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Economic and Social Rights Within EU-Russia Relations: A Missed Opportunity?

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This thesis is submitted in fulfilment of the requirements for the degree of PhD within the University of Glasgow

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Abstract

In recent years the EU's strategy towards promoting human rights in Russia has been the focus of considerable internal and external attention, much of it critical. Despite longstanding programmes for funding human rights projects in Russia and the launch of biannual EU-Russia human rights consultations in 2005, the subject of human rights remains contentious within EU-Russia relations. One striking aspect of the EU's policy towards Russia is its focus on issues such as prison reform, freedom of speech and prevention of torture which can broadly be characterized as civil and political rights issues. The purpose of this thesis is to explore an area of human rights theory and practice which tends to receive far less attention, namely economic and social rights issues such as the right to housing, health, access to social security and workers' rights. Utilising data gathered from interviews with EU and Member State officials and Russian NGOs and a discourse analysis of EU policy documents on human rights, the thesis examines how EU institutions, Member States and Russian civil society actors conceptualise the meaning and significance of economic and social rights in both a general and specifically Russian context.

The study situates these understandings of economic and social rights and the State's role in guaranteeing them in Russia in the historical context of the Soviet legacy of emphasizing such rights over civil and political rights. It also highlights enduring public expectations of what the State should provide and the policy of the various presidential administrations since 2005 of reasserting the State's role in relation to the apparent realisation of economic and social rights through social service provision. It explores the differing approaches taken by human rights and more socially-oriented NGOs to engagement with various State structures and State-affiliated structures such as the regional human rights ombudsmen, and the privileged position Russian human rights NGOs appear to enjoy in terms of their relationship with the EU.

The thesis argues that the EU's closeness to this very specific type of civil society organisation and its apparent lack of internal and external consensus on the importance of economic and social rights issues hinders its ability to raise issues relating to these rights in its interactions with Russia. At the same time, the fact that economic and social rights continue to enjoy a relatively high degree of visibility and importance in Russia make

cooperation on economic and social rights issues an area where more fruitful engagement on human rights could take place between the EU and Russia.

Contents	Page
Abstract	2
Acknowledgements	8
Author's declaration	9
List of appendices	10
Publications	11
Introduction	12
Chapter 1 Theorising Economic and Social Rights	17
1.1 Introduction	17
1.2 A brief overview of the development of 'human rights'	18
1.3 Categorising human rights	18
1.4 Defining economic and social rights	20
1.5 Economic and social rights in the Russian context	26
1.6 Explaining differences between European and Russian conceptions of social and economic human rights: cultural relativism and its critics	29
1.7 The role of the State in upholding social and economic rights and entitlements	33
1.8 The discourse of human rights, conditionality and 'morality'	35
1.9 Conclusions	39
Chapter 2 The EU, the Russian State and Civil Society	40
2.1 Introduction	40
2.2 The EU as an international actor	41

2.3	Normative Power Europe	43
2.4	Economic and social rights in the EU's internal and external affairs	50
2.5	The Russian State	55
2.6	State-civil society relations in Russia	57
2.7	Conclusions	61
Chapter 3	Methodology	62
3.1	Introduction	62
3.2	Selecting the research methods: interviewing elites	64
3.3	Discourse analysis of policy documents and transcripts before, during and after fieldwork	66
3.4	The research location	67
3.5	Identifying and contacting respondents	71
3.6	Gatekeepers	77
3.7	The interview process and ethical issues	78
3.8	The field diary	82
3.9	Transcription, translation and post-fieldwork analysis	83
3.10	Conclusions	84
Chapter 4	Constructing Economic and Social Rights in the Russian Context: Conflicting, Contrasting or Coinciding Interpretations?	86
4.1	Introduction	86
4.2	The landscape of human rights protection in the Russian Federation	86

4.3	The Soviet context to economic and social rights and public perceptions of 'human rights'	89
4.4	Civil society actors and contemporary constructions of economic and social rights	96
4.5	Human rights NGOs: consigned to the margins?	103
4.6	Conclusions	109
Chapter 5	The State, rights and civil society in Russia	111
5.1	Introduction	111
5.2	The State's role in securing economic and social rights	112
5.3	The State-civil society relationship in Russia	119
5.4	Engagement v. non-engagement with State human rights structures: the case of the regional human rights ombudsman	125
5.5	Conclusions	134
Chapter 6	The EU's Institutional Conceptualisation of Economic and Social Rights	136
6.1	Introduction	136
6.2	Internal EU constructions of economic and social rights	136
6.3	Understandings of human rights in the EU's external relations policy	145
6.4	Constructions of economic and social rights in the EU's external relations with Russia	150
6.5	Conclusions	157
Chapter 7	The EU's Promotion of Economic and Social Rights in Russia: Beyond Theory	158

7.1	Introduction	158
7.2	Funding human rights: the European Instrument for Democracy and Human Rights	158
7.3	The EU and human rights NGOs: preaching to the converted?	161
7.4	'Rights' projects v. 'social' projects: a false divide?	165
7.5	The EU's institutional structure: an 'outspoken' Parliament v. the more pragmatic Commission?	169
7.6	Conclusions	179
Chapter 8	Conclusions and discussion	181
8.1	Introduction	181
8.2	The contested nature of economic and social rights within the concept of 'human rights'	182
8.3	Human rights and civil society in the Russian context	184
8.4	Problems within the EU's structure and its strategy on promoting human rights	187
8.5	Understanding the EU-Russia interaction on human rights in practice	188
8.6	Critiquing 'normative power Europe' and the development of ideas Of human rights in post-Soviet states	189
8.7	The way forward: policy recommendations and further research	190
	References	191
	Appendices	208

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Author's declaration

I declare that, except where explicit reference is made to the contribution of others, this dissertation is the result of my own work and has not been submitted for any other degree at the University of Glasgow or any other institution.

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List of Appendices

Page

1. List of interviews conducted	208
2. Interview consent form (EU/Member State Respondents)	211
3. Interview consent email (Russian respondents)	212
4. Text of the Universal Declaration of Human Rights (UDHR)	213
5. Text of the European Convention on Human Rights (ECHR)	219
6. Text of Chapter 6, Constitution of the USSR (1977)	232
7. Text of Chapter 2, Constitution of the Russian Federation (1993)	238
8. Text of Chapters 1 and 2, Constitution of the Russian Federation (2008)	246

Publications

During my PhD studies I have had two articles accepted for publication in peer-reviewed journals. The first of these was based on the dissertation I submitted as part of my MRes in Russian, Central and East European Studies at Glasgow:

Bindman, E (forthcoming) 'Russia, Chechnya and Strasbourg: Russian Official and Press Discourse on the 'Chechen Cases' at the European Court of Human Rights,' Europe-Asia Studies

The second article was based on Chapter 6 of this thesis and will appear in print later this year:

Bindman, E (2013) 'EU Policy on Economic and Social Rights in Russia: A Missed Opportunity?' East European Politics (in production)

Introduction

On 17th May 2013, the European Union (EU) and the Russian Federation held their seventeenth round of human rights consultations since 2005 in Brussels. The number of consultations held indicates that the issue of human rights continues to be a complex, challenging and contested one where relations between Russia and the EU are concerned. Both sides consistently trade accusations about the failure of the other to uphold the rights obligations to which each party is committed to by way of internal and international legislation. The fractiousness of this relationship became particularly heightened in the aftermath of major public protests in several major Russian cities in December 2011 and March 2012 following parliamentary and presidential elections which were widely perceived to be fraudulent. The prosecution by government authorities of some of the most prominent protest organisers, in addition to a perceived crackdown on a number of Russian NGOs which received funding from sources outside of Russia, has led to increased criticism from the EU of Russia's record on upholding and promoting human rights. The focus of this criticism has predominantly been on a specific set of 'human rights,' namely those commonly perceived to be civil and political rights such as the right to free and fair elections, freedom of speech and assembly, and, in the context of the on-going violence in Russia's North Caucasus region, the right to life and freedom from torture and inhumane treatment.

This focus on civil and political rights is found not only within the formal and informal discussions between the EU and Russia on human rights, but is also reflected in the allocation of funding by the EU for civil society projects in Russia which promote human rights. It is also widely evident in the scholarly literature which analyses human rights within EU-Russia relations (Saari 2006; Forsberg and Herd 2005; Smith 2005; Haukkala 2009). However, the dominance of this discourse only serves to highlight the striking lack of attention given by politicians, practitioners and scholars to another set of 'human rights' matters – namely, economic and social rights relating to health, work, education, housing and social security. The absence of economic and social rights within the EU-Russia discourse on human rights is

significant because it reflects a wider discourse on the contested nature of human rights and types of rights. This reinforces the idea that, on a certain level, there is a hierarchy of importance and that not all rights are equal or valued to the same extent as others. This has real implications for how we understand and engage with human rights in general, but more specifically, has the potential to prevent a balanced human rights culture from being achieved in Russia.

The purpose of this thesis is to address the following research questions:

- How are economic and social rights and the role of the state in guaranteeing such rights conceptualised by Russian civil society organisations, the Russian authorities and the various EU institutions including the European Commission, the European Parliament and the European External Action Service?
- What influence do these understandings exert on the interaction between these three sets of actors?
- What implications do these understandings have for the EU's promotion of a balanced human rights dialogue in its relations with Russia and ultimately on promoting an effective and balanced human rights culture in Russia?

This thesis will address the existing gaps in the literature on human rights more generally and within EU-Russia relations more specifically by placing economic and social rights at the heart of its analysis. It seeks to explore why these rights remain so contested and engagement with them in contemporary political discourse within the EU and Russian contexts so problematic. This has been the case even as the rise of neoliberal ideologies, the aftermath of the global financial crisis and the introduction of austerity policies in a number of EU Member States have threatened, and arguably continue to threaten, the full realisation of economic and social rights. These rights are of particular importance in the Russian context given the status and emphasis they were historically accorded within the various Soviet constitutions, the extensive system of Soviet-era state-sponsored welfare provision and subsequent high public expectations of the state's role in guaranteeing such rights. This public expectation has continued to a considerable extent in the post-Soviet period even as liberalising social welfare reforms during the Yeltsin and Putin presidencies have led to the full or partial rollback of many of the previous rights entitlements in this sphere.

This thesis argues that there is continued Russian public support for upholding and promoting economic and social rights, which, even in the period following the 2011-2012 election protests, contrasts with a relative lack of public interest in the type of civil and political rights campaigns carried out by those domestic human rights NGO with the closest links to international organisations such as the EU. This suggests that engaging with issues relating to economic and social rights concerns could prove to be an area of fruitful interaction with the Russian authorities and Russian civil society organisations working in the social sphere because it could potentially garner greater public recognition and respect for those international organisations interested in human rights in Russia. This in turn might allow such organisations to have a greater impact on Russia's social and political development than simply lecturing the Russian authorities on their failings in relation to human rights. This thesis also, however, contends that this potential engagement is hindered by a lack of consensus on the meaning and importance of economic and social rights within the EU's internal policies. This influences its external approach towards these rights and has come about as a result of neoliberal contestations of economic and social rights entitlements and the role the state should play in relation to such rights claims. This allows for the promotion of what are, from the perspective of some within the EU, less contentious human rights issues relating to civil and political rights, even if on a day to day basis they may not be the chief concern for the majority of the Russian population.

The empirical fieldwork for this thesis was conducted during early 2011, when the large-scale political protests which took place later that year could not have seemed less likely. Nevertheless, its findings remain relevant given that it is unclear whether this protest movement, which has garnered so much international attention in the past 18 months, will be able to capitalise on the initial burst of public support it received or to extend its reach beyond the country's major urban centres. In addition, support for the movement and its actions remains limited: a survey conducted in 45 of Russia's regions in January 2013 indicated that only 13% of those polled 'definitely supported' the protests, with 26% 'likely' to support them. 38% claimed that the protests 'had had no major effect on life in Russia.' In contrast, this thesis contends that economic and social issues have consistently been and continue to be of deep concern to a larger proportion of the Russian public.

Thesis structure

The thesis is divided into two main sections. The first part provides for the conceptual and methodological framing of the study. The initial chapter of the thesis discusses the contested nature of economic and social rights, particularly against the backdrop of neoliberal policies and the recent period of recession and austerity in Europe, and the way in which these rights were and are understood in the Soviet and Russian contexts. It also explores the complex relationship between the state and economic and social rights guarantees and some of the ways in which the political discourse surrounding these rights and the role of the state in relation to them has come to emphasise individual responsibility and behaviour.

This is followed by Chapter 2 which examines the nature of the different actors involved in this study, namely the various EU institutions, the Russian state and Russian civil society organisations. It asks whether the EU is capable of acting as a ‘normative power’ where the promotion of human rights is concerned, and explores the EU’s rhetoric on economic and social rights in its internal and external affairs and the extent to which this translates into policy reality. It also discusses the nature of the relationship between the Russian state and domestic civil society organisations, setting the scene for the subsequent analysis of this relationship in Chapter 5.

Chapter 3 then provides a full and reflexive account of the methodology used to address the research questions mentioned above. It provides detailed information on the research locations selected, the different groups of respondents who were identified and the process of conducting the interviews and discourse analysis used as part of this study. It also considers some of the ethical implications of the research conducted.

The second section of the thesis comprises four chapters which analyse and put into context the original data generated by the research. Chapter 4 provides a brief overview of the relevant institutions in relation to the promotion and protection of human rights in Russia before going on to explore understandings of economic and social rights in the Soviet and contemporary Russian contexts and the views on the meaning and importance of these rights expressed by various Russian civil society representatives interviewed as part of this study. It highlights the seeming divide between ‘abstract’ human rights issues relating more to civil and political rights issues, and more ‘everyday’ rights concerns linked to the economic and the social, a distinction which was raised by a number of the Russian respondents interviewed and which has also been highlighted in other research on human rights in Russia (e.g. Turbine 2007; 2012). It also explores the lack of consensus which appears to exist amongst Russian

human rights NGOs regarding the value and importance of economic and social rights, and the extent to which choosing to focus on civil and political rights campaigns may isolate these organisations from the mainstream of public opinion and from other non-governmental organisations.

Chapter 5 then looks at how the different groups of respondents involved in this study conceptualised expectations of the state in relation to economic and social rights. These expectations are situated within the context of the Russian authorities' increasing rhetorical emphasis on social welfare and the state's role in its provision which contrasts with a practical approach to social policy which includes strong elements of neoliberalism in that in practice, the individual is responsible for securing these rights (Hemment 2009). The chapter then goes on to examine how different civil society actors in Russia such as human rights NGOs and those with a more socially-oriented slant negotiate their relationships with the Russian state and with international donors such as the EU.

Chapter 6 explores this relationship from the alternative perspective of the EU by analysing how economic and social rights are constructed in the Union's internal and external relations and the lack of consensus that appears to exist within the EU institutions and amongst some of the individual Member States on the importance and significance of these rights. It also examines how the EU's structure can influence the development of policy approaches in the area of human rights by exploring the role of institutions such as the European Parliament and the impact of Member States' agendas on the EU's strategy on promoting human rights.

Chapter 7 explores the practical policy impact of the EU's apparent lack of consensus on the meaning and significance of economic and social rights on its strategy on promoting human rights in Russia specifically by looking at its relationship with different types of NGO in Russia to which it provides funding. It discusses the closeness of the relationship between the EU and Russian human rights NGOs and argues that this is a factor which perpetuates the impression that the EU advocates a somewhat narrow definition of 'human rights' which privileges civil and political rights.

Chapter 8 concludes the thesis by tying the different strands together and foregrounding the conceptual contribution the thesis makes to the understanding of economic and social rights within the wider concept of 'human rights.' It demonstrates the original contributions the thesis makes to the better understanding of the relationship between the Russian authorities

and domestic civil society organisations, as well as understanding the EU-Russia relationship where human rights are concerned in practice. Finally, it raises and assesses some of the problems inherent within the EU's structure and policy promotion in relation to human rights.

