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THE STATE OF HUMAN RIGHTS AND THE RULE OF LAW IN RUSSIA: U.S. POLICY OPTIONS

HEARING

BEFORE THE

SUBCOMMITTEE ON EUROPEAN AFFAIRS

OF THE

COMMITTEE ON FOREIGN RELATIONS
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THE STATE OF HUMAN RIGHTS AND THE RULE OF LAW IN RUSSIA: U.S. POLICY OPTIONS

WEDNESDAY, DECEMBER 14, 2011

U.S. SENATE,
SUBCOMMITTEE ON EUROPEAN AFFAIRS,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:02 a.m., in room SD–419, Dirksen Senate Office Building, Hon. Jeanne Shaheen (chairman of the subcommittee) presiding.

Present: Senators Shaheen, Cardin, Barrasso, and Corker.

OPENING STATEMENT OF HON. JEANNE SHAHEEN, U.S. SENATOR FROM NEW HAMPSHIRE

Senator SHAHEEN. Good morning, everyone. We're going to try and begin right on time because we have votes scheduled. Obviously, since we're doing a hearing in Foreign Relations we will have votes scheduled. So hopefully we will have someone here who can continue to cover the hearing during the votes. But if not, we may have to recess between the panels. So I will just advise everyone that we expect that to happen about 10:45.

So thank you all very much for joining us. The Senate Foreign Relations Committee meets today to discuss the state of human rights and the rule of law in Russia, a particularly timely topic given the protests over the past week in response to national elections that have been marred by fraud and abuse.

This month, the world commemorates the 20th anniversary of the fall of the Soviet Union. The leadership in Russia chose to mark this anniversary by manipulating elections and engineering a carefully orchestrated political switch at the top. Misters Putin and Medvedev plan to swap spots, with Putin returning as President and Medvedev taking the Prime Minister post.

Following Russia's parliamentary elections, independent domestic monitors as well as international observers on the ground in Russia reported vote stealing, fraud, and abuse from Putin's United Russia Party. Initial protests saw a swift response from riot police, who unjustly arrested hundreds of peaceful protesters, opposition leaders, and human rights activists, some of whom are still in jail today. Despite the dangers, protesters continue to take to the streets, calling for the release of those arrested, new parliamentary elections, and an investigation of the recent fraud.

Despite President Medvedev's strong rhetoric on fighting corruption, the absence of an adequate rule of law doesn't just mean that the judicial system is weak. It also undermines entrepreneurial business leaders in Russia and scares off foreign investment. This leads to an anticompetitive environment where connections to the ruling regime matter more than business models.

A strong, successful, and transparent Russia that protects the rights of its citizens is squarely in the interests of the United States and the entire international community. So, even as we work with Russia on areas of mutual interest through the Obama administration's "reset" policy, we still need new tools to press its leaders on areas where we disagree.

One way currently being considered is the Sergei Magnitsky Rule of Law Accountability Act. This legislation, introduced by Senator Cardin—you arrived just in time—cosponsored by 25 Senators, including myself, is currently pending before this committee.

Sergei Magnitsky was a Russian lawyer who exposed government corruption and who died under questionable circumstances during his detention. The legislation, named in his honor, would blacklist any Russian believed to be responsible for major human rights violations from receiving a visa to travel to the United States. The measure would also subject these individuals to a possible freezing of their assets.

This summer the State Department barred dozens of Russian officials from traveling to the United States over their involvement in the detention and death of Mr. Magnitsky. I appreciate the administration's efforts, but hope there is more that we can do. I hope our witnesses today will provide their views on the current legislation and we look forward to a very constructive dialogue.

I also want to call attention to one more immediate action that the Senate could take. Right now Dr. Michael McFaul, a renowned human rights and democracy expert, still awaits confirmation as the next U.S. Ambassador to Moscow. Given the ongoing volatility in Russia, we need a strong diplomatic presence in the country as soon as possible, and I hope the Senate will act very soon on his nomination.

Now, before introducing our first two witnesses, I want to recognize our ranking member, Senator Barrasso, as well as the cochair of the Helsinki Commission and, as I said, the author of the Magnitsky legislation, Senator Cardin, both of whom have some brief opening remarks.

Senator Barrasso.

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM WYOMING

Senator BARRASSO. Thank you very much, Madam Chairman. Following up on your remarks about the election, widespread election fraud, there was an article in today's New York Times, "Two Leaders in Russian Media Fired After Election Articles." And it talks about how there was an apparent conflict over coverage that appeared to highlight the widespread anger across the country with results of parliamentary elections this month. So I'd like to, if I could, Madam Chairman, put that into the record.

Senator SHAHEEN. Without objection.

Senator BARRASSO. Well, thank you.

So I just want to thank you. I want to welcome the witnesses, thank all of you for being here today, because it's a critical time to be examining the status of the rule of law and human rights. The United States has always been a strong advocate for democracy, for rule of law, and for human rights abroad. These are incredibly important issues and deserve the attention of this committee and of the entire United States Senate.

Over the last 3 years, the administration has touted their reset of United States-Russian relations. I perceive the reset as not successful and I believe it has simply amounted in a number of ways to a series of appeasements to Russia. Even in the few areas where the administration does claim progress, Russia has taken several steps back or even reversed course.

I have serious concerns with the actions being taken by the Government of Russia. Some of these concerns include Russia's attempt to undermine U.S. missile defense, Russia's continued occupation and interference in the sovereign territory of the Republic of Georgia, Russia's supplying of weapons to the Government of Syria as the Assad regime continues a violent crackdown against its own citizens, Russia's extensive corruption throughout its government, Russia's ongoing violations of human rights, Russia's disregard for the rule of law, and Russia's repression of the freedom of speech and expression.

Several reports and studies continue to emphasize the problems and deteriorating conditions in Russia. The Department of State's 2010 Human Rights Report included a 92-page section describing the human rights violations in Russia. The report outlines serious human rights abuses, including the killing of journalists, extremely harsh and life-threatening conditions of prisons, violations of the freedom of speech, failure to abide by the rule of law, as well as a number of arbitrary detentions.

If you take a look at how they rank the 183 countries in perceived levels of public sector corruption, something called the Transparency International's Corruption Perception Index, Russia is seen as more corrupt than 142 other countries. The Reporters Without Borders ranked Russia as 140th in the 2010 World Press Freedom Index.

So, Madam Chairman, I believe that today's hearing is particularly timely to the recent electoral fraud and protests taking place in Russia that you have mentioned and that are in today's New York Times. Secretary Clinton has characterized the December 4 elections as neither fair nor free, and I agree with her. The preliminary report from the Organization for Security and Cooperation in Europe outlined numerous problems with the elections, including attempts to stuff ballot boxes, to manipulate voters lists, and other abuses.

Our Nation believes in a fundamental value of democracy. We believe in the right of people to freely express their views about their government and have their votes counted. The people of Russia are expressing this same desire.

Last week, the world watched as tens of thousands of Russian citizens gathered to protest the rigged elections. It's important that

we support the people of Russia in their pursuit of free, fair, and transparent elections.

So thank you, Madam Chairman. I look forward to the testimony.

Senator SHAHEEN. Thank you very much, Senator Barrasso.

STATEMENT OF HON. BENJAMIN L. CARDIN, U.S. SENATOR FROM MARYLAND

Senator CARDIN. Well, Madam Chair, first of all thank you for convening this hearing, and thank you for allowing me to make just very brief opening comments.

Let me thank our witnesses for their work. Russia is an important country for the United States and our relationship with Russia. It's important in our fight against terrorism. It's important in our work within the United Nations, within Europe, and around the world. So it's an issue that we all take very, very seriously as to how we can improve the relationship between our two countries.

But what we have seen in Russia are troubling trends. We saw that most recently in the Duma elections, which were anything but fair and free and open, the intimidations that were used, and now the concern as to how Russia will handle legitimate protests against the manner in which that election was conducted.

We see that in the safety of journalists, who have been intimidated against investigative reporting. And we see it in widespread corruption within the Russian Government.

As the chairman indicated, I have the honor of being the Senate chair of the U.S. Helsinki Commission, which is one of our oldest human rights organizations. We monitor human rights certainly within the OSCE geography, but basically globally, and we will bring out what's happening in countries. In Russia it's very concerning to us, the amount of human rights violations.

But people sort of gloss over the numbers, but when you have an individual case I think people can relate to just the tragedy of what's happening. Sergei Magnitsky is an example of a person who tried to do the right thing, as the chairman pointed out. He was representing a client and discovered corruption within the governmental system. So he did what he should have done, brought it to the attention of the Russian authorities, and he paid a heavy price for doing that. He was arrested on trumped-up charges and thrown in prison. He was tortured. Then we believe the higher authorities instructed the prison system not to give him health care to meet his needs, and he died in prison.

So that's why we all get concerned about this, is that there are so many Sergei Magnitsky's that are out there and unless we put a spotlight on this it will just continue. So we are concerned about this, and we are concerned about how Russia is responding to this.

The bill that I filed on behalf of many of my colleagues makes it clear that if you violate basic human rights, don't ask for the privilege to visit the United States. We think that is something we should all be doing. And I applaud the administration for taking action under the authority that they have—which, by the way, I pointed out with a letter that we wrote before filing our legislation, that that authority exists—of denying people the right for a visa

to come to America if they have violated basic human rights. That needs to be done.

But because the United States acted, the international community is now acting, and we're finding other countries are passing similar statutes to deny the rights of those who have violated human rights to visit their country. That's leadership.

Madam Chair, we know at the same time that Russia is moving for admission within the WTO, and in order for that to be effective in the United States we have to repeal what's known as the Jackson-Vanik law. Jackson-Vanik was passed by Congress to speak about human rights, the basic right for people to emigrate from the former Soviet Union. That's how Jackson-Vanik came about. It was a human rights connection.

I think it's right for us to be asking that if we want to have normal trade with Russia, we have a right to expect that they will adhere to basic human rights.

That's why, Madam Chair, I am so pleased that you're holding this hearing, where we can explore the human rights record within the Russian Federation.

Senator SHAHEEN. Thank you very much, Senator Cardin.

I'm pleased to welcome our first panel this morning: Dr. Phil Gordon, who's the Assistant Secretary of State at the Bureau for European and Eurasian Affairs; and we also have Thomas Melia, who is the Deputy Assistant Secretary of State at the Bureau of Democracy, Human Rights, and Labor. Thank you both for being here. Dr. Gordon, would you like to begin?

STATEMENT OF HON. PHILIP H. GORDON, PH.D., ASSISTANT SECRETARY OF STATE, BUREAU OF EUROPEAN AND EURASIAN AFFAIRS, U.S. DEPARTMENT OF STATE, WASHINGTON, DC

Dr. GORDON. Thank you very much, Madam Chairman, Ranking Member Barrasso, and other members of the committee. We very much appreciate the opportunity to discuss the question of human rights and democracy in Russia. With your permission, I'll submit my longer statement for the record and focus on some critical elements here.

Madam Chairman, thanks also for your remarks about the nominee for Russia, Mike McFaul. Mike is a supremely qualified nominee for Russia and, as you suggested, given everything that's going on there, it would be very useful to have him out there as soon as possible.

The topic of today's hearing is particularly timely following the parliamentary elections in Russia 10 days ago. Secretary Clinton and the White House have publicly expressed serious concern about the conduct of these polls, which were marred by numerous irregularities. This past Saturday, tens of thousands of Russians took to the streets across the country in demonstrations that were notably peaceful and free from official interference.

As Secretary Clinton said following the election—and I want to reiterate here—"The Russian people, like people everywhere, deserve the right to have their voices heard and their votes counted." And that means they deserve free, fair, transparent elections and leaders who are accountable to them. We believe that's in the best

interest of Russia and we're going to continue to speak out about it.

Now, of course speaking out about democracy and human rights in Russia is not new for this administration. Our policy has been and remains guided by clear principles that enable us to have an effective working relationship with Russia's Government while also strongly supporting civil society, democracy, and human rights.

Let me start with a word on foreign policy cooperation in general. President Obama, Vice President Biden, and Secretary Clinton have invested significant time in the bilateral relationship with Russia. The thinking behind this investment is clear: The United States and Russia have many common interests, in nonproliferation, in counterterrorism, regional security, economic relations, and other areas, and we should pursue those interests even as we stand firmly behind our principles and our friends in cases where we may disagree, and there are such cases.

The benefits of this engagement strategy are particularly relevant in the foreign policy arena. We signed, ratified, and implemented the new START Treaty, brought into force a 123 agreement on civilian nuclear cooperation, and reached and implemented a critical military transit accord on Afghanistan. We have also been effective partners in the development of multilateral solutions to global challenges, working together to address shared concerns such as Iran, North Korea, and Middle East peace.

However, there are foreign policy matters on which we disagree, for example our responses to events in Syria, as well as issues related to the territorial integrity and sovereignty of Georgia, which the United States strongly supports. We regularly raise these subjects at all levels of the Russian Government and we will continue to do so.

Now, having achieved many concrete goals in the first 3 years of the administration, our aim now is to deepen this engagement and widen the arc of our cooperation. In particular, we want to expand economic ties, which remain underdeveloped. While two-way trade flows grew in the past year, they still comprise less than 1 percent of our total trade.

The pending accession of Russia to the World Trade Organization matters to the United States economy, as it will create new markets for American exporters in one of the world's fastest growing markets and support new jobs at home. In addition to the economic benefit, Russia's membership in the WTO will oblige Russia to comply with WTO rules that underlie open, transparent, and fair global economic competition.

As part of the accession process, Russia has also agreed to predictable tariff rates and will be subject to an enforceable dispute resolution mechanism.

Now, for American companies to take advantage of this new market opening, Congress must terminate the application of the Jackson-Vanik amendment and extend permanent normal trading relations to Russia. Russia has met, as Senator Cardin said, the freedom of emigration criteria under the Jackson-Vanik since the early 1990s. This has been certified annually by every administration since 1994, demonstrating that the amendment long ago

achieved its historic purpose by helping thousands of Jews emigrate from the Soviet Union.

But until permanent normal trading relations are extended to Russia and we can apply WTO agreements to Russia, American companies will not fully benefit from nondiscriminatory terms of trade and the United States will not be able to use WTO mechanisms to resolve trade disputes. So just to be clear, it would be a very unfortunate result, to say the least, if we achieved the historic goal, not just of Jackson-Vanik, but of bringing Russia into the WTO, only to leave United States companies as the only ones in the world unable to benefit from Russian accession.

In the coming weeks and months, the administration looks forward to consulting with Congress on the way forward to address the question of the repeal of Jackson-Vanik and to continue to address the question of human rights in Russia.

Terminating the application of Jackson-Vanik to Russia is, as I have suggested, critical for United States business and foreign policy interests. While we believe that Jackson-Vanik has long since accomplished the goals for which it was adopted, we do want to work together with Congress to address our shared concerns about human rights and democracy in Russia.

In that regard, the administration has strongly welcomed Senator Cardin's campaign for justice after the tragic death of Sergei Magnitsky following the denial of necessary medical treatment while he was in pretrial detention. Congressional calls for travel restrictions against officials responsible for his death have helped keep global attention focused on this case.

The State Department has taken important actions, using the existing authorities of the Immigration and National Act, as well as the expanded powers provided by the Presidential Proclamation 8697 issued in August, to ensure that no one implicated in Mr. Magnitsky's death can travel to the United States.

In Russia two prison officials involved in Mr. Magnitsky's death have been arrested and several investigatory commissions have been established. These actions are steps in the right direction, but we are absolutely clear that more needs to be done. Deputy Assistant Secretary Melia and I look forward to discussing these issues with you during the hearing today.

Now, unfortunately the Magnitsky case is not the only human rights challenge in Russia. Well-known journalists, such as Anna Politkovskaya, Paul Klebnikov, and Natalya Estemirova, have been killed. Mikhail Khodorkovsky remains in prison on politically motivated charges. And Russian activists encounter difficulties while attempting to exercise their rights to free speech and assembly.

As already noted, last week Secretary Clinton and the White House expressed concerns about the conduct of the December 4 elections, as, by the way, did the European Union and other of our key partners in Europe. These concerns are reflected in the preliminary report issued by the OSCE's international election observation mission, which noted the lack of a level playing field and a process marked by limited political competition.

As I said at the start, the administration welcomes the fact that following the election tens of thousands of Russians were able to hold a peaceful political demonstration in Moscow this past Satur-

day. In a democracy the people have the right to make their voices heard in a lawful way, the authorities have the responsibility to provide the safe and secure conditions for the pursuit of that right. We were greatly encouraged to see these rights and responsibilities carried out so well. We look forward to the results of President Medvedev's call for an investigation into allegations of electoral fraud and manipulation.

We also, again, look forward to working with Congress to promote our national economic interests, as well as our interests in democracy and human rights in Russia.

To conclude, let me assure you that the United States will continue to be forthright in our firm support for universal human rights, as well as our conviction that democratic institutions and rule of law are the keys to unlocking Russia's enormous human potential. We do not seek to impose our system on anyone else. Change within Russia must ultimately be internally driven. Nevertheless, we will continue to work with Russian partners to foster democracy and respect for human rights by encouraging transparent and accountable government and strengthening civil society.

I look forward to your questions and the discussion during this hearing.

[The prepared statement of Dr. Gordon follows:]

PREPARED STATEMENT OF ASSISTANT SECRETARY OF STATE PHILIP H. GORDON

Chairman Shaheen, Ranking Member Barrasso, and members of the committee, thank you for inviting me here today to discuss the state of human rights and the rule of law in Russia. These issues have always been central to the administration's strategy toward Russia. As President Obama said in July 2009, "Americans and Russians have a common interest in the development of rule of law, the strengthening of democracy, and the protection of human rights." There are real challenges in these areas, as you well know. And there are not always easy solutions. But we believe that our policy is guided by clear principles that enable us to have an effective working relationship with Russia's Government and civil society on a wide range of important foreign and domestic policy concerns. I welcome the opportunity to discuss these principles and challenges with the committee.

When President Obama and President Medvedev first met in London in April 2009, bilateral relations in the wake of the Russia-Georgia war were as contentious as they had been in more than 20 years. The decision to make a fresh start, to reset relations between the United States and Russia, has brought practical benefits for both countries as well as for the rest of the world. U.S. policy toward Russia in this administration has been guided by several defining principles. First, we recognize that the United States and Russia have many common interests. Second, we believe that engagement with Russia's Government can produce win-win outcomes, by rejecting ideas such as "privileged spheres of interest" or "great game" politics as well as the notion that we cannot engage on human rights concerns. Third, we have sought to develop a multidimensional relationship that goes beyond the traditional security arena and advances core U.S. national interests. And finally, we remain guided by the belief that we can engage effectively with Russia's Government and civil society at the same time, that we can cooperate with its government without checking our values at the door, and that we can pursue a reset with Russia without compromising our relations with countries that have difficult relations with Russia.

