create a precedent for the defense of other NGOs” on December 21, 2012 one of Agora's regional partners, Chavasian group ‘Shield and Sword’ (Щит и Меч) submitted an application to the Ministry of Justice, attempting to register as a foreign agent. A month later, the Ministry of Justice replied

that because the organization “conducts human rights, not political, activities”\textsuperscript{221} it does not need to register as a foreign agent. According the Ministry of Justice, the goals of the organization are "consistent with general principles of protection and defense of human rights and civil rights in the Russian Federation as enshrined in the Constitution" and that "does not contradict national politics, nor intends to change it."\textsuperscript{222} So the Ministry of Justice was interested in controlling the registration process centrally because it wanted to apply a narrow understanding of political activity, one that would exclude human rights NGOs from being considered a ‘foreign agent.’ According to Pavel Chikov this interpretation is a “healthy approach to a ‘bad’ law, sharply reducing the risk of penalty for Russian NGOs.”\textsuperscript{223} Chikov also concluded that the Ministry of Justice will evaluate not only the formal application, but the content of it in order to determine political activity. In other words, every NGO will be judged separately. This leaves open the potential for different standards to be applied to different organizations, allowing a constantly changing interpretation of what is political.

In March 2013, prosecutors began inspections of NGOs both in Moscow and around the country as part of a general campaign directed by the General Prosecutor’s Office. According to Agora at one point over 150 NGOs were being examined.

"Miniust ne schitaet pravozashchitnuiu deiatel’nost’ politisheskoi.”
\textsuperscript{223} "Miniust ne schitaet pravozashchitnuiu deiatel’nost’ politisheskoi.”
simultaneously (18 March 2013), and since then, the inspections have expanded in scope, and thousands or NGOs are currently being audited. This general inspection has been expected, but began only in the second half of February 2013, and has only touched certain regions thus far. According to Chikov, the inspections began after Putin commented during a February 14th meeting with top FSB officials that the new law must be executed. Also, Chikov asked the Ministry of Justice whether Agora should be registered as an international agent and never received a definitive response. A member of the human rights society Memorial reported that in several regions NGO leaders have been told that if they don’t want to register as a foreign agent, the local authorities won’t bother you. “However, ‘we are soldiers’ and if ‘orders come from above, we will have to follow the orders.’”

NGOs have responded in various ways to the unscheduled inspections of prosecutors. Agora’s Chavashia based partner Щит и Меч has refused to give prosecutor’s their requested information during a March 23 inspection, saying that the inspection is not legal, and that the information they want is already filed with the Ministry of Justice and the tax office. The NGO’s director, Aleksei Glukhov said he is

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226 Ruzavin, Peter. "Prokuratura proveriaet 150 NKO."
227 Makeeva, Mariia. "'Ispol'zuem status potentsial'noi zhertvy': 'Memorial' o zhalobe v Strasburg po povodu 'иностранных агентов.'"
prepared to defend his organization in court. The first NGO to be accused of being a foreign agent was a Saratov based NGO, “No to Alcoholism and Drug Addiction.” Local authorities “wanted to shut down the NGO, but the Ministry of Justice recognized that the actions of local government were not consistent with the law, and ordered the local authorities to coordinate application of the NGO law with the central office.”

Three of Agora’s partner organizations have been recently inspected by either the prosecutor’s office or by tax officials. These inspections are illegal, because, according to a ruling in 2000 by the Constitutional Court, a ruling that even Medvedev admitted was not being followed, laws governing the prosecutor’s office actually prevents them from copying the functions of other government organs and from conducting inspections without a specific complaints. In other words, for the prosecutor’s office to inspect an NGO, someone would have had to file a formal complaint with them detailing some illegal activity on the part of the NGO.

By ruling that human rights activism was not political activity, the Department of Justice distinguished between civil and political society in the same way that NGOs understand their own activity. Although many NGOs are currently being audited, only one is currently being charged as a foreign agent. Golos, the election monitoring NGO that played an important role in exposing the abuses of the December 2011 Parliamentary

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228 Ibid.
election was accused by the Ministry of Justice of both receiving foreign funding and carrying out “political activities on the territory of the Russian Federation.”

Golos’s deputy director, Grigory A. Melkonyants, responded that “this all seems absurd in light of the fact that from the moment the law on agents went into effect, the association has not received any grants... But given the absurdity, and that this is a political order, I fear that in court it will be just like it was in court with the map of violations in December 2011,” referring to Golos’ legal problems right before the December 2011 election. So if Agora is considered civil society because it works within the framework of improving the state, but Golos may be declared a political organization in the eyes of the Justice Ministry, depending on the verdict of the trial, it is perhaps most indicative of the importance of Agora’s work that this boundary is being determined through the courts, along with the Ministry of Justice, Prosecutors office and the Investigative Committee.