Chapter One

Theorising Economic and Social Rights

1.1 Introduction

Defining the meaning and explaining the significance of human rights is an extensive and complex challenge which is the subject of debate amongst both the scholarly and practitioner communities. The purpose of this study is to focus on one aspect of human rights, namely economic and social rights. It will look at the status, significance and potential implementation of these particular rights, which have long been one of the most contentious issues within the wider debates on what human rights mean (Beetham 1995). This chapter aims to set out the first part of the theoretical framework for this thesis by exploring some of the debates surrounding this particular subset of 'human rights' which demonstrate how economic and social rights have emerged as a specific set of rights claims. Prior to engaging with these debates, it will first provide some brief context to the overall concept of human rights; the historical development of the European human rights system which is of greatest relevance to the aims and objectives of this study; and the way in which economic and social rights are usually defined, as distinct from civil and political rights. It will then briefly examine some of the differences between Soviet, contemporary Russian, and 'Western' understandings of human rights, a theme which will be expanded upon in Chapter 4; and the issue of cultural relativism as a potential way of explaining some of these differences. Finally, it will explore the key role that the State is perceived to play in guaranteeing economic and social rights and some of the changes in the discourse on these rights which have taken place in a contemporary Western European context and which have arguably influenced the way in which the EU formulates its discursive approach to such rights.

The chapter aims to demonstrate that, while the status of economic and social rights remains contested, it is perhaps this contested nature that makes such rights worthy of analysis. Debates over whether or not they constitute 'real' human rights point to wider debates about the nature of rights claims, obligations on the part of the State and the individual right-holder, and the extent to which the behaviour of an individual should influence their ability to claim certain rights. All of these debates have become more heightened in the context of the global economic crisis and what Farnsworth and Irving (2012) describe as the 'new age of austerity'

currently influencing policy discourse in a number of the EU's Member States. As will be further elaborated upon in Chapters 2, 4, 5 and 6, there are significant differences but also at times a degree of overlap in the approach taken towards economic and social rights and the role of the State in relation to them by the various EU institutions which constitute some of the subjects of this research project, the Russian State and certain sectors of Russian civil society whose representatives took part in this study.

1.2 A brief overview of the development of 'human rights'

Attempting to define the concept of 'human rights' presents a number of challenges given its inherent flexibility and the very different types of claim it is seen to cover: as Bunch (1990:487) points out, this concept is 'not static or the property of any one group; rather, its meaning expands as people reconceive of their needs and hopes in relation to it.'

Nevertheless, most commentators appear to agree that the concept of human rights as reflected in key instruments of international human rights law such as the Universal Declaration of Human Rights (UDHR) and the European Convention on Human Rights (ECHR)¹ has its origins in 17th and 18th century concepts of natural law, which arose in response to the development of the nation-state in Europe and its increasing and often arbitrary power over its citizens. According to Mutua (2007:550), 'the rise of the modern nation-state in Europe and its monopoly over violence and the instruments of coercion gave birth to a culture of individual rights to contain the abusive state.' The idea of natural law implied certain natural rights pertaining to humans by the very nature of their being human, and was perhaps most extensively elaborated by John Locke in his *Two Treatises on Government* of 1689, in which he outlined his theory of a 'social contract' in which the right to life, liberty and property are perceived as natural rights and, upon entering into a civil society, humans surrender to the state only the right to enforce these rights, rather than the rights themselves (Weston 2008: 21). According to this liberal social contract theory, such rights are dependent on the non-interference of the state in the lives and liberties of its citizens and are often classified as 'first-generation' civil and political rights (Vasak 1977:29; Yokota 2008: 8).

1.3 Categorising Human Rights

¹ See Appendix 4 for the text of the UDHR and Appendix 5 for the ECHR

While the natural law concept emphasises individual rights and advocates limiting the role of the state in its citizens' lives, the rise of Marxist and other left-wing ideologies in the late 19th and early to mid-20th centuries led to a greater focus on rights which were seen as belonging to the collective rather than the individual. These included economic rights such as the right to work, including just conditions of work, and trade union rights; and social or 'welfare' rights which include the right to social security; the right to adequate food and housing; the right to health and education; and the right to an adequate standard of living, all of which would require the positive intervention of the state to guarantee them (Dean 2007; Weston 2008: 27; van Boven 1982). According to T H Marshall (1992: 8), the idea of social rights should go even further to encompass 'the whole range from the right to a modicum of economic welfare and security, to the right to share to the full in the social heritage and to live a civilised life according to the standards prevailing in society.' Where the more recently developed area of children's rights is concerned, the categorisation is somewhat different since children depend on others (adults and the State) for the protection and realisation of their rights (Jackson 1999). As a result, the two main categories into which children's rights can be divided are 'positive' or 'welfare' rights which are concerned with the child's well-being and encompass economic and social rights such as the right to freedom from poverty and to adequate healthcare and housing; and 'negative' rights to protection from inadequate care which largely covers rights claims on the State to protect children from harm caused by adults, particularly their parents (Wald 1979).

The idea of dividing human rights into different 'generations' or sectors is, however, heavily contested since certain rights encompass elements of more than one category. As van Boven (1982) points out, trade union rights are concerned with economic and social interests such as the right to work and to enjoy decent conditions of work, but also involve elements of civil and political rights such as the right to freedom of assembly and association in terms of, for example, the ability to strike. The right to health is most commonly categorised as an economic and social right, yet accessing healthcare and implementing adequate health protection encompass elements of human dignity, justice and participation which tend to be seen as relating more to civil and political aspects of human rights, making this another right which cuts across the supposed 'generations' (Leary 1994; Toebe 2001). According to Yokota (2008), classifying different rights into 'generations' has been done more for the sake of convenience rather than being based on any distinctive characteristics of these rights, while

Gearty (2011:17) argues that such classifications are a relic of Cold War geopolitics and suggest ‘a foundational distinction between rights where none exists.’

The assumption that economic and social rights only emerged as a concept from the 19th century onwards and in relation to the rise of the labour movement is another argument which is not universally accepted. Thomas Paine (1996), for example, advocated the provision of social security for poor families and pensions for the elderly in *The Rights of Man* in 1792, while the second French Declaration of the Rights of Man and the Citizen of 1793 also made reference to certain social rights (Moyn 2010). This study does not seek to imply that one set of rights should be considered to be of greater value or significance than the other. It recognises the degree of interdependence that exists between civil, political, economic and social rights (Gavison 2003) and supports the contention that the true realisation of economic and social rights relies on the fulfilment of civil and political rights such as freedom of expression and political representation (Beetham 1995). It also follows Gearty’s (2011) argument that a true commitment to ensuring human dignity encompasses rights including the prohibition on torture and slavery and freedom of expression, but, equally, the range of social rights outlined in various key documents such as the UDHR and the European Social Charter (ESC).²

For the purposes of this study, however, the focus will be on the broad category of economic and social rights, including those of children, and, to a much lesser extent, civil and political rights since, as will be detailed below, the leading European institutions in the field have tended to divide universal human rights norms into these two sets of rights. In addition, these groups of rights form the basis of Western European and Russian understandings of what constitutes human rights and thus underpin the relationship between the EU and Russia where the observation and promotion of human rights is concerned. There are key differences but also at times some overlap in the degree of importance which the two parties have accorded to economic and social rights in particular and it is these nuances and contestations which this thesis aims to tease out.

1.4 Defining economic and social rights

² For the text of the Charter see ‘The European Social Charter (revised),’ CETS No.163, Council of Europe, available at <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=163&CM=8&CL=ENG>

The focus of this thesis is on the role played by economic and social rights within the European human rights system operating under the aegis of the Council of Europe³ which applies to all the countries of the European Union, who are also members of the Council of Europe, and to Russia as a fellow Council member since 1996 (Jordan 2003); and the position these rights occupy within the Soviet and contemporary Russian contexts. Nevertheless, the role of the UN as the leading international institution in terms of human rights protection and promotion must also be given due consideration since the drafting of the UDHR and its subsequent Covenants in the late 1940s and 1960s was the first formal attempt to codify these rights on an international level alongside civil and political rights and to outline states' obligations to observe these rights.

In addition, the Council of Europe's drafting of the European Convention on Human Rights (ECHR) in 1950, the instrument which is now the key frame of reference for human rights violations and attempts at redress in Europe and is enforced by the European Court of Human Rights,⁴ was aimed at securing the recognition of the UDHR's provisions within a specifically Western European context (Clancy 1999). Scholars such as Renteln (1990) and Cassese (1990) have argued that the UDHR was biased in favour of civil and political rights at the behest of Western nations acting on ideological grounds and that the few economic and social rights it does refer to were only included as the result of lobbying by the Soviet bloc and Third World countries to place greater emphasis on economic and social rights. The fact that the majority of the treaty's articles refer to civil and political rights and that the original treaty was divided into two separate conventions (the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights) in 1966 appears to add some weight to this argument. The UDHR devotes twenty four of its thirty articles to outlining rights such as the right to life, liberty and security of the person (Article 3) and the prohibition of torture (Article 5), while economic, social and cultural rights such as the right to work and equal pay (Article 23) and the right to an adequate standard of living (Article 25) are mentioned only towards the end of the document.⁵ The European Convention on Human Rights (ECHR), in contrast, makes no mention of economic and social rights.

³ For further details see 'Council of Europe,' <http://hub.coe.int/>

⁴ For further details see 'The European Court of Human Rights,' http://www.echr.coe.int/echr/homepage_EN

⁵ See Appendix Four for the text of the UDHR

Given the Cold War context to the Convention's establishment, it was only following the collapse of Communism that the countries of Central and Eastern Europe and the Former Soviet Union became party to it by joining the Council of Europe in the 1990s, with Russia itself initiating membership proceedings in 1996 (Jordan 2003). As a result, as Madsen (2007:140) points out, the establishment of the European human rights system took place within 'a club of Western European countries that...were like-minded when it came to the protection of liberal European democracy.' This is not to say that the European human rights system has ignored economic and social rights entirely: the 1961 European Social Charter was aimed specifically at codifying such rights. Unlike the ECHR, however, the European Social Charter is not legally binding for those who ratify it and the European Committee of Social Rights which monitors its implementation can only make recommendations to states in terms of legislative changes.⁶ As a result, broadly speaking the rights emphasised by human rights treaties, Western governments and most Western-based human rights NGOs both domestically and internationally tend to be 'liberal' civil and political rights (Yokota 2008: 11) such as freedom of expression and assembly or freedom from torture. Indeed, according to Mutua (2007: 622), 'civil and political rights enjoy a normative superiority that is the envy of the advocates of economic and social rights,' while Brown (1999: 105) claims that 'the contemporary human rights regime is...simply a contemporary, internationalised and institutionalised version of the liberal position on rights.'

According to Donnelly (2007a), at the time when the two Covenants were being drafted in the 1960s, civil and political rights were treated as individual rights claims which could be pursued through legal channels and should therefore be incorporated into international law, whereas economic and social rights were seen more as statements of desirable policy goals which would be realised progressively over time based on the resources available to a particular state. This approach corresponds to what Hertel and Minkler (2007: 9) see as a tendency on the part of both states and international organisations to see civil and political rights as 'negative' rights, in that they merely require a state to refrain from interfering with an individual's liberty, whereas economic and social rights are seen as 'positive' since they 'obligate government and others to actually provide something to an individual.' It could thus be argued that civil and political rights are seen as less costly to the state in terms of both the

⁶ 'The Social Charter at a glance,' Council of Europe, available at <http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Presentation/CharterGlance/English.pdf> [accessed 16th January 2013]

effort and resources required and are therefore more likely to be implemented, even if, as Hertel and Minkler (2007) point out, the protection of civil and political rights such as the right to a fair trial which depends on the maintenance of a judicial system are also dependent on the resources available to a given country.

In addition, some commentators argue that certain political and economic theories dominant in Western thinking see economic and social rights either as being beyond the remit and control of the state, or even as compromising the freedoms inherent in civil and political rights. According to Gavison (2003: 24), ‘many Western theories of political justice and liberalism make civil and political rights a necessary component of the liberal, democratic state, but do not include social and economic benefits in the order of rights...some such theories present the taxation required for efforts of redistribution seeking to address social and economic concerns as a violation of civil and political rights, specifically the right to liberty and property.’ As a result, economic and social rights appear to be in greater danger of becoming politicized through their association with certain political ideologies, namely those of the Left, than with the apparently more widely accepted and perhaps less controversial concepts of civil and political rights and freedoms. In many respects, however, this seems somewhat unjust given that the discourse of civil and political rights and indeed ‘human rights’ as a general concept is surely equally influenced by politics and the doctrine of liberalism. Mutua (1996: 607) points out that the contemporary human rights movement cannot be considered ‘post-ideological,’ despite attempts by its advocates to portray it as ‘both impartial and the quintessence of human goodness.’ Yet the controversy surrounding economic and social rights may help to explain a problem which Alston (1997: 188) highlights, namely the failure until relatively recently of leading international human rights organizations such as Human Rights Watch and Amnesty International to address economic and social rights issues in their work, with Amnesty not extending its mandate to include such rights until 2001 (Goering 2006). According to Alston, their neglect of this area ‘cannot do anything but reinforce, rather dramatically, the more general view that economic and social rights are not ‘real’ human rights.’

This ‘politicisation’ or controversy surrounding economic and social rights is not, however, necessarily a feature of approaches to human rights taken outside the ‘Western’ system of human rights monitoring. Chan (2002), for example, points out that China, like many

developing countries, tends to emphasise positive rights related to basic human needs such as healthcare, education, food, housing and employment, and group over individual rights. Where the Islamic approach to human rights is concerned, the state is expected to work towards the achievement of social justice and the public good, while the Quran prescribes the redistribution of funds from the wealthy to those less fortunate (Said 1979). It may therefore only be within the 'Western' concept of human rights that economic and social rights are sometimes seen as problematic or in some way not 'real' human rights. In addition, the argument put forward by scholars such as Cranston (1983) that the realisation of economic and social rights would require a state to provide unrealistic and extremely costly levels of resources to its citizens is in fact a misunderstanding of what the original architects of the key instruments relating to these rights such as the UDHR intended. Such rights were in fact intended to provide individuals with a certain minimum level of resources such as land, productive capital or labour which thereafter they would be responsible for using in order to improve their situation (Hertel and Minkler 2007). Writing in the late 1940s when the process of drafting the UDHR was ongoing, Wilfred Jenks (1946: 42) clarified this still further: where the right to work was concerned, he noted that it must be understood as 'the right to suitable and useful work affording scope for the capacities of the individual. Mere relief work which has no positive social value cannot be regarded as an adequate fulfilment of this right.' This therefore challenges the argument that fulfilling 'positive' economic and social rights is a simple one-way process of expensive resource allocation from the State to the individual.

Nevertheless, the fact that economic and social rights have come to be seen by some as second-tier human rights or in some cases not even rights at all (Nozick 1974) is perhaps not surprising given that the main UN and European human rights instruments were created and have been implemented against the backdrop of the continuance or rise of liberal democracies in the United States and Western Europe in the post-war period. This has been accompanied by a growth in popularity of a neoliberal ideology⁷ which, as will be further discussed below, tends to conceive of human rights as being the civil and political rights of the individual, with little space for economic, social or cultural rights (Falk 2008). According to Pollis (2008: 280), '...philosophically the Western doctrine of individual human rights excludes economic and social rights. These rights are not viewed as fundamental, but derivative, stemming from

⁷ Although a general definition of neoliberalism is used here, it is worth noting that neoliberalism is not a homogenous ideology but remains contested and capable of adapting according to local particularities to form what Birch and Mykhnenko (2009:355) call 'varieties of neoliberalism' across Europe.

the exercise of civil and political rights.’ In addition, the rise of free-market capitalism in the US and Western Europe has to some extent hindered attempts to guarantee economic and social rights as the result of policies which have cut welfare provision and increased deregulation of the market (Weston 2008; Beetham 1995).

Some have argued, however, that the UDHR’s alleged bias in favour of civil and political rights has been overstated since the Declaration contains several articles on fundamental economic and social rights including the right to an adequate standard of living, the right to education (also considered a cultural right), the right to join trade unions, and the right to social security (Hertel and Minkler 2007). According to Donnelly (2007a: 40), far from opposing the inclusion of such rights in the Declaration, Western governments of the time played a key role in ensuring that they were included: ‘Not a single Western state pressed for a Declaration without economic and social rights...almost all insisted that economic and social rights were an essential element of the Declaration.