To be sure, few things come quickly or easily in U.S.-Russian relations and it will take considerable time and effort to overcome a legacy of mistrust. Our interactions are often an uneasy mix of competition and cooperation. We are not so naive as to think that areas of common ground can be fully insulated from areas of friction, but our starting point has been that problems in one area of our relationship should not preclude progress in others. We have much to gain by working together on global security and economic challenges, as opportunities for effective collaboration far outweigh our differences.

President Obama, Vice President Biden, and Secretary Clinton have invested significant time in the bilateral relationship with Russia. Their diplomatic efforts, as well as constant contact between working-level officials, have produced practical

results. The benefits of our engagement strategy are particularly evident in the foreign policy arena. We signed the New START Treaty. We brought into force a 123 Agreement on civilian nuclear cooperation, and agreed to dispose of enough weapons-grade plutonium for 17,000 nuclear warheads. We reached a military transit accord on Afghanistan that—as of this week—has allowed over 1,700 flights across Russian airspace, carrying more than 275,000 U.S. military personnel to the region. Our law enforcement agencies have stepped up information-sharing and conducted joint operations to slow the flow of narcotics.

Russia and the United States have been effective partners in the development of multilateral solutions to global challenges. We are both key participants in the six-party talks and resolute in our determination to achieve the denuclearization of the Korean Peninsula. We are also working together to hold Iran to its international nonproliferation obligations and prevent it from developing nuclear weapons. Russia remains an important partner in the Quartet, which is working to implement the vision for Middle East peace outlined by President Obama in his May 2011 remarks. As cochairs of the OSCE Minsk Group, the United States and Russia coordinate closely, along with France, on efforts to achieve a peaceful, negotiated settlement of the conflict in Nagorno-Karabakh.

There are certainly foreign policy issues on which we have different perspectives; these remain the topic of regular discussion. Our governments differ in their preferred responses to events in Syria. We disagree fundamentally about the situation in Georgia. The United States strongly supports Georgia's sovereignty and territorial integrity and has raised consistently and at high levels the need for Russia to fulfill its obligations under the 2008 cease-fire agreement. We have participated in the Geneva talks to help resolve the conflict through direct dialogue between Georgia and Russia. We have repeatedly urged Moscow to provide transparency regarding Russian militarization of the occupied regions and reestablish an international monitoring presence in Abkhazia and South Ossetia. We also remain concerned about the insurgency in the North Caucasus. While we recognize the Russian Government's right and duty to protect its citizens, we remain troubled by security forces who—in the name of fighting the insurgency—have engaged in human rights abuses.

Our aim now is to deepen the reset and widen the arc of our cooperation. In particular, we need to expand our economic ties. This remains one of the most underdeveloped areas of our relationship, yet is vitally important—especially amidst a global financial crisis.

After a decade of growth, an emerging generation of Russians aspires to belong to a wealthy nation that boasts an economy able to compete in the global marketplace, a culture of entrepreneurial success, and a strong middle class. Russia's realization of these aspirations would have profound importance for Americans. In the last year alone, we have seen major business deals such as Boeing's sale of 50 aircraft to Aeroflot and 40 planes to Russian airline UTAir, the ExxonMobil-Rosneft joint venture to explore the oil and gas fields of the Arctic, and General Electric's joint ventures with two Russian partners.

Yet much more could be done. While two-way trade flows grew last year, they still reached just $31 billion—less than 1 percent of our total trade. Russia is the world's seventh-largest economy, but it is our 37th-largest export market. Today, Russia is the only member of the G20 that does not belong to the World Trade Organization (WTO). However, this is about to change as Russia is on the verge of completing procedures to become a WTO member. The simple fact is that Russia's accession to the WTO matters to the U.S. economy, as it will create new markets for American exporters in one of the world's fastest growing markets and support new jobs at home.

In addition to the economic benefit for American companies and workers, Russia's membership in the WTO will deepen its investment in the success of the global economy. For the first time, Russia has pledged to comply with the WTO rules that underlie open, transparent, and fair global economic competition. Russia has agreed to predictable tariff rates and will be subject to an enforceable dispute resolution mechanism. History shows that economic and political modernization goes hand in hand, as Vice President Biden said in his speech to the students of Moscow State University this past March. As the first generation in Russia that never lived under communism begins graduating from universities and taking its place in the Russian workforce, there is good reason to expect considerable change in coming years.

For American companies to take advantage of this new market opening, Congress must terminate the application of the Jackson-Vanik amendment and extend permanent normal trading relations to Russia. Because this step has not yet been taken, the United States will invoke "nonapplication" of the WTO agreements with regard to Russia because of the conditions on normal trading relations status applied under

Jackson-Vanik. Russia has met the freedom of emigration criteria under Jackson-Vanik since the early 1990s, demonstrating that the amendment long ago achieved its historic purpose by helping thousands of Jews emigrate from the Soviet Union. But until permanent normal trading relations are extended to Russia and we can apply the WTO agreements to Russia, American companies will not fully benefit from nondiscriminatory terms of trade and the United States will not be able to use WTO mechanisms to resolve trade disputes. If this situation remains unchanged, foreign competitors will benefit fully from Russia's accession to the WTO and American firms will be disadvantaged.

After meeting with President Medvedev in Hawaii last month, President Obama said that Russia's pending entry into the WTO meant "this is going to be a good time for us to consult closely with Congress about ending the application of Jackson-Vanik to Russia, so that the U.S. businesses can take advantage of Russia's membership in the WTO, and we can expand commerce and create jobs here in the United States." Our timeline is short, as the Russian Parliament is likely to act on ratification in the spring of 2012. In the coming weeks and months, the administration looks forward to consulting with Congress on a way forward.

Terminating the application of the Jackson-Vanik amendment to Russia is critical for our business interests. While we believe that Jackson-Vanik has long since accomplished the goals for which it was adopted, we want to work together with Congress to address our shared concerns about human rights in Russia. The administration has already shown it is committed to this objective.

The administration has welcomed Senator Cardin's campaign for justice after the tragic death of Sergey Magnitskiy following the denial of necessary medical treatment while he was in pretrial detention. Congressional calls for travel restrictions against officials responsible for his death have helped keep attention focused on this case. The State Department has already taken important actions—using the existing authorities of the Immigration and Nationality Act, as well as the expanded powers provided by the Presidential proclamation issued in August—to ensure that no one implicated in Mr. Magnitskiy's death can travel to the United States. In Russia, two prison officials involved in Mr. Magnitskiy's death have been arrested and several investigatory commissions have been established. These actions are steps in the right direction but more needs to be done. We look forward to continuing to work with the committee on these issues.

Unfortunately, the Magnitskiy case is not the only human rights challenge in Russia. Well-known journalists—such as Anna Politkovskaya, Paul Klebnikov, and Natalya Estemirova—have been killed. Mikhail Khodorkovsky remains in prison on politically motivated charges. And Russian activists encounter difficulties while attempting to exercise their rights to free speech and assembly. Last week, Secretary Clinton and the White House expressed concerns about the conduct of the December 4th Duma elections. These concerns are reflected in the preliminary report issued by the OSCE's international election observation mission, which noted the lack of a level playing field and a process marked by limited political competition. The administration welcomes the fact that, following the elections, the Russian public was able to hold a peaceful political demonstration in Moscow this past Saturday. In a democracy, the people have the right to make their voices heard in a lawful way; the authorities have the responsibility to provide the safe and secure conditions for the pursuit of that right. We were greatly encouraged to see these rights and responsibilities carried out so well.

Let me take the opportunity of today's hearing to review the administration's Russia human rights strategy, which relies on simultaneous engagement with both governmental and nongovernmental actors to advance democratic development and human rights promotion.

First, there is considerable government-to-government engagement at all levels on these issues. The President and Secretary regularly raise human rights concerns in meetings with their Russian counterparts. In fact, administration officials have made 84 public declarations on Russian human rights issues over the last 35 months—all of which are compiled for public access on the State Department's Web site [see www.state.gov/p/eur/ci/rs/c41670.htm].

Second, the United States continues to use the full range of legal measures to impose serious consequences on those involved in serious human rights abuses in Russia. As I noted earlier, we have restricted travel to the United States by such individuals.

Third, the United States provides financial support to Russian civil society. Since 2009, the U.S. Government has given approximately $160 million in assistance to support programs on human rights, rule of law, anticorruption, civil society, independent media, good governance, and democratic political processes. Most recently, U.S. funding was used to support independent Russian monitoring of the Duma

elections and education for independent media on professional and unbiased reporting, encourage informed citizen participation in elections, and enhance the capacity to conduct public opinion polling. We are grateful to Congress for continuing to provide these resources, especially in this difficult budgetary environment.

As part of our democracy strategy, the administration has been consulting with Congress on an initiative to create a new fund to support Russian nongovernmental organizations that are committed to a more pluralistic and open society. The fund would not require an additional appropriation, as necessary funding would be drawn from the liquidated proceeds of the U.S.-Russia Investment Fund—an example of successful U.S. foreign assistance to Russia. We are working with several congressional committees to address their questions and hope to resolve these issues soon.

Fourth, American officials engage regularly with Russian nongovernmental leaders involved in strengthening democracy, human rights, and the rule of law. For example, President Obama met with hundreds of civil society leaders and opposition political figures during his July 2009 visit to Moscow. Vice-President Biden and Secretary Clinton have similarly engaged with civil society and opposition leaders.

Fifth, the United States supports the modernization of Russian civil society organizations by, among other things, taking advantage of new technologies to make their work more effective.

Sixth, we have supported a range of Russian Government efforts to fight corruption, provide more transparency about government activities, and improve the rule of law. For example, at their June 2010 meeting in Washington, Presidents Obama and Medvedev issued a joint statement underscoring the need to cooperate on open government. The U.S. Government has been providing small grants to civil society organizations in Russia to work with local governments to identify and address community priorities. In addition, the United States has strongly backed Russia's efforts to become a member of the OECD—a key part of Moscow's efforts to address endemic corruption. We welcome Russia's membership in the OECD Working Group on Bribery, which it joined in May; we look forward to Russia's deposit of the instrument of ratification of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Seventh, a credible dialogue about democracy and human rights should involve direct communication between American and Russian NGOs and policy experts. Through the U.S.-Russia Bilateral Presidential Commission and its 20 working groups, we have built new partnerships and engaged our citizens, businesses and nongovernmental institutions in areas such as health care and energy efficiency. We have launched a U.S.-Russia Civil Society Partnership Program to build peer-to-peer relationships between U.S. and Russian civil society organizations. In addition, concrete steps have been taken to improve the daily lives of our citizens. Last July, Secretary Clinton and Foreign Minister Lavrov signed an agreement to build trust on intercountry adoptions. They also approved a reciprocal visa agreement to make it easier for business people and tourists to travel between our countries.

Let me assure you that the United States will continue to be forthright in our firm support for universal human rights, as well as our conviction that democratic institutions and the rule of law are the keys to unlocking Russia's enormous human potential. We do not seek to impose our system on anyone else, and change within Russia must be internally driven. Nevertheless, we will continue to work with Russian partners to foster democracy and respect for human rights by encouraging transparent and accountable government and strengthening civil society. We believe, as President Obama said in his speech to the New Economic School in Moscow in July 2009, that "the arc of history shows that governments which serve their own people survive and thrive . . . governments which serve only their own power do not."

In conclusion, the reset in U.S.-Russia relations remains a work in progress. We are proud of our accomplishments to date, which have advanced core American national interests. However, we recognize that there is much more to be done—including on the important issues of human rights and the rule of law. This is a moment of domestic preoccupation in both Russia and the United States, when election-year decisions and political personalities dominate the headlines. While personalities matter, national interests don't change. Both nations have pragmatically approached issues such as arms control and Iran's attempts to acquire a nuclear weapon. We expect to continue our successful approach of cooperating with Russia when it is in our interests, addressing our disagreements honestly, building links to Russian society and government, and maintaining the United States long-held commitment to keep our values at the center of our foreign policy.

With that, I welcome your questions.

Senator SHAHEEN. Thank you very much, Dr. Gordon.

Mr. Melia.

STATEMENT OF THOMAS O. MELIA, DEPUTY ASSISTANT SECRETARY OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEPARTMENT OF STATE, WASHINGTON, DC

Mr. MELIA. Chairwoman Shaheen, Ranking Member Barrasso, Senators Cardin and Corker. Thank you for the invitation to appear before you today. Assistant Secretary Michael Posner is on a mission to Bahrain at present and he asked me to convey his regards and to emphasize how much we value our cooperation with this committee. He and I look forward to continuing to work with you to ensure that robust support for human rights and the rule of law, the issues you have identified for today's hearing, continue to be integral elements of our Russia policy.

I have a longer statement I'd like to ask be submitted for the record. But I want to emphasize that President Obama's policy of dual-track engagement with Russia includes very explicitly support for democratic advancement in our public and private statements with Russians and in our very public assistance program, even as we engage the government on other issues of importance to our two countries. We appreciate that Russia has been a good partner on some security and economic issues and we want that to continue, and we will continue to support those many Russians who want to see a strengthening of the rule of law and democratic processes in their country.

We have no illusions that this will be easily or quickly done. The 92-page report that Senator Barrasso mentioned that we produced in cooperation with Embassy Moscow makes very clear that we're fully aware of all of the shortcomings in Russia's human rights environment.

Last week's flawed Duma elections and the Russian Government's initial response to citizen protests dramatically underscored how this dual track policy works. Over the last 3 years, we have sought to support the modernization of aspects of Russia's institutions, its economy, and civil society. Yet when we witnessed Russian Government actions inconsistent with these goals, the Secretary of State spoke out, both privately and publicly.

For instance, in the months prior to the elections, the Obama administration expressed our concerns about the conduct of the campaign, in which independent political parties such as Parnas were denied the right to participate, and about the unequal treatment of parties and candidates in the mainstream media. We supported the effort very vigorously to get observers into Russia from the OSCE's Office for Democratic Institutions and Human Rights, and in this we were successful, in contrast to the previous elections in 2007 and 2008, which had no observers from the OSCE. This was critical, as we now know, as ODIHR reported on the fraudulent practices on election day and in the period just before election day, and it was echoing those reports Secretary Clinton spoke plainly about the need for honest elections, stating that "The Russian people, like people everywhere, deserve the right to have their voices heard and their votes counted."

We would also like to see an independent investigation of the distributed denial of service, DDOS, attacks on the Web site of Golos, the domestic nonpartisan election monitoring organization, and on other independent media outlets that were echoing their findings and tracking election fraud. These attacks underscore broader concerns we have about the parlous state of media freedom in the country, where virtually all of national television, most radio, and much of the print media are government-owned or influenced. While free expression still remains largely possible on the Internet, the Government of Russia has begun to take steps to monitor and control the online media space. We will watch that space closely.

We have also expressed concern repeatedly about the detention of the hundreds of protesters and at least six journalists and the sentencing last week of democratic activists like Ilya Yashin and Alexei Navalny. They are still behind bars today, notwithstanding the peaceable protests over this past weekend.

We welcome President Medvedev's call for investigations into allegations of election fraud and were encouraged about the peaceable way in which last weekend's protests unfolded. Moscow's police have now demonstrated that they can facilitate large gatherings when instructed to do so. We urge Russia to make this type of respect for free assembly the norm going forward.

Madam Chairwoman, the United States cannot make Russia respect human rights and we cannot build democracy in Russia. Only the citizens of Russia can do that. What we can do is act in support and defense of civil society organizations that are already working to promote human rights, the rule of law, and democracy.

Prime Minister Putin's assertion that the funds that the United States and other donors provide to civil society groups constitute unwarranted interference in Russia's internal affairs is a tiresome cliche, a well-worn canard, and without foundation. After all, it was just 1 year ago at the OSCE Astana summit when Russia joined all the other participating states in reaffirming "categorically and irrevocably that the commitments undertaken in the field of the human dimension are matters of direct and legitimate concern to all participating states and do not belong exclusively to the internal affairs of the state concerned."

Let me briefly address now the mutually reinforcing elements of our democracy strategy. First, as we have discussed, we are committed to a frank government-to-government dialogue as President Obama, Secretary Clinton, and others of us regularly engage our counterparts on human rights and democracy concerns. In addition, the Bilateral Presidential Commission Civil Society Working Group has broadened our dialogue into other areas: anticorruption, migration, protection of child welfare, prison reform, other very important matters.

Recently I was named to be the U.S. cochair of this commission, this working group, and I hope to be able to use this vehicle to address our continuing concerns about fundamental freedoms, the enabling environment for civil society. We are consulting with Russians both inside and outside of government and without Americans inside and outside of government on future directions for this working group.

Second, we make public statements that are critical of human rights abuses and constraints on democratic processes. We have voiced our concerns about violence and harassment against those in Russia who dare to speak truth to power, uncover corruption, call out abuse of others—murdered human rights activists and journalists Anna Politkovskaya, Natalya Estemirova, and victims of selection prosecution and unpunished abuse, like Sergei Magnitsky, and the members of groups like Strategy 31 and the Khimki Forest Defenders, whose exercise of the right of peaceful assembly has made them the victims of violent attacks.

We met with them just a few weeks ago. Mike Posner and I were in Russia. We met with people from all of these groups, to demonstrate very visibly our support for their work.

We and other U.S. officials continue to raise concerns about the serious human rights violations by security forces, including the brutal and corrupt administration of Ramzan Kadyrov in Chechnya. We also continue to raise concerns about antisemitism, xenophobia, and homophobia in Russian society and the lack of tolerance for nontraditional peaceful religious minorities and the misuse of the antiextremism law against them. This is all covered in the 92-page report that we produce every year.

Third, we're taking action to deny human rights abusers entry into the United States. In compliance with the Immigration and Nationality Act and the proclamation issued by President Obama last August, we restrict travel to the United States by those in Russia, as elsewhere, involved in gross human rights violations. As you know, the State Department has taken action to ensure that individuals involved in the death of Sergei Magnitsky do not have U.S. visas. We share Senator Cardin's concerns about this case and about the rule of law in Russia more broadly. Congressional attention to this issue has been instrumental in building demand for accountability in the Magnitsky case in the international community. We very much appreciate Senator Cardin's initiatives and his tenacity in keeping this issue in front of all of us.