Even before being charged, Golos had experienced acute financial problems stemming from the 2012 NGO law. When USAID pulled out of Russia, they lost their funding and actually had to lay off all their staff, about 10 people in the main office and 40 spread across the regions. They are currently looking for long term projects and money to work on between elections. Golos director Liliya Shibanova observed that

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231 Herszenhorn, David M. "Russia Takes Legal Action against Election Monitors."
during the October 2012 elections, the situation varied significantly depending on the region. In some places, like in the Far East, elections were becoming more competitive, while in other regions, blatant violations occurred.232

At the same time, activists from Golos and Citizen Observer (Гражданин Наблюдатель), another election monitoring NGO, are already working toward the next election. New legislation makes electoral committees permanent, and these activists are going through the beginning stages of a multi-step process to sit on a electoral committee.233

The 2012 NGO law emerged from the December 2011 protests and the opposition movement that emerged out of them. This movement is perhaps best illustrated by the rise of Aleksandr Naval’ny, an oppositional blogger who became a national political player during the December protests. While facing criminal charges, going on trial for embezzlement on April 17, 2013, he has declared open political ambitions, declaring during an interview on Dozhd’ that "I want to become president… I want to change life in our country. I want to change the system of governance. I don't want the 140 million people, who live here and who have oil and gas running out of the ground, to live in

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hopeless poverty, but I want them to live normal lives, like in a European country.” In
addition, “Navalny indicated that if he ever came to power he would ensure prosecutors
launch investigations against Putin and two prominent businessmen close to him --
Gennady Timchenko and Arkady Rotenberg.” Naval’ny said that “all of them are links in
this despicable, thieving chain of government.” His activism is sharply contrasted with
the work of NGOs such as Agora and the UCSM. This distinction between political
society and civil society is important because this understanding governs the relationship
between state institutions and those social actors. While the Ministry of Justice agreed
that a human rights lawyers group linked to Agora (Щит и Меч) was civil, not political
society, and therefore did not have to register as a foreign agent, investigators have
brought outrageous claims against Naval’ny, and even he admits that he is almost certain
to be found guilty.

When the harsh 2006 law on NGOs was adopted, western commentators feared a
crackdown on civil society. Yet, NGOs such as Agora and UCSM have continued to be
very active over the last six years. Additionally, in December 2011 violations in
administering and counting the vote during the Parliamentary elections created an
outpouring of protest. These protests were quickly called a number of things, from a new

235 Dziadko, Filipp, Dziadko, Timofei, and Tikhon Dziadko. “Aleksei Naval’ny: Ja khuchu byt’
http://tvrain.ru/articles/aleksej_navalnyj_ja_hochu_byt_prezidentom-340365/
Russian revolution, to an outpouring of civil society, to an international conspiracy, to hooliganism. In that these protesters are a part of society that is articulating a vision for society, they are civil society just like NGOs such as Agora are. The fact that these protests are allowed to take place, yet face a host of administrative restrictions seems to parallel how NGOs function. Protests however, also have a political element, one that can perhaps be summed up in two of the most popular slogans, “Russia without Putin” (Россия без Путина) and “United Russia is the party of swindlers and thieves” (Единая Россия- партия жиликов и воров). In other words, a certain part of the demonstrators, led by emerging oppositional figures such as Naval’ny, Sergei Udal’tsov, Boris Nemtsov, and others, see not only a better Russia, but that a better Russia can only emerge under new leadership. These protests have also brought a lot of very diverse political opinions together, from all sides of the political spectrum, including nationalists, liberals, socialists, and even more fringe groups such as anarchists. In essence, they are only marginally united by their opposition to the current political elite. Agora as a representative of civil society has very little in common with anti-Putin protesters. Its vision of state-society interactions, one that is based on the rule of law is not dependent on a change political administration. While Agora works with specific institutions of the

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state, the political opposition such as Naval’ny might share the same values such as rule of law, but it sees the state in unitary terms, as a shadowy group of corrupt officials led by Putin. Interviewed by Dozhd’, Naval’ny said that a decision about his fate has already been made, but he does not know what exactly was decided. By aspiring to the Presidency he not only threatens the current political elites, but identifies all the problems of Russia coming from the very top. In other words, by replacing the political elite, he will be able to improve governance in Russia.