The Universal Declaration was drafted precisely at the time of the flowering of the Western welfare state and was seen by most Western states as part of the process of consolidating an understanding of human rights that prominently features economic and social rights.’ In addition, certain regional human rights regimes have developed their own instruments to ensure the observation and protection of economic and social rights. Where the European human rights system is concerned, although the initial key document was the ECHR of 1950, the European Social Charter (ESC) of 1961 outlined the fundamental economic and social rights which the citizens of states party to the Charter would be entitled to. Donnelly (2007a: 45) sees this as evidence of the commitment of European governments of the time to promoting economic and social rights, arguing that the ESC provides ‘a substantively more demanding list of rights and a significantly stronger review process than the ICESCR or any other regional system. This is the best evidence of the attitude of Western states...toward economic and social rights.’

Nevertheless, as previously mentioned this system is not legally binding in the way that the ECHR is, making it what Alston (1997:188) calls the ‘poor stepchild’ of the ECHR. Overall it remains hard to argue with Hertel and Minkler’s (2007: 1) assertion that economic and social rights remain ‘less well articulated conceptually than civil and political rights, less

accurately measured, and less consistently implemented in public policy.’ Treaty commitments to observing such rights may be all very well on paper, but it is in policy and practice that this approach often falls short, as will be examined in greater detail in Chapter 7.

In addition, the previously mentioned perception that the state must take concrete political and financial steps to ensure the realisation of economic and social rights creates makes economic and social rights somewhat vulnerable to the political vagaries of each individual state and the ideological commitments of its government of the time. As Eide and Rosas (2001:5) point out, ‘taking economic, social and cultural rights seriously implies at the same time a commitment to social integration, solidarity and equality, including tackling the question of income distribution.’ Where this commitment is lacking, the ‘progressive realization’ of economic and social rights which the ICESCR envisages is likely to suffer.

1.5 Economic and social rights in the Russian context

One of the key aims of this study is to explore the discourse on economic and social rights and the role of the State employed by Russian state and civil society actors, and to compare and contrast them with the discourse on these issues utilised by the various EU institutions. In order to do so it is important to explore the legacy of the Soviet regime’s emphasis on economic and social rights and to discuss the impact this legacy continues to have on contemporary Russian understandings of what these rights signify, something which will be discussed in more detail in Chapter 4. Scholars such as Renteln (1990) and Cassese (1990) have attributed great importance to the role of the Soviet Union in lobbying for the inclusion of social and economic rights in the original text of the UDHR in 1948. In terms of domestic legislation, the Soviet Constitution of 1936 guaranteed a large number of economic and social rights for its citizens including the right to employment, leisure, and material security in old age and in illness, although many of these provisions were only guaranteed for those classified as ‘workers’ (Nathans 2011:171).

The priority given to this particular group of rights is also evident in the Soviet Constitution of 1977, which outlined the right to work, rest and leisure, health protection, care in old age, sickness or disability, housing and education while placing certain limits on civil and political

rights.⁸ It is worth noting that, despite this rhetorical commitment to guaranteeing such rights, in practice various social services were indeed delivered by the Soviet state but, as Sajo (1996: 141) points out, ‘...they were not provided in terms of rights [but]...were administered on a more or less reliable and egalitarian basis as in-kind additional compensation to one’s salary. The state had no duties in this respect; it provided its services on a discretionary basis and in exchange for loyalty in everyday life.’ In addition, rights were not awarded in and of themselves but were heavily contingent on duties: therefore labour became both a right and a duty (Donnelly 1982), with the provision of many services such as free housing and access to leisure facilities contingent on the acceptance of a job provided by the authorities (Sajo 1996).

Nevertheless, the fact that economic and social rights were so clearly outlined and promoted on an official level indicates that a clear understanding of ‘human rights’ existed in the Soviet Union, and that there was an extensive culture of rights which emphasised the social and economic over the civil and the political. Nathans (2011:1670) argues that this legal ‘rhetoric of rights’ influenced the way in which Soviet citizens understood what their rights and entitlements were: ‘...far from functioning as an ideological diversion, officially proclaimed rights may have promoted and/or reflected rights-based thinking among significant portions of the Soviet population.’ One key aspect of this particular conception of human rights is the degree of emphasis it places on the role of the state in guaranteeing rights, particularly social and economic rights. The right to access state social service provision was dependent upon one’s ability to work, with this work being obligatory and provided by the state. The fact that citizens needed to fulfil certain duties in order to access economic and social rights means that this approach is not entirely dissimilar to the ‘rights and responsibilities’ approach to welfare provision outlined in Section 1.8. In addition, it is the state which provides these rights and can withdraw them if the required duties are not fulfilled (Berman 1996). As a result, the state becomes the key actor defining rights and bestowing them on its citizens: as Lane (1984: 358) points out, ‘rights have been defined in post-1917 Russia *by* the government, not as claims *on* the government.’

⁸ See Appendix 6 for the text of Chapter 6 of the 1977 Constitution on ‘Citizenship of the USSR/Equality of Citizens’ Rights’

Given this official emphasis placed on the pre-eminence of economic and social rights and the state's role in upholding them, it is perhaps hardly surprising that there has been a high level of continuity in the post-Soviet period in terms of the position such rights are seen to occupy, and the degree of attachment to the idea that the state is responsible for providing social services and entitlements (Cook 2007b). Following the collapse of the Soviet system, the Russian Constitution of 1993 remedied the earlier constraints on civil and political rights and freedoms but continued to commit the government to 'the protection of people's labour and health, a guaranteed minimum wage, state support of the family, invalids and senior citizens' (Juviler 1998: 157).

Despite the new political freedoms which emerged during this reform period, the public's emphasis on economic and social rights over civil and political rights such as freedom of expression and assembly and freedom from torture advocated then and now by prominent Russian human rights groups such as the Moscow Helsinki Group⁹ appears to have remained largely unchanged. Polling data from 2010 (the most recent available) indicates that, when asked to rank human rights in order of importance, 69% of respondents cited the right to free education, medical assistance and social security in sickness and old age, while 57% pointed to the right to life as the most important. The right to well-paid work in one's discipline (50%) and the right to a state-guaranteed minimum level of subsistence (36%) came ahead of freedom of speech (34%) and freedom of information (22%).¹⁰ An even starker overview is provided by more recent polling data from February 2013 which indicates that, despite the much-publicised political protests in Russia in late 2011 and early 2012, only 4% of those surveyed expressed concern over restrictions on civil rights and democratic freedoms, while 68% saw rising prices as the main threat to the country and 52% cited the impoverishment of large sections of society.¹¹

As will be discussed in more detail in Chapter 5, there is also some evidence of individual citizens using the courts to make (frequently successful) claims regarding the protection of

⁹ See for example 'Projects' (English Language Page), Moscow Helsinki Group, <http://www.mhg.ru/english/1B304A3> [accessed 12 January 2011]

¹⁰ 'Which human rights are, in your opinion, the most important?' [in Russian], Levada Center, 8 September 2011, available at <http://www.levada.ru/archive/prava-cheloveka/kakie-iz-prav-cheloveka-po-vashemu-mneniyu-naibolee-vazhny-otvety-ranzhirova>

¹¹ 'Russians' greatest worry is corruption; only 4% worried about rights – poll,' Interfax, 21st March 2013, available at <http://russialist.org/russians-greatest-worry-is-corruption-only-4-percent-worried-about-rights-poll>

their constitutional social rights in response to government reforms in the area of social welfare (Chandler 2013). Such an understanding of the ‘hierarchy’ of rights can partly be explained by the legacy of the Soviet concept of human rights. Yet another major factor has been the economic liberalisation policies pursued during the 1990s which led to the dismantling of many aspects of the old system of welfare provisions, and the fact that Putin’s first presidential term from 2000 to 2005 saw wide-ranging, market-oriented reforms in the areas of pensions, housing, health and education which have only partially been reversed (Cook 2007b; Hemment 2009), an issue which Chapter 5 returns to. This public focus on social and economic rights also appears to be reflected on a political level: the State Duma, for example, voted overwhelmingly in favour of adopting a law ratifying the European Social Charter in 2003 and subsequently put pressure on the government to adopt a plan of action for its ratification (Valenti 2010). This apparent desire to make Russia subject to the Council of Europe’s monitoring and reporting system for economic and social rights provides an interesting contrast with the Duma’s failure until January 2010 to vote in favour of ratifying Protocol 14 to the European Convention on Human Rights. This protocol envisaged reforming and speeding up the procedures of the European Court of Human Rights, a body which frequently rules against Russia in cases concerning violations of civil and political rights.¹² The Duma had previously voted against the Protocol’s ratification in 2006 due to concerns on the part of some deputies that the Court’s rulings against Russia were politically motivated.¹³ It thus seems clear that economic and social rights are issues which resonate on a public and political level in Russia, and Chapters 4 and 5 will further explore Russian understandings of these rights and the discourse on such rights employed by representatives of the state.

1.6 Explaining differences between European and Russian conceptions of social and economic human rights: cultural relativism and its critics

In terms of attempts to explain the apparent differences in the approach to human rights taken during and after the Cold War by Western European and North American states on the one

¹² Russia currently accounts for the largest number of pending cases against a respondent state at the European Court of Human Rights, making up 22.3% of all cases followed by Turkey with 13.2% as of December 2012. See ‘Annual Report 2012,’ Registry of the European Court of Human Rights, available at <http://www.echr.coe.int/echr/en/header/reports+and+statistics/reports/annual+reports>

¹³ See for example ‘Russia Ratifies Protocol 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms,’ *Human Rights Center Memorial*, 18 January 2010, available at <http://www.memo.ru/eng/news/2010/01/19/1901103.htm> [accessed 12 January 2011]

hand and the Soviet Union/Russian Federation on the other, the idea that different societies or cultures may have different concepts of human rights is one which has received considerable attention from commentators from the early 1990s onwards. This has particularly been the case since the emergence of the concept of 'Asian values' in the early to mid-1990s – the idea that Asian societies have cultural values such as obedience to authority, group allegiance and a collective rather than an individual identity which differ from those of 'the West' (Englehart 2000).

As a result, civil and political rights are seen as 'not universally valid but peculiar to Western political culture and alien to Asian culture' (Inoue 2003: 125). This debate was often seen as representing a clash between 'Western' values of liberal democracy and 'Eastern' values of conservatism and tradition (Mauzy 1997). Some observers have applied this concept to other cultures in addition to Asian societies: Pollis (2008: 280), a leading exponent of this concept of cultural relativism, claims that '...in many societies – Asia, Africa, Eastern Europe (including Russia), and the Middle East – the liberal doctrine of human rights does not speak to the people's world view...Belief systems, values, and basic concepts...were and remain markedly different from those in the West.' The fact that fundamental instruments of international human rights law such as the UDHR were formulated by a relatively small group of mostly European nations has been used by some advocates of Asian values to support their claims that the civil and political rights outlined in these documents are not relevant to their own societies, which have different political and cultural traditions. Inoue (2003: 125), for example, claims that such advocates '...reject the idea that the West should play the role of moral teacher for Asia in the liberalization and democratization of Asian politics.'

The perception that an alien human rights ideology is being foisted onto unwilling but politically or economically weaker non-Western nations can lead to the risk of rejection of the concept of universal civil and political rights by both political leaders and parts of the general population. Chugrov (2000: 153), for example, points out that, in the aftermath of the collapse of Communism, rapid economic reform and the subsequent dramatic decline in the standard of living led to liberal rights becoming 'a synonym for disorder' in the eyes of much of the Russian population. In addition, the idea that Russia has its own 'Eurasian values' that distinguish it from European countries has a long history in Russian political culture: Tolz

(1998: 997), for example, points to the Slavophile, Pan-Slavist and Eurasianist movements of the 19th and early 20th century, which have found echoes in both Soviet and more contemporary Russian political discourse on national identity.

According to Tolz, 'Pan-Slavists...and Eurasianists regarded the West as an anti-model for Russia; they thought Russians could create a community, unknown and superior to European-type nations.' Chugrov (2000: 149) sees Russia as having a combination of Westernizing and Slavophile cultural traditions, with the Westernizing tradition, which embraces universal rights, always weaker than the Slavophile one, which emphasizes 'cultural relativism and national particularism.' In the contemporary period Okara (2007: 3) points to what he sees as the existence of a third school of 'conservative/preservationist' thought which believes in 'order, stability, steadiness and a controllable political system, continuity of power, state paternalism...[and] patriotism' and which appears to have broadly held sway during Vladimir Putin and Dmitriy Medvedev's presidencies.

In addition, Saari (2010: 2) points to the development of the ideology of 'sovereign democracy' by Vladimir Putin's administration in 2005-6 as an attempted strategy to undermine what were seen as Western attempts to promote democracy and human rights in Former Soviet countries undergoing 'colour revolutions' such as Georgia and Ukraine. Despite the fact that Russia has joined the Council of Europe, ratified the major UN and European human rights treaties and established domestic human rights bodies, some argue that this does not necessarily demonstrate that the notion of individual rights have been internalized (Pollis 2008: 280). As Chugrov (2000: 155) points out, 'Russian society remains a distinctive hybrid system: it endorses widely recognised liberal rights, while at the same time it is constantly looking back to its traditions of authoritarian rule.'

Yet the idea of cultural relativism and the corresponding rejection of the concept of universal human rights have come under sustained criticism from a number of observers who maintain that human rights may be articulated differently by different cultures but that their universal nature remains unchallenged. According to Donnelly (2007b: 281), '...universal human rights, properly understood, leave considerable space for national, regional, and cultural particularity and other forms of diversity and relativity,' while Inoue (2003: 1160) points out that the 'Asian values' concept has been promoted by Asian leaders seeking to justify their

own violations of civil and political rights by claiming that advocacy of such rights is part of Western ‘cultural imperialism’ which seeks to impose incompatible human rights concepts on Asia. Even Pollis (2008: 282; 284) acknowledges that ‘the cultural diversity argument often plays into the hands of the state and is used to rationalize the arbitrary use of power’ and that ‘the state, a modern construction, can exploit traditional values as a device and a rationalization by which to maintain power and repress.’ Sen (2008: 399) challenges the notion that civil and political rights are inherently and exclusively ‘Western’ by pointing to the existence of theorizing about tolerance and freedom within the Asian tradition and highlighting the fact that ‘contemporary ideas of political and personal liberty and rights have taken their present form relatively recently, and it is hard to see them as ‘traditional’ commitments of Western cultures.’

The idea that a society’s political culture is a static entity has also been challenged by several commentators: Donnelly (2007b: 291), for example, points out that ‘whatever their past practice, nothing in indigenous African, Asian or American cultures prevents them from endorsing human rights now. Cultures are immensely malleable.’ In addition, where Russia is concerned, Chugrov (2000: 149) claims that, despite the fact that the Westernizing tradition has always been weaker than the Slavophile one, ‘this does not mean that the seeds of liberal freedoms were eradicated from the national political culture; they were always there and remain so today. Rather, they are emerging from their suppression.’ Nethercott (2007) reaffirms this, pointing to a reformist legal tradition in Russia dating back to the late 19th and early 20th centuries which was galvanised by opposition to the death penalty and emphasised individual rights and freedoms and the rule of law.

In terms of the approach taken by this study towards the concept of cultural relativism, it recognises the impact of culture on the development of understandings of human rights and the dangers of assuming that ‘human rights’ are a Western construct or system of values that can or should be exported to other cultures (Bielefeldt 2000). Yet rather than subscribing to the idea that different cultures, be they ‘Asian,’ ‘Western,’ ‘Eastern,’ Eurasian,’ ‘Slavic’ or something else, have fundamentally different concepts of what human rights are and must therefore be treated as separate entities, it takes the view espoused by Donnelly (2007b) and others that there is and should be considerable overlap between cultural understandings of human rights. It also recognises the dangers inherent in taking the essentialist view that

‘culture’ is a fixed set of values which remain consistent over time and can be applied fairly sweepingly to given populations and assumed to determine how these populations interact with their political institutions (Englehart 2000).