Beyond travel restrictions, we've taken other actions against human rights abusers. For example, even though the United States may not be able to keep brutal and corrupt Chechen leader Kadyrov from committing human rights abuses in Chechnya, we can deny him the opportunity to showcase his newfound wealth in the United States.

Fourth, we demonstrate solidarity with and help strengthen and modernize Russian civil society. On his first visit to Moscow in 2009, President Obama spent one of his two working days in Russia meeting with civil society and opposition leaders. The Vice President makes a point of doing this when he visits. Secretary Clinton does. Assistant Secretary Gordon, Ambassador Beyrle, Assistant Secretary Posner and I, we all reach out, spend time with, very visibly, with civil society and opposition leaders in Russia, to demonstrate that we think they play an important role in any modern society.

We do this to demonstrate very visibly our support for their efforts. Change in Russia will be driven by the people of Russia and we will continue to look for opportunities to support Russian citizens seeking reform. Since 2009, the United States Government

has provided approximately $160 million to Russian groups working to advance democracy and the rule of law. In October, the Obama administration submitted a congressional notification on the creation of a new $50 million fund that would support Russian civil society. The money would come from the liquidation of the U.S.-Russia Investment Fund and so would not require any new appropriation. We would welcome your support in allowing this proposal to move forward quickly.

We believe that Jackson-Vanik has fulfilled its stated goal of ensuring freedom of emigration and that its application to Russia should now be terminated. Termination would not mean that the United States Congress and the Obama administration would cease to press our concerns about human rights in Russia.

We look forward to working with the House and Senate to ensure that our efforts on behalf of human rights, the rule of law, and democracy in Russia continue to be robust. I want to echo the call that has been made here already, that we hope the full Senate will soon provide its consent to the President's nomination of Michael McFaul to be our Ambassador to Russia. Mike is supremely qualified, perhaps uniquely qualified, to be our Ambassador at this vital time.

Secretary Clinton has repeatedly stated that when governments push back against their citizens, the United States will not waver in its support for those working at great personal risks for democracy and human rights.

Thank you. I look forward to our discussion.

[The prepared statement of Mr. Melia follows:]

PREPARED STATEMENT OF THOMAS O. MELIA

Chairwoman Shaheen, Ranking Member Barrasso, Senator Cardin and members of the committee, Thank you for the invitation to appear before you today. Assistant Secretary Michael Posner is not able to be here today—he is on a mission to Bahrain—and he asked me to convey his regards and to emphasize how much we value our cooperation with this committee on a wide range of shared interests. He and I look forward to continuing to work with you, and with Assistant Secretary Gordon and his bureau, to ensure that the issues you have identified—human rights and the rule of law—continue to be integral elements of our Russia policy.

Senators, we agree with you on the challenge we face in trying to support those many Russians who want to see a strengthening of the rule of law and democratic processes in their country. Indeed, President Obama's policy toward Russia throughout this administration has been to support democratic advancement quite explicitly—in our public and private statements, and in our very public assistance program—even while engaging the Russian Government on the full range of security and economic issues described by Assistant Secretary Gordon. We all appreciate that Russia has been a good partner on a range of security and economic issues important to our two countries, and we want that cooperation to continue.

Our policy is one of dual-track engagement, where we are simultaneously engaging Russia's Government officials and Russia's civil society leaders to advance democracy and defend human rights. Madame Chair, last week's flawed Duma elections and the Russian Government's initial response to citizen protests dramatically underscored how our dual-track engagement works.

Over the last 3 years, we have engaged with the Russian Government and civil society to support modernization of Russia's state, economy, and civil society. When we witnessed Russian Government actions inconsistent with these goals, we spoke out, both privately and publicly. For instance, in the months prior to the elections, the Obama administration expressed our concerns about the conduct of the campaign, where PARNAS and several other independent political parties were denied the right to participate, and where parties and candidates had unequal access to the mainstream media. We supported the effort to get observers into Russia from OSCE's Office for Democratic Institutions and Human Rights, and in this we were

successful (unlike the previous elections in 2007 and 2008). Obviously, this was critical, as the OSCE observers reported fraudulent practices on Election Day, such as ballot box stuffing and the manipulation of voter lists.

Echoing these reports, Secretary Clinton spoke plainly about the need for honest elections, stating that "the Russian people, like people everywhere, deserve the right to have their voices heard and their votes counted." We also urged that Russia's Government immediately investigate the concerted distributed denial of service (DDOS) attacks on the Web site of Golos ("Voice"), a nonpartisan election monitoring organization and other independent media outlets tracking election fraud.

These attacks underscore broader concerns about the parlous state of media freedom in the country, where all of national television, most radio, and much of the print media already are government-owned or government-influenced. This has broader implications. While free expression still remains largely possible on the Internet, which was used to organize Saturday's protests, the Russian Government has begun to take steps to monitor and control the online media space. We will watch that space closely in the period ahead.

We have also made it clear that the authorities' initial response, including the detention of hundreds of protesters, including at least six journalists, and the sentencing of democratic activists like Ilya Yashin and Alexei Navalniy, raised serious questions about the Russian authorities' respect for fundamental freedoms of expression and peaceful assembly. We welcomed Medvedev's call for investigations into allegations of electoral fraud, and were encouraged to see that the Russian Government authorities in most, but not all, cities allowed peaceful demonstrations to occur last Saturday. We urge Russia to make this type of respect for free assembly the norm throughout the country going forward.

Madame Chair, the United States cannot make Russia respect human rights and we cannot build democracy in Russia. Only the citizens of Russia can do that. What we can do is support those in Russia who are working to promote human rights, the rule of law and democracy, including civil society organizations. Prime Minister Putin's assertion that the funds the United States and other donors provide to civil society groups constitute interference in Russia's internal affairs is a well-worn canard and without foundation.

After all, just 1 year ago at the Astana summit of the OSCE, Russia joined all the participating states in adopting a Declaration reaffirming "categorically and irrevocably that the commitments undertaken in the field of the human dimension are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned." That Declaration went on to state: "We value the important role played by civil society and free media in helping us to ensure full respect for human rights, fundamental freedoms, democracy, including free and fair elections, and the rule of law." Change in Russia is being driven by the people of Russia, and we should and will continue to look for opportunities to support Russian citizens seeking reform.

Madame Chair, let me now briefly address the mutually reinforcing elements of our strategy of dual-track engagement—simultaneous engagement with both governmental and nongovernmental actors to advance democratic processes and human rights promotion. This is the basis of our democracy strategy.

First, as I mentioned, we are committed to a frank government-to-government dialogue. President Obama, Secretary Clinton, and other U.S. Government officials regularly engage the Russian Government on our concerns about ongoing abuses that are contrary to human rights, the rule of law, and democratic governance.

The creation of the Bilateral Presidential Commission (BPC) in July 2009 has helped to facilitate ongoing contacts and discussions between our two governments on these concerns. As part of this Commission, the Civil Society Working Group has broadened our dialogue on such issues as anticorruption, migration, child protection, and prison reform—all real issues affecting people's lives in both countries.

I am honored to have been recently named the U.S. cochair of the Civil Society Working Group, and I look forward to using this vehicle to address directly our continuing human rights and democracy concerns. I plan to lead an interagency delegation that draws upon a wide range of U.S. expertise on issues of civil society. The Russians have named Ambassador Konstantin Dolgov, the Ministry of Foreign Affairs' Commissioner for Human Rights, Democracy and the Rule of Law, to be their new cochair. During my October trip to Russia with Assistant Secretary Posner, we consulted with Russians both inside and outside the government on future directions for the Working Group.

In addition, through the Open Government Partnership, the U.S. Government engages the Russian Government to support efforts to fight corruption, provide more transparency about government activities for citizens, and improve the rule of law.

Second, we make public statements that are critical of human rights abuses and constraints on democratic processes. [A list of statements can be found at: www.state.gov/p/eur/ci/rs/c41670.htm] This year, the Department of State and the White House have spoken out through press statements and public remarks about specific threats to the fundamental freedoms of religion, expression, and assembly, and, most recently, regarding the already mentioned deeply flawed conduct of Russia's parliamentary elections. The United States also has raised concerns about human rights and rule of law in Russia at international fora. Most recently, as I mentioned, Secretary Clinton's speech at last week's OSCE Ministerial Meeting in Vilnius made specific references to Belarus, Ukraine, and Russia—with their Foreign Ministers seated at the table—and garnered worldwide media coverage. In September, I represented the United States at the OSCE Human Dimension Implementation Meeting in Warsaw, where we raised the full range of our concerns regarding Russia, as Ambassador Ian Kelly does throughout the year at the OSCE Permanent Council in Vienna.

More generally, we have voiced concerns about violence and harassment against those in Russia who dare to speak truth to power, such as: murdered human rights activists and journalists Anna Politkovskya and Natalia Estemirova; victims of selective prosecution and unpunished abuse as exemplified by the case of Sergei Magnitsky; and members of groups like Strategy 31 and the Khimki Forest Defenders, whose exercise of the right of peaceful assembly has made them the victims of violent attacks.

Meanwhile, in the North Caucasus, serious human rights violations by security forces and other parties continue unabated, with ongoing reports of killings, torture, and politically motivated abductions. These occur with near-total impunity. In particular, the brutal and corrupt administration of Ramzan Kadyrov in Chechnya is creating an atmosphere of fear and intimidation for human rights groups, the media, religious communities, and anyone else who might raise an independent voice.

We also remain concerned about anti-Semitism, xenophobia, and homophobia in Russian society, and particularly about the lack of tolerance for "nontraditional" religious minorities. Russia's antiextremism law is used to ban the literature and prosecute individual members of religious communities, such as the followers of Turkish theologian Said Nursi, the Jehovah's Witnesses, Scientologists, and the Falun Gong. During our recent visit to Kazan, the capital of Tatarstan, a majority Muslim region, I observed good relations among Christians and Muslims. But I also learned that even this vaunted example of tolerance has limits. Nontraditional religious groups face harassment and isolation by the two large religious denominations and by the regional authorities.

Third, we are taking action to deny human rights abusers entry into the United States. The United States has used and will continue to use the full range of legal measures to impose consequences on those involved in serious human rights abuses in Russia. Consistent with the Immigration and Nationality Act (INA) and President Obama's "Proclamation on the Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Participate in Serious Human Rights Abuses and Humanitarian Law Violations and Other Abuses," issued on August 4, 2011, our administration has taken action to restrict travel to the United States by those in Russia—and elsewhere—involved in such abuses.

For instance, the Department of State has taken action to ensure that individuals involved in the tragic death of Sergei Magnitsky do not have U.S. visas. We have and will continue to prevent the entry of those responsible for human rights violations. We share Senator Cardin's concerns about the Magnitsky case and about rule of law in Russia more broadly, and believe that congressional attention to this issue has been instrumental in building demand for accountability in the Magnitsky case in the international community.

Beyond travel restrictions, we have taken other actions against human rights abusers. For example, the United States may not be able to keep brutal and corrupt Chechen leader Ramzan Kadyrov from committing human rights abuses in Chechnya, but we can deny him the opportunity to showcase his newfound wealth in the United States.

Fourth, we are committed to engaging with, strengthening and modernizing Russian civil society. Parallel to our engagement with Russian Government officials, U.S. officials engage regularly with Russian nongovernmental leaders involved in strengthening democracy, human rights, and the rule of law as well as civil society more broadly.

On his very first visit to Moscow in 2009, President Obama spent nearly an entire day meeting with civil society and opposition leaders. The Vice President did the same when he visited. The Secretary of State does so regularly as well. Assistant

Secretary Gordon and Ambassador Beyrle do so, as do Assistant Secretary Posner and I, along with other U.S. officials in Moscow and Washington.

In fact, just 6 weeks ago, Assistant Secretary Posner and I traveled to Moscow, Nizhniy Novgorod, and Kazan, and earlier this year I traveled to Yekaterinburg and Perm. Our visits have received notable—and generally objective—coverage in the local and regional press in Russia. We took the opportunity to reiterate the United States longstanding commitment to human rights and democracy and to highlight our concerns about specific cases, most recently the beating of environmental activist Konstantin Fetisov (with whom Mr. Posner met in October), the murder of activist Maksharip Aushev, and the imprisonment of activist Alexei Sokolov (with whose family I met in March).

We also actively encourage the development of peer-to-peer ties between Russian and U.S. civil society groups. In 2009 and again in 2010, Russian and American nongovernmental leaders convened parallel civil society summits that took place at the same time that President Obama and President Medvedev met. We firmly believe that a credible dialogue about democracy and human rights should involve not only contacts between the American and Russian Governments, but also direct communication and linkages between American and Russian nongovernmental organizations, independent policy experts, and regular citizens to confront common challenges and learn from different experiences faced by our societies. Thus, USAID has launched a U.S.-Russia Civil Society Partnership Program to build, leverage, and expand peer-to-peer relationships between U.S. and Russian civil society organizations. The program will include three conferences of civil society leaders from our two countries, a small grants competition to support collaborative projects, and an Internet resource platform that will enable participants to exchange information about their activities and publish news and events.

In addition, the Obama administration—working with the U.S. Congress—has continued to secure funds to support Russian efforts to advance human rights, civil society, rule of law, independent media, and good governance. Let me emphasize: we are helping Russian groups, like Golos, already working in these areas. Since 2009, the U.S. Government has provided approximately $160 million in assistance to advance democracy and promote civil society in Russia. We have prioritized small, direct grants to Russian civil society organizations. And we help them take advantage of new technologies to make their work more effective.

In October, the Obama administration submitted a Congressional Notification proposing to create a new $50 million fund to increase our support of Russian civil society. Once established, the fund would provide new and long-term support to Russian nongovernmental organizations committed to a more pluralistic and open society. This proposal would not require additional appropriation because the $50 million would come from liquidated proceeds of the U.S. Russia Investment Fund. We would welcome your support in allowing this proposal to move forward as quickly as possible.

I have laid out for the committee the variety of mechanisms and instruments upon which the United States draws in our efforts to support democracy, human rights, and rule of law advocates in Russia and around the world. Before concluding, I would like to say a few words about the Jackson-Vanik amendment.

We believe that the Jackson-Vanik amendment has fulfilled its stated goal of ensuring freedom of emigration first from the Soviet Union and then from the Russian Federation, and that its application to Russia should now be terminated.

Termination of Jackson-Vanik would not mean that the U.S., Congress, and the Obama administration will cease to press our concerns about human rights conditions in Russia. Secretary Clinton, my colleagues at the Department of State, and I look forward to working with the House and Senate to ensure that our efforts on behalf of human rights, the rule of law, and democracy in Russia continue to be robust and effectively channeled. Indeed, we continue to stand firmly with Congress and the human rights community in calling for improvements in Russia's human rights record, knowing that our best partnerships are with countries that share our commitment to universal democratic values.

Secretary Clinton has repeatedly stated that when governments push back against their citizens, the United States will not waiver in its support of those working at great personal risk for democracy and human rights.

Senator SHAHEEN. Thank you very much, Mr. Melia.

Over the last week the world really has been watching, I think, the growing protests in Russia and the courageous stand that thousands have taken by coming out into the streets to protest. You both mentioned that. I know we all agree that it's critical for the

United States to stand behind these protesters and it's important that they know that we hear what they're doing and support their right to demonstrate.

Obviously, the reports from the elections detail significant tampering, abuse, and fraud. In some areas turnout exceeded 140 percent. In Chechnya, reports suggest that United Russia was able to garner 99.5 percent of the vote. Nobody familiar with democracy believes that that's a real number.

I think equally important, as you both mentioned, was the significance of the Kremlin's first response to what happened in the elections and to the protests, the cyber attacks that hit, as you pointed out, Mr. Melia—and I was pleased to hear you say that we are continuing to watch any efforts to shut down the Internet and access to it. The people who have been jailed and who remain in jail; and of course, Prime Minister Putin's initial reaction playing the anti-American card and accusing us of being behind the efforts to discredit the elections.

I think all of it gives us all reasons for grave concern. There have been some who have indicated that they don't believe that the administration has been forceful enough in calling attention to what happened in Russia and in supporting the protesters.

So I wonder if first you, Dr. Gordon, might respond to what again our official reaction has been to the elections and what more we can do to point out our grave concerns about what's happening in Russia.

Dr. GORDON. Thank you, Madam Chairman. I think I can say that our official response to the allegations of fraud and irregularities in the Russian election was immediate and forceful and clear. I was with Secretary Clinton at the Bonn conference on Afghanistan and when the word started to come out about how the Russian election went, we waited to hear what the OSCE observers were going to say about it, in addition to the reporting from our Embassy and social media and other. And once it became clear that there were these serious irregularities, the Secretary went on record, and I already quoted what she said about our concerns, and you listed some of them.

It was the cyber attacks that preceded the election. It was the nonregistration of parties in advance of the election, that precluded an open playing field. And then it also included serious allegations from those on the ground, including the OSCE observers, about stuffing ballot boxes and other serious irregularities.

So I think if anyone has questioned whether the United States response was clear and serious, that doesn't seem to include the Russian leadership, which noticed what we had to say about it. The White House immediately followed up and issued a statement of its own, and I think we have consistently expressed those concerns.

I would note, first of all, it was a welcome thing that Russia allowed OSCE observers in the first place, and that was not least at our vigorous urging, and that allowed some independent authority to assess how the elections went on. We also note that President Medvedev has called for investigations into these allegations and we hope to follow up on that, and that's as it should be. Foreign Minister Lavrov today said that there would be followup on what the OSCE report said.

So we will continue to draw attention to the irregularities. To take this back to the very first thing I said about our government-to-government relations with Russia, we will continue to pursue our common interests in the foreign policy area because it's in our interest to do so. But we said all along we would never be shy about talking frankly about differences, and here's a case where there were differences and I think we've been pretty frank in talking about it.

Senator SHAHEEN. Thank you.

Mr. Melia, what are we hearing from people on the ground in Russia, some of those civil society leaders, about how they're responding to the administration crackdown in Russia?

Mr. MELIA. Well, in the last 10 days since the elections we have seen unprecedented mobilization of citizens in Russia. The most visible aspect was the demonstration of perhaps 50 to 70,000 people in Moscow, but there were demonstrations in scores of cities across Russia. I read one account that said as many as 60 places across Russia had demonstrations of 500, 1,000, 3,000 people.

So it is a nationwide awakening, if you will, of citizens who want to see their government be accountable. They want to see elections that matter. What's interesting is that in most, not all, but most of those places, the demonstrations over the weekend were allowed to proceed in an orderly fashion, again underscoring that the authorities in Moscow and the police in all the cities know how to do this if they get the right orders.

