



**Address to President Medvedev
at His Meeting With the Presidential Civic Society Council and
Independent Experts on Human Rights in the North Caucasus**

**Delivered by Tanya Lokshina, Russia Researcher for
Human Rights Watch on May 19, 2010**

Dear Mr. President,

Human Rights Watch wholeheartedly welcomes your initiative to meet with the Presidential Civil Society Council and independent experts to discuss pressing human rights issues in the North Caucasus. We believe this initiative reflects your concern about the situation in the region and we are honored to contribute to the discussion.

Human Rights Watch is a global organization that seeks to improve human rights in 90 countries across the world. We have had an office in Moscow since 1992, and have conducted research in the North Caucasus on a regular basis. Our research there has focused primarily on human rights abuses committed in the context of counterterrorism operations. Because terrorism and counterterrorism are key contemporary global challenges, the human rights aspects of these challenges are among the main thematic priorities for our organization. Our research on the North Caucasus is an integral part of this work.

The Islamist insurgency in Chechnya, Ingushetia, and Dagestan is on the rise. The abhorrent bombings in the Moscow metro in March were a terrible reminder of this. This heinous crime, as well as the increasing number of insurgent attacks in the North Caucasus, reflects the growing security threat emanating from the region.

No one questions Russia's duty to fight terrorism and armed insurgency in the North Caucasus, but in doing so it also has obligations to uphold Russian and international human rights law. Human Rights Watch and other human rights organizations have found that law enforcement and security agencies engaged in counterinsurgency operations commit grave violations of fundamental human rights such as torture, enforced disappearances, extrajudicial killings, and collective punishment. Human Rights Watch has not found any evidence to indicate that the Russian government is taking any steps to prevent these

violations from occurring or to hold their perpetrators accountable when they do. The use of unlawful counter-insurgency methods, coupled with rampant impunity for human rights abuses, antagonizes the population of these republics and results in widening the gap between the public and the government and contributes to growing instability in the region. Human Rights Watch welcomes the creation of the North Caucasus federal district, which evidences the government's acknowledgement of the special needs of the region. We also welcome the decision of the Russian government to develop the social and economic infrastructure in the North Caucasus republics. However, we are convinced that unless Russia prioritizes human rights as part of its North Caucasus policy and ends the systemic abuses related to counter-insurgency, no lasting stability can be achieved.

The most effective way the government can prevent human rights violations in the region is to fully investigate acts of torture, unlawful detentions, enforced disappearances and extrajudicial executions, and collective punishment by law enforcement and security agencies and to hold their perpetrators accountable. The government should start by fully implementing rulings on cases from Chechnya by the European Court of Human Rights (ECtHR). Today I will discuss how the Russian government has not fully implemented these rulings: it has not held perpetrators accountable even in those cases where their identity is known, and has not taken any substantial measures to prevent similar violations from occurring. The rulings pertain to abuses perpetrated by federal servicemen in the early years of the second Chechen war. But they are highly relevant today: by fully implementing the judgments the government will send a strong message that abuse will not be tolerated. I will also describe collective punishment systemically perpetrated in Chechnya today, a lawless practice that must be stopped in order for the region to change for the better.

Effective implementation of ECtHR judgments

In 137 rulings to date the European Court of Human Rights has held Russia responsible for serious violations of the European Convention of Human Rights in Chechnya, including torture, extra-judicial executions and enforced disappearances. In practically every ruling, the Court called on the Russian government to account for failing to conduct an effective domestic investigation into these crimes. In more than 40 judgments, the court also found that Russia's refusal to share with the court documents from the criminal case files had violated its obligation to "furnish all necessary facilities" to support the court's examination of a case.

It has been just over five years since the Court issued its first ruling on Chechnya. To its credit, the Russian Government has been consistently paying the compensation to the victims, in accordance with the Court's judgments. This is a very important step. However, it

has not meaningfully implemented the core of the rulings: it has not taken sufficient steps to ensure effective investigations, hold perpetrators accountable, or prevent similar violations from reoccurring.

In part due to the government's failure to take these steps, abductions, enforced disappearances, extra-judicial killings, and acts of torture continue in Chechnya and other republics of the North Caucasus, and new cases brought before the Court are essentially mirror images of many of the cases it has already ruled on. For example, during field research in Chechnya in February 2010, Human Rights Watch documented, *inter alia*, four cases of enforced disappearances perpetrated by Chechen security agencies in the second half of 2009. In three of these cases there are strong allegations of involvement of high-level Chechen officials. The victims' families have all lodged applications with the European Court.