It is also important to note that where Russia and the EU specifically are concerned, this thesis contends that, rather than having understandings of human rights which are fundamentally different, it is a question of differing nuances and emphases. The fact that civil, political, economic and social rights are all aspects of the broader concept of ‘human rights’ tends not to be contested in the official discourse on rights which is employed by the various EU institutions and the Russian authorities or by many of the NGOs who took part in this study, as will be discussed in more detail in Chapters 4 to 7. Rather, it is on the question of the place that economic and social rights should occupy in the ‘hierarchy’ of human rights (Meron 1986) that opinions and policy differ. As Chapter 7 will explore, this has important implications in terms of policy implementation where the EU and Russia are concerned.

1.7 The role of the State in upholding social and economic rights and entitlements

Having explored some of the background to the formulation of international instruments of human rights law, the seemingly different status accorded to economic and social rights within the Western European and Russian contexts, and the degree to which cultural relativism is applicable to notions of human rights, it is important to acknowledge the role of the state in the recognition of economic and social rights. At this point a definition of what is meant by ‘the State’ in the context of this study is important for two reasons: firstly because the abstract notion of the State is far from being an uncontested concept; and secondly because at the heart of this study lie two very different ‘states,’ or state-like structures: the more traditional nation-state of Russia, and the supranational actor that is the EU. While the nature of these two specific entities will be explored in more detail in Chapter 2, the focus at this point is the abstract notion of the State and the manner in which it is perceived to interact with different types of rights.

The very objective of attempting to define the State as some form of coherent actor immediately creates a number of problems: International Relations theorists tend to define the State as a nation-state which conforms to geographic borders and encompasses both the territory and the institutions and society that exist within it (Halliday 1987). Yet, according to

more sociological state theory, the State tends to be seen as an autonomous unit or object which imposes rules of behaviour upon its citizens, using its monopoly on the threat of violence to enforce these rules (Halliday 1987; Migdal and Schlichte 2005; Thomson 1995). According to this view, society and its attendant social organisations are seen to form a separate autonomous entity which operates largely independently of the State and its institutions (Easter 2008; Migdal and Schlichte 2005). Yet this approach has been challenged in two ways: firstly on the grounds that to try to analyse the State in this way ignores the complexity of the processes and institutions that make up ‘the State,’ which is, according to Schmitter (1985:33), ‘an amorphous complex of agencies with ill-defined boundaries, performing a great variety of not very distinctive functions;’ Secondly, because the supposed boundary between state and society is in fact very difficult to locate given the constant interactions between the State, social groups and organisations, and the wider system within which they operate which also influence rulemaking (Mitchell 1991; Jessop 2008; Migdal and Schlichte 2005).

Indeed, some have argued that the problems posed by any attempt to analyse the State as an object mean that there should be less focus on trying to define it as such and more on the State as an idea (Abrams 1977). This is supported by Mitchell (1991), who argues that the State is constructed in everyday cultural forms such as language, architecture and the wearing of military uniforms, while Foucault emphasised that within the modern state power is exercised through social norms, institutions and discourse rather than sovereign authority as such (Jessop 2008). These arguments are important for the purposes of this study because, as will be explored in more depth empirically in Chapter 5, it is concerned more with how people and institutions perceive the State and its role in relation to guaranteeing economic and social rights than with what actually constitutes the State. As Migdal and Schlichte (2005:15) argue, state and non-state actors “‘see’ the state in a particular way; they have a mental picture of it as an integral unit, a way of conceiving what it is about and in which kind of affairs it plays or should play a role.’ It is this ‘mental picture’ of the State in relation to certain rights which this study aims to engage with.

The centrality of the State’s role in relation to human rights, whether it be its supposed obligation to uphold ‘negative’ civil and political rights by not interfering in the lives of individuals or its obligation to ensure ‘positive’ economic and social rights are upheld by taking an active role in economic and social provision, has already been alluded to. Yet it is

worth engaging more closely with the idea of expectations of the State in relation to guaranteeing certain economic and social rights given the level of debate that exists around what the State should be obliged to provide in terms of resources and service provision, particularly during periods of economic recession. As previously mentioned, the idea that the State must at some level provide financial and political resources if these rights are to be upheld tends to be fairly widely accepted (Eide and Rosas 2001; van Boven 1982). However, the degree to which the State must provide these resources and the question of whether economic and social rights do in fact constitute *human* rights or may in fact simply be some form of civic right or claim remains contested. Cranston (1983:15) and Wellman (1982), for example, argue that enforcing economic and social rights would place unrealistic and unachievable financial demands on most governments, and that, rather than being universal human rights, economic and social rights are ‘earned or acquired rights’ relating to an individual’s citizenship of a country which has a functioning welfare state. Indeed, Griffin (2000: 30) argues that many of those opposed to seeing economic and social rights as human rights tend to regard them as ‘an entirely optional redistributive programme trying to pass itself off as a non-optional matter of human rights.’ Yet removing the status of being a ‘human right’ from economic and social rights has an important impact in terms of their realisation.

1.8 The discourse of human rights, conditionality and ‘morality’

The recent discourse of international human rights largely tends to frame human rights commitments in moral terms as standards to be upheld: according to Ingram (2008:401), for example, during the past twenty years human rights have become ‘the lingua franca of moral and political claim making.’ This discourse can lend an air of moral authority to economic and social rights claims which makes them entitlements which a state’s citizens possess, rather than optional or conditional measures which depend on the ideology of the government in power, its attitudes to those in need, and the resources available to that government. As Gearty (2011:21) points out, the sense of moral entitlement which the notion of a right provides ‘serves the useful purpose of rendering redundant the erection of any distinction between the deserving and undeserving...within the field of human rights the recipients of the care of others do not need first to prove their worth – their entry ticket is their humanity.’ This is not to say, however, that such ‘moral entitlements’ are uncontested. This linkage between the ‘virtue’ or behaviour of a potential rights claimant and the degree to which they

should be afforded certain rights is reflected in terms of some of the contemporary European discourse on certain economic and social rights such as the right to social security which emphasises ‘rights versus responsibilities,’ as will be discussed below. It can also clearly be seen in the discourse surrounding the issue of those seeking asylum in various EU Member State countries such as the UK and Germany, and the extent to which they should be entitled to welfare provision in that country. As Bloch and Schuster (2002) and Sales (2002) point out, this discourse attempts to paint asylum-seekers as ‘bogus,’ undeserving recipients of social benefits who constitute a burden on the state to which they are seeking entry and must therefore be excluded from the bulk of social provision and services available to citizens of that country, thus forcing them to rely on voluntary organisations for subsistence.

The idea of making human rights conditional on the ‘moral behaviour’ of the individual can also be applied to other categories of rights in addition to economic and social rights questions. Where the issue of prisoners’ right to vote is concerned, for example, the UK government, regardless of which political party has been in power, has long argued in defiance of rulings by the European Court of Human Rights that incarcerated prisoners do not deserve the right to vote.¹⁴ This in effect makes the right to free elections, which is envisaged as a fundamental right by both the UDHR and the ECHR¹⁵, dependent on ‘the moral character of the right-holder’ (Easton 2009: 228) rather than a universal entitlement.

¹⁴ In 2005 the European Court of Human Rights ruled in response to a case brought against the UK that a blanket ban on prisoner voting was illegal, although national governments could still decide to deny certain categories of prisoner the right to vote. In May 2012 the Court gave the British government a six-month deadline to outline its proposals for changing its legislation on prisoner voting, a deadline which it reluctantly and partially met in November 2012 by publishing a draft bill which contains the options of keeping the blanket ban or giving prisoners serving sentences of up to six months or four years the right to vote. For further details see ‘Prisoners will not get the vote, says David Cameron,’ BBC News, 24th October 2012, available at <http://www.bbc.co.uk/news/uk-politics-20053244>; ‘Votes for prisoners - opening the door?’, BBC News, 19th November 2012, available at <http://www.bbc.co.uk/news/uk-politics-20397871> [accessed 14th January 2013]

¹⁵ According to Article 21 of the UDHR, ‘everyone has the right to take part in the government of his country, directly or through freely chosen representatives; Everyone has the right to equal access to public service in his country; and the will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures’ (‘The Universal Declaration of Human Rights,’ United Nations, available at <http://www.un.org/en/documents/udhr/index.shtml#a21>).

Under Article 3, Protocol 1 (1952) of the European Convention on Human Rights the states party to the Convention ‘undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature’ (‘European Convention on Human Rights,’ European Court of Human Rights, available at http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/Convention_ENG.pdf [accessed 14 January 2013]).

The argument against conceiving economic and social rights as human rights on a par with civil and political rights is perhaps unsurprising given that it has developed alongside a wider shift in political and economic thinking in Western Europe. This shift has broadly moved away from the rapid expansion of state welfare systems in the post-war era towards what is often seen as a neoliberal emphasis on reining in the State in order to maximize the freedom of the market (Mudge 2008; Gamble 2001). This shift, which began in the late 1970s, has posed a major challenge to the post-war view of the welfare state as something which should be based on ‘the principle of universal entitlement derived from citizenship’ (Cox 1998:3) and has led to a fundamental recasting of the State’s role in relation to meeting the needs of its citizens which continues in the contemporary period. Whereas previously there was broad political consensus on the idea that the State was responsible for ensuring the well-being of its citizens, this has been replaced by what Dean (2007:4) calls ‘...an enduring hostility to ‘big’ government and scepticism towards welfare rights.’ That this shift should have an impact on the realisation of economic and social rights is hardly surprising: economic rights such as labour rights, for example, are likely to be compromised by policies which advocate trade liberalisation, flexible labour markets, privatisation and deregulation (Dean 2007).

Where social rights are concerned, their successful realisation in terms of the fair and equal provision of education, housing and healthcare depends on a government’s commitment to tackling inequality through the issue of income distribution and protecting vulnerable groups. This effectively leads to financial transfers being made from rich to poor (Eide and Rosas 2001; Griffin 2000; Klausen 1995). Yet the turn from what Walters (1997: 230) sees as a ‘welfare society’ towards an ‘active society’ which aims to integrate every member of that society through the means of paid employment has led to various European governments employing rhetoric and policies which place the onus on individuals in need of assistance from the State to manage their behaviour. It also makes the provision of various welfare benefits conditional on this behaviour rather than a direct and universal provision of resources by the State (Dean 2007; Dwyer 2004).

The UK government of the late 1990s under Tony Blair was perhaps the most famous European exponent of this ‘Third Way’ approach to politics which focuses on maximising

'opportunities' linked to paid employment and defines those groups outside the labour market as 'inactive' (Walters 1997:221). It is worth pointing out that this strategy was still very far removed from the Thatcher administration's policy during the 1980s of drastically curtailing universal state welfare provision and making what provision remained a partial safety net which Alcock (1989: 33) describes as 'a return to the Poor Law' of 19th century Britain. Nevertheless, various other EU Member States such as Germany and the Netherlands which had broadly social democratic governments during the same period also adopted a Third Way 'activation' approach (Handler 2003:229) which has in turn influenced policy directions at the overall EU level, as will be explored in more detail in Chapter 6. According to Hansen and Schierup (2005:27), from the late 1990s onwards 'the neo-liberal and Third Way-leaning message was to become ever more pronounced' in the European Commission's statements and policy recommendations on economic and social affairs. This shift has seen the increasing use of the language of 'rights versus responsibilities' where welfare provision is concerned which was first espoused by Giddens (1998:65) and aims to moderate the behaviour of a state's citizens and to sanction those who do not comply by restricting their access to certain social benefits (Dwyer 2004). This has had an important and arguably detrimental effect on the realisation of social rights since such rights become conditional rather than automatically a part of citizenship: under the 'active society' model those who do not work are denied certain social rights such as the right to social security unless they take clear steps to join the labour market such as undertaking training (Walters 1997).

Dean (1995: 574) argues that the language of social rights and entitlements is increasingly being jettisoned in favour of a discourse of mutual obligations on the part of the state and the individual: 'Instead of granting a *claimant* his/her rightful *benefit*, the state provides an *allowance* and services on the condition that the *client* engages in job-search activities. Instead of a system of benefits for the *unemployed*, we have a complex of services and allowances for the *jobseeker*.' In some respects this discourse has the effect of turning certain economic and social rights on their head: the right to paid work in fair conditions becomes an obligation on the part of the individual to seek and accept employment which is frequently poorly-paid or part-time or to take part in publicly-funded training schemes at risk of losing one's access to social benefits (Walters 1997).

While the concept of 'rights versus responsibilities' has largely developed in the very specific context of late 20th-century liberal democracies, interestingly there is a certain degree of

overlap with the Soviet approach to human rights. Although this approach strongly emphasised the primacy of economic and social over civil and political rights, it also treated rights as contingent on duties, with the right to labour under the Constitution of 1977 constituting both a right and a duty (Donnelly 1982; Sajo 1996). Nevertheless, as will be explored in more detail subsequently, the frequently conditional approach to economic and social rights taken by various EU Member States and the EU itself varies in some respects from that commonly expressed in Russian social and political discourse.

1.9 Conclusions

This chapter has provided context to the development of the broad concept of human rights while engaging more specifically with the idea of economic and social rights as a certain category of human rights. It has sought to demonstrate that, despite the rhetorical commitments to the indivisibility and universality of all human rights which exist in the major international human rights treaties, the place which economic and social rights occupy in the ‘hierarchy’ of international human rights norms has long been contested. In addition, it has shown that understandings of such rights are heavily influenced by the political context in which they come to be shaped and applied.

The chapter has also highlighted the widespread perception that the State plays or should play a key role in terms of guaranteeing such rights, and has briefly explored some of the ways in which the discourse on the application of economic and social rights has shifted towards a greater emphasis on the use of conditionality and the application of sanctions within the context of EU and EU Member State social policy. It seems clear that, on a theoretical level, in some political contexts economic and social rights remain contested in a way that individual civil and political rights appear not to be, and subsequent chapters aim to explore the influence of these contestations on the discourse and policy of the various EU institutions, the Russian authorities and various Russian civil society actors. Ultimately this chapter has demonstrated that exploring economic and social rights as a concept is not a straightforward process of separating such rights from other components of the idea of ‘human rights’ such as civil and political rights, but that these rights have been conceptualised in such varied and constantly shifting ways that they are worthy of more detailed analysis. The following chapter will move on to focus on the nature of the different actors which are the subject of this study, before returning to these themes in Chapters 4, 5 and 6.

Chapter Two

The EU, the Russian State and Civil Society

2.1 Introduction

The previous chapter explored some of the debates concerning the significance and implementation of economic and social rights, and the extent to which the State is seen to play an important role in ensuring that such rights are upheld. The purpose of this chapter is to focus in more detail on the different actors who play a role in formulating discourses of human rights and, on a more practical level, in the promotion and protection of human rights, beginning with the European Union (EU). It will examine the theoretical and practical context to the strategy pursued by the EU in relation to economic and social rights both on an internal and external level and in its relations towards Russia in particular. This includes discussion of the debate over whether the EU is capable of acting as a ‘normative power’ in promoting certain values such as human rights in its relations with non-Member States such as Russia. This is followed by a discussion of the nature of the two other most relevant ‘actors’ to this study – the contemporary Russian state and certain types of Russian civil society organisations¹⁶ – and the nature of the relationship between these two actors.

The chapter argues that, while the EU demonstrates a seemingly impressive rhetorical commitment to promoting economic and social rights on an equal basis with civil and political rights in its internal affairs and external relations, in practical policy terms this commitment is frequently not realised. In relation to Russia specifically, the Union’s financial assistance for civil society development has a clear focus on supporting the type of NGO which largely promotes civil and political rights and has been in existence since at least the late 1980s, despite the fact that such groups have failed to garner popular support from the Russian population and have been largely sidelined by the authorities. Yet it seems at least possible that, given the importance of economic and social rights in the Russian context which was outlined in Chapter 1, engaging with such rights in a more explicit manner may prove to be a more fruitful means for interaction between Russia and the EU.

¹⁶ This study focuses on two types of Russian NGO: those explicitly identifying themselves as ‘human rights’ NGOs, and those engaged in more socially-oriented work with vulnerable groups. See Chapter 3 for full details of the organisations who took part in this study.

2.2 The EU as an international actor

Before exploring the EU's approach towards economic and social rights in its internal and external relations, it is important to define the EU as a specific actor in the international arena since the focus of this study is very much on the EU's policy and actorness in the area of its external relations with Russia. One of the difficulties in defining the EU as an international actor is that, unlike its Member States, it does not conform to the Westphalian or Weberian model of a sovereign or nation-state with clearly defined authority over a fixed territory and a monopoly on the legitimate use of violence which is used as the main unit of analysis in realist and neorealist theories of international relations (Caporaso 1996; Manners 2002).