On the other hand, NGOs do not aim to change the state structure, nor replace its leaders. Instead, they promote the idea of human rights as the most important standards of government behavior, enshrined in the Constitution and the European Convention of Human Rights. In essence, on order to better protect and promote human rights, they must work with the state. A public sphere is where "an issue becomes political and public when it becomes the object of a generalized discourse about what it should be," and certainly civil society can participate in that process. But in Russia we see that excluding the state from the public sphere brings a backlash that takes the form of new laws and selective application of those laws. Civil society organizations such as Agora, have chosen to focus on immediate goals of improving human rights, while political actors (who also seem to believe in human rights) have determined that the only way to truly change society is by changing the political leadership.

While discourses over ‘what should be’ are openly contested in the public sphere, the conception of civil society implies knowledge of what they should be, and an attempt to make those discourses the dominant ones in society. Both Agora and UCSM have a vision of society, but they recognize that any attempt to make them the dominant values must include both the government and society. Therefore the tactic of human rights NGOs is to work with government on a local and individualized level. However, even working within the boundaries civil activity, they still have the potential to upset certain parts of the administrative state- branches, departments, officials, and of course, individual interests. These interests will always fight back, often using their institutional control over the legal system. Agora’s impressive but inconsistent record demonstrates this as does the UCSMs battle to open the military to public oversight. The military establishment, from the prosecutors, unit commanders, to even the generals, resisted, yet eventually the UCSM made tremendous progress.
Chapter 4: Conclusion

This thesis has attempted to rethink some basic assumptions about the state and society in Russia by looking at detailed case studies of two NGOs. Among the things it claimed to do in the introduction is create a “broader, more holistic understanding of Russia” and to paint “a more comprehensive picture of Russian civil society,” one that can also be applied globally. This is a very steep challenge, and of course, this study falls well short of those lofty goals. However, the thesis does demonstrate that by using the conceptual framework of Agora and UCSMR being just two of countless publics, organized as NGOs, they are fundamentally transformative in their quest to create public spheres. These public spheres encompass multiple layers of the state, and play an important role in negotiating the boundaries of political action.

As far as comprehensiveness goes, this study only examines two NGOs, and analyzing additional civil society organizations will lead to more definitive and detailed conclusions. However, I argue that although not all NGOs or other civil society organizations will be focused on human rights, they are all engaged in one form or another in the process of creating public spheres, understood as making issues “political and public” by expanding the discussion of “what it should be” to actors beyond the existing limited public that controls it. In essence, creating a public sphere is allowing

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238 Chandhoke, Neera. State and Civil Society: Explorations in Political Theory. p 168

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several (or many) publics to contest a vision of society. This process of contestation, embodied by individuals and localized in spaces, is how I conceptualize a public sphere.

The UCSMR’s public sphere is the military unit, meaning that “mothers” visit the unit and inspect, take complaints from soldiers and their parents, publicize the complaints, and contend those complaints in court, even bringing charges against officers. The military prosecutor, the unit commander, the soldier and his family, and the NGO itself all represent “actors with overlapping identities,”239 who have different interests. The UCSMR, then has an interest in serving the soldier, but not only for the sake of the soldier, but in accordance to their vision of creating a professional voluntary military based on the principle of human rights for every soldier serving.

Agora’s public sphere is the courtroom; their vision is a society in which all human rights and freedoms, including those actions currently deemed political and off limits, are protected. Indeed, although laws can be changed (for example, to become more repressive), Agora fights more for the fair application of the law than for changes of the law itself. Because each courtroom (as well as within investigative committees and prosecutors office) is where laws are upheld or broken, Agora is attempting to make its interpretation of the law also its application. In Russia, these are two different things. In many cases Agora has widened the application of law to be based on the discourse of

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239 Sommers, Margaret. “Citizenship and the Place of the Public Sphere.” quoted earlier on p15
human rights; however, when courts cases are decided by criteria other than human rights, Agora has failed to create a public sphere out of the courtroom.

How can a study of two NGOs hint at a holistic understanding of Russia? It does so in a limited way by highlighting several contradictions that emerge while examining the power and limits of NGOs to create public spheres. First, individual citizens are important, and NGOs are effective organizational structures that provide socially conscious individuals with a platform for discussing their vision of society. Through NGOs, people like Pavel Chikov and Valentina Mel’nikova represent publics; they have become the figureheads for human rights, and more specifically, for rule of law and for soldiers’ rights. This is a holistic understanding in that it begins at the lowest level of society, the individual.