Absence of justice

Last year Human Rights Watch undertook research to examine Russia's implementation of the European Court's judgments on Chechnya through interviews with applicants and examination of legal documents. In September last year, we released a report based on our research findings titled "Who Will Tell Me What Happened to My Son."

We spoke to 33 families in Chechnya who had won their cases in the European Court. When interviewing these individuals in Chechnya I was stuck by their naked disbelief and hopelessness. They waited for those rulings for years were elated when the judgments were finally delivered. What they were waiting for was not the money but information and justice.

Yet no perpetrator in any of these cases has been brought to justice, even in cases in which the court has found that the perpetrators are known, and in some instances even named in its judgments. In addition, we note the state's failure to inform the aggrieved parties about the investigation; failure to provide access to criminal case files; inexplicable delays in investigation; and legal obstacles preventing investigators from accessing key evidence held by Russian military or security services. These same failures had plagued earlier investigations into abuses in Chechnya and had led the court to find violations related to the investigations.

General measures

Full implementation of the Court's judgments means not only that Russia must hold perpetrators accountable but also that it must adopt policy changes addressing the underlying causes of the violations in order to prevent them from recurring. In its most recent, publicly available memorandum on implementation, the Council of Europe's Committee of

Ministers has identified four areas of focus in the Chechnya cases, namely: (1) improving the legal and regulatory framework governing the work of the security forces; (2) raising awareness and providing training to members of the security forces; (3) improving domestic remedies in cases of abuse; and lastly (4) improving Russia's cooperation with the European Court in providing case files, documents, and the like.

Russia has submitted information detailing its steps taken to comply with general measures. The Secretariat of the Committee of Ministers approved of some of those changes but noted its dissatisfaction over the inadequacy and incompleteness of others. In particular, it expressed concern that Russian authorities' efforts to implement the Court's rulings are not sufficiently systemic and coordinated and invited the government to provide more information about the steps undertaken in this regard.

Rising concern about implementation

In April 2009, the Parliamentary Assembly of the Council of Europe expressed concern about Russia's selective and inadequate enforcement of European Court judgments, and concluded that the human rights situation in Chechnya is "by far the most alarming in the whole of the geographical area covered by the Council of Europe." Likewise, the European Committee for the Prevention of Torture (CPT) has, on three separate occasions, issued public statements to draw attention to the lack of cooperation from the Russian authorities. As the number of judgments on Chechnya has grown, the European Court has used increasingly strong language in its rulings against Russia. For example, in its 2007 ruling on the case of Musayev and Others v. Russia, which involved a massacre of civilians by federal forces, the Court stressed that six years after "the cold-blooded execution of more than 50 civilians... no meaningful result whatsoever" had been achieved with regard to identifying the perpetrators and holding them accountable. The Court described the ineffectiveness of the Russian prosecuting authorities as "astonishing."

Positive steps and recommendations

Russia has taken some important steps to cooperate with the Court. In addition to making timely monetary compensation payments to victims, Russia submits periodic reports to the Committee of Ministers and implements general measures for some of the European Court's judgments outside of Chechnya context (reform of the penitentiary system, measures to improve compliance with the rulings of domestic courts, etc.). It has also ratified Protocol 14 to the European Convention, a key mechanism that will help the Court expedite the processing of cases overcoming the problem of ever-growing backlog.

Mr. President, there is no better time than now for Russia to build on these positive steps by fully implementing the European Court's judgments on Chechnya cases. We call on the Russian government to:

- Without delay, bring ongoing investigations to meaningful conclusions by identifying and prosecuting perpetrators of violations found by the European Court;
- Without delay, initiate effective, objective, and thorough criminal investigations into the actions of persons named in European Court judgments as participating in or having command responsibility for operations in Chechnya that resulted in violations found by the Court. These include: Major-General Yakov Nedobitko, Major-General Vladimir Shamanov, and Colonel-General Alexander Baranov;
- Without delay, issue instructions to all prosecutor's offices and investigative directorates indicating that disregard or rejection of European Court findings violates Russia's obligations under the European Convention and is unacceptable;
- Issue instructions to all prosecutor's offices and investigative directorates specifying the relevant European Convention requirements for effective investigations and clear penalties for those who do not abide by these requirements;
- Provide families with all information as to the fate and whereabouts of the disappeared. This should include the immediate creation of a coordinated and effective system to identify all remains, including through the identification and exhumation of burial sites;
- Ensure that victims and aggrieved parties receive up-to-date and complete information about the investigation, in conformity with their rights under the European Convention, through:
 - reiterating investigators' and prosecutors' obligations to properly inform aggrieved parties about the investigation;
 - issuing instructions to all prosecutor's offices and investigative committees to allow victims or their legal representatives as much access as possible to review case files and copy documents;
 - revising article 42 of the criminal procedure code to explicitly allow victims and aggrieved parties to have full access to the investigative materials of suspended criminal cases;
 - revising article 161 of the criminal procedure code, which the European Court has criticized as being too restrictive, to clarify the circumstances in which information from the preliminary investigation may be divulged, with a view towards making investigations effectively subject to public scrutiny, as the European Court has determined necessary for an effective investigation;
 - considering the establishment of family liaison officers, whose duty would be to keep in contact with a victim's family during the course of an investigation,

a practice that has proven effective in the United Kingdom in response to shortcomings in investigations concerning actions of the security forces in Northern Ireland.

- Ensure an effective judicial mechanism to challenge the actions or omissions of the investigative authorities as one aspect of ensuring effective investigations;
- Ensure consistent disciplinary action for investigators who fail to take all necessary investigative steps, to inform aggrieved parties about the investigation, or otherwise fail to comply with their professional duties. Regularly publicize information and statistics about such disciplinary proceedings;
- Ensure effective coordination between military and civil prosecutors' offices and investigative directorates, including sharing of information as well as effective prosecutorial and judicial oversight to prevent cases from being trapped in indefinite referrals from one prosecutor to another;
- Ensure that relevant laws guarantee, and issue instructions to relevant agencies insisting on, full cooperation from relevant security and other agencies with investigations into potential violations during anti-terrorism, military, and other operations;
- Conduct an in-depth inquiry into the conduct of investigations into abuses committed by Russian military, police, and intelligence officials and other forces in the Chechen Republic to establish why these investigations are ineffective and incapable of identifying perpetrators;
- Undertake a thorough review and revision of domestic legislation and regulations regarding the use of force by military or security forces to ensure their compliance with human rights law;
- Ensure that officials engaged in or commanding security operations, including counterterrorism operations, are not immune from prosecution for violations of the law.

On-going Human Rights Abuses in Chechnya

As has been indicated above, the existing rulings by the European Court pertain to the abuses perpetrated by federal servicemen in the early years of the second Chechen war. Today, however, as the Russian Government fails to bring to justice the perpetrators in the past crimes, law enforcement and security agencies under President Ramzan Kadyrov's *de facto* control receive the message that they can perpetrate human rights violations with full impunity.

The Chechen government has adopted an open policy of collective punishment against individuals suspected of any ties to insurgents. In the past three years high-level Chechen

officials, including the president, Ramzan Kadyrov, have been made regular public statements, including on Chechen television, stressing that insurgents' families should expect to be punished unless they convince their relatives to surrender. In doing so, the officials openly undermine Russian and international law.

One manifestation of this policy has been the burning of homes belonging to families of active or alleged insurgents. Human Rights Watch is aware of 30 cases between July 2008 and July 2009 in which houses belonging to particular families have been deliberately targeted and burned, apparently by Chechen law-enforcement officers; Human Rights Watch's report documenting our field research findings on this issue is titled "[What Your Children Do Will Touch Upon You](#)"—which happens to be a quote from a public statement by a high level Chechen official.

All of the families whose homes were burned have alleged insurgents, usually sons or nephews, among their close relations. Prior to the actual house-burning, they all came under strong pressure from law enforcement and administration officials to compel their relatives to surrender and were threatened with severe repercussion for failure to do so. No one has been held responsible for any of the house-burnings. From mid-summer 2009 through the present, Human Rights Watch continued to receive reports of punitive house-burnings in Chechnya, with the most recent incident occurring in the town of Shali on March 16, 2010. The torching followed an unmistakable pattern: the perpetrators went about it in a business-like manner, first forcing out those who live there and any witnesses, then piling furniture together--to create a pyre of sorts--putting easily flammable objects on top. They doused the house gasoline, set it on fire, and stayed for up to an hour watching the fire spread to make sure the residents or their neighbors did not attempt to put it out before the house was fully ablaze.