At the same time, it cannot be classified as either a federal state or an international organisation along the lines of the United Nations because, as Kerremans (1996) points out, it combines elements of both entities, while Schmidt (2004:976) argues that the Union should be seen as a 'regional state' or 'regional union of nation-states' combining both 'ever-increasing regional integration and ever-continuing national differentiation.' As a result, while most commentators appear to agree that the EU constitutes a polity of considerable significance in international affairs (Walby 2003; Zielonka 2008), there is little agreement on precisely what form this polity takes. An additional problem is the diversity and number of institutions and instruments involved in formulating and implementing the EU's foreign policy and the at times conflicting interests of its Member States.

Since the Treaty on European Union of 1992 a 'pillar structure' of three policy areas including the intergovernmental Common Foreign and Security Policy (CFSP), the supranational Community pillar for trade and aid policy, and the intergovernmental Justice and Home Affairs pillar for issues relating to international crime has governed the implementation of the Union's foreign policy objectives.¹⁷ The Treaty also gave the European Parliament consultative and some budgetary authority over common foreign and security policy (Glen and Murgo 2007). In addition, since 2010 the practical implementation of the CFSP, which used to be a responsibility of the European Commission, has been carried out by a new European External Action Service (EEAS) which functions as the Union's

¹⁷'Europa Treaties and Law,' <http://eur-lex.europa.eu/en/treaties/dat/11992M/hm/11992M.html> [accessed 26 February 2010]

diplomatic corps and supports the EU's High Representative for Foreign Affairs and Security Policy, a role also established in 2010 following the passing of the Lisbon Treaty.¹⁸

This plethora of institutions involved in conducting the Union's common foreign policy, the potential for duplication between 'pillars' and the tension created by the fact that individual Member States may still choose to pursue their own competing foreign policy interests (Smith 2003b) has frequently led to criticism of a perceived lack of coherence and consistency in the EU's external relations policy (Duke 1999). This has particularly been the case where issues such as the promotion of human rights norms are concerned (Smith 2001), although the creation of the EEAS is clearly an attempt to try to address the lack of coherence in the Union's external relations policy. The number of overlapping treaties, policy documents and programmes relating to human rights in fact undermine the idea that the EU's approach to promoting human rights in its external relations constitutes a coherent 'policy' as such. Youngs (2004: 416) argues that this approach represents '...not so much a monolithic policy as a broad framework within which a variety of operational and policy-making dynamics might prevail.'

The issue of consistency, or the lack thereof, in the EU's external affairs has become so established that Nuttall (2005:92) identifies three different types of consistency: 'horizontal' consistency meaning that policies pursued by different institutions within the Union and with differing objectives should be coherent with each other; 'institutional' consistency relating to external relations where two sets of actors apply two sets of procedures; and 'vertical' consistency when one or more Member States pursue national policies which are not in sync with policies agreed at EU level. One of the main areas of focus for this study, however, is the degree to which the EU's discourse on economic and social rights on both an internal and external level is consistent with its strategy of promoting such rights in its relations with Russia, and the extent to which such discourse coincides or contrasts with that employed by Russian state and civil society actors. As a result, it aims to explore how understandings of economic and social rights are socially constructed by all three actors and, in so doing, takes a constructivist stance in contending that 'ideas always matter' (Wendt 1995). In contrast to neoliberal and neorealist theories of international relations, which see ideational factors in purely instrumental terms in terms of their usefulness to individual units pursuing material

¹⁸ For further details see 'European External Action Service,' available at http://eeas.europa.eu/background/organisation/index_en.htm, accessed 1st February 2013

interests (Ruggie 1998), constructivists see a state or actor's behaviour, interests and identity as being shaped by ideas, values and shared norms or expectations of appropriate behaviour (Bjorkdahl 2002; Christiansen et al 1999; Finnemore 1996). At the same time, constructivism does not seek to deny the influence of material factors and interests, for example those of the EU's Member States, on actors' behaviour and preferences, but rather contends that norms and values must be taken into greater consideration alongside such factors (Saari 2006). As a result, a constructivist approach seeks to research '...the origin and reconstruction of identities, the impact of rules and norms, [and] the role of language and of political discourses' (Christiansen et al 1999: 538).

In order to determine the content and impact of norms and values on policy preferences, it therefore becomes important to examine political discourse as employed by both official documents and by representatives of a given institution on a particular issue, in this case economic and social rights in the EU's internal and external affairs. This is due to the fact that, as will be further explored in Chapter 3, values and assumptions belong to particular discourses and are represented and shaped by them (Fairclough 2003). Where human rights are concerned, the EU has presented itself in its official discourse as a staunch defender and promoter of these rights, including economic and social rights, in both its internal and external affairs, and this commitment to human rights is often seen as representing an important facet of the Union's identity and its desire and ability to act as a 'normative' power (Manners 2002:238).

Yet, as this study's empirical data and analysis will indicate, gaps and grey areas frequently emerge between the Union's rhetorical commitment to upholding and promoting civil, political, economic and social rights on an equal basis in its internal affairs and external relations with countries such as Russia, and the practical policy implications of this professed commitment to indivisible human rights. As Diez (2005: 636) points out, the idea that the EU projects certain norms and values '...needs to be subjected to continuous deconstruction through the exposition of contradictions within this discourse, and between this discourse and other practices.'

2.3 Normative Power Europe

Ever since the European Economic Community (EEC) was transformed into the European Union by the Maastricht Treaty of 1992, the EU's foreign policy and the values it claims to promote have received increasing attention both within the Union itself and from external observers. The fact that the consolidation of the EU as an intergovernmental body virtually coincided with the end of the Cold War and the subsequent desire of the new governments in Central and Eastern Europe to join the EU only served to place greater emphasis on the kind of norms and values the EU wanted to promote in its relations with third countries. The subsequent policies pursued and treaties signed appear to indicate that, on a rhetorical level at least, the EU is committed to promoting respect for human rights, democracy and the rule of law both internally and externally. When coupled with the fact that the EU is perceived to rely more on economic and political tools than military means in conducting its external policies, this has led to claims that the EU as an international actor operates as a new kind of 'normative' power promoting a set of common principles with far less emphasis on traditional realist foreign policy concerns such as state sovereignty and military power (Manners 2002:238). In this sense the 'norms' being promoted signify collective understandings and expectations of appropriate behaviour on the part of states and other actors (Bjorkdahl 2002; Schimmelfennig 2002).

This concept is not, however, by any means uncontested, and by examining some of the arguments for and against the theory of 'normative power Europe' (NPE) it should be possible to explore the extent to which economic and social rights are incorporated within the EU's identity as a promoter of human rights. This in turn should result in a greater degree of insight into the extent to which the EU's approach towards promoting economic and social rights as 'human rights' in its external relations with countries such as Russia is effective and the extent to which this policy overlaps with other, more instrumental, interests. In taking this approach this study aims to address a gap in the literature identified by Diez (2005: 616), who argues that much of the debate surrounding the 'normative power Europe' concept 'does not really examine the de facto impact of EU policy (and therefore whether it *has* normative power in the relational sense), but [focuses] on whether it *acts* as a normative power.'

Where the EU's commitment to promoting human rights as a general concept and other values in both its internal and external relations is concerned, at first glance this appears impressive. According to Manners (2002), a set of five core norms can be identified within

the EU's numerous treaties: peace, liberty, democracy, the rule of law and respect for human rights and fundamental freedoms. Having been outlined as founding principles of the Union in the TEU, these principles were reiterated in relation to both internal and external affairs in the Treaty of Amsterdam in 1997 (Alston and Weiler 1999), while the more recent Treaty of Lisbon of 2009 emphasizes that these values will guide the EU in international affairs (Tocci 2008).

In addition, in 1993 the Union set out its 'Copenhagen Criteria', namely the conditions which the Central and East European states (CEECs) would be required to meet before membership negotiations could begin, which made explicit the need for 'stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities,'¹⁹ while in 1995 a 'human rights clause' was made a requirement in all external cooperation agreements concluded with countries outside the EU (Smith 2001: 189). As recently as 2012, a new EU Strategic Framework and Action Plan on Human Rights and Democracy promised that the EU would 'step up its efforts to promote human rights, democracy and the rule of law across all aspects of external action' (Council of the European Union 2012). According to Smith (2003b: 98), such declarations and policies reflect '...the belief, shared by Member States and EU institutions, that human rights *must* be promoted internationally for their own sake. The EU insists on the universality of human rights and rejects claims that their promotion is unwarranted interference in the domestic affairs of other states.' In addition, respect for human rights has come to be seen as an intrinsic part of the Union's identity in the international arena: Williams (2004:156) argues that '...the genealogy of rights as founding principle has become fixed both as an idea, a tradition, as a determinant of future action, and as an element of consistent values.'

Various commentators have attributed this apparent emphasis on promoting specific norms, including human rights, to several factors which have influenced the development of this perceived 'European identity' including Europe's post-World War II history and the end of the Cold War. Manners (2002: 43; 46) describes peace and liberty as 'defining features' of Western European political development in the immediate post-war period, but it was the end of the Cold War which prompted 'a rethinking of what it meant to be a democratic, liberal

¹⁹ 'Presidency Conclusions,' *Copenhagen European Council*, 21-22 June 1993, available at http://www.europarl.europa.eu/enlargement/ec/pdf/cop_en.pdf, [accessed 26 February 2010]

European state,' while Smith (2001: 187) claims that the desire of the Central and East European states (CEECs) to join the EU provided 'significant impetus for using a wider range of policy instruments to promote human rights...human rights were no longer held hostage to Cold War exigencies.' This apparent commitment to the promotion of human rights and democracy and the seeming success of this policy in promoting stability and good governance in Central and Eastern Europe in particular without reliance on military means have led to the development of the concept of NPE.

This theory builds on Duchene's (1972) concept of the EU as a 'civilian' power – namely that the EU is a unique kind of international actor which does not rely on realist definitions of territorial expansion and a balance of power based on military might but rather has 'a distinct 'European' approach to international politics that favours diplomacy, persuasion, negotiation and compromise' (Hyde-Price 2006: 217). According to Tocci (2008: 1), within the NPE concept '...the EU is conceived as a post-modern actor, which unlike the modern state does not base its foreign policy on balance of power and zero-sum logic,' while Diez (2005: 616) claims that NPE means that '...norms in themselves achieve what otherwise is done by military arsenals or economic incentives.'

The EU's apparent success in promoting its 'European' norms and values in its relations with the CEECs in the years prior to their accession in 2004 and 2007 seems in some respects to serve as an example of the EU's role as a normative power and has undoubtedly had a major impact on the approach taken by the Union in its relations with third countries. Indeed, according to Panebianco (2006; 131), 'the EU assumes that the EU model will also prove successful in third countries, as it did first in Western Europe and more recently in Eastern Europe. This is even truer in the post-Cold War era which has experienced the failure of the political and economic communist model of development.' Yet in the context of its eastern enlargement and accompanying attempts at transferring its norms to the CEECs and the Balkans, the EU's 'normative power' has been underscored by the significant economic incentives it has been able to offer in the form of prospective membership. Diez (2005: 616), for example, points out that 'the EU is most likely to...have greater normative power in the context of EU membership candidacies, when the interest to join the EU can be assumed to be an important factor determining the impact of EU norms.'

In its relations with states such as Russia and China, where an offer of membership is not on the table, the Union's ability to act as a normative power is arguably reduced, particularly since Russia is far less willing than perhaps it was in the immediate post-Cold War period to consider adopting the 'European model' of governance and values without question. According to Haukkala (2008: 1605), 'it is only by offering a full stake in European institutions and identity that the Union can expect others to subscribe in full to its norms and values,' while Panebianco (2006: 132) points out that 'not all EU partners are necessarily ready to change their traditions and specificities to adopt EU values and principles as a result of external interference.' The EU is undeniably a vital economic partner to both Russia and China, which accords it some ability to raise issues surrounding human rights in particular in its dialogue with both states, yet its ability and willingness to act as a normative power in its relations with these countries is simultaneously competing with, and frequently losing out to, other strategic interests, be they economic, political or security-based, and at times the EU seems willing to overlook violations of human rights norms in countries it considers to be 'friendly' (Smith 2001: 193).

Where Russia is concerned, the EU was highly critical of human rights violations committed by Russian forces during the first war in Chechnya in the mid-1990s, but by the time of the second war in 1999-2000, which involved further such abuses, trade and energy concerns appear to have assumed primacy over those of human rights (Tocci 2008). In addition, the Union's normative agenda itself has been shaped by a number of considerations, not all of them purely altruistic or influenced by romantic notions of a common European identity and value system. As Youngs (2004: 430) points out, 'the human rights and governance agenda did not result primarily from a gradually accumulating normative pro-activism, but was to a large extent a reaction to the increasing encroachments of international crime, migration, instability and terrorism: a reactive search for ready-made new solutions to such post-Cold War problems.' While the Union's normative agenda may have originally been influenced by the need to ensure stability in its Central and East European 'backyard,' a number of commentators have pointed to the increasing emphasis on security concerns in its wider foreign policy objectives and human rights policy in particular in the wake of the terrorist attacks of 11 September 2001. Smith (2003b: 119) claims that '...criticism of Russia's human rights record has been muted in favour of building close links to counter terrorism...the trend now appears to be that of putting aside human rights considerations in the fight against

terrorism,’ while according to Youngs (2004: 421), ‘...the way in which certain norms have been conceived and incorporated into external policy reveals a certain security-predicated rationalism.’

It is perhaps hardly surprising that the EU’s attempts to act as a normative power operate in conjunction with its other strategic interests and those of its individual Member States. Indeed, Diez (2005: 625) points out that ‘...the assumption of a normative sphere without interests is in itself nonsensical.’ Yet the very notion that the Union acts as a normative power projecting its internal values of democracy and respect for human rights has come in for significant criticism, with some commentators pointing out that the concept can be perceived as being all too close to the image of the Union that the EU itself wants to project. According to Sjursen (2006: 170), ‘the conception of the EU as a ‘normative,’ ‘ethical’ and particularly a ‘civilizing’ power is contested – not least because this conception is very similar to that used by EU officials when describing the EU’s international role...often, [NPE] seems to rest simply on the rather vague notion that the EU is ‘doing good’ in the international system.’ Aggestam (2008: 7) argues that the EU’s ambitions as a ‘normative’ or ‘ethical’ power can rest on an assumption that ‘European’ values as defined by the EU are superior to others and points out that ‘...without greater self-reflexivity, this conception may easily lead to an ‘us’ and ‘them’ identity discourse and could be perceived as incipient cultural imperialism.’ Others (Tocci 2008; Lerch and Schweltnus 2006) have argued that other international organisations such as the Council of Europe, the UN and NATO have had a major impact on the types of norms that the EU now promotes as ‘European’ or Union values. Ultimately, the real test of whether the EU acts as a normative power, rather than simply claiming that it does, is the extent to which it achieves an actual normative impact through its foreign policy towards a third country in the form of identifiable institutional or policy changes (Tocci 2008). Otherwise, as Diez (2005: 636) points out, there is a danger that NPE could become ‘...a self-righteous, messianistic project that claims to know what Europe is and what others should be like.’

In addition, there is an inherent contradiction in the approach taken by the EU when it tries to portray itself as some form of ‘moral’ authority on human rights in external countries such as Russia when a significant number of EU Member States have been criticized regularly and continue to be so by international bodies, including the Council of Europe, for their own

violations of human rights in regard to a diverse range of groups such as the Roma and child refugees in many Western and Eastern European states and the Russophone minorities in the Baltic states.²⁰ Somewhat inevitably this situation has left the EU open to accusations of ‘double standards’ and hypocrisy from external partners including Russia who have been subjected to criticism of their own human rights standards by the Union. It also undermines the EU’s own claim that ‘within their own frontiers, the EU and its Member States are committed to be exemplary in ensuring respect for human rights’ (Council of the European Union 2012).