Second, the boundary between a non-unitary state and society in general is extremely blurry, and is also best examined at the individual level. Political intrigue among the elites does not directly affect the lives of most ordinary people. For ordinary citizens the state is fruitfully analyzed as the person or specific institution denying them their rights at any given moment. For example, a soldier most interacts with his commanders, and perhaps some other key military personnel, such as the conscription officers, military prosecutor, military judge, etc. These are also the people

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240 A counterexample is Naval’ny’s co-defendant, an innocent man who is also on trial because of some elites’ desire to put Naval’ny behind bars.
and institutions that the UCSMR works with. Agora functions in the same way, but their lawyers defend other NGOs, not just individuals. Still, for both organizations, protecting human rights often means cooperation with state institutions on both an institutional and informal level. “A way to defend people is to build informal ties with power institutions,” says Ashot Airapetian, president of the Center for Interethnic Cooperation. Networks of relationships are important, as are other factors such as public visibility (especially in the media), reputation for professionalism, and connections abroad (for example, UCSMR’s multiple international awards; Agora’s connections to international media and ability to take case to the ICtHR). In Russia, power seems to be created not only from institutions of government, but from these other factors as well, and it is important to see extra-legal power not only in terms of corruption and breaking the law, but in making the laws work. By beginning at the individual level, we emerge at much fuller understanding of Russian politics at all levels.

At some level, the deep state transitions to the administrative state, which actually provides services to the population, and forms much of the power of political elites. The introduction promised to “uncover the social and cultural understandings that

continue to define Russian society and state.” But just as I started out asserting the need to "take seriously the elusiveness of the boundary between state and society,"243 the same thing is true within the Russian state apparatus. The two are linked not politically, but through a complex process that I understand as culture. For example, “states and elites rarely operate on the basis of norms and frameworks that are orthogonal to those held by society at large, but rather that there tends to be a great degree of congruence. If Russia has a rent-seeking elite, we might then expect to see a congruent social contract.”244 Julia Adams argues that culture is part of the process of state formation. “Culture doesn't just determine the ends rulers pursue; it shapes the causally prior stage of identifications- who the ruler is and how they classify the social world.”245 In this sense, this study provides a taste of a holistic understanding of Russia, which uncovers its social and cultural understandings.

Third, the success of these (and other) NGOs in influencing the state has been remarkable, and has taken a variety of forms, including: “progress [seen in] ‘a change in the way of thinking’” (Alpern), “a change in psychology and in relations with people” (Melnikova § 21), the scrapping of a bill (“we [the committees and the Prokuratura] stopped the law on the military police”) (Melnikova § 8), the withdrawal of a measure

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243 Mitchell, Timothy. “Society, economy, and the state effect,” p 76
245 Adams, Julia. “Culture in Rational-Choice Theories of State Formation”
(“We believe that the President's decision to exclude registration and control of NGOs from the Russian Register Service and its abolition on October 1, 2008 was a result of the active work of a number of Russian human rights groups, including Agora, in 2006-2008”) (Chikov § 58), and finally, the ousting of a minister.”

Fourth and finally, cooperation with NGOs helps the state reform itself, allowing departments to improve their work, one department to watch another, and for the political elites to force their agendas to be implemented down the hierarchical chain and across Russia’s regions. For example, “Moscow MVD cooperates with over 9,000 NGOs (there are 17,500 NGOs in Moscow). The need for such partnerships stemmed from the increase in complaints reported through the telephone line put at the public’s disposal in the Main Directorate of Interior Affairs – in just a few years, the number of calls had risen from 15-20 over a 24-hour period to over 60.” But if cooperation between NGOs and state structures has improved life for many Russians, they have been unable to fundamentally eliminate the distinction between political and civil society. This is exemplified by the current trial of Aleksandr Naval’ny, who has been determined to have crossed the line and engaged in unacceptable and threatening political activity.

246 Sieca-Kozlowski, Elisabeth. “NGOs and the Power Ministries in Russia: from Resistance to Cooperation?” She is quoting the various social actors that were interview in Issue 9 (2009) of The Journal of Power Institutions in Post-Soviet Societies

247 Ibid
If the courtroom remains a political tool for many cases, rather than a place of equal contestation, Naval’ny’s trial is a good opportunity to rethink what power really means in Russia. His inclusion in Time Magazine’s 2012 list of 100 most influential people in the world, a list that Putin did not make, is difficult to understand.  