So we're hoping that—having demonstrated that citizens can demonstrate peacefully and that the authorities can accommodate that—that that becomes the new normal. Time will tell going forward. The Moscow city authorities have granted permission for a demonstration of up to 50,000 people in Moscow on December 24. We'll hope that that goes at least as well.

Those demonstrators are asking for a revisiting of the announced election results, for dismissal of the chairman of the election commission, and some other things. How and whether the Russian Government responds to those, we will see. The President of Russia has said that there will be an investigation. We hope that that's genuine and we hope that the results are made public.

So we're in a very interesting moment right now, where some things have changed, and we'll see how much things have changed as we go forward.

Senator SHAHEEN. Thank you.

I'm almost out of time, so I'm going to turn over to Senator Barrasso.

Senator BARRASSO. Thank you very much, Madam Chairman.

Secretary Gordon, how would you characterize Russia's record on adherence to its international treaty obligations?

Dr. GORDON. I don't know, Senator, if there are specific treaties that you have in mind. But broadly, I think it's accurate to say that they're in compliance generally with their treaty obligations.

Senator BARRASSO. I'm thinking about the Strategic Arms Reduction Talks Treaty from last time and some of the concerns that we have in terms of missile defense and what they have said in terms of their actions and how they interpret it may be different than the way that it's been interpreted here.

Dr. GORDON. Well, since we have been absolutely clear that nothing in the New START Treaty constrains missile defenses or should constrain missile defenses, any position they take on that issue is not inconsistent with what's in the treaty. Now, as you suggest, they may like to see a linkage between offensive reductions and constraints on missile defenses, but from the start we rejected any such linkage and no such linkage appears in the treaty.

Senator BARRASSO. I'm going to switch to Syria for a second. There has been, obviously, a lot of concern about Russia's lack of cooperation on the situation in Syria. Russia blocked efforts to pass a resolution at the United Nations that U.S. Ambassador Rice described as "a vastly watered-down resolution which did not," she said, "did not even mention sanctions."

Also we see the Assad regime continues its brutal crackdown, reportedly killing over 5,000 of its own citizens. Russia recently delivered cruise missiles worth about $300 million, I understand, to the Syrian Government.

What kind of cooperation does the administration expect from Russia regarding Syria and what's the administration's response to what's happened there?

Dr. GORDON. Thank you, Senator. We are clearly not satisfied with the degree of cooperation on Syria. As I've said, there are issues on which we are cooperating well in our mutual interests, in the United States national interest, and there are others on which we are not and continue to address it with the Russian Government, and Syria is clearly one of them.

The United States believes that, at an absolute minimum, the international community should be on record at the Security Council in denouncing Assad's use of violence against his own people and that consequences and sanctions should be part of our international response. Russia disagrees and we vigorously disagree with that disagreement and continue to raise it with the government.

Senator BARRASSO. A final question on corruption. Russia ranked 143rd of 183 countries in terms of transparency and corruption issues. Does the administration continue to work with those Russian officials and branches engaged in what we view as corrupt practices and are listed internationally as corrupt practices?

Dr. GORDON. Well, we certainly continue to work to try to confront and eliminate those corrupt practices. There is clearly a long way to go. One of the reasons we want to see Russia accede to the WTO is that the transparency that comes along with WTO membership should be an important tool in opening the Russian economy and helping to confront the corruption that undermines them and those they deal with.

Senator BARRASSO. Thank you.

Madam Chairman, I do have a statement from Senator Wicker. I ask unanimous consent to——

Senator SHAHEEN. Without objection.

Senator BARRASSO. Thank you, Madam Chairman.

Senator SHAHEEN. Senator Cardin.

Senator CARDIN. Thank you, Madam Chair.

Let me start, Secretary Gordon, in thanking you and the administration for the manner in which you have been very clear about

the human rights agenda and the problems within Russia. I very much support your efforts in that regard. I do want to just underscore from your statement, which I totally agree with, when you say, "We do not seek to impose our system on anyone else and change within Russia must be internally driven." I completely agree with that. "Nevertheless, we will continue to work with Russian partners to foster democracy and respect for human rights by encouraging transparent and accountable government and strengthening civil society."

The United States must be in the leadership in this regard. The international community looks to the United States. If we don't stand up, unfortunately, it's not going to happen. So we have to be unambiguous as to the expectations.

You mentioned the fact that the advantages of Russia entering the World Trade Organization from the point of view of transparency and other issues. But let me just point out that the WTO is not a panacea. China is a member of WTO. We have our problems with China on trade. And I remember very vividly when China entered the WTO we said that would be an opportunity for America to advance human rights in China, and we, of course, enacted a mechanism, a commission that does meet, that has some impact. But I would hope that what we have learned from that experience is that we have to set the bar higher when we have opportunities to advance human rights.

Then recently in the OSCE Kazakhstan, a former republic within the Soviet Union, came forward and wanted to be chair in office, and the United States was very clear about that, that we welcomed a Central Asian nation to take on the chairmanship of the OSCE, but we expected human rights advancements. For the chair to be of the OSCE, the premier international organization on human rights, we want to see the country that hosts the chairmanship make the advancements. We got some progress, but we should have set the bar higher.

But I point this out as to what we can expect to come out as you seek to enact permanent normal trade relations with Russia and repeal the Jackson-Vanik law. You point out that, while we believe Jackson-Vanik has long since accomplished the goals for which it was adopted, we want to work together with Congress to address our shared concerns about human rights in Russia. Then you go on to point out that more needs to be done. We're in agreement.

So what should we do? We have an opportunity to advance human rights. The international community is looking at us. The issue that I have brought forward with many of my colleagues on the Magnitsky bill is to say that we should at least use the visa applications and look at asset freezes for human rights violators. That has gained international credibility and support. Europe is looking at similar restrictions.

My question to you is, can you give us a roadmap as to how we can use the next several months to come together with the expectations of what we should be doing to establish human rights advancements in Russia and hold them accountable as we look to enact permanent normal trade relations with Russia?

Dr. GORDON. Thank you, Senator Cardin. You make a number of important points. Let me try to address all of them, starting with

thanking you for your leadership on this issue. What you said about leadership is absolutely right. Somebody has to get out there and lead the charge, and what you have done has been a spur to our actions and the actions of others across the world, including in Europe, and we're very grateful for that.

WTO membership for Russia is indeed not a panacea, either on the trade matters or on human rights. There are no panaceas in that regard. We do think it will help. We think the transparency will help. We think the rules-based organization will help. But we're not pretending that this is going to be a magic wand that will really achieve all of our goals on human rights in Russia.

We agree, therefore, that we need other mechanisms to continue to promote human rights and democracy in Russia. I guess the point I would make about this constellation of issues having to do with Jackson-Vanik and the WTO is that Jackson-Vanik is not the answer, either. So when some may suggest that, since WTO itself isn't the answer, we need to keep Jackson-Vanik as some sort of lever to get the Russians to respond on democracy and human rights, that's not the lever. It's been on the books for 40 years. Its specific aims have been achieved and it is standing in the way of what we think are some really important benefits we would get from Russia's WTO membership. And I stress that we would get. This is not a gift to Russia. It is in the interests of U.S. exporters, businesses, and the United States in general.

So we agree that WTO alone won't do it. I would argue that Jackson-Vanik isn't the answer. So then you ask, what is? What can we do? I think we have presented to you today and in previous discussions the reality of what we are already doing, even as we're ready to work and look at other things we might do. Tom listed a number of steps very specifically that we have already been taking through the bilateral Presidential Commission, through our direct engagement and other means, to promote democracy and human rights in Russia.

We also have, as for the very specific set of issues you mentioned in terms of visas and denying visas to those guilty of human rights abuses—as we have been clear, the Secretary has already used the authorities in the Immigration and Naturalization Act to make clear that we will not give a visa to anybody who we believe is guilty, either in the tragic death of Sergei Magnitsky or, more generally, guilty of grave violations of human rights. Those authorities were strengthened by the President's August proclamation, which makes it clear that it's the policy of the United States not to give a visa to anyone responsible for grave violations of human rights, including arbitrary detention, which is one of the most relevant aspects of the Magnitsky case.

Senator CARDIN. Let me point out, I think we are in agreement on many of those issues. Where we will be talking during the next several months is how we provide a more permanent basis for these types of issues. Action by one administration can be forgotten by a second administration. So how do we institutionalize the standards for human rights, taking a look at this opportunity as we move toward Russia's integration in the WTO, it gives us a chance to advance institutional changes for human rights. We look

forward to seeing how we can advance legislation that achieves that.

Thank you, Madam Chair.

Senator SHAHEEN. Thank you.

Senator Corker.

Senator CORKER. Thank you, Madam Chairman, for having this hearing and for your being here as witnesses.

It's interesting. First of all, I appreciate the efforts that Senator Cardin has put forth in a one-off situation, and I think he's talking about trying to figure out a way to implement greater efforts on human rights.

At the same time, as I listen it seems like Russia sort of evokes different emotions in people than countries like China—the elections process there is certainly very different even than it is in Russia, nonexistent—and the Congo, Saudi Arabia, where a woman was beheaded yesterday.

So is it your experience that there is sort of a general sense here about Russia that's very different than other countries that maybe have even worse human rights records within Congress?

Dr. GORDON. Senator, I think it is fair to say that we have very high standards for Russia. We see Russia as a European country. We believe it belongs in this European space, which is predominated by democracies and countries that have strong rule of law and fight corruption and well-developed institutions and good relations with their neighbors. So yes, we are holding Russia to a high standard, the standard that their leaders themselves have talked about wanting to reach, and will continue to do so.

Senator CORKER. And I assume that in holding them to that high standard and hoping that there is an evolution that continually moves in a more pro-West direction, the best way for us to do that is to have even greater ties to them as it relates to trade and other activities; is that correct?

Dr. GORDON. That is correct. That's one of the things we're trying to achieve.

Senator CORKER. And Jackson-Vanik I think is sort of one of those things. I mean, people want to use it as leverage, but it's a "cut your nose off to spite your face." It's basically saying we're going to leverage Russia by not repealing Jackson-Vanik, and if we don't we'll just shoot ourselves in the foot. Is that basically what's happening?

Dr. GORDON. You said it very well, Senator. One could argue that even before the WTO accession process Jackson-Vanik was anachronistic and should have been taken off the books. And surely, once they ratify the WTO agreement it would really be cutting off our nose to spite our face.

Senator CORKER. And generally speaking, as it relates to just pro-democracy, pro-human rights efforts, I think it's been fairly well realized that the more interaction that U.S. companies and citizens have with countries like this and citizens in these countries see how the United States acts in that regard and see how our citizens regard them, that generally speaking over time there is an evolution toward Western cultural acceptance; is that correct?

Dr. GORDON. Absolutely, Senator.

Senator CORKER. So I think what you're saying is that we can talk about human rights, which we all care about, and we certainly can promote efforts from within, like you're talking about the administration has proposed, but to hold Jackson-Vanik up as some kind of leverage is just one of the most foolish things Congress could possibly do. Is that what you're saying?

Dr. GORDON. We believe Jackson-Vanik should be repealed, Senator.

Senator CORKER. OK. We thank you for being here today and look forward to the second panel.

Senator SHAHEEN. Perhaps you'd like to send Senator Corker out on the speaking circuit. [Laughter.]

I think I was quite surprised looking at the returns that we did get from Russia and what happened to Prime Minister Putin and his party in those elections. I was surprised that he didn't do any better despite efforts to manipulate the election results. I think I certainly have had a perception, that I think is shared by many, that President Medvedev has been easier to deal with in terms of human rights concerns, that he seems to have expressed more concern about some of the human rights abuses than we had heard previously from President Putin.

So as we look at Mr. Putin's return to the Presidency and the switch that they have orchestrated, how does that complicate our future efforts to address some of the human rights concerns that everyone here has spoken to very eloquently? Maybe you could both address that question if you would.

Dr. GORDON. I'll just make two brief points, Madam Chairman. First, on the election result itself, obviously it's our view that it's up to Russians to decide who they want to elect. The one comment I would make about it is not so much who ended up getting what proportions of the vote, but the fact that some of the parties that ought to have been able to campaign and compete for votes weren't given the opportunity to do so, and that's an irregularity that should really be addressed moving forward so we can see a true expression of what the Russian popular will is.

As far the possible return of President Putin, I don't want to get into analysis of different personalities, but I would just note the fact that, even as we have reached the various agreements that I have alluded to over the past 3 years and developed our relationship with Russia and pursued the reset and so on, Mr. Putin was the Prime Minister of Russia, not apparently without power, and didn't stand in the way of the significant progress that we've made.

So all we can do if he were to come back is continue to test the proposition that we have common interests and we will continue to pursue them.

Senator SHAHEEN. Mr. Melia, Dr. Gordon didn't really address the human rights piece of my question. Can you shed any light on that, whether we expect a return of President Putin to be more hard-line than we've seen, to the extent that that's possible?

Mr. MELIA. Well, sometimes we have to take leaders at their word, and in a couple ways that's relevant here. One is that President Medvedev in announcing the plan for the March elections and the return of Mr. Putin to the Presidency, he said that decisions have been taken collectively by the two of them these past 4 years.

So I think we have to think that that's at least a possibility, that the two of them have been jointly managing Russia and that most of the things that have been done reflect some kind of consensus between them or a balance between them.

Whether that balance will continue to be played out and be continuing after next March, we'll have to see. I don't think it's the case that things will be altogether different after March. Mr. Putin has not been far from leadership in Russia these last 4 years.

So all of that means that it will continue to be difficult. It will continue to be something for Russian people to address what the nature of their political system is, how free their society is. Our role is as a supporting actor in this. The Russians are the leading actors in this drama, and I think that the curtain has gone up on a new act right now since last weekend's elections. I think it was—clearly something happened the day before, the day of, or the day after last week's elections that mobilized a lot of people to come out into the streets in a way they had not done in 20 years.

So what that means going forward we don't know. But I think that it's at least as much up to these Russian people who've been mobilized as it is up to Mr. Putin what the future course will take. And our job will continue to be to demonstrate our support, not for particular candidates or electoral outcomes, but for a process that is more open and genuine and for people that speak for the values that we support. We'll continue to do that.

Senator SHAHEEN. You mentioned in your testimony the interest in creating a new fund to support civil society in Russia. I think you both mentioned that in your testimony. Can you talk about what we're hearing from civil society leaders on the ground in Russia about how helpful that will be to them and whether it will exacerbate efforts on the part of the current administrations in Russia to crack down on their activities?

If we're being accused of being behind efforts to open up Russia, is it helpful for people on the ground there to have this kind of a fund to assist them?

Mr. MELIA. Well, as with the funding opportunities that have been available in Russia from USAID, from the National Endowment for Democracy, from our own grants program at DRL within the State Department, Russians make their own decisions about whether to apply for or receive those funds, and we respect their decisions about how visibly they want to be associated with us.

So as around the world, that's generally the rule of thumb that I would subscribe to, is that we should indicate that we're prepared to help and to help in ways that people on the ground ask us to and respect their wishes for how directly they want to be associated with us or whether they want to take our money or not, and leave the decisions about how they best use that funding largely to them.

So I think what would be significant about the new fund is that it would be a substantial new amount of money that would be available over a period of time. We haven't worked out all the modalities of that. But it would I think, particularly at this moment, it would send a very powerful signal to the Russian people that the United States is stepping up its willingness to invest in their future.

Senator SHAHEEN. Thank you.

Did you want to add anything to that, Dr. Gordon?

Dr. GORDON. No, thank you.

Senator SHAHEEN. Thank you.

Senator Cardin.

Senator CARDIN. Well, let me just make an observation following up on the chairman's comment. President Medvedev has been outspoken about a lot of the human rights tragedies in Russia, promising full investigations, et cetera, et cetera. Then somewhere along the line that doesn't happen, and at least the common belief is that Mr. Putin has been involved in stopping the reforms and independent investigations, et cetera.

So I just really want to follow up on the chairman's question. It seems to me that, with it likely that Mr. Putin will be ascending to the Presidency again, we're not exactly sure how to decisions will be made under his Presidency. But one thing becomes at least clearer to this Senator, that it's going to be more hard-line on the human rights advancements and that it even puts more of a spotlight in importance on how we deal internationally with the human rights dimension.

Any comments on that?

Dr. GORDON. Maybe just a couple of things, Senator. I can't comment or speculate on who may have been responsible for halting different investigations.

Senator CARDIN. The President did make certain pretty strong statements.

Dr. GORDON. He did, and he has supported the work of a number of commissions in Moscow that have actually been quite clear about what happened in the Magnitsky case, the most recent one essentially admitting that there was no due process and that he was inappropriately jailed and he was likely beaten and held in arbitrary detention. That's progress, to have Russian officialdom on the record stating what many of us believe to be true.

There hasn't been full followup, as I think I said in my opening statement. A couple of prison officials, doctors, mid-level, have been charged, but the more senior people responsible for what took place have not been.

So yes, it is a positive thing that he's called for these investigations, but followup needs to happen. Again, I don't know why it hasn't, but I would say, taking us back just briefly to this point about leadership, without your efforts and I would hope to be able to say our collective efforts, we wouldn't have gotten as far as we have, and that's why we are in complete agreement about the need to keep the pressure on. Whether that will have the same result if there's a President Putin remains to be seen. But again, what's in our hands is the ability to keep the spotlight and the pressure on.

Senator CARDIN. And I appreciate that diplomatic answer.

Mr. Putin's reputation is much more concerning, problematic, from our point of view, and it seems to me that with the elevation of his position—he may very well have been calling the shots over the last 4 years; we don't know—it just puts an additional burden on the human rights dimension. At least we have seen some action in Russia that may not be there under the Putin administration.

It just I think underscores the need why we need to pay even a little bit closer attention to make sure we get the strongest possible policy we can to advance human rights.

Thank you, Madam Chairman.

Senator SHAHEEN. Go ahead, Mr. Melia.

Mr. MELIA. I think Senator Cardin has very aptly described the challenge we face. I think Mr. Putin has demonstrated that he's certainly more pugnacious in the way he responds to our statements and what he says about the West and the United States in particular.

I think it's all the more important, therefore, going into this next year and whatever period he might be in office that we stay steady on our course, that we maintain the course of engagement, principled and purposeful engagement, not engagement for its own sake, but principled and purposeful engagement with Russia in all its facets—the government, civil society, the business community.