At the biannual EU-Russia human rights talks in April 2010 Russia responded to criticism of human rights abuses in Russian prisons and the North Caucasus by accusing EU Members States including Belgium, France, Germany, the Baltic states and the UK of human rights violations in regard to press freedom, the Roma and the banning of the burqa (Rettman 2010). In December 2012 the Russian authorities again used these talks to respond to EU criticism of the treatment of NGOs in Russia by expressing concern over the rise of racism and xenophobia in the EU.²¹ This points to a problem with the normative power thesis, namely that it cannot be assumed to simply be a one-way process of norm transference which is accepted unquestioningly by the intended ‘recipients.’ Diez (2005:633) argues that the power of NPE is in fact ‘...multifaceted, and cannot be easily controlled. It empowers EU actors, but it also empowers other actors to remind EU politicians of their words.’

Where human rights are concerned, the NPE concept has much in common with the theory that countries can be ‘socialized’ into upholding certain norms such as international human

²⁰ See for example ‘PACE President expresses concern over the situation of Roma in Europe,’ Parliamentary Assembly of the Council of Europe, 20 August 2010 <https://wcd.coe.int//ViewDoc.jsp?Ref=PR606%282010%29&Language=lanEnglish&Ver=original&BackColorIntranet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE>; ‘Refugee children should have a genuine chance to seek asylum,’ Office of the Commissioner for Human Rights, 24 August 2010 <https://wcd.coe.int/ViewDoc.jsp?Ref=PR607%282010%29&Language=lanEnglish&Ver=original&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE>; ‘Council of Europe Committee of Ministers Resolution ResCMN(2006)1 on the implementation of the Framework Convention for the Protection of National Minorities by Estonia,’ 15 February 2006, available at http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_CM_Res_Estonia_en.pdf [accessed 31 August 2010]

²¹ For further details see ‘The European Union – Russian Federation human rights Consultations,’ European External Action Service, 10th December 2012, available at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/foraff/134146.pdf

rights standards by a combination of actions taken by various parties including other states, international organisations and advocacy networks, and domestic civil society movements which make up a community, resulting in these norms becoming established as part of the domestic practice of a particular state (Checkel 2005; Saari 2006). According to the influential work on the socialization of human rights norms by Risse and Sikkink (1999: 11), there are three phases of the socialization process: adaptation and strategic bargaining; moral consciousness-raising, argumentation and persuasion; and institutionalization and habituation.

Yet one criticism made of this theory which, as already discussed, has also been levelled at the argument that the EU is capable of acting as a normative power, is that it is not reflexive enough in addressing the question of whether norms such as those of human rights which are frequently touted as ‘universal’ by the EU are valid and can in fact be transferred to another social or cultural setting in such a linear fashion. Marsh and Payne (2007: 670) argue that the Risse and Sikkink model assumes that ‘...the inevitable outcome of the argumentation and persuasion process is that societies will buy into the universality of human rights as originally conceived by the West. Thus, there is no room for other societies to articulate their own conceptions of human rights or to help readjust Western conceptions.’ The problem that this poses for the EU’s policy *vis-a-vis* Russia is that, while not articulating a different conception of human rights as such, as mentioned in Chapter 1 the discourse on rights employed by the Russian authorities and some Russian civil society actors tends to accord a higher status to economic and social rights than that traditionally pursued by the EU in both its internal and external relations. It is to the place that such rights occupy within the internal and external discourse and practice of the EU that the discussion now turns.

2.4 Economic and social rights in the EU’s internal and external affairs

As mentioned previously, the development of an EU strategy on human rights is a relatively recent phenomenon: it was the Treaty on European Union (TEU) in 1992 which, while transforming the European Community into the European Union, first affirmed the new Union’s commitment to human rights and fundamental freedoms alongside peace, liberty, democracy and the rule of law as its founding principles in Article 6. These principles were

reiterated in relation to both internal and external relations in the subsequent Treaty of Amsterdam of 1997 and the Lisbon Treaty of 2009 (Alston and Weiler 1999; Tocci 2007).

While the concept of ‘human rights’ is used in the treaties in a broad and generally undefined sense, economic and social rights have not simply been ignored: in the Preamble to the Treaty of Amsterdam, for example, the Union’s Member States affirm their ‘attachment to fundamental rights as defined in the European Social Charter...and in the 1989 Community Charter of the Fundamental Social Rights of Workers’ (de Witte 2001: 158). In addition, in 2000 the European Council adopted a Charter of Fundamental Rights of the EU which, according to Szyszczak (2001: 497), recognizes ‘a wide range of individual and collective social rights across a broad range of chapters relating to freedoms, equality, solidarity, dignity and justice.’ Although the Charter was initially non-legally binding, the entry into force of the Lisbon Treaty in December 2009 made it so, with the result that, while four of the Charter’s six chapters focus on civil and political rights grouped under dignity, freedoms, citizen’s rights and justice, two chapters cover certain economic and social rights relating to employment, access to medical care and social security, and non-discrimination under the headings of equality and solidarity.²²

Overall, at least in terms of its internal statutes the EU appears to demonstrate a certain level of commitment to human rights in general and economic and social rights more particularly, with Wind (2008: 246) arguing that ‘rights talk’ has become ‘an integral part of the Community policy-making process over the years.’ Yet where economic and social rights are concerned, the position taken by the EU in defining such rights is not as consistent as it may first appear, and is influenced by factors other than a purely idealistic desire to uphold the ‘indivisibility’ of all human rights. Fredman (2006:43) describes the EU’s coverage of economic and social rights as ‘haphazard and incomplete,’ with its ability to regulate such rights concentrated in the areas of discrimination and consultation rights, with more substantive rights such as the right to bargain collectively and strike falling within the competence of national governments.

²² ‘Charter of Fundamental Rights,’ EUROPA Summaries of EU Legislation (Justice, Freedom and Security), available at http://europa.eu/legislation_summaries/justice_freedom_security/combating_discrimination/l33501_en.htm [accessed 12 January 2011]

In addition, Chapter 1 made brief reference to the influence of neoliberal ideologies and approaches to welfare provision and employment on the EU's gradual development of a 'Third Way' approach towards the rights and responsibilities of welfare recipients such as the unemployed and increasing emphasis on the 'activation' of those out of work. Daly (2006:466) argues that that this 'activation' concept has become the 'underlying philosophy' of EU social policy, while Soysal (2012:4) maintains that the EU's policy orientation 'draws a close link between work, economic productivity, and social justice; the social argument is located in the value of productive individuals and employment.' As a result, there appears to be something of a gap between the rhetoric of the indivisibility and interdependence of all human rights, and the more conditional practical implementation of some social rights which is quite different to the approach taken at EU level to civil and political rights within its own borders.

The question is whether this approach translates into a similar commitment in the Union's external affairs. In 1991 the then-EC adopted a Regulation which laid out for the first time its policy on development, democracy and human rights in its external relations policy (Gatto 2005: 339). A number of instruments were subsequently developed within the framework of this policy. These included a human rights clause which allowed for the application of certain sanctions such as severing the EU's relations with a rights-violating state and was made a compulsory element of all trade and cooperation agreements with non-Member States in 1995 (Rosas 2001); and a number of region-specific policy instruments including Poland and Hungary: Assistance for Restructuring their Economies (PHARE), which came to be applied to ten countries in Central and Eastern Europe then aspiring to join the EU. Those most relevant for the purposes of this paper are the Technical Aid to the Commonwealth of Independent States (TACIS) programme of 1991-2006, which aimed to promote the transition to a market economy, democracy and the rule of law in the countries of the Former Soviet Union, and the European Initiative (Instrument from 2007) for Democracy and Human Rights (EIDHR) of 2000. This instrument focused on working with NGOs to promote democratization, the rule of law, civil society development and human rights issues such as the abolition of the death penalty in various non-Member State countries around the world including Russia (Gatto 2005).

In theory, social and economic rights occupy an equal role to that of civil and political rights in these policy documents since, where the human rights clauses are concerned, the principles of the indivisibility and interdependence of all human rights are emphasised repeatedly (Gatto 2001) and the statutes of the Universal Declaration of Human Rights are used as their terms of reference. Where TACIS is concerned, its amending Regulation of 1999 pledged ‘support in addressing the social consequences of transition’ which it outlined as reform of the health, pension, social protection and insurance systems; assistance to alleviate the social impact of industrial restructuring; assistance for social reconstruction; and development of employment services, including re-training.²³ The EIDHR also makes explicit reference to the indivisibility of all human rights and to the ‘promotion and protection of economic, social and cultural rights.’²⁴ As Chapter 6 will discuss in more detail, other policy documents and working papers produced by the European Parliament and EEAS which refer to human rights also emphasise the ‘universality, indivisibility and interdependence of all human rights’ (High Representative of the European Union for Foreign Affairs and Security 2011) and the importance of upholding ‘fundamental’ economic and social rights.

Once again, a picture emerges of a clearly stated commitment on the part of the EU to the inclusion of economic and social rights within its programmes to promote universal human rights standards in its relations with third countries. Yet there is an obvious gap between the rhetoric of the Union’s policy instruments and the type of human rights projects it funds in practice, with the overwhelming majority of funding available going to projects which focus explicitly on civil and political rights issues (Gatto 2001). Chapter 7 will explore how the vast majority of EIDHR funding over the years has been for projects addressing civil and political rights concerns such as torture, freedom of expression, developing civil society and human rights education and culture, the position of human rights defenders, and the treatment of army conscripts.

²³ ‘COUNCIL REGULATION (EC, EURATOM) No 99/2000 of 29 December 1999 concerning the provision of assistance to the partner States in Eastern Europe and Central Asia,’ Official Journal of the European Communities, 2000, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:012:0001:0009:EN:PDF> [accessed 12 January 2011]

²⁴ ‘Council Regulation (EC) No 975/1999 of 29 April 1999,’ EUR-Lex Access to European Law. 1999, available at http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Regulation&an_d oc=1999&nu_doc=975 [accessed 12 January 2011]

At the same time, the EU in fact funded a number of projects which related to the realisation of economic and social rights by promoting access to healthcare and other social services and children's rights under its separate Institution Building Partnership Programme: Support to Civil Society and Local Initiatives programme which ran in Russia until 2011 (Delegation of the European Commission to the Russian Federation 2009). Yet the apparent reluctance to employ the language of economic and social rights in relation to such projects is significant since, in contrast to the projects funded by the EIDHR, it gives the impression that projects focused on issues surrounding health, education, children and social services are either charitable endeavours or part of an attempt to promote good governance rather than rights entitlements. Several commentators argue that this approach is part of a more general trend within the EU's regional human rights instruments. Rosas (2001: 490) points out that many of these programmes fund projects relating to economic, social and cultural rights but 'such projects receive a rather small portion of the overall budget and are generally not focused on a 'rights' approach but are seen more in the context of economic and social development in general.' While Gatto (2005: 361) highlights the fact that a number of 'cross-cutting' issues such as women's rights and the fight against poverty are included as objectives of all EU development policy, she also points out that these issues are not included in the priority areas which the European Commission sets for its regional assistance programmes which reflects '...the reluctance by the EU to recognize the relevance of social rights in development cooperation.'

This approach and the use of the UDHR and its Covenants rather than the ECHR and European Social Charter as the key terms of reference for the EU's external strategy on human rights in relation to countries such as Russia is also significant since the PHARE programme for the Central and East European accession countries did make reference to the European Social Charter. The Copenhagen Criteria of 1993 for those countries wishing to begin the EU accession process also required the fulfilment of certain economic and social rights conditions (Gatto 2001). This implies a gap between the internal standards on economic and social rights which the Union sets for its own members and the looser commitments it is willing to countenance in its external human rights policy.

Where Russia is concerned, the Union runs a serious risk of ceding influence in this policy area to the Council of Europe, of which Russia is a member, since in 2009 Russia ratified the

European Social Charter and is now subject to its monitoring and reporting mechanisms.²⁵ In addition, the Union's decision to fund human rights projects relating almost exclusively to civil and political rights in Russia via domestic human rights NGOs is also problematic, as Chapter 6 will explore further. Many of these NGOs may espouse values and principles in line with the EU's own conception of human rights and its emphasis on civil and political rights but have largely failed to engage with public interests and sympathies (Klitsounova 2008) or to reflect the Russian public's greater emphasis on economic and social rights (Komen 2009).

2.5 The Russian State

Having provided some brief context to the nature of the EU as an international actor and the status of economic and social rights within its internal and external relations, it is important to give due attention to the other key 'actors' which are the focus of this study and which interact in varying ways with the EU's institutions, namely the Russian state and Russian civil society organisations involved in the promotion of human rights and in more socially-oriented activities.

Easter (2008:201) argues that, rather than conforming to the model of an 'ideal liberal state' in which state and society are autonomous entities and the state is composed of politically neutral institutions, in post-Soviet Russia society's institutions have been 'an extension of state power.' Certainly one striking feature of the period from 2000 onwards when Putin was elected president for the first time has been the extent to which he has reasserted and recentralized the power of the state. The recentralisation that has occurred in relation to society, business and the relationship between the federal centre and the country's many regions has been framed partly as a remedy to the incoherent and frequently chaotic Yeltsin era (Sakwa 2008; Makarychev 2008). At the same time Putin has appealed to various 'traditional' shared values such as patriotism, social solidarity and the idea of a strong state to justify this process of recentralisation (Sakwa 2008). Lukin (2009: 66) argues that, by the end of Putin's second term as president in 2008, a regime had been established in which there

²⁵ 'Member States of the Council of Europe and the European Social Charter,' Council of Europe, 30 March 2010, available at http://www.coe.int/t/dghl/monitoring/socialcharter/Presentation/Overview_en.asp [accessed 12 January 2011]

were elements of pluralism and democratic procedure such as a constitution and elections but in which there was also a high degree of executive control over the parliament, legal system, media and regional authorities – what Hale (2010: 34) describes as a ‘hybrid regime’ which is neither fully democratic nor fully authoritarian.

This reassertion of the state’s authority has had important implications for civil society activity and for the ways in which social and economic human rights are realised. The state’s role in relation to social policy has been promoted in official discourse and Chapter 5 will explore this further. In particular, there are differences between Putin’s first term from 2000-2005, which was characterised by market-driven reforms to Russia’s crumbling but still-extensive state welfare system which introduced liberalization and privatisation to the system (Cook 2007a), a move which Yeltsin had been keen to make himself but was unable to do so due to his political weakness (Henry 2009). From 2005, however, a new strategy of recentralization and increased rhetoric emphasising the role of the state in providing social services was in evidence (Cook 2011), with a series of ‘national projects’ launched by the authorities to improve standards in healthcare, housing, education and agriculture.²⁶

This shift can partly be explained by the public furore surrounding attempts by the government in early 2005 to reform the system of ‘in-kind’ state subsidies for certain categories of citizen such as war veterans and the disabled which had existed since the Soviet period (Buckley and Ostrovsky 2005). Chebankova (2010) sees this public protest as part of a social shift away from prioritising individual and private material concerns and consequently decreased political engagement during Putin’s first term, which allowed him to consolidate state power virtually without obstacle, towards public disappointment with the results of his administration’s policies which had set in by 2006. It is worth noting that policy measures such as the introduction of the national projects and the rhetoric emphasising the importance of the state’s role in welfare provision have not necessarily led to increased investment in the welfare infrastructure, indeed quite the opposite.

Henry (2009:52) points out that during the second Putin administration and subsequent Medvedev administration efforts were made to continue the partial dismantling and further

²⁶ ‘Kak rozhdalis’ ideya natsionalnikh proektov?’, Presidential Council on Implementing National Priority Projects and Demographic Policy, 16 March 2006, available at <http://www.rost.ru/main/what/01/01.shtml>

liberalization of the state welfare system. Yet members of both these administrations deliberately ‘...raised public expectations about the welfare system. They repeatedly have proclaimed the state’s technocratic competence in and responsibility for improving the quality and delivery of social services in order to solve problems such as Russia’s demographic crisis.’ While the official emphasis on the role of the state in meeting social rights entitlements such as welfare may, therefore, simply be a political ploy, such rhetoric nevertheless attempts to tap into a depth of public feeling concerning the importance of economic and social rights.²⁷

2.6 State-civil society relations in Russia

The reassertion of the state’s authority has had an enormous impact on the multitude of civil society organisations in Russia. During the post-Soviet period under then-President Yeltsin NGOs in Russia proliferated, partly due to the Yeltsin administration’s policy of neither helping nor hindering the development of domestic civil society (Henderson 2011). Certain groups such as those promoting feminist, environmentalist and civil and political human rights causes largely became reliant on funding from external donors due to Russia’s precarious economic circumstances, the relative unfamiliarity of the causes they were espousing, and the level of third-sector expertise Western foundations and donor agencies claimed to be able to offer (Evans 2006; Henderson 2002).