Although incredibly influential, his power is limited because he doesn’t have any access to institutions of governance. This was the same lesson that some commentators took from the recently deceased Boris Berezovsky’s fall from power in the early 2000s, another political casualty of Putin’s regime. Berezovsky was one of the players who is widely considered to have put Putin in power in the first place, and his power was deemed unrivaled in Russia at the turn of the millennium. Yet he overestimated the power of his network of personal connections, including to Putin himself, and underestimated the power that could be exercised through institutions of state. 

Naval’ny has been extraordinarily influential in framing the discourses of Russia and even driving certain policies of the state. For example “he forced the issue of top officials' overseas properties into the national conversation,” and after forcing all Duma representatives to declare all their foreign assets, Putin has just come out with a decree under which all Russian officials and heads of state companies will have to divest themselves of all foreign

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248 Pozner and Parfenev interview discussed it and interviewed him about it. He even said, it was ridiculous because he couldn’t do the simplest things.
accounts and company shares. Naval’ny exposed Bastrykin, the head of the Federal Investigative Committee, of having undeclared foreign property, labeling him foreign agent Bastrykin. Indeed, the new NGO law articulates the exact same idea, that loyalty to the nation means holding and earning money or capital inside the country. Because Naval’ny speaks in the language of corruption and transparency that the Kremlin itself espouses, it is so important to convict the anti-corruption crusader in, well, corruption. By having to make a public example out of Naval’ny, the political elites show that they are not so disconnected from the population; state and society are closely intertwined. On the other, personal networks of connections still matter a great deal. People like Bastrykin and even Putin himself would never have gotten to their current positions without personal connections.

He [Bastrykin] was a little-known legal scholar in St. Petersburg when Putin, his university classmate, became Russia's president in 2000. Like so many residents of Putin's hometown with a connection to the new president, Bastrykin then moved into government, taking up a minor post in a regional branch of the Justice Ministry. "Bastrykin's really a classic example of the Putin majority that we built 10 years ago, founded upon people with no hope," Pavlovsky said. "He didn't see a way forward for himself. Those were the people who understood that Putin's arrival was their last chance." The Investigative Committee was founded in 2007 after high-level corruption scandals stoked long-held Kremlin fears that the Prosecutor General's Office had too much unchecked influence.


Bastrykin's committee took over the office's investigative functions and became a full-fledged agency in 2011, answering directly to the president.²⁵³

Putin was also a little known politician before being elevated to the post of Prime Minister at the end of Yeltsin’s last presidential term.

The political science literature that I mentioned at the beginning of the introduction seems to explain this type of behavior of the political elites fairly convincingly. By exploring the world between the extremes of democracy and authoritarianism, acknowledging that these extremes are almost never encountered in reality, it classifies Russia into a categories that are all very similar: neo-patrimonialism,²⁵⁴ a hybrid state,²⁵⁵ presidential-partronal,²⁵⁶ or competitive authoritarian.²⁵⁷ Yet these classifications do not tell us much about the lived experience of the majority of those living in Russia, nor the story of those publics competing for power outside of the political elite. Broadly speaking, this was the goal of the case studies of these two NGOs.

²⁵³ Ibid.

²⁵⁴ Ilkhamov, Alisher. "Neopatrimonialism, Interest Groups And Patronage Networks: The Impasses Of The Governance System In Uzbekistan." Central Asian Survey 26.1 (2007). Ilkhamov defines neopatrimonialism as a regime that “provides loyalty and submission to a ruler by means of both formal and informal mechanisms, some of which may be found in well-established democratic systems. Neopatrimonial regimes are based not only on patriarchal values and norms, but on rationally driven exchange of services, when a patron buys the loyalty of a client in exchange for protection of client’s interests.”

²⁵⁵ Diamond, Larry Jay. "Thinking about Hybrid Regimes."

²⁵⁶ Hale, Henry E. "Regime Cycles: Democracy, Autocracy, and Revolution in Post-Soviet Eurasia

Finally, returning to the concept of culture, the complex way the border between the political and civil is negotiated is what makes Russia distinct among hybrid states. On one hand social and cultural understandings exist very much within the European or Western ideas of state and society. For example, the Agora case highlights the importance of Russia’s membership in the European Court of Human Rights. The work of the UCSMR reforming the military is very much informed by their understandings of the American military. But that people like Pavel Chikov of Agora and Valentina Mel’nikova of the UCSMR, and the organizations that they direct should have so much freedom to contest the state, yet that this contestation largely occurs through cooperation with state institutions, is perhaps what makes Russia distinct, and returns to ideas about how the state and society have a joint understanding of ‘how to classify the social world.’

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258 Julia Adams in Steinmetz, George, ed. *State/Culture: State-Formation After the Cultural Turn.* p12
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