Lack of accountability

The assailants explicitly warned victims that trying to complain about the house-burning or draw any attention to their situation would be counterproductive and lead to negative repercussions. In only six cases known to Human Rights Watch did victims file complaints with the prosecutor's office, none of which resulted in an effective investigation. Memorial Human Rights Center and Human Rights Watch also informed the Chechnya prosecutor's office of most of the other cases that came to their attention. The prosecutor's office ultimately forwarded the information to the relevant district police, which have jurisdiction to investigate arson. Yet in doing so, it created a vicious circle, since personnel of the Chechnya Ministry of Internal Affairs allegedly were responsible for the torching. For example, last year a family who reported the burning of their house to the authorities was threatened

by the district law enforcement authorities and forced to provide a written statement that the fire had been caused by their own carelessness. At this writing, not a single criminal case into allegations of punitive house-burning has been opened.

Chechen authorities do not acknowledge responsibility for punitive house-burning. But as noted above, high-level Chechen officials, including President Kadyrov, for several years have been making public statements stressing that insurgents' would pay a high price for the actions of their relatives. While such statements may not constitute direct instructions for law enforcement agents to destroy houses of insurgents' families, they encourage such actions by police and security personnel by sending a strong message that lawless, punitive actions will be tolerated or condoned.

For example, when speaking at a televised meeting of his cabinet on August 9, 2008, President Kadyrov stressed:

[W]e must resort to Chechen customs-in the past, such people were cursed and ousted [from society]. It's normal. They [relatives] pass on information to their family members in the woods ... They warn them ... There is not a single family that does not maintain connections with their relatives in the woods ... So, those families that have relatives in the woods are all collaborators in the crime; they are terrorists, extremists, Wahhabis, and devils. Some of them publicly renounce their relatives [insurgents] in hope to be left alone [by us] but they continue helping them in secret.

Following upon the remark urging "Chechen customs" of retribution, Kadyrov ordered district police and especially district administration heads to boost "work in that direction" with family members of insurgents. Such statements by the president can be clearly interpreted as a direct threat to the families and a call for punitive measures addressed to law enforcement agencies. At the very least, they suggest that punitive measures would be tolerated and condoned.

One week later the mayor of Grozny, Muslim Khuchiev, reinforced this message at a televised meeting with relatives of insurgents. Ali Tagirov, deputy minister of internal affairs of Chechnya, and Nikolai Simakov, head of the ministry's Criminal Police Service, were also present at the meeting. Khuchiev addressed family members of alleged rebel fighters with explicit threats of revenge:

Today, we are not having a dialogue with you based on the laws of this state; we'll be acting in accordance with Chechen customs ... [Y]ou know very well what your relatives are doing... [In]the future you will have to find your relatives and bring them back home. In the future, if your relatives commit an act of evil, this evil will be brought upon you, your other family members and even your descendents ... The evil perpetrated by your relatives from the woods will come back to your own houses and in the very near future every one [of you] will feel it on your own back. Everyone who has relatives in the woods will feel the accountability, each and every one! Because what your children are doing will touch upon you ... You have a chance to save your children and protect yourselves from revenge.

When discussing the problem of house-burnings with Human Rights Watch, the ombudsman of Chechnya, Nurdi Nukhazhiev, acknowledged that law enforcement servicemen were involved and that in doing so they were committing a crime. But he also but stressed that they were acting "impulsively and solely of their own initiative" and suggested they were motivated by a desire to avenge their colleagues and relatives. Nukhazhiev said that he brought the issue of house-burnings to the attention of Ramzan Kadyrov in early autumn 2008 after he received a statement on this issue from human rights groups. According to Nukhazhiev, Kadyrov responded, "No one should be using my name for cover and each and every one must act within the framework of the law. No one has a right to kick people out into the street and burn their houses."