Many commentators have argued, however, that one consequence of NGOs’ dependence on foreign assistance for survival and growth is that a relationship is created between donor and recipient in which the recipient organisation’s aims and agenda come to reflect those of the donor, rather than what might be relevant or effective domestically (Henderson 2002; Hemment 2004). In this sense McIntosh-Sundstrom (2005:420) argues that transnational actors who fund NGO activity thus become ‘moral financiers’ who provide funding for projects on various social and political issues selected and approved by them. The problem this creates for the NGOs themselves is that the NGO sector becomes dominated by an elite made up of those organisations with ties to international donors but few to the population they claim to represent (Carothers and Barndt 2000; Henderson 2002; Hemment 2004). As Chapters 4 and 7 will explore further, this has particularly been the case for those Russian

²⁷ See Chapter 4 (Section 4.3) for survey data on public ranking of human rights in Russia

NGOs which specifically promote human rights such as the Moscow Helsinki Group²⁸ and Memorial,²⁹ which have been active since the late Soviet period and tend to be headed by activists who were previously well-known Soviet dissidents. While enjoying excellent links with international donors including the EU and having become ‘integrated into the EU milieu’ (Klitsounova 2008:3), the data generated in a number of interviews conducted for this study with various NGO representatives highlighted what they saw as the elitist and isolated nature of some of the human rights organisations, and their lack of interest in appealing to a broader constituency.³⁰

This situation is perpetuated by the EU and other international donors who prefer to work with and fund those groups with which they are already familiar and which have staff with the necessary English language skills (McIntosh-Sundstrom and Beznosova 2009). Indeed, Klitsounova (2008) notes that ‘...the idea of promoting human rights in Russia through Russian human rights NGOs has become embedded in EU policy discourses...at the rhetorical level, support for Russian human rights organisations has become an integral part of the working agenda by which Brussels has set out to transfer European norms and values to Russia.’ At the same time, while reflecting the types of values that the EU claims to uphold, these NGOs have largely failed to articulate their concerns and campaigns in ways that resonate with the wider Russian public (Paneyakh 2010; Evans 2006). As Chapters 5 and 7 will detail, this position contrasts with that taken by those NGOs engaged in more socially-oriented work such as working with children, the elderly and the disabled. While such groups may not always have the same experience of working with international donors that the long-standing human rights NGOs enjoy, they appear to have little trouble attracting volunteers and have also developed cooperative relationships with local authorities which they see as key in helping them to achieve their aims.

This seeming divide between different types of NGO in Russia has arguably been exploited by Putin during his second and third terms as president, with his administration’s policy of reasserting the primacy of the state having major consequences for civil society development in Russia. According to Hale (2002:309), this ‘statist’ approach to civil society contrasts with the liberal view of social organisations operating independently of the state in seeing the state

²⁸ For further details see the organisation’s website at <http://www.mhg.ru/>

²⁹ <http://www.memo.ru/>

³⁰ See Chapters 4 and 5 for a full discussion of this data

and society as 'integrally related, part of the same organic whole.' The statist view therefore gives the state a key role in the activities of non-state social organisations, leading Putin from 2004 onwards to pursue a policy of creating a 'top-down' model of civil society which rewarded those NGOs deemed to be carrying out socially 'useful' activities with grants and other support while ostracising those deemed to be pursuing interests or values counter to those of the state (Mohsin Hashim 2005; Henderson 2011). A number of human rights NGOs have fallen into the category of those considered to be in some way acting against the interests of the state, and their dependence on grants from international donors has provided a relatively simple way for the authorities to portray them as acting purely at the behest of foreign powers. From 2004 onwards Putin began using much more critical rhetoric about organisations receiving foreign funding and in 2006 new legislation was introduced which placed stricter regulations on the registration and accounting procedures for NGOs. In addition, a number of well-known Russian human rights NGOs including the Moscow Helsinki Group were accused of involvement in espionage and subjected to a hostile campaign in the state-controlled media (RFERL 2006). More recently, in 2012 Putin approved a law requiring NGOs which receive funding from abroad and are considered to be engaging in political activity to register as 'foreign agents' (BBC News 2012).

In contrast, those organisations engaged in more 'social' work and operating within the Kremlin's 'prescribed boundaries' have been able to apply for large grants awarded via an annual Kremlin-sponsored grant competition since 2006 (Richter 2009b:8). Evans (2006: 149) describes this as part of Putin's vision of '...a quasi-civil society...in which social organisations are subordinated to the authority of the state and express demands within the parameters of the program of the highest executive leadership.' This interpretation is supported by other measures taken by the Putin administration such as the creation of the Public Chamber in 2005, a body made up of delegates chosen by the Kremlin which was to advise the administration on matters pertaining to civil society (Richter 2009b). As Chapter 5 will discuss, however, several of the respondents interviewed for this study noted that the situation may not be as simple as NGOs simply being 'co-opted' by the state. Given the scarcity of resources available for NGO activity in Russia, many groups engaged in socially-oriented work have little choice but to accept funding from local or federal government sources. As Javeline and Lindemann-Komarova (2010:179) point out, 'the alternative of completely avoiding funding by Russian local or federal government is not in the interests of

civil society development, especially if the low level of resources otherwise available to most Russian citizens would prevent them from organizing.’

In addition, several of the Russian civil society representatives who took part in this study not only saw cooperation with the local authorities in particular as unavoidable in terms of their ability to achieve their aims and assist those on whose behalf they operate but were also cautiously optimistic about the results such cooperation could produce. Indeed, Kulmala (2011:74) points to the mutually beneficial relationship established between local authorities and civil society organisations that she identified during her fieldwork in the Russian region of Karelia, and points out that ‘...cooperation does not necessarily mean co-optation...civil society organisations have the most influence in situations when they collaborate actively with the local authorities and...when the roles of the state and civil society actors overlap.’ Certainly such cooperation offers at least the possibility of input into policymaking where social policy and the realisation of certain economic and social rights are concerned, whereas human rights NGOs have for the most part been shut out of the policymaking process during Putin’s tenure (Klitsounova 2008).

In terms of the implications this has for the EU, it is clear that without the support of international donors such as the Union many of those organisations which focus on promoting a concept of human rights which focuses on the civil and political would struggle to survive. It is also understandable that the EU should be keen to support those NGOs which appear to reflect its own self-declared value system where human rights are concerned. In addition, the EU has to some extent engaged with more socially-oriented organisations in terms of funding, as Chapter 7 will explore in more detail. Yet continuing to support a small group of organisations which have a narrower view of what constitutes ‘human rights’ while separating the more socially-oriented projects the EU funds in Russia into a separate category which is not discussed in ‘rights’ terms denies the work done by more socially-oriented groups the ‘moral authority’ that framing their work as human rights claims or promotion could provide. This approach also serves to perpetuate the existence of a small, isolated yet well-funded elite of human rights NGOs who tend to be sidestepped by both other civil society actors and the local and federal authorities, and largely ignores those concerns which appear to resonate more deeply with the Russian public. One of the arguments this study seeks to put forward is that, in terms of having any influence over long-term social and

political development in Russia, engagement with a wider range of organisations and a broader understanding of what the concept of ‘human rights’ means in the Russian context could prove more fruitful from the EU’s perspective, as several of the respondents who took part in this study pointed out.

2.7 Conclusions

This chapter has aimed to explore a number of theoretical and policy issues which relate to the main themes of this study, including the nature of the different actors involved, including the institutions that make up the European Union; the contemporary Russian state; and Russian civil society actors engaged in human rights promotion and more socially-oriented work. It has sought to explore some of the difficulties surrounding any attempt to classify the EU as an international actor, and some of the complexities and inconsistencies involved in the Union’s attempts to conduct a common foreign policy. It has also examined the debates surrounding the EU’s supposed ability to act as a ‘normative power,’ and highlighted the fact that, rather than existing in a vacuum, attempts by the Union to promote human rights in general and economic and social rights more specifically in its external relations must compete with more instrumental interests of its own and of its Member States. It has aimed to demonstrate the continued importance of economic and social rights in the Russian context, and the challenging circumstances in which many Russian civil society organisations must operate. It is clear that there are a number of extremely complex factors at play which influence the EU’s engagement with the issue of human rights in general, and economic and social rights more particularly, within the context of its overall relationship with Russia. These factors will be returned to in more detail in Chapters 4 to 7, following a discussion of the methodology employed in order to answer the research questions set out in the introduction to this study.

Chapter Three

Methodology

3.1 Introduction

The previous two chapters aimed to set out the theoretical and contextual framework within which this study has been conducted. The findings it will explore in more detail in Chapters 4 to 7 were generated by extended fieldwork conducted in Brussels and Russia in 2011 and this chapter aims to provide some background to the choice of methods employed in carrying out my field research which included semi-structured interviewing and discourse analysis. The chapter will begin with a discussion of how the research questions came to be formulated and the influence my own background had on this process. It will then detail the planning that went into designing the research project, the experience of gathering data in the field including recruiting and interviewing respondents, and the process of post-fieldwork analysis. It is also designed to reflect upon some of the ethical issues that arose before, during, and after the fieldwork period as a result of conducting ethnographically-informed research and to explore some of the dilemmas which came up during and after the fieldwork process such as issues of translation and transcription.

This study aims to address the following research questions:

- How are economic and social rights and the role of the State in guaranteeing such rights conceptualised by the various EU institutions, the Russian authorities and Russian civil society actors?
- What influence do these understandings exert on the interaction between the EU, the Russian authorities and Russian civil society actors?
- What implications might these understandings have on the EU's strategy towards promoting human rights in Russia?

My interest in this topic came about due to a number of reasons. Having spent a period of several years studying Russian language and history and having a long-standing interest in human rights and the NGO sector, I moved to Moscow in 2005. After working for a number of different organisations there, I became a research assistant in the Moscow office of the

international NGO Human Rights Watch where one of my responsibilities was organising press conferences and information sessions for international diplomats, almost always from EU Member State countries and the US and Canada. It was clear that there was a great deal of interest in human rights issues in Russia amongst these diplomats, and that there were EU-level funding programmes in place which aimed to support domestic human rights NGOs, many of whom had excellent professional contacts with these diplomats and others. Much of my work involved interacting with these NGOs, most of which were established and still run by activists such as Lyudmila Alexeyeva, the now 85-year-old head of the Moscow Helsinki Group,³¹ who had been dissidents during the Soviet era campaigning for greater civil and political liberties. While this community of human rights NGOs was extremely close-knit and to a large extent integrated into EU lobbying networks, it soon became clear that Russian friends and acquaintances who I made outside of this circle had either never heard of these organisations or were critical of the work they were doing, seeing it as overly influenced by the agendas of the international donors funding their work or as too distant from the lives and concerns of ordinary Russians. While such NGOs were undoubtedly operating in an atmosphere of at best indifference from the authorities and at worst hostility, there did not seem to be much desire on their part to appeal to a constituency beyond that of other similar domestic and international organisations and the international diplomatic community. As a result, they and the diplomats and international donors they interacted with appeared to be operating in a kind of mutually-reinforcing vacuum with little influence on public opinion.

This struck me as something worthy of further research, and my initial research project aimed to look at how the EU attempted to promote human rights as a general concept in its relations with Russia. I soon realised, however, that for practical reasons it would be more worthwhile to give the project a more specific focus. My early desk-based research soon revealed that, while much has been written about the EU and ‘human rights’ in relation to Russia, the vast majority of this literature either treated human rights as a general concept which did not need to be deconstructed or focused much more on issues which fall into the category of civil and political rights. These tended to include freedom of speech, the abolition of the death penalty and torture and disappearances during Russia’s military operations in the North Caucasus (Saari 2006; Forsberg and Herd 2005; Smith 2005). In contrast, despite the apparent ‘universality and indivisibility’ of the human rights the EU seemed committed to promoting

³¹ www.mhg.ru

in its relations with Russia, economic and social rights relating to perhaps more prosaic issues such as housing, healthcare, working conditions and social security had largely been left out of the equation. This seemed particularly curious given the long-standing and deeply-rooted conception of such rights that existed in Russia and the fact that many of the previous social and economic guarantees provided by the state had crumbled in the post-Soviet period, affecting large swathes of the population (Chugrov 2000). This led me to focus on how these rights are understood within different contexts, in this case those of the EU institutional set-up and the Russian political and social context, and the impact such understandings might have on policy in these contexts. A social scientific approach which moves away from the focus on international law which tends to dominate much of the existing research on human rights thus seemed the most suited to the aims of this study. As Landmann (2009:22) points out, this approach aims to explore ‘...the pragmatic functions and dimensions of human rights, the ways in which they are contested, and the ways in which the variation in their promotion and protection can be explained.’

3.2 Selecting the research methods: interviewing elites

The research undertaken within this study has been directed at ascertaining and interpreting the views of EU policymakers, Russian NGO representatives and a small number of relevant Russian officials and academics on a range of issues connected to EU human rights policy and the situation regarding human rights in Russia, with a focus on economic and social rights. It has sought to take an inductive and interpretivist approach to the data it has generated, rather than beginning with a set of clear hypotheses to be tested.

In undertaking the fieldwork aspect of this research, qualitative research methods appeared to be the most appropriate methods to employ since such methods are concerned with exploring how people interpret the social world around them (Bryman 2008). One of the main aims of my research was to examine the opinions and attitudes of EU policymakers working on human rights policy in general and towards Russia in particular and those of representatives of Russian social and human rights NGOs and Russian regional human rights ombudsmen towards that policy. Qualitative interviews appeared to offer the time and space to explore my respondents’ attitudes and beliefs in a way that, for example, questionnaires could not. Interviews are capable of providing access to the meanings people attribute to both their

experiences and the social world around them (Miller and Glassner), while Holstein and Gubrium (1997: 122) talk of ‘the interview situation’s ability to incite the production of meanings that address issues relating to particular research concerns.’ The degree of flexibility provided by using interviews was also an important consideration when it came to choosing my methods for the study. I felt that adopting a semi-structured approach by using an interview guide of possible questions or themes to raise during the interview rather than using a completely structured approach with a list of ‘closed’ questions or an unstructured approach would provide the most scope for exploring meaning and allowing the respondent to lead the interview in different directions. As Holstein and Gubrium (1997: 123) point out, ‘the objective is not to dictate interpretation, but to provide an environment conducive to the production of the range and complexity of meanings that address relevant issues, and not to be confined by predetermined agendas’. In addition, opting for a semi-structured approach allows the interviewer to seek clarification of responses if necessary and thus provides greater flexibility for probing those responses. The interview thus becomes a ‘co-production’ between the interviewer and interviewee in a way that would not be possible using an unstructured or fully structured approach (Wengraf 2001: 3).

The semi-structured approach also seemed particularly relevant given that I intended to conduct interviews with policymakers, NGO representatives, a small number of Russian officials working on human rights issues and academics with an interest in my area of research, all of whom could be categorised as elite respondents. According to Richards (1996:199), ‘...the whole notion of an elite implies a group of individuals who hold, or have held, a privileged position in society and...as far as a political scientist is concerned, are likely to have had more influence on political outcomes than general members of the public.’ Although the respondents represented very different interest groups in several different locations, they could be classified as elites since they enjoyed a certain status. The EU officials were instrumental in developing and implementing EU policy on human rights and/or EU-Russia relations and representing the EU during official meetings and discussions with their Russian counterparts. The Russian NGO representatives almost all had experience of working with international organisations and often foreign governments, frequently spoke foreign languages and could be classed as members of the intelligentsia – many had also occupied positions of relatively high status during the Soviet period in the academic sphere or in local government. The academics I interviewed all worked for prestigious universities in St

Petersburg and also had extensive experience of working abroad and consulting on international projects; and the Russian officials I met with all represented the interests of local government institutions. Semi-structured interviews appeared to offer the most effective way to explore these respondents' views on policy and their understandings of human rights issues since they allow the interviewer the scope to investigate what Aberbach and Rockman (2002: 674) call the 'contextual nuance of concept.'