It's a large, complex relationship we have with one of the largest, most complex countries in the world, and we need to be engaged on all fronts, including not least focusing on supporting the efforts of Russians to strengthen democracy and the rule of law, for all the reasons that we've talked about today, and we will remain focused on that.

Certainly the European Bureau and our Embassy in Moscow place a lot of effort on this. We have some of the best shoe leather reporters in the business in Moscow, fluent Russian speakers, out and about across the country. We learned a lot about these elections from our front-line diplomats there. They do an outstanding job demonstrating our commitment to civil society and democracy every day they're there, and we try to use that good information to elevate the information and make policy points with the Secretary of State, as she did, not just once last week, but repeatedly when challenged.

So we're going to remain focused on this, hopefully with your support.

Senator SHAHEEN. Thank you both very much. I know we have lots of other questions and comments that we could raise, but in the interest of trying to get the second panel on before voting starts I'm going to thank you very much and hope we will see you again, and appreciate the efforts that you're both making to address the human rights issues in Russia.

Now I would like to turn to the second panel, who I will introduce as we're making the switchover. First is David Kramer, who's the current President of Freedom House in Washington. We also have Tom Malinowski, who is the Washington Director of Human Rights Watch; and finally, rounding out the second panel is Edward Verona, who is the current President and CEO of the U.S.-Russia Business Council. Given all of the comments about Russia's participation in the WTO, I think I'm particularly looking forward to your comments as well.

So again thank you all for being here, and I'm going to ask, David, if you would like to begin.

STATEMENT OF DAVID KRAMER, PRESIDENT, FREEDOM HOUSE, WASHINGTON, DC

Mr. KRAMER. Chairwoman Shaheen, Senator Cardin thank you very much for holding this hearing today. I know this hearing was considered even before the latest developments in Russia on December 4 and since, and I think this is an incredibly timely and important hearing and I commend you for doing it.

Despite the Kremlin's concerted efforts, including rampant harassment of opposition, civil society groups, cyber attacks on liberal platforms like LiveJournal, the efforts to go after the independent election monitoring organization Golos, and pervasive fraud and ballot-stuffing, the ruling United Russia Party still couldn't muster 50 percent of the vote on December 4. And given the extensive ballot-stuffing and vote manipulation, United Russia undoubtedly received even less support than the official 49 percent that was announced. By comparison, it managed to secure 64 percent, according to official results, in 2007.

So what happened between 2007 and December 4? Well, I think the level of frustration among many Russians reached a point where they decided enough is enough. Concomitantly, I would say United Russia's, Putin's, and Medvedev's polling have hit new lows. A growing number of Russians have been talking about emigrating from their country, fed up with Russia's political stagnation and never-ending corruption, and on December 4 many voters decided that it is the authorities who should leave, not they.

Russians did not react well to the plans announced by Medvedev and Putin on September 24 that they were going to switch jobs and have Putin come back as President for possibly another 12 years. The prospect of 24 years under Putin, from 2000 until 2024, was simply too much for many Russians to stomach. To many, this undemocratic return to the Presidency was made so that Putin could preserve the status quo and the corrupt system that he's overseen since 2000.

It's true that during Putin's time many average Russians have seen an improvement in their standard of living. But the corrupt nature of the regime meant that their enhanced personal situation was never safe from thieving officials. So Russians decided on December 4 that it was time to retake control over the future of their country and said enough is enough.

After casting their ballots against the status quo, tens of thousands of Russians across the country reinforced their desire for real change by taking to the streets peacefully. The vote on December 4, I would argue, can really be considered a vote against United Russia, against Putin, against the status quo. Missing for many Russians, though, is what to vote or whom to vote for. That's going to be for Russians to determine, not for us.

The current authorities are desperate not to lose the reins of power and may resort to desperate measures. And because he has so much at stake in preserving the status quo, Putin will not merely stand still. Just last week, as you've already discussed with Phil Gordon and Tom Melia, Putin blamed the United States and Secretary of State Hillary Clinton personally for instigating the protests last week.

Since his early years as President, Putin has always been blaming others, seeing threats in particular from the West. Whether after the Beslan tragedy in 2004 or in his infamous Munich speech in 2007 or in his comments last week, Putin sees threats to Russia from beyond the country's borders, coming from the West, and it's simply patented nonsense.

The greatest threats to Russia come from the Kremlin's ineffective and destabilizing policies in the North Caucasus, the lack of a sound ethnic policy, lawlessness among the security services and law enforcement sector, and a rotting ruling clique with an insatiably corrupt appetite. To find a real threat to Russia, Putin and those around him would need to buy mirrors.

Russia's future, it goes without saying, will be decided by Russians themselves, but there are steps that this Congress and the Obama administration can and should be taking. Let me identify four.

The first is to raise the profile of democracy and human rights concerns as it relates to Russia and speak truth to power.

Second, pass S. 1039, the Sergei Magnitsky Rule of Law Accountability Act of 2011. I commend Senator Cardin in particular for his outstanding leadership on this piece of legislation.

Third, graduate Russia from Jackson-Vanik, but do it only if there is the Magnitsky legislation to take its place or something comparable.

Last, I agree with both of you and with the previous panel: Confirm Mike McFaul as the new U.S. Ambassador to Russia.

Very quickly, Secretary Clinton had a good week last week when it came to Russia. She did a very good job abandoning the administration's previous reticence to criticize Russian authorities for the human rights abuses, corruption, and electoral fraud. Her clear and repeated condemnation of the Kremlin's efforts to rig the Duma elections was the clearest, strongest language uttered by a Cabinet-level Obama administration official to date. Clinton unambiguously stood with those who protested against Putin and United Russia.

Despite Putin's attacks against her, she didn't back down. Her candor, however, should have been reinforced by the White House and President Obama in particular. When Putin went after his Secretary of State, the President should have been out there defending her personally and stating unambiguously that he supported her criticisms of the elections. Since a laudable speech and a good visit to Russia in 2009, the President, sadly, has been virtually silent when it's come to Russia's deteriorating political situation. The President should lay down the expectation that the United States will be watching the government's treatment of protesters and the conduct of next March's Presidential elections, dispelling any myth that the reset policy means that the United States will remain silent when things go wrong in order to keep relations friendly and warm.

If the Presidential election next March is riddled with as many problems as the Duma election 10 days ago, then the United States should raise serious questions about the actual legitimacy of the next Russian leadership. Some are even raising questions about the new Duma, and given how much time President Obama has

invested in the reset, it is important for him personally to speak out and reinforce Secretary Clinton's assessment. It matters who in the U.S. Government conveys these messages.

When Russian officials behave in blatantly undemocratic ways, as they did on December 4, as they've done on many other occasions, they should not get a pass from the White House because of fear that criticism of their actions might upset the reset.

On the Magnitsky legislation—and Senator Shaheen, I also commend you for your cosponsorship of this bill—this is an extremely important measure that Congress needs to pass as quickly as possible, and I strongly urge the Senate Foreign Relations Committee to take this up in as soon a schedule as possible.

You've already discussed, Senator Cardin, the tragedy that befell Sergei Magnitsky, his family, and all who knew him, and you've also talked about the importance of other Parliaments in Europe and Canada that are moving forward with legislation. It is important that this is not just a U.S. initiative, but that it is a trans-Atlantic initiative, in order to demonstrate to Russian officials that if they engage in gross human rights abuses there will be a penalty to be paid, and that penalty should include not just depriving them of the privilege, as you said, Senator Cardin, not right but privilege, to travel to the United States, but we should also go after their assets. They shouldn't be allowed to deposit their ill-gotten gains in Western financial institutions and we should freeze their assets. They put their money, by the way, in the West, they don't keep it in Russia. There's $70 billion in capital flight estimated for this year. They don't put it in Chinese banks. They put it in Western institutions, and that means we do have leverage and we do have means by which to go after them.

It is critically important that we demonstrate to Russian officials, that we demonstrate to Russian society, that we demonstrate to Russian opposition figures, that if Russian officials engage in human rights abuses they will not be allowed in the West either personally or fiscally.

I strongly urge rapid passage of this legislation, which has forced Russian officials to take this case more seriously, although the lag since it was first introduced has given the Russians the sense that it is not going to pass. We need to disabuse them of this notion and let them know that this legislation will in fact be passed by this Congress and will be signed by this administration.

I know I'm out of time. Very quickly, Madam Chair, Jackson-Vanik. As I've mentioned, I agree with Senator Corker that it should be lifted, and it will only hurt ourselves if we don't lift it. But we also have to keep in mind the symbolism of lifting Jackson-Vanik if we don't do anything else legislatively.

There has to be another piece of legislation that addresses modern-day problems and challenges in Russia, and that legislation is the one that Senator Cardin has introduced. I'm all for lifting Jackson-Vanik and replacing it with a current piece of legislation that addresses today's Russia.

Last, Mike McFaul is as qualified as anyone could be to serve as Ambassador to Russia. On democracy and human rights issues he has an outstanding record. I strongly urge his confirmation as soon as possible, though I also recognize that there are some Members

of the Senate who have some serious issues that need to be addressed by the administration.

In conclusion, contrary to Putin's claims that last week's developments were the inspiration of the United States, it was Russians who took to the streets, with the hope that their voices would be heard and their government held accountable. Last week was a victory for the Russian people over authoritarianism, corruption, and repression. There's a long way to go, but last week for sure was a promising beginning.

Thank you.

Senator SHAHEEN. Thank you very much.

I'm sorry that, Mr. Malinowski and Mr. Verona, I'm going to have to ask you to hold on your testimony for a little while. We're almost out of time on the first vote. There are two votes, so it will take us a little while to come back, but hopefully not any longer than about 10 minutes—10 or 15 minutes.

So we will break for a few minutes and we will—at least I will see you back here shortly.

[Recess from 11:20 a.m. to 11:47 a.m.]

Senator SHAHEEN. We will resume the hearing. I should realize voting always takes longer than I thought it was going to. But we will continue with Mr. Malinowski's testimony. Go ahead.

STATEMENT OF TOM MALINOWSKI, WASHINGTON DIRECTOR, HUMAN RIGHTS WATCH, WASHINGTON, DC

Mr. MALINOWSKI. Thank you very, very much, Madam Chairman, for having me, for holding the hearing, for doing it now, when we so need a spotlight on these events.

The events we've seen in Russia in the last few days are extraordinary and I would argue they're extraordinarily important. For all the talk about resets with respect to Russia in the last 3 years, the Russian people have now brought about the biggest reset of them all. We don't know where this is heading or what's going to happen, but I think it's safe to say that Russia is not going back to what it was before this awakening on the part of the Russian people, and our policies can't go back either. We have to realign as well.

A few words about what's happened, why it happened, and what I think we should be doing in response. As David stressed, this came about because of the frustrations of the Russian people, and I would stress that those frustrations have been building for a very long time. They've been building because in the last 10 years the Russian Government has either weakened or dismantled every institution that might have limited its power or increased the power of its citizens—judicial independence increasingly undermined, independent broadcast media brought to heel, local and regional governments coming under Kremlin control.

In the eyes of most Russians, their country has become a place where those with power can do essentially whatever they want, without regard to the law, without regard to what the people of the country think.

Now, the most terrible consequences of those policies, if we're thinking about the human rights situation in Russia, have been felt by the people of the North Caucasus—Chechnya, and its neighboring provinces. You mentioned the 99.5 percent of the vote that

the ruling party got in Chechnya. We need to think about what lies behind that. It's a climate of complete terror that people are living in there. Security forces routinely disappear people, execute people, torture people in custody, and exercise just absolute control over the political life there.

Serious human rights abuses haven't been limited to those conflict areas. Outside of Moscow and most cities, if you want to hold a demonstration before these latest events, it's going to get broken up. If you want to protest something like the Khimki Forest problem, you get beaten up by the police before you can do anything. If you go to prison, you'll be abused. And of course, we've seen, as in the case of Magnitsky, that powerful people can basically purchase the justice system to arrest you and hold you in detention as a form of extortion.

Now, a lot of people, I think, have wondered in the face of all this, why were the Russians so silent? Is it because they're apathetic or cynical or just resigned to their fate? Is it because Putin somehow bought them off with all of the oil money? So this sudden outburst of protest I think took a lot of people by surprise. It's interesting, we've been taken by surprise a lot in the last year in a lot of parts of the world. It's become kind of a habit.

But I think there are analogies one can draw. In a lot of these countries, whether it's Egypt or Syria or Russia or you name it, the absence of popular resistance to repression is rarely a sign of real apathy. It's more often a case that people choose not to resist because their governments make it seem like resistance will be futile. If you come out, you'll be one of 10 people and there will be 100 riot police to stop you, and no one wants to do it under those circumstances.

But beneath the surface in these societies, there's a different kind of resistance that builds. People have private conversations with each other. They ridicule their leaders in private. They vent on social networking sites. A friend of mine recently said that protests in Russia have gone from second life to real life. That's what we saw in the last few days.

Members of the elite may project a lot of confidence, but deep down they're not all that confident, and all it takes is one spark to light a fire. The spark in this case was this announcement that Putin and Medvedev would change places. People just couldn't tolerate that, kind of like Egyptians couldn't tolerate Mubarak passing down power to his son, as if their views just didn't matter and it's going to be like this forever. They just didn't want that.

Now, it's very critical what happens in the next few months before the Presidential elections. I don't think Putin is going to massacre people in Red Square. I don't think he can do that. I also don't think it's in his nature to give up. So we have to look for kind of the old tricks of trying to coopt the opposition, to give them a little space while hoping that this all goes away.

But I don't think that works any more all that well. People no longer feel they're alone in Russia if they go out and protest, and a government that loses its legitimacy doesn't have the same kind of options that it used to have.

What can we do? No. 1, I totally agree we need to keep speaking about this in a very clear and public way. The more angrily that

Russian leaders insist that they don't care what the world thinks, the more I think they actually really do care. So when Secretary Clinton spoke out as she did, I thought that was extremely eloquent and powerful. She doesn't need a compliment from me because she already got the best compliment that any Secretary of State can ever get, and that is being denounced by Vladimir Putin. My life won't be complete if that never happens to me. [Laughter.]

No. 2, the United States should apply targeted pressure against those elements of the security apparatus in Russia that tortured and killed the very individuals who were trying to make the government accountable. That's what Senator Cardin's legislation, which you have supported—and I thank you for that—seeks to do.

Obviously, the Russian people have to change their country. It's up to them. But in some ways inadvertently, the West, the United States and Europe, do play a role in enabling these problems in Russia, in the sense that we provide an escape valve for the people who are creating those problems, a place where they can spend and shelter their money, a place where they can go when things get a little bit tough inside their own country. What this bill does is it closes that escape valve. It says that if you have committed murder, if you are responsible for torture, you can't come here, you can't park your money here. And if the EU were to adopt it, it would be especially powerful.

So this is the reason for it. It's not just a way of expressing our anger. It's actually something that the worst elements in Russia I think fear a great deal.

Now, the State Department has said it's not necessary to do legislation because they've already taken action on visas. But if you notice, what they're stressing is, and the only thing they've really stressed publicly, is we've taken action against the people guilty in the Magnitsky case. Of course that's very important, but that's one case. It happens to be very prominent. But it's not the way one would respond if one were really aggressively, proactively trying to deal with a range of human rights abuses in Russia. There are a lot of cases like Magnitsky that deserve equal attention.

So whether it's done by legislation or executive action, it needs to be done right. It needs to cover people responsible for the range of very serious, the most serious human rights abuses in Russia. Very, very importantly, it needs to be joined by the Europeans. One thing I really want to see the administration do is to make an active effort to persuade the European Union to adopt similar measures. If they don't want Congress to do it, that's fine, but they should be asking the European Union to join them so that it actually works in the way that we intend.

Now, is this going to undermine cooperation with Russia on other important issues? I can't guarantee that it won't, but I would note that the people who are targeted by this legislation are people who are despised by the majority of Russians. Most Russians I think are going to be quite happy if these people are unable to park their money in the French Riviera or New York City. And I think it's going to be politically dangerous for the Russian Government to be seen as standing up too much for those people in opposition to this legislation. So, the Russian Government's duty is to convince you that it will end the relationship, but I don't think that that's the

case. In fact, I also think a good case can be made that the Cardin legislation would be as good for the Russian economy as joining the WTO if it does, in fact, help stop capital flight by these individuals. So I think it's actually a fairly popular measure among the Russian people.

Then, finally, I completely agree that we need a strong Ambassador in Russia and no gap when the current Ambassador leaves. So absolutely I would join your calls and David's for the Senate to act very quickly on the President's nomination. There are other important concerns that have been expressed in the context of this nomination. I don't want to diminish their sincerity, but this is the time to prioritize our response to these incredible events inside Russia which are going to determine the outcome of everything that matters in our relationship. That should be the priority right now.

Thank you.

[The prepared statement of Mr. Malinowski follows:]

PREPARED STATEMENT OF TOM MALINOWSKI

Madam Chairman, members of the committee, thank you for your invitation to testify this morning.

Over the last several days, Russians have come out in numbers not seen in years to express frustrations long simmering beneath the surface—about abuse of power, corruption, and their political leaders' complete lack of accountability and infantilizing of the public. We do not know where this popular awakening will lead. But it is safe to say that Russia is not going back to what it was before it began. We've heard a lot about "resets" with respect to Russia in the last 3 years. The Russian people have now brought about the biggest reset of them all.

The concerns that led to these demonstrations have been building among Russians for some time. To many Russians, their country in the last few years has once again become a place where those with political power, or political connections, can do what they want without regard to the law or to the will of the people they are supposed to serve. As the death of Sergei Magnitsky and other activists who have challenged the authorities suggests, it has again become a place where the powerful can, literally, get away with murder.

That's not to say that Russia today is what it was during the days of the Soviet Union. Russians enjoy vastly more freedoms in their personal lives than they did then. They can own property. They can travel throughout the country and abroad. They can inform and express themselves more or less freely through the Internet. Opposition parties struggle, but do exist. There are still newspapers critical of the government. Some of the forms of democracy are still respected, including semicompetitive elections. But the substance of democracy—the checking and balancing of authority that make governments answer to people—has gradually evaporated.

During the Presidency of Vladimir Putin, the Russian Government weakened or dismantled every institution that might have limited the power of its leaders or increased the power of its citizens. Under President Medvedev, some reforms were carried out, such as the decriminalization of libel, improvements to the criminal code, and somewhat greater openness to domestic and international scrutiny of government policies. But there was no notable improvement in respect for civil and political rights. Over the past decade, local and provincial elected governments were made subservient to the Kremlin. Strict and arbitrary registration requirements made it hard for opposition parties to function (practices that the European Court for Human Rights found in 2011 to violate the European Convention on Human Rights). Television networks that once featured independent political coverage and commentary were brought to heel. Courts, never fully independent after the fall of the Soviet Union, increasingly became tools of the state—or of those who could afford to purchase the legal judgments that served their interests.