Human Rights Watch is not aware of evidence that Ramzan Kadyrov ever made any attempts to bring the perpetrators to justice. Burning of houses belonging to families of insurgents continued throughout autumn to winter 2008 and spring and summer 2009. When the Human Rights Commissioner of the Council of Europe, Thomas Hammarberg raised the problem in his meeting with Kadyrov in early fall 2009, Kadyrov promised to look into the issue and put an end to this practice. However, his promise to Hammarberg has not been backed by concrete remedial actions and this type of abuse continues. Local government officials still make statements, in public and in meetings with suspected insurgents' families, promoting the policy of collective punishment. To give just one recent example, on April 7 this year Chechen TV channel "Vainakh" covered a meeting of local officials with relatives of alleged insurgents. At the meeting, the mayor of Grozny, Muslim Khuchiev, publicly promised to treat parents of alleged insurgents the same way their children treat people. The prefect for Staropromyslovsky district of Grozny, Zelimkhan Istamulov, said: "If you think that after our conversation you'll be able to go home and live there quietly, then you're

seriously mistaken.” The Chechen ombudsman was present at the meeting and seemed to approve of these remarks.

House burning and the international human rights context

The arbitrary destruction of individual's homes and property cannot be justified under any circumstances and constitutes a grave violation of many basic rights protected under Russian's human rights obligations. In particular, such actions by agents of the state constitute violations of the victims' rights to family and home life, to property, and to shelter. Moreover, in light of the hardship the destruction imposes on victims, and given that the purpose of the destruction is a form of collective punishment, such actions also constitute at least inhuman and degrading treatment and punishment. Russia is a party to several human rights treaties including the European Convention on Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, which impose binding obligations on Russia with respect to all of the rights violated by the policy of house-burning.

This problem is not limited to Russia. For example, a strategy of house-burning was also extensively pursued by the Turkish military in their conflict with Kurdish insurgents. In several cases brought by victims whose homes had been burned down by the security forces the European Court of Human Rights consistently held that there could be no doubt that the deliberate burning of victims' homes by the security forces constituted grave and unjustified interference with the right to respect for their private and family life, and home and property, in violation of article 8 and article 1 of Protocol 1 to the ECHR respectively.

Also, as a mode of forced eviction, house-burnings also constitute a violation of article 11 of the International Covenant on Economic, Social and Cultural Rights, which establishes the obligation to protect the right to adequate housing including protection against forced eviction. Involving the arbitrary destruction by the state or its agents of resources that individuals and families have invested in building their homes, forced evictions have long been termed a gross violation of human rights.

When asked to comment on the reasons for which Chechen law enforcement officials could engage in house-burnings and other lawless practices with full impunity, the ombudsman of Chechnya provided the following explanation: “Those servicemen are acutely aware of the fact that thousands of innocent people were murdered and disappeared by Russian military and security forces and, no one was held accountable for those heinous crimes. And they are thinking, federal servicemen and their generals killed with impunity for years, so will someone actually punish me for taking revenge for my family members and colleagues...?”

While emphasizing that punitive house-burnings and other forms of collective punishment cannot have any justification, we agree with the ombudsman of Chechnya that the impunity for past abuses by federal servicemen encourages the Chechen law enforcement and security officials to engage into these and other lawless counter-insurgency practices. Punitive house-burnings, governmental policy of collective punishment, abduction-style detentions, torture, enforced disappearances, and other serious and systemic human rights abuses perpetrated by law enforcement and security agencies in Chechnya antagonize the local population and play into the hands of the insurgents by serving to further destabilize the situation in the republic.

Human Rights Watch urges the Russian government to:

- Immediately stop collective punishment practices in Chechnya, including house-burning and other forms of persecution against families of alleged insurgents
- Ensure access to the region for international monitors, including UN Special Rapporteurs on torture and other cruel, inhuman or degrading treatment or punishment, on adequate housing, and on violence against women, in full agreement with the requirements for conducting visits that these procedures' terms of reference set forth
- Ensure meaningful accountability mechanisms for such violations as house-burnings, cruel and degrading treatment, abduction-style detentions, and other violations perpetrated in particular by security services, military, and law enforcement agencies. Bring perpetrators of serious abuses to justice and ensure transparency regarding investigations and/or prosecutions undertaken, including their outcome
- Take concrete steps to prevent similar violations from reoccurring, including by means of putting an end to collective punishment propaganda in Chechnya and punishing the responsible officials at all levels
- Foster a favorable climate for journalists and human rights defenders to do their work in the region.