3.3 Analysis of documents and transcripts before, during and after fieldwork

The second method employed in the course of this study involved analysing various documents and 'texts' including my interview transcripts and EU policy documents concerning the Union's strategy towards human rights in general, economic and social rights more particularly, and on human rights in relation to Russia. The relevant documents were accessed via the European Parliament's OEIL database³², the European Union's EUR-Lex³³ database and the inter-institutional database Pre-Lex³⁴ and consist of a number of sources: public and internal statements on policy by various committees and departments; official treaty documents; reports and other publications; and meeting summaries. The documents used cover the period from 1997, when the Treaty of Amsterdam, which placed greater emphasis on the EU's commitment to promoting human rights in both internal and external relations,³⁵ was signed, and July 2012, when my period of thesis research came to an end. I also analysed a number of statements made by Presidents Putin and Medvedev in relation to economic and social rights and the role of the state and the regional human rights ombudsmen in Russia. These statements appeared either on the official Kremlin website³⁶ or in Russian media outlets and were accessed via web-based archival searches. Where an official translation into English already existed, as it sometimes did with statements and speeches which appeared on the Kremlin website, this was used in order to reduce the time spent on translating texts from Russian into English. The number of such statements analysed was, however, relatively small given my desire to focus very specifically on economic and social rights and related issues rather than exploring the ways in which Russian officials talk about human rights on a more general level. In addition, much of the academic literature

³² <http://www.europarl.europa.eu/oeil/>

³³ <http://eur-lex.europa.eu/en/index.htm>

³⁴ <http://ec.europa.eu/prelex/apcnet.cfm?CL=en>

³⁵ http://europa.eu/legislation_summaries/institutional_affairs/treaties/amsterdam_treaty/a10000_en.htm

³⁶ www.kremlin.ru

relating to economic and social rights which was used to underpin this study was in English rather than Russian due to the fact that this area of human rights remains relatively under-explored in the Russian-language literature on political science and in the more legalistic literature on human rights which tends to be more widely available. While there have been some attempts to address this (eg Glushkova 2006), these rights tend to be explored in a descriptive rather than analytical way and the general lack of research on these rights in the Russian context was something which was highlighted by several of the Russian academics who I interviewed and with whom I have continued to work.

The analysis of the body of documents mentioned above commenced prior to fieldwork and continued during and after the fieldwork period. Its purpose was twofold: to examine the context in which EU policy on human rights, particularly on economic and social rights, was and is being formulated; and to gain insight into the ways in which the concepts of human rights and economic and social rights more specifically are understood by EU policymakers. The method of discourse analysis was in some respects influential when it came to investigating these two areas since it gives due consideration to the importance of the context surrounding a text (Richardson 2007: 15). Indeed, discourse analysis implies not just a straightforward reading of a text, but an attempt to uncover the ways in which social reality and meaning is produced (Phillips and Hardy 2002: 6). This is particularly important where the analysis of official discourse is concerned, since this type of discourse is influenced by a diverse range of political, social and cultural factors, as are the audiences for such discourse. As Fairclough (2003: 11) points out, ‘...we must take account of the institutional position, interests, values, intentions, desires etc. of producers, the relations between elements at different levels in texts; and the institutional positions, knowledge, purposes, values etc. of receivers’. Since perceptions of social reality are likely to differ between different types of society and different cultural contexts, studying the official discourse of a particular society or community allows insight into what Foucault (2001: 131) calls each society’s ‘regime of truth...the types of discourse it accepts and makes function as true.’

Where the interview transcripts were concerned, although they constitute a very different type of ‘text’ from official policy documents, discourse analysis can nevertheless be used to explore the political and social context and the position and interests of the interviewee which provide the background to and influence their ‘speech acts’ as expressed in the interview. The

aim was therefore to analyse the discourses on economic and social rights employed by both the EU and Russian respondents involved in this study and to compare these types of discourse with that expressed more formally in the policy documents and Russian official statements in order to explore how the language of such rights is used in different contexts. At the same time, it is worth pointing out that my analysis of the documents mentioned above was intended primarily to provide context for the main arguments developed in this thesis which relied on both the theoretical framework outlined in the first two chapters and the extensive empirical evidence provided by the interviews I conducted. This was as opposed to constituting a full discourse analysis which would have involved a much more detailed consideration of the linguistic aspects of the various documents used in this study. As a result, documentary analysis constituted a supplementary method of investigation for this study rather than a primary source of evidence in the way that the interviews did.

3.4 The research location

Given the focus of the research, it was clear that the main fieldwork period would involve conducting interviews in two very different countries: Belgium and Russia. Two pilot interviews with members of the European Parliament had already been conducted during one of the Parliament's regular sittings in Strasbourg in June 2010 while I was carrying out an internship there at the Council of Europe, but the vast majority of EU officials with whom I wished to make contact were based permanently in Brussels. The fact that most of the EU's institutions and representatives, and certainly all of those with whom I needed to make contact, were located not only in Brussels but in very close proximity to each other was of great assistance when arranging and travelling to interviews. Although I had never been to the city prior to starting my fieldwork there, it proved extremely easy to navigate and this meant that the length of time required for the fieldwork was reduced since it was easily possible to conduct several interviews in just a few days. It also meant that it was possible to arrange further interviews at very short notice since I had quickly become familiar with the layout of Brussels' EU Quarter and the institutions' buildings themselves. In planning my fieldwork I decided to make two separate visits to Brussels to carry out interviews: one in January 2011 prior to travelling to Russia and another in September 2011 after my Russian fieldwork had finished. The rationale behind this was first to give me some background information on EU human rights policy which I could then take into the field in Russia,

particularly in my interviews with EU officials working in Moscow and St Petersburg; and second to return to Brussels with the benefit of having gathered extensive data from my interviews in Russia with which to question EU policymakers in more depth. As will be further discussed below, it proved surprisingly easy to arrange a relatively large number of interviews in Brussels simply by emailing respondents directly.

The main body of the fieldwork – a period of six months – was spent continuously in Russia. It was clear that interviews here would require considerably more time than those in Brussels given the distances involved in travelling between interview locations and the fact that I wanted to interview respondents outside of the two main cities of Moscow and St Petersburg in order to gain greater perspective on the work of organisations operating in a more regional setting. As I was repeatedly reminded by my respondents, there are huge differences between the socio-economic conditions of those residing in the two largest urban centres and those affecting the vast majority of the population who live in Russia's regions. Brade and Rudolph (2004: 72), for example, point to the success of these two 'capital city regions' in consistently attracting political and economic resources even as many Russian regions fell into long-term decline as a result of the economic and political changes following the collapse of the Soviet Union. In addition, the vast majority of the organisations which receive project funding from the EU are based in these two cities or maintain links with colleagues there. As a result, I was anxious to at least attempt to gain some insight into the social reality of those working on rights-related issues outside of the major cities who could perhaps offer a slightly different perspective on the EU's funding policy for Russian NGOs.

I decided to base myself in St Petersburg for the majority of my fieldwork period for a number of reasons. I was already familiar with the city, having previously studied there and visited it subsequently for professional reasons and, through my home university department, I was able to arrange affiliation with the Centre for European Studies at the European University at St Petersburg (EUSP)³⁷, a respected graduate institution with excellent links to other universities in Russia, Europe and the US. The university provided me with space to work and the possibility of useful contacts. Indeed my arrival coincided somewhat precipitously with the conclusion of an agreement between the EU's new European External

³⁷ <http://www.eu.spb.ru/en>

Action Service (EEAS)³⁸ and the EUSP to turn the Centre for European Studies into an EU Centre for North-West Russia which would form part of an existing worldwide network of such centres.³⁹ As will be discussed below, this proved to be extremely useful in providing me with early access to potential respondents. Finally, and most importantly, I knew from my previous experience of working with NGOs based in Russia and my own research pre-fieldwork that the city had a thriving civil society sector, with several prominent human rights and social NGOs basing themselves in St Petersburg.⁴⁰ In addition, a number of the larger EU Member States maintain consulates in the city and it seemed possible that it might be easier to identify and make contact with representatives of these consulates who operate in a far smaller diplomatic community than their colleagues in Moscow. I also hoped that initial contact with these consular staff would facilitate contacts and subsequent interviews with their Moscow-based colleagues at a later date.

Having established a base from which to begin my fieldwork, it was clear that it would be necessary to spend a certain amount of time in Moscow given the presence there of the EU Delegation to Russia, all of the Member States' main embassies, and a large number of human rights and more socially-oriented NGOs. As a result, I made two trips to Moscow in April and June 2011 where I was able to carry out a number of important interviews. In terms of conducting fieldwork outside of Moscow and St Petersburg, given the often huge distances involved in travelling around Russia and the limited amount of time I had in which to conduct my fieldwork I selected two further locations - Nizhniy Novgorod and Ryazan. These were chosen partly due to their relative proximity to Moscow (approximately 5 hours and 3 hours by train respectively) which meant that both research sites could be visited as part of one of my trips to Moscow. More importantly, both places were home to well-known NGOs, one of which focused on more 'traditional' civil and political rights projects and had strong ties to European and other international donors and NGOs, and the other of which had also previously focused more on these traditional rights issues but had recently launched a project focusing exclusively and explicitly on economic and social rights. The relatively small size of both locations – Nizhniy Novgorod has a population of 1,278,800 while Ryazan has a

³⁸ <http://www.eeas.europa.eu/>

³⁹ For further details see the Centre for European Studies - EU Centre's homepage at <http://www.eu.spb.ru/en/research-centers/ces/eu-centre>

⁴⁰ One example of this is the St Petersburg Human Rights Council, an umbrella organisation which brings together many of the most prominent human rights and social NGOs in the city and publishes regular reports on various rights-related issues (<http://www.hrcspb.ru/>).

population of 509,392⁴¹ - in comparison to Moscow and St Petersburg also made it easier to navigate both places and meant that it was not necessary to spend large amounts of time there in order to conduct interviews.

Given the small number of locations visited and the relatively small number of organisations interviewed it is obviously not possible for this study to provide a fully representative picture of the circumstances in which Russian human rights and socially-oriented NGOs operate or of the manner in which the EU interacts with these organisations. Nevertheless, there was a rationale behind the choice of organisations and locations which went further than mere practical convenience. Firstly, the decision to focus the study on European Russia was motivated largely by the fact that most of the NGOs of interest to this study were located in this part of the country. Beyond the mere fact of relative proximity to each other, however, these organisations form a dense network made up of professional contacts and personal relationships within the relatively small and close-knit NGO community in Russia. Many of them also have experience of working with international donors, including the EU, and were therefore in a position to offer their opinion on the merits and disadvantages of the EU's approach to promoting certain rights in the Russian context. The Ryazan NGO, for example, had a very small number of employees and a very local focus but was affiliated with a much larger and better-known organisation in Moscow and through this link had established contacts with international donors and consultants. The organisation in Nizhniy Novgorod also had excellent links with other similar Russian organisations, international NGOs such as Human Rights Watch and Amnesty International which maintain a presence in Russia, and with the EU institutions and individual Member State governments which fund civil society projects in Russia. Focusing on this particular network of actors thus allowed me to build up a picture of how they interacted with each other, the EU institutions and the Russian federal and local authorities. While my visits to Ryazan and Nizhniy Novgorod were necessarily short, this made it easier to set up meetings with the relevant organisations since they were aware that this was my only chance to meet with them. In addition, the fact that in each location the organisation I was seeking to make contact with was the only one of its kind in that particular place obviated the need to spend a longer period there since I was able to carry out lengthy interviews with representatives of each NGO in a short period of time.

⁴¹ http://russiaprofile.org/bg_places/resources_territory_districts_nizhniy.html;
http://russiaprofile.org/bg_places/resources_territory_districts_ryazan.html

3.5 Identifying and contacting respondents

The 37 interviews I conducted in the different research locations involved a sample of elite respondents representing very different organisations or interest groups (See Appendix A for a full list of respondents and their respective roles and locations). This section will thus address each broad category of respondent in turn.

EU respondents:

In terms of selecting EU officials to approach with an interview request, I was able to identify several distinct but overlapping groups of policymakers. The complex nature of the EU's policymaking process and the organisation's sheer size and range of different institutions made this somewhat challenging. Within the EU legislative competencies are shared between the Union's Council of Ministers, also known as the Council of the European Union, the European Commission and the European Parliament, while responsibility for the implementation of rules is shared between the Commission and the EU's Member States (Neyer 2003). In terms of legislative proposals, the Commission proposes these and the Council of Ministers then votes on them, with the Commission also responsible for implementing these proposals once they have been approved, while the Parliament has the power to amend, reject or block legislation (Smith 2003a). Where the implementation of the Union's Common Foreign and Security Policy is concerned, this is now overseen by the High Representative of the Union for Foreign Affairs and Security Policy, who is also a Vice-President of the European Commission and supported by the European External Action Service (EEAS), which was formed by the merging of Commission and Council foreign policy departments in January 2011.⁴² The purpose of identifying respondents was further complicated by the fact that my fieldwork period began just as the EEAS was coming into existence, which meant that there was still a great deal of movement of staff between institutions and a certain confusion over the new division of responsibilities and competencies. Nevertheless, I was anxious to try and interview representatives from a range of institutions which carry out work related to either the EU's external human rights policy,

⁴² For further details see 'The High Representative of the Union for Foreign Affairs and Security Policy,' http://www.eeas.europa.eu/ashton/index_en.htm

or to its external relations with Russia, or both. The first group I was able to make contact with were MEPs who were active either on the European Parliament's delegation to the EU-Russia Parliamentary Cooperation Committee (EU-Russia PCC)⁴³ or on its Subcommittee on Human Rights (DROI).⁴⁴ The EU-Russia PCC has been in existence since 1997 and is made up of equal numbers of MEPs and Russian parliamentarians. It meets several times a year in either Brussels, Strasbourg or Russia and is designed to act as a forum for discussion on a range of political and economic issues of interest to its members, occasionally including human rights issues.⁴⁵ The DROI organises hearings and discussions for MEPs on a range of human rights issues and adopts reports and resolutions. Both committees are also briefed regularly on human rights-related policy matters by officials working for the Commission and now the EEAS.⁴⁶

Subsequently I was able to interview researchers at the European Parliament who provide information on human rights issues in Russia to both these committees and who arrange the committees' hearings on human rights and other issues which regularly relate to Russia. The second group I wished to approach consisted of staff working for the EEAS on the EU's human rights strategy in general and more specifically in relation to Russia. The final group consisted of diplomatic staff working for the Delegation of the EU to Russia⁴⁷ which represents the EEAS in Russia, or for individual EU Member State embassies and consulates in Moscow and St Petersburg who had responsibility for following human rights developments in Russia and often for implementing local human rights projects in cooperation with Russian human rights NGOs. These Member State diplomatic staff also had frequent contact with the EU Delegation and were thus able to provide their opinion on EU human rights policy at a local level. A supplementary interview was also conducted with a representative of a Brussels-based think-tank specialising in EU-Russia relations.

In most cases I was able to identify the respondents I wished to contact from the EU's own online information and from embassy and consulate websites, although in several cases I was referred on to someone else by the person I had originally contacted or interviewees would suggest names of other potential respondents during the interview itself. With all 18 of the

⁴³ <http://www.europarl.europa.eu/delegations/en/d-ru/home.html>

⁴⁴ <http://www.europarl.europa.eu/committees/en/droi/home.html>

⁴⁵ Interview with Johannes, MEP and member of the committee, Strasbourg, 16th June 2010

⁴⁶ Interview with Rachel, EEAS official, Brussels, 27th January 2011

⁴⁷ http://eeas.europa.eu/delegations/russia/index_en.htm

interviews I conducted with EU or Member State representatives in Brussels and Russia, I first contacted the respondents by email in which I explained my position and institutional affiliation and the purpose of my research. I also attached a further information sheet which gave more information about my research and the funding for it, the interview process and how the data would be used in future. I was also careful to emphasise that the interview would be completely confidential. Although I had expected that it might be difficult to persuade people to agree to an interview, in