The most terrible consequences of these policies have been felt by people in the North Caucasus region. In Chechnya, ruled by the brutal pro-Kremlin warlord Ramzan Kadyrov, the 99.5-percent support that the pro-Kremlin United Russia Party was recorded as receiving in the recent Duma elections testifies to the shameless rigging by local authorities there, and the degree of control they exercise. Law

enforcement and security agencies in Chechnya have routinely forcibly disappeared people suspected of supporting insurgent groups and those who challenged Kadyrov's authority. The European Court of Human Rights has ruled over 185 times that the Russian Government and its proxies were responsible for extrajudicial executions, torture, and enforced disappearances in Chechnya; in none of these cases have those responsible been brought to justice. Far from eliminating terrorism, this repression has contributed to the spread of violence by insurgent groups and state security forces alike—to other provinces, such as Dagestan, Ingushetia, and Kabardino-Balkaria.

But serious abuses of human rights in Russia have not been limited to conflict areas—far from it. Though small freedom assembly rallies have been permitted in Moscow on the 31st day of each month, similar demonstrations have rarely been allowed in other cities. In all parts of Russia, torture and abuse is common in prisons and pretrial detention facilities. Powerful individuals and well-connected companies can arrange to have their political enemies or business competitors placed in detention as a form of revenge or extortion.

Many human rights defenders and those who challenge these injustices risk harassment and violent attack, whereas those who threaten them enjoy continued impunity. Those responsible for ordering the murder in Moscow of Anna Politkovskaya, the courageous journalist who exposed atrocities committed in the North Caucasus, remain unpunished. No one has been brought to justice for the murders of three activists in Chechnya in 2009—Natalya Estemirova, Zarema Saidulaeva, and Alik Dzhabrailov. Local citizens and journalists who protested the construction of a highway through the once protected forest reserve of Khimkhi near Moscow have been subjected to brutal assaults. Whistle blowers, like Sergei Magnitsky, have been persecuted by the same judicial system that should be protecting them.

All of this has been clear for some time. Many people have therefore wondered why most Russians seemed so passive in the face of such injustice and indignity. It was often said that Russians were somehow historically apathetic or apolitical or simply cynical and resigned. Or that they had simply been bought off by the greater prosperity that came to them, courtesy of Russia's energy exports, during the Putin era.

And so, the sudden outburst of protest in Moscow and other big Russian cities in the last week took many observers by surprise.

Then again, so did the revolution in Tunisia, where a repressive government had also maintained stability for years by making its people more prosperous than their neighbors. When the government in Tunisia was toppled, many experts quickly cautioned that the same could not happen in Egypt, given how weak and divided the pro-democracy activists there had been, for as long as anyone could remember. When revolution did spread to Egypt, it was said that the same lightning could not strike in Libya or Syria, where dictators exercised near complete control, and where civil society barely existed.

The absence of popular resistance to repression is rarely a sign of true apathy; more often, people choose not to resist because their governments work hard to make resistance futile. This has been the Russian Government's strategy (just as it was the strategy of the Egyptian Government under Mubarak)—to persuade people that if they challenge the state, they will stand alone and surely lose, and thus endanger themselves for nothing.

But beneath the surface in such societies, a different kind of resistance can gradually erode the legitimacy of a state. People share their disgust with their families, coworkers, and friends. They lose respect for their leaders and greet their pronouncements with ridicule. Children of the elite confront their parents and ask how they can be part of such a lie. Members of the elite project confidence to the outside world, but often recognize, privately, that they are not telling the truth, and sometimes feel doubt and even shame as a result. Under such circumstances, a single spark can ignite unstoppable movements for change and cause a seemingly powerful state's authority to crumble.

There were always reasons to believe that this would be an interesting period in Russia, because of the parliamentary elections and next year's Presidential transition. You can stage-manage an election, but it is hard to control, or predict, how people will react to being managed on such a massive scale. But the real spark turned out to be Prime Minister Putin and President Medvedev's public announcement back in September, more than 2 months before the parliamentary vote, that they would switch places and even more so, that this decision was made "years ago." This was not even the pretense of democracy. Two men—or more likely one—would decide who would rule Russia. They weren't even going to pretend that the views

of the millions of Russians they were asking to "vote" to confirm their arrangement mattered.

Even worse, it became clear that the injustices and indignities many Russians had been enduring would continue for perhaps another 12 years. And then, adding injury to insult, observers found widespread evidence of cheating in last week's Duma elections, soon confirmed by videos showing just how brazenly, and clumsily, pro-Kremilin forces tried to increase their advantage.

And so, activists took to the streets in protests. Security forces, behaving as usual, violently suppressed those protests and arrested hundreds of people. But this time, ordinary Russians responded by coming out in even greater numbers—tens of thousands over the weekend. This time, they seemed to know that they would not be standing alone. And it was the government, for once, that decided resistance would be futile. Indeed, police worked cooperatively with protest organizers, discussing security arrangements well in advance of the rally—hopefully a precedent for the coming months.

During the period between now and the Presidential election, scheduled for March 4 next year, we will see if the protests continue to grow, and if so, how the state will respond. A critical question will be whether the government allows a credible, independent investigation of allegations of vote rigging during the Duma elections. Of course, no one can know now what will happen. The Russian state is still strong. Civil society is still rather weak. Putin and his security apparatus may lash out in ways that increase the degree of repression in Russia in the short term. We have already seen some signs of that the government has pressed online social networks to censor calls for demonstrations, and prosecutors have questioned executives of networks that have refused to do so.

But many of their old tactics—whether arresting protest leaders, or blaming the West—not only are not working, but are backfiring.

What can the United States do to support the Russian people and to increase the chance that they will be able to exercise their rights and freedoms? Of course, the United States cannot play a decisive role in these events, and should not try. But there are some steps the United States could take that would help.

First, the Obama administration and Members of Congress should keep speaking—calmly but firmly and publicly—against abuses by the Russian Government and in favor of Russian's struggling for universal rights. The more angrily Russian leaders insist that they do not care what the world thinks, the more I think that they care a great deal. International legitimacy matters to the Russian political elite, as it does to elites in most countries. They would prefer to be respected than looked down upon. Many value their connections to the West and abilities to travel and do business internationally. They try to convince their people that all this Western talk about human rights is insincere and inconsistent; that Americans will bend their principles whenever it suits them. It is important to disprove that argument.

Secretary of State Clinton does not need me to praise her for her recent words about the Russian elections, since she's already received the best compliment any Secretary of State can ever get—a denunciation from Vladimir Putin. But I thought that her comments—her insistence that Russians, like people everywhere, have a right to choose their leaders and have their voices count—were eloquent, principled, and effective. I hope that she and President Obama will continue to speak out.

Second, the United States should apply targeted pressure against those elements of the Russian security apparatus that have tortured and killed the very individuals who are trying to make the government accountable. This is what Senator Cardin's legislation—the Sergei Magnitsky Rule of Law Accountability Act—seeks to do. It is not designed to sanction Russia or the Russian Government or to interrupt any diplomatic or economic cooperation between the United States and Russia. It targets individuals inside Russia who are reasonably and objectively suspected of having committed terrible crimes—such as extrajudicial executions and torture—and whom the Russian Government cannot legitimately embrace or seek to protect. It says that such people should not be allowed to travel to the United States or to pass their money through U.S. banks—something that the U.S. Government has a legitimate interest in preventing.

Especially if joined by the European Union, such measures would help to isolate and disadvantage these elements in Russia vis-a-vis other members of the elite who are more open to reform and respectful of dissent. Targeted visa and financial restrictions would also help to cut off the escape valve enjoyed by many of the worst human rights violators in Russia—their ability to convert power into wealth and then to spend and store that wealth from New York to London to the French Riviera.

Now, the State Department has said that this legislation is not necessary because it has already imposed sanctions against Russian officials linked to the death in cus-

tody of Sergei Magnitsky. I appreciate the administration's action in that case. But the administration has not announced whether it has taken such measures against those responsible for other, less prominent, but equally horrible crimes committed against Russians fighting for their rights and freedoms. Any targeted measures imposed by the United States should address all such cases in a principled and consistent way, not just one emblematic case. The administration should also exercise its existing legal authority to deny visas to Russian officials implicated in corruption. And—very importantly—it should make it a priority to persuade the European Union to apply similar visa and financial restrictions as well.

At the end of the day, it doesn't matter whether all this is done through legislation or executive action. But it should be done right. It should be done publicly. It should be done as much as possible in concert with other nations. It should be done as part of a real strategy to support the cause of human rights in Russia, not as a do-no-more-than-is-necessary response to pressure from the Congress or activist groups. If the administration won't act in this way, then the Congress should advance and ultimately enact Senator Cardin's bill.

I appreciate the concerns some in the administration have expressed that such measures might undermine the bilateral relationship between Russia and the United States, and cooperation on important issues such as nonproliferation and maintaining transit routes to Afghanistan. Russian officials must, of course, try their best to convince you that this will be the case. I cannot guarantee that it will not be. But keep in mind that the people targeted by Senator Cardin's bill and the visa bans already imposed by the administration are despised by many Russians. Many Russians would be happy to learn that these people will no longer be able to make shopping trips to the United States or to park their money overseas, adding to the capital flight that so hurts prospects for broad based prosperity in Russia. If push comes to shove, it will be risky for the Russian Government to defend the targets of this legislation, or to denounce international action against them, or to use such action as a pretext to end cooperation with the West that advances Russia's national interests.

Finally, Madam Chairman, it is very important that the United States have the best possible diplomatic representatives on the ground in Russia as these historic events unfold. The United States should have an ambassador in Moscow who is not only a good diplomat, but who sincerely believes in the cause of human rights, and can convey that conviction effectively to the Russian Government and to the Russian people. I hope that the Senate will act to ensure that such an ambassador is in place the moment America's current ambassador to Russia leaves his post. Whatever the reasons for delay—and I do not question their sincerity—what should matter to the Senate now, above all else, is how best to seize the historic moment presented by Russia's political awakening and the promise it holds.

This is one more lesson of the Arab Spring that perhaps does apply to Russia and indeed universally. Whether one believes that these struggles for dignity and freedom that have been joined by millions of people around the world should be a primary preoccupation of American foreign policy is academic. For wherever such struggles arise, they will be a central preoccupation. Most foreign policy experts never imagined 2 years ago that the President of the United States would spend far more time thinking about how to promote democratic change in Egypt than he's spent contemplating Egypt's role in the Middle East peace process.

But he has. Few imagined that any issue would be more important to America's relationship with Syria than the complex role it plays in supporting or undermining regional security in the Middle East. But the Syrian people did something this year that caused us to set aside those concerns to defend a set of values that trump all else.

What happens next in Russia is up to the Russian people. But if they choose to keep taking risks to regain their democratic freedoms, then their struggle will become everyone's preoccupation. The ways in which the United States relates to Russia not only should change, but will change. The question will not be whether to support a democratic struggle, but how to do so most appropriately and effectively. For virtually everything that matters in this relationship to Russians and Americans alike will depend on the outcome.

Senator SHAHEEN. Thank you very much.

Mr. Verona.

STATEMENT OF EDWARD VERONA, PRESIDENT AND CEO, U.S.-RUSSIA BUSINESS COUNCIL, WASHINGTON, DC

Mr. VERONA. Thank you, Chairman Shaheen. It's an honor and a privilege to testify before you today on behalf of the 250 member companies of the U.S.-Russia Business Council. In offering my views today on rule of law issues with respect to business, trade, and the investment climate in Russia, I would suggest you consider the broader context of affecting change in a legal and regulatory system that to date has not lent itself easily to transparency or much external input, but that has nevertheless achieved progress in recent years in rule of law with respect to the commercial sphere.

In recent years there have been a number of positive developments in the rule of law in Russia and I don't want to conflate the progress made in commercial law with the ongoing problems in the criminal court system and continued concerns about the overall lack of an independent judiciary. However, I would point out that there has been significant progress in the implementation of commercial law and its application by judges within the commercial court system.

Among these advancements have been the creation of an on-line commercial law library and a database of cases pending before the commercial courts that can be accessed at any time by both parties to a dispute. Thanks in part to the efforts of organizations like the Open World Leadership Center, which is sponsored by Congress, many Russian judges and prosecutors have come to the United States to meet with their counterparts, to exchange ideas and to share views on best practices.

Another important step in the strengthening of rule of law with respect to foreign investment in Russia was the adoption of the law on foreign investment in strategic sectors in 2008. The USRBC is encouraged by what we see as the professional manner in which the provisions of that law have been implemented by the Federal Anti-Monopoly Service.

Now I would like to turn to a question of great topical importance to the business community, Russia's membership in the WTO, and address the influence it may have on the development of the rule of law in Russia. By the end of this week, Russia will formally be invited to join the WTO. I don't think there's any doubt about that. Barring some unlikely reversal, the State Duma should ratify Russia's WTO accession agreement within the stipulated 6-month period. So at the very latest, Russia will be a full member of the WTO by mid-July of next year, allowing for a 30-day period after deposit of the instruments of ratification.

We believe that this will bring multiple benefits to Russia and to United States companies doing business there. First, Russia will be required to implement its commitments on lowered tariffs for a broad range of imported goods. Some of those tariff reductions will be phased in over time and some will become effective immediately. The United States industries most likely to benefit are those that have already developed successful export-based businesses with Russia—manufacturers of commercial aircraft, farm equipment, automobiles and automotive parts, chemicals, pharmaceuticals,

communications equipment, oil and gas producing equipment, and a variety of other goods too numerous to cite here.

United States goods exports to Russia increased significantly over the last decade, from $2 billion in 2000 to a peak of $9 billion in 2008, an amount that we think we'll be coming very close to matching this year. American exports of components to third countries for assembly and re-export to Russia account for a possibly significant, if unsubstantiated, amount of additional exports.

It's difficult to estimate the precise number of United States jobs that exclusively depend on trade with Russia, but using recent Department of Commerce calculations for average number of jobs created per dollar of exports, and they use one job per $165,000 of exports as their benchmark, we can assume that trade with Russia supports about 55,000 U.S. jobs. It bears emphasizing that these are by and large high-value exports with a significant human capital component. Moreover, this does not capture those service sector jobs that will increase as a result of Russia's WTO accession.

Second, there are indirect benefits that will improve the business climate and create the conditions for a virtuous cycle of increased investment, economic growth, and expansion of the middle class. Russian membership in the WTO is a prerequisite for membership in the Organization for Economic Cooperation and Development, the OECD, which in turn requires that all members adopt certain international standards in the financial and business realms. Collectively, this will lead Russia in the direction of better corporate governance and transparency in many areas of economic and social policy. WTO membership in particular carries with it specific commitments to improve transparency, such as advance publication of proposed laws and measures that affect trade in goods, services, or intellectual property rights and ample time for interested parties to provide comments on those proposed measures.

In addition, Russia has undertaken a commitment to provide a right of appeal to interested parties. As a WTO member, it will be required to consult with other members on a wide range of issues at their request and will provide for member consultation both before and after the adoption of new rules and regulations.

By joining the WTO, Russia will also accept the principle of international review and arbitration in the event of trade disputes. This is crucial to U.S. companies and farmers, who have complained on numerous occasions about tariffs, quotas, and nontariff barriers against their exports.

Third, encouraging trade, tightening Russia's integration into the global economy, and greater access by Russian consumers to transformative technologies, such as the Internet and hand-held communications devices, is likely to contribute to growing societal demands for accountable government and vigorous action to combat corruption, which first and foremost affects the average Russian citizen.

One should not underestimate the effect of an increase in the size of the middle class on Russia's political and economic system. Our members have developed lucrative businesses trading with and investing in Russia and we perceive a major market in that country for the types of goods and services in which the United States has a very strong competitive advantage. We believe that

United States companies' presence in the Russian market exerts a constructive influence and has a positive effect on many Russian companies.

However, we are at risk of falling behind our global competitors if the United States is the only country in the WTO that is unable to extend permanent normal trade relations to Russia, which would be the case for as long as the Jackson-Vanik amendment applies to Russia. I was very gratified that Senator Corker made it very clear that that would be the case.

Jackson-Vanik fulfilled its purpose admirably and for that we should be very grateful. With respect to Russia, however, its time has passed and it provides no leverage in our relationship now that Russia will be a full member of the WTO. Failing to lift Jackson-Vanik will have no other effect than to harm American commercial interests and to put American jobs at risk. Therefore we urge Congress to act quickly to ensure that we are able to have PNTR by the time that Russia's accession becomes effective.

I would like to add the voice of business to those who have urged the Senate to confirm Michael McFaul as the new Ambassador to Russia. We believe it's critically important that we have the best possible representation in Russia as we go through this next critical phase in our bilateral relationship.

Thank you very much.

[The prepared statement of Mr. Verona follows:]

PREPARED STATEMENT OF EDWARD S. VERONA

Chairwoman Shaheen, Ranking Member Barrasso, and members of the Subcommittee on European Affairs, it is an honor and a privilege to testify before you today on behalf of the 250 members of the U.S.-Russia Business Council. The USRBC provides business development, dispute resolution, government relations, and market intelligence services to its member companies, which range from Fortune 100 firms to small businesses in the United States and Russia that support increased trade and investment between our two countries.

In offering my views today on rule of law issues with respect to business, trade, and the investment climate in Russia, I would suggest you consider the broader context of effecting change in a legal and regulatory system that to date has not lent itself easily to transparency or much external input, but that has, nevertheless, achieved progress in recent years with respect to rule of law in the commercial sphere. It is in both Russia's and the United States interest for Russia to conduct its commercial operations and adapt its corresponding legal and regulatory environments with greater transparency and accountability.

I will begin my testimony today by highlighting specific regulatory developments in Russia that indicate progress toward stronger rule of law in the commercial sphere. Then, I will proceed to address the specific benefits that we expect to see from Russia's membership in the World Trade Organization (WTO) and the successes that American companies have achieved in exporting to Russia and the potential for increasing the volume of goods and services that the U.S. exports to Russia. I will conclude by underscoring why it is critically important for American businesses and American jobs that Congress lift the Jackson-Vanik amendment as it applies to Russia.

REGULATORY DEVELOPMENTS IN RUSSIA

In recent years, there have been a number of positive developments in the rule of law in Russia motivated by the need to attract foreign investment as well as the necessity to adapt to the rules and norms required for membership in the WTO and the Organization for Economic Cooperation and Development (OECD).

I do not want to conflate the progress made in commercial law with the ongoing problems in the criminal court system and continued concerns about the overall lack of an independent judiciary. However, I would point out that there has been significant progress in the implementation of commercial law and its application by judges within the commercial court system.

Among these advancements have been the creation of an online commercial law library and a database of cases pending before the commercial courts that can be accessed at any time by both parties to a dispute. Thanks in part to the efforts of organizations like the Open World Leadership Center—which is sponsored by Congress—many Russian judges and prosecutors have come to the United States to meet with their counterparts to exchange ideas and share views on best practices.

Another important step in the strengthening of rule of law with respect to foreign investment in Russia was the adoption of the Law on Foreign Investment in Strategic Sectors in 2008. While this law may have been too broad in defining which sectors are "strategic," it codified a clear procedure for vetting foreign investment in these sectors. In the past, foreign investment in areas that could be deemed to be strategic was a matter of trial and error. The process established by the new law has been compared by some to the Committee on Foreign Investment in the United States (CFIUS) process in the United States.

The Russian Government has since amended and modified the Law on Foreign Investment in Strategic Sectors to liberalize rules for investment in that area. Specifically, it increased the threshold for review of investment in the oil and gas sector from 10 percent ownership to 25 percent.

Further, the USRBC is encouraged by what we see as the professional manner in which the provisions of the Strategic Sectors Law have been implemented by the Federal Anti-Monopoly Service (FAS). This agency has a mandate to enforce competition law and oversight of foreign investment in strategic sectors. Thanks to professional and technical exchange programs with the United States and Russia's other trading partners, FAS has developed a cadre of highly qualified specialists who are recognized for their impartiality and transparent enforcement of the law. The FAS is led by General Director Igor Artemyev, who has been extremely accessible to the private sector and remarkably candid in expressing his views on the need to combat monopolistic and oligopolistic tendencies in the Russian economy.

These advances will be extremely important as the Russian Government launches its privatization initiative, intending to sell upward of $40 billion in state assets and shares in state-owned enterprises. It is in the Russian Government's interest that these sales are conducted in a manner that will achieve the greatest possible proceeds. Investors expect well-defined rules and absolute transparency in the conduct of these tenders.

Additionally, through the U.S.-Russia Bilateral Presidential Commission, we have had a constructive dialogue about the importance of the electronic procurement process as part of the wider effort to reduce corruption in Russia. Various Russian Government officials have come to the United States under the auspices of the Commission to learn about e-government and how it is implemented in the United States.

IMPLICATIONS OF RUSSIA'S WTO ACCESSION

Now, I would like to turn to a topical question for the business community, Russia's membership in the WTO, and address the influence it may have on the development of the rule of law in Russia.

By the end of this week, Russia will be formally invited to join the WTO. Barring an unlikely reversal, the State Duma should ratify Russia's WTO accession agreement within the stipulated 6-month period. At the very latest, Russia will be a full member of the WTO by mid-July of next year. What has been an elusive goal during 18 years of on-again, off-again negotiations will finally have been realized. We believe that this will bring multiple benefits to Russia and to U.S. companies doing business there.

First, Russia will be required to implement its commitments on lower tariffs for a broad range of imported goods. Some of those tariff reductions will be phased in over time, and some will be immediate. The U.S. industries most likely to benefit are those that have already developed successful export-based businesses with Russia: manufacturers of commercial aircraft, farm equipment, automobiles and automotive parts, chemicals, pharmaceuticals, communications equipment, mobile communications devices, oil and gas producing equipment, and a variety of others too numerous to cite.

U.S. goods exports to Russia increased significantly over the last decade, from $2 billion in 2000 to a peak of $9 billion in 2008—an amount that we will come close to matching this year. American exports of components to third countries for assembly and re-export to Russia account for a possibly significant, if unsubstantiated, amount of additional exports.

It is difficult to estimate the precise number of U.S. jobs that exclusively depend on trade with Russia, but using recent Department of Commerce calculations for

average number of jobs created per dollar of exports (one job per $165,000), we can assume that trade with Russia supports about 55,000 U.S. jobs.

It bears emphasizing that these are, by-and-large, high value exports with a significant human capital component—in other words, these are quality jobs. Moreover, this does not capture those service sector jobs that will increase as a result of Russia's WTO accession.

Second, there are indirect benefits that will improve the business climate and create the conditions for a virtuous cycle of increased investment, economic growth and expansion of the middle class. Russian membership in the WTO is a prerequisite for membership in the OECD, which in turn requires that all members adopt certain international standards in the financial and business realms.

Collectively, this will lead Russia in the direction of better corporate governance and transparency in many areas of economic and social policy. One important example of this is Russia's signing of the OECD Anti-Bribery Convention in May, which establishes benchmarks for compliance with international anticorruption standards.

In accordance with the requirements of OECD membership, Russia will be expected to provide economic and financial data with an international baseline, including information on publicly traded but state-controlled enterprises; to adhere to guidelines on procurement, public tender policies and internal costs; and to comply with internationally accepted competition policies. These issues have been raised by some of Russia's most prominent activists in areas of financial and economic reform, such as Alexey Navalny.

WTO membership in particular carries with it specific commitments to improve transparency, such as advance publication of proposed laws and measures that affect trade in goods, services, or intellectual property rights and ample time (not less than 30 days) for interested parties to provide comments on these proposed measures. In addition, Russia has undertaken a commitment to provide a right of appeal to interested parties—including recourse to the Eurasian Economic Community (EurAsEC) court that has jurisdiction over Customs Union disputes—as well as ensure transparency on issues such as the application of price controls and fees charged for importing and exporting goods. As a WTO member, Russia will be required to consult with other members on a wide range of issues at their request and will provide for member consultation both before and after the adoption of new rules and regulations.

By joining the WTO, Russia will also accept the principle of international review and arbitration in the event of trade disputes. This is crucial to U.S. companies and farmers, who have complained on numerous occasions about tariffs, quotas, and nontariff barriers against their exports.

In a broader sense, joining the WTO will be a signal to exporters and to foreign and domestic investors alike that the Russian economy is becoming more predictable and that governance in the areas that affect business is on a path of gradual improvement. Membership in the WTO and, later, the OECD will apply subtle but firm pressure on Russia to adhere to international norms and standards.

Third, encouraging trade, tightening Russia's integration into the global economy and greater access by Russian consumers to transformative technologies (i.e., smartphones and the Internet) is likely to contribute to growing societal demands for accountable government and vigorous action to combat corruption, which, first and foremost, affects the average Russian citizen.

One should not underestimate the effect of an increase in the size of the middle class on Russia's political and economic system. For example, the World Bank estimates that WTO membership will result in at least a 3.7-percent increase in GDP in the next 5 years. According to several socioeconomic studies, when per capita GDP exceeds roughly $15,000, individuals become more attentive to quality of life issues, including quality of government. Russia's current per capita GDP of nearly $12,000 (at market exchange rates) places it at the threshold of that category.[1]

CONCLUSION

Our members have developed lucrative businesses trading with and investing in Russia. We perceive a major market in Russia for the types of goods and services in which the United States has a strong competitive advantage. We believe that

[1] Prosperity enables societies to acquire the very instruments that have been demonstrated recently to have a powerful effect on the public consciousness and to provide motivation to affect constructive change. Some historical examples are South Korea, which began the process of democratic transition in the late 1980s, assisted greatly by membership in the OECD in 1996 when per capita GDP was about $12,000. Mexico is another example. It joined the OECD in 1994, providing added momentum to a process that would result in the PRI party losing its influence, resulting in its electoral defeat in 2000 after 72 years in power.

U.S. companies' presence in the Russian market exerts a constructive influence and has a demonstrably positive effect on many Russian companies.

We welcome Russia's WTO membership and wish to take advantage of the market opportunities that it creates, many of which are the result of the hard work of U.S. negotiators over the last 18 years. However, we are at risk of falling behind our global competitors if the United States is the only country in the WTO that is unable to extend permanent normal trade relations (PNTR) to Russia, which would be the case for as long as the Jackson-Vanik amendment applies to Russia.

Jackson-Vanik fulfilled its purpose admirably, and for that, we should be grateful. With respect to Russia, however, its time has passed and it provides no leverage in our relationship now that Russia will be a full member of the WTO. Failing to lift Jackson-Vanik will have no other effect than to harm American commercial interests and to put American jobs at risk.

We, therefore, urge Congress to act quickly to ensure that we are able to have PNTR by the time that Russia's accession becomes effective.

Thank you for the opportunity to testify before the subcommittee today. I will be pleased to address any questions you may have.

Senator SHAHEEN. Thank you very much, Mr. Verona.

I'm going to start with you and with where you ended, which is in the confirmation of Michael McFaul. I'm sorry that there aren't more Senators here to have heard your comments. Can you, just for the record, relay what you have heard from the business community about Dr. McFaul and about the importance of having an American Ambassador on the ground in Russia?

Mr. VERONA. Certainly. First, I would like to say that we have worked very well with Ambassador Beyrle and have the highest regard for him and all that he has accomplished in the almost 4 years that he has been there. And we have also worked very closely with Mr. McFaul in his current capacity. He has kept the business community apprised of issues that are relevant to them. He understands our concerns. He certainly understands the broader perspective. He's spoken on numerous occasions in public forums, and we feel very comfortable that he would adequately convey the concerns of business once he is at post in Moscow.

Senator SHAHEEN. Thank you.

You, as I think almost everyone this morning, talked about the importance of repealing Jackson-Vanik. Senator Cardin in his comments pointed out that both with accession to the WTO and in thinking about the repeal of legislation like Jackson-Vanik we should think about how we can set the bar high in terms of expectations for those actions. Can you talk about where you think the business community is on what some of those expectations ought to be as we look at potential repeal?

You talked about the benefits of WTO accession, but are there areas where we should be trying to set the bar higher in terms of what that means in some other areas for Russia?

Mr. VERONA. Well, I think every company has to decide for itself if the business climate presents opportunities or if the risks outweigh those opportunities. So it's an individual firm-level decision.

As a community, we support the obligations, the conditionalities, of WTO membership, of the OECD, which requires every incoming member, incidentally, to sign its anticorruption convention, which Russia has already done in advance of its eventual accession to the OECD. I think we would like to see continuing emphasis on—by the U.S. Government—on engaging with Russian leaders in the commercial and economic realm to ensure that there is a level play-

ing field, that Russia lives up to the obligations that it has incurred by joining the WTO.

We certainly, with respect to the Magnitsky case, because I know that's really what you may be referring to, personally I believe it was a reprehensible act against a man who has worked for an American law firm, who was representing an American investment fund, and who did what an individual of integrity would have done. He called—he brought it to the attention of the authorities.

We have written an open letter to President Medvedev. I have spoken in various forums, not only here but in Russia, about the Magnitsky case and pointed out that, with or without any action by foreign governments, the Magnitsky case is an indictment of the Russian judicial system, a failure of justice, and that it does not help Russia in its efforts to become more integrated with the world community, to encourage new foreign investment, and that something should be done about it in Russia's own best interests.

Senator SHAHEEN. Thank you very much.

I wonder, Mr. Kramer, if you would also pick up a little bit on those comments with respect to the Magnitsky case, because I think you referred to it in your testimony as striking a chord in Moscow among the population. Can you talk about how the Russian people view this case or elaborate a little more, and whether you think that was a factor in Medvedev's decision to review and reopen the case?

Mr. KRAMER. Senator Shaheen, the push in the U.S. Congress and also consideration in Europe for Magnitsky-kind of legislation forced President Medvedev to announce he would reopen the investigation. And he had his human rights council do an investigation of it. The human rights council came to the conclusion that Magnitsky had been beaten and then left to die by depriving him of necessary life-saving medication. So essentially Magnitsky was murdered.

But nothing happened of either President Medvedev's call for a new investigation or of his human rights council's own report. And in fact, the Ministry of Interior, in a remarkable display of defiance, has awarded and promoted a number of officials who were involved in the investigation and detention and arrest and murder of Magnitsky. They rejected President prevention's human rights council's report, and they have engaged in a gross coverup of what happened to Sergei Magnitsky.

It was the serious talk earlier this year that there might be legislation passed by the U.S. Congress that forced Russian officials to take this case more seriously, to reopen the case, to look at the doctors at the prison who were involved. Absent outside pressure, none of that would have happened. There was only the possibility, and it has subsided because there is, I fear, among Russian officials a sense that the legislation may not pass after all, but there was the possibility that justice might be served, at least with some of the officials involved in the murder of Magnitsky.

The problem with the reinvestigation is that it is being done against the wishes of the family, which runs counter to Russian law, where you have to have permission of the deceased family member to move forward with a reinvestigation. But the possibility that some officials will be held to account is somewhat encouraging.

I think the only way to get further into the list of those involved in this case is to pass this legislation, because the people who were involved—it's an indefensible case, and so, as Tom rightly said, it is hard to imagine that Russian officials will go back to the outrageous rhetoric that they uttered in June and July, saying this will destroy the reset. Over officials who were responsible for killing a lawyer in jail? I doubt it.

Senator SHAHEEN. Well, and just to be clear for anybody who missed it, one of the reasons for holding this hearing is to hopefully bring some more momentum to passage of this legislation, which I believe and I think most of the Senators who were here today believe is very important.

Mr. KRAMER. Absolutely.

Senator SHAHEEN. Mr. Malinowski, we've heard a lot of discussion about the tragedy of the Sergei Magnitsky case. There have been a number of other murders of particularly Soviet journalists that have been reported in the West. But I think for the most part many of the abuses that have occurred in Russia we don't hear about.

I wondered if there are any particular cases that you have been following or been involved in that you would like to raise today at this hearing and talk about some of those individuals who have gone unknown and unnoticed by the international community?

Mr. MALINOWSKI. Well, thank you for that question. The Magnitsky case is powerful because it was so terrible and it was politically important because he was a member, in effect, of the Moscow elite, and had connections to the United States. So people thought, if it can happen to him it can happen to me. Powerful people felt that way.

But there are just so many ordinary people across the length and breadth of Russia to whom that sort of thing just happens routinely. There is one young guy who we've written about at Human Rights Watch recently because we've come to know him, and maybe I'll tell you his story because I think it's emblematic in its ordinariness. He's a 24-year-old guy named Islam Umarpashaev who lives in Chechnya. He was caught posting very undiplomatic statements about the police on an Internet chat room.

So the local pro-Kadyrov militia picks him up and they take him to a detention facility. They beat him, they torture him, electric shock, all the rest. When they realize this guy is not a militant, that they're not going to get any information out of him, instead of letting him go they say: Well, we're going to keep you here, we're going to feed you, we're going to let your beard grow, and once your beard is fully grown we're going to turn you into a suicide bomber. What that means, of course, is they were going to kill him, because the local security guys get a reward every time they resolve a terrorism case of that sort, and that has happened to a lot of people in Chechnya.

Now, this young man was saved because his family refused to let that happen. They found a group of very brave Russian lawyers, who started filing complaint after complaint after complaint. They went to the European Court of Human Rights. Eventually he was let go. Holding him was more trouble than it was worth. But he

had to promise he would not reveal any of this. He made that promise, but once released he did actually want to speak.

So now he's in a safe house. The interesting end of the story is the family actually found a journalist working with a national television network, NTV, who was willing to do a story about this, and they produced a 10-minute program about this case. And he almost became famous, because the story was seen by Russian television viewers in Siberia. What happens is, sometimes they put these things on TV, they're seen in the Far East, and then as the time zones shift someone catches it and presses the "Off" button, and in the rest of Russia all people saw were commercials for those 10 minutes.

So a very ordinary case and the sort of thing that people are just fed up about throughout the country.

Senator SHAHEEN. Can you talk about what—recognizing that we may not see dramatic shifts in the near term in addressing some of the human rights abuses, but looking at least at the response to the election results and seeing a shift in how Putin and Medvedev have responded, so their changing approach in responding, are there actions that you would like to see that they could take or that we might expect them to take in response to some of the human rights abuses that would be positive, that would indicate an effort to begin to address some of the worst practices that have existed?

And how would you—I mean, if you were going to detail they should do these three things?

Mr. MALINOWSKI. Well, it has to begin with the elections because that's what's on everybody's mind right now, and it's the key to creating some accountability in the system. Medvedev has promised an investigation. Very few Russians believe that regular Russian Government institutions can investigate in a credible way what just happened.

So somehow, if he were serious, if Putin and Medvedev were serious, about dealing with the election fraud, they would need to create an independent commission or perhaps empower the human rights and civil society council that David mentioned, which has done good work, to lead an investigation of the fraud.

There are a lot of things that they've promised. There were a lot of promises about cleaning up abuses in pretrial detention, what happened to Sergei Magnitsky and what happens to so many other people who are railroaded into prison and then abused as a form of extortion. We haven't actually seen action taken, and in our experience you can talk about that all you want, but if you don't hold accountable the people who are responsible the system doesn't change. You can give all kinds of speeches, you can issue orders, you can issue directives, but if the people in the system see that the guy who's responsible for murder or for rampant abuse in a prison or taking bribes is not punished, they don't take it seriously.

Senator SHAHEEN. Mr. Kramer.

Mr. KRAMER. Could I just add? It doesn't help Russia's image when British authorities are pursuing someone for a murder investigation and that target is chosen to join the Duma, Mr. Lugavoy. It shows utter defiance and utter contempt for international human rights standards. There isn't indifference among Russian authori-

ties toward human rights; there's hostility toward human rights among Russian officials. And they send these signals, where they don't even have to issue orders. People understand if they want to stay in the good graces of the Kremlin they have to eliminate opposition.

The elimination of governors in 2004 by Putin was a terrible blow to democracy in Russia, removing accountability, removing connection between the population and voters and those who serve in government. The move more recently to eliminate election of mayors, further damage to any hopes that Russia would move in a democratic direction.

So these efforts need to be reversed. There needs to be resolution to the murders of Litvinenko, of Politkovskaya, of Klebnikov, of Estemirova, of Magnitsky. Sadly, as Tom was saying, there is a long list here. In very few cases do they find the people who ordered these murders. Sometimes they find the people who actually pulled the trigger.

They also need to get serious about corruption. But the problem there, I would argue, is they can't. They're so deeply involved in it themselves that they're incapable of launching a serious anticorruption campaign. You need a change in the Russian leadership in order for that to be done in a serious way.

If I could just add one other thing. You had asked me about the reaction to the bill in Russia, and I would be remiss if I did not cite two letters that I think you also had received, Senator Shaheen, from Boris Nemtsov and Garry Kasparov, strongly endorsing and supporting S. 1039. So if I could be so bold as to suggest these be admitted for the record, that would be terrific.

Senator SHAHEEN. We will do that. Thank you.

Senator SHAHEEN. Let me just ask—the previous panel, Dr. Gordon and Mr. Melia, talked about the efforts under way to support civil society groups in Russia. Can you, either you or Mr. Malinowski, elaborate on the effectiveness of this kind of support and whether there is more we can or should be doing and what the reaction is on the part of those people, of those Russians who are part of those organizations and their ability, given the current environment, to accept that kind of assistance?

Mr. KRAMER. Well, first, it is a positive development that Mr. Serkov on the Russian end is no longer the cochair of the U.S.-Russia Civil Society Working Group. It was a terrible decision to agree to let him be the cochair.

I tip my hat to Tom Melia and Mike Posner for the trips they've made to Russia and the outreach that they've made to Russian civil society activists and others, to people in the Embassy who have done the same. There are Russian organizations that need Western support. They can't get that kind of support inside Russia.

As Tom Melia I think rightly said, we should have that support available and let Russians decide whether they want to avail themselves of it, rather than to decide on our own that it's too dangerous for them, and we, therefore, shouldn't try to support these organizations. They would go out of business in some cases were it not for Western support. So I think it's critically important to look at the U.S.-Russia Investment Fund, which expired but had $300 million left over, over $150 million of which has gone back

into a new kind of fund. There's still $150 million some odd of that left over, and I know that a congressional notification has come up to put some of those funds toward civil society and human rights and democracy work. I would strongly encourage support for that and hope that there would be more funds available should Russian organizations want to avail themselves of it.

Thank you.

Senator SHAHEEN. Thank you.

Do you want to add anything, Mr. Malinowski?

Mr. MALINOWSKI. I can't comment on the effectiveness of every dollar that's been spent, but I would note that the very brave people and organizations inside Russia that have documented, exposed, and challenged some of the cases that we've been talking about, including the one that I mentioned in Chechnya, life-saving work and life-risking work, many of them have benefited over the years from assistance from the United States, from their connections to the United States.

Yes, they get attacked for it, but I think those attacks are resonating less today in Russia than they might have elsewhere. I think so long as they are willing to have those partnerships with us, I think we should be willing to have them with them.

Senator SHAHEEN. Thank you.

Mr. Verona, I just want to ask you to comment on something that Mr. Kramer said about corruption. You talked about the progress that's been made in the business community in terms of addressing commercial and some of the economic issues—the commercial issues that businesses face. Mr. Kramer talked about an inability to really fundamentally address corruption without a change in leadership in the government.

President Medvedev said that he was going to root out corruption, that he was going to make that a real hallmark of his Presidency. Have you seen his leadership in some of the efforts that you referenced, and does the business community feel that—I'm trying to think about how to phrase this in a way that it will be possible for you to answer it, recognizing that you can't answer for the entire business community. But are you hearing concerns from the business community about the leadership in the same way that Mr. Kramer referenced it about the fundamental corruption that exists at the top levels?

Mr. VERONA. I think all of our members are very aware of the problem, are very concerned about it. I don't think it's an exaggeration to say the problem's endemic. When President Medvedev made his first speech, his major speech as President, the inaugural address, he identified corruption, lack of rule of law as major issues that his administration would tackle. And on repeated occasions he's said much the same thing, and that was very encouraging to the business community.

I would have to say that the implementation of that aspirational rhetoric has been very minimal. But it did do one thing. It gave license to speak about the issue, surprisingly often within the Russian Government. You had the Defense Minister acknowledge a couple of months ago that roughly 20 percent of defense procurement spending was unaccounted for. You have the Russian accounting chamber issuing a report after the initial concerns raised

by Mr. Alexei Navalny about corruption in the construction of the Eastern Siberia-Pacific Ocean Pipeline, a report that revealed $4 billion of capital expenditure that was somehow unaccounted for.

The fact that people began to talk about it and felt it wasn't something that was off limits suddenly made people, the general public, much more aware of it or, if they were already aware of it, of how extensive the problem was. You might say that was a huge step forward, unintentional perhaps, but it did have that impact.

And thanks, I think, to the transformative technologies that I mentioned, awareness of these issues has been propagated throughout the country, through the Internet, through these mobile handheld devices that have been so effective in organizing popular demonstrations.

Our companies, I think their presence in Russia has a very salutary effect. We are all very sensitized to the risks of violating the Foreign Corrupt Practices Act and now a host of other laws recently propagated in other countries. The new British antibribery law is even more comprehensive and has criminal provisions. So it's become very clear to our partners in Russia that we're not a soft mark. It's not worth it to try to get money out of American companies. There may be a couple of rare exceptions, but I think it's given us a form of protection or cover.

Our example I think is an encouraging one to those elements in Russia that want to see an improvement in the society. I think that, while many of the programs that have been mentioned here and funding for civic organizations is a good thing, I think it's much more fundamental that we've got this open communication through the Internet. Let's hope it stays that way.

I am just a little concerned sometimes if we become too forward on these issues that the United States becomes the subject of discussion, the issue, and not the violations of human rights that Russians are very aware of, and when they hear their own leadership speak about it and not simply those who are well known to us, but people who have emerged sui generis, it has a much greater impact.

Senator SHAHEEN. Thank you.

Did you want to add something, Mr. Malinowski?

Mr. MALINOWSKI. This reinforces something that David mentioned—we should remember that systems like this are based on the principle that you can't get rich without permission, for Russian businessmen at least, and permission is purchased through bribes, and by provision of political support to the leadership. And that kind of corruption is a critical source of power for the political leadership. They get to choose who the economic winners and losers in Russia will be, at least in the upper strata.

Losing that power would be a really radical shift in how the Russian Government operates and would be very difficult for them to do, a very difficult habit to break. Now, perhaps the Putin administration, whatever we want to call it, like many authoritarian governments, has a window of opportunity now to adjust to the shifting political climate in Russia by beginning to do things that will be popular and that address popular demands.

But as we've seen, very few leaders in that position in recent years have taken advantage of that window of opportunity. They tend to revert to the methods that have worked for them in the past, and then it's too late. Then they come out with reforms that people reject because it comes too late.

So we'll have to see what the Russian leadership does. But I think we need to understand that dealing with corruption is not something that can be done irrespective of the political context, that corruption is a core element of the system that the Russian Government has built up over the last 10 years.

Senator SHAHEEN. Yes, Mr. Kramer.

Mr. KRAMER. Just very quickly, corrupt authoritarian regimes never want to let go of power, and it's why we've seen in Russia the elimination of gubernatorial elections, the move to eliminating mayoral elections, the appointment of the Federation Council, the upper house, rather than through elections. It's why they rig elections, or at least try to, and they didn't do a very good job this last time, fortunately, because if they give up power then they may be subject to prosecution and some of those Russian officials sitting in the Kremlin today could be sitting in the jail cell that Mikhail Khodorkovsky is sitting in instead. They don't want to risk that.

They become desperate and they do desperate things. There are concerns now that what happened in 1999 may be repeated again, the bombings that killed 300 people, that turned the political situation in Russia upside down. This concern that there will be something else now because what happened on December 4 and since has spooked the Kremlin, spooked Putin, and that he may resort to some desperate measures. We really have to be vigilant about this and make sure that nothing like 1999 happens again.

Senator SHAHEEN. On that note, I'm going to thank you all very much, we very much appreciate your being here, and close the hearing.

[Whereupon, at 12:33 p.m., the hearing was adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. ROGER F. WICKER, U.S. SENATOR FROM MISSISSIPPI

I would like to thank the chairman and ranking member for holding a hearing today on this important and timely topic. The deteriorating rule of law and respect for human rights in Russia is troublesome. For many years I have spoken out against the continued imprisonment of Russian businessmen, Mikhail Khodorkovsky and Platon Lebedev. It has long been my hope that Russia will choose the right path and that justice will prevail in the Khodorkovsky case, but unfortunately that is doubtful.

The case of Sergei Magnitsky is one of many in Russia that highlight the lack of respect for basic human rights. Earlier this year I joined my colleague, Senator Ben Cardin, in introducing the "Sergei Magnitsky Rule of Law Accountability Act." The bill extends the application of visa and economic sanctions to officials in the Magnitsky case and in other cases of gross human rights abuses. The legislation currently has 25 bipartisan cosponsors. It is my hope that the list of cosponsors will continue to grow and that we will have the opportunity to consider this bill on the floor of the Senate very soon.

The protests in Russia following the recent elections indicate that the Russian people have grown tired of business as usual. I was encouraged by the comments from our administration in support of a full investigation of electoral fraud and manipulation. I urge President Obama and Secretary Clinton to make human rights and rule of law in Russia a central part of our bilateral relationship with Russia.

Without commitment to these basic principles, our efforts to find common ground on other issues of mutual concern will continue to be undermined.

[From the New York Times, Dec. 13, 2011]

2 LEADERS IN RUSSIAN MEDIA ARE FIRED AFTER ELECTION ARTICLES

(By Michael Schwirtz)

MOSCOW—A high-ranking editor and a top executive from one of Russia's most respected news publications were dismissed on Tuesday after an apparent conflict over coverage that appeared to highlight widespread anger with the results of parliamentary elections this month.

The dismissals followed the publication this week of an election issue of the newsmagazine Kommersant Vlast, which detailed accusations of large-scale electoral fraud by the ruling party, United Russia, and included a photograph of a ballot scrawled with profanity directed against Prime Minister Vladimir V. Putin.

The firings came as tensions built between the Kremlin and a new constituency of reform-minded activists who held a protest against the election results here last weekend that drew tens of thousands of people.

President Dmitri A. Medvedev announced on Tuesday that the first session of the new Parliament would be held on Dec. 21, an indication that the Kremlin would not concede to increasingly vocal calls for new elections.

Meanwhile, the leaders of the protest movement met to plan what they said would be an even bigger demonstration on Dec. 24, and vowed not to relent in their demands.

The tremors from this standoff have been particularly acute in the city's print and online newsrooms. Under Mr. Putin, the authorities have generally tolerated a community of liberal-minded journalists whose criticism of the Kremlin has often been withering, but not widely broadcast.

"But there are rules," said Yevgeniya Albats, the editor in chief of New Times, a magazine strongly critical of the Kremlin. "Do not touch Putin."

Yet an apparent desire by journalists to test the limits these days has brought some into confrontation with their bosses.

This week's issue of Kommersant Vlast had several articles detailing bald attempts at falsification in the recent elections apparently aimed at increasing the vote for United Russia. One article warned that the declining popularity of United Russia would lead to a "tightening of the screws."

The magazine's cover showed Mr. Putin, lighted from the bottom and with a sinister expression, standing before a voting machine.

But it was the photograph of the ballot, apparently defaced in protest, that caused an uproar.

Scribbled across the ballot in thick orange marker was a searing Russian expletive in reference to the male anatomy, suggesting Mr. Putin should leave power. Beneath the profanity, which can lead to a fine or arrest if uttered in public here, a caption read sarcastically: "A correctly marked ballot that was ruled invalid."

The swipe at Mr. Putin was clearly too much for the owner of the Kommersant Publishing House, Alisher B. Usmanov, a billionaire metals tycoon who, like many of Russia's richest people, is wary of alienating the Kremlin.

Mr. Usmanov, who incidentally owns a stake in Facebook, immediately fired Maksim Kovalsky, the editor in chief of Kommersant Vlast, and Andrei Galiyev, the general director of the publication's holding company. Another deputy editor announced that she was resigning. The photograph of the ballot was removed from the magazine's Web site, and printed copies were difficult to find on Tuesday.

"These materials verge on petty hooliganism," Mr. Usmanov told Gazeta.ru, a news Web site that is also part of his media holdings.

News of the firings prompted a debate over journalistic ethics here. Some questioned the decision to publish the profanity, though many considered the response too severe.

"It's dead clear," Ms. Albats said. "This is a signal sent to the entire mass media in the country: guys, be careful. There are limits."

In a twist, a representative from an investment fund owned by Mikhail Prokhorov, another Russian billionaire, who this week made a surprise announcement that he was running for president, said he was considering making an offer to buy the Kommersant publishing house from Mr. Usmanov, according to Russian news reports. No further details were offered.

Mr. Kovalsky, the editor of Kommersant Viast, said he had never been pressured in his editorial decisions before.

"There have been difficult times when I knew that the Kremlin and the owner were unhappy," he told the online news portal, Slon.ru. "But usually I learned of this after the fact, after publication when there was no possibility of changing anything. But in the last few weeks there was none of this."

Pressures did begin to surface in some publications even before the elections. About a week before the vote, Grigory Okhotin quit his job as a freelance editor at the government-controlled RIA Novosti news agency when one of his managers recommended that negative material about United Russia and Mr. Putin not be posted on InoSMI, a Web site that publishes Russian translations of articles that appear in Western outlets.

Mr. Okhotin then published a Web chat between himself and the manager, who told him that "ahead of elections there are additional orders, because the situation is nonstandard. This will probably go on until summer."

RIA Novosti rejected Mr. Okhotin's assertion and threatened to sue him.

Journalists at publications owned by Mr. Usmanov said that he had rarely interfered in editorial decisions, but that they had come under serious scrutiny for their coverage of this month's elections.

Roman Badanin, a former deputy editor at Gazeta.ru, resigned last month after he was told to remove from the outlet's Web site a map documenting campaign violations, mostly committed by United Russia.

"These were not simple elections," Mr. Badanin said. "They were very nerve-racking, showing little support for both United Russia and Putin. And Alisher Usmanov is nervous. It is a fact that he has put a lot of pressure on editors recently."

LETTER IN SUPPORT OF S.1039 FROM BORIS NEMTSOV, COCHAIRMAN, PEOPLE'S FREEDOM PARTY (RUSSIA)

Boris Nemtsov, Co-Chairman
People's Freedom Party (Russia)

Sen. Jeanne Shaheen, Chairman
Sen. John Barrasso, Ranking Member
Subcommittee on European Affairs
U.S. Senate Committee on Foreign Relations

December 11, 2011

Dear Senators:

I am writing to express my strong support for S.1039, the Sergei Magnitsky Rule of Law Accountability Act of 2011, currently under consideration by the U.S. Senate.

Last Saturday, over 100,000 Russian citizens gathered in central Moscow to protest against the authoritarian and kleptocratic regime of Vladimir Putin – the regime that has curtailed media freedom, turned elections into a farce, and Parliament and the judiciary into rubber-stamps, put opponents behind bars, and presided over unprecedented corruption (the latest *Transparency International* Index places Russia 143rd, below Eritrea and Sierra Leone). Too often, as in the case of Sergei Magnitsky, the corruption and the lawlessness result in human tragedy.

Apart from robbing the Russian people of its wealth and its dignity, Mr. Putin's regime is robbing it of its voice. The December 4th parliamentary election was marred by widespread fraud: some 13 million votes were stolen as a result of ballot-stuffing and other manipulations designed to preserve the ruling United Russia party's majority (even with this, the party received less than 50 percent of the vote). Nine opposition parties across the political spectrum, including the People's Freedom Party, were denied access to the ballot altogether. This behavior violates not only Russian, but also international norms – including the statutes of the OSCE, to which both Russia and the United States are party.

It is time to end the impunity for those who continue to show contempt for international norms and values, while enjoying the privileges of free travel and financial interactions in the West. S.1039 would provide an important measure of accountability for those who violate the basic – and internationally protected – rights and freedoms of Russian citizens. It is time to tell thieves and human rights violators that they are no longer welcome.

It is the task of Russian citizens and Russian citizens alone to bring about political change and democratic governance in our country. But by passing S.1039, the U.S. Senate can do more to help the cause of democracy and the rule of law in Russia than by all the statements and speeches combined.

Sincerely,

Boris Nemtsov

Prepared Statement in Support of S. 1039 From Garry Kasparov, Chairman, United Civil Front, London, England

Just two days ago, my country of Russia saw the largest public protests since the fall of the Soviet Union twenty years ago. Well over a hundred thousand Russians took to the streets, over 40,000 in Moscow alone. The fraudulent parliamentary elections of the previous week were the spark for the protesters' outrage, but the fuel of the fire is the increasingly dictatorial regime of Vladimir Putin and his puppet, Dmitri Medvedev. So far, their regime's response to the overwhelming rejection of their corruption and oppression has been to ignore it. Putin plans to return as president in March, 2012, in what will surely be another fraudulent election, with the term of office now having been extended to six years.

A strong and free Russia would be an ally of the West and of the United States. The Russian people do not want our country to be turned into a failing petro-state, as is our current trajectory under Putin and his oligarchs. We have a rich cultural and intellectual heritage that is disintegrating as our best and brightest leave the country for the opportunity to develop their talents and to raise their families in freedom. The people of Russia are not your enemies – our rulers are.

Senate 1039, the Sergei Magnitsky Rule of Law Accountability Act of 2011, expresses that reality by punishing Putin's willing executioners. The billionaire oligarchs, the puppet judiciary, and the countless functionaries of the corrupt KGB power structure all believe they are protected by Putin wherever they go. They believe they are free to dismantle our constitution, to spit on the international agreements Russia has signed, to jail and even kill their opponents and corruption fighters like Sergei Magnitsky, and to still enjoy the privileges of traveling freely in the West and hiding their assets abroad as well. If this belief is destroyed, if they see there are consequences for their actions, that the United States will stand up for the rule of law, then the entire structure on which Vladimir Putin's power is built will shake at the foundation. As Jackson-Vanik was crucial for liberating thousands from Soviet tyranny, Senate 1039 could become a key in turning Russia back toward democracy.

Now, with the footprints of thousands of protestors still fresh in the first snows outside the Kremlin, now is the moment to take this strong stand against a dictator and for the people of Russia. It is the time to be on the side of democracy and on the right side of history. Ronald Reagan did not abandon the Soviet people and today tens of millions of people are free thanks to his courage. Unfortunately, after a brief taste of real democracy, Russians are no longer counted among them. We are not asking for your help to restore our nation; that is a job for Russians. We are asking that you stop helping a dictator.

Time is of the essence. If this nascent movement to bring real democracy to Russia is crushed, the next movement against Putin will not be long in coming and it will not be such a peaceful one. It will be led by extremists, nationalists, and others who will find an easy way to power by demonizing the West and shutting Russia off from the free world. This is a turning point in history that could be as critical as 1991 and you must act with speed and courage to support the cause of justice.

Garry Kasparov
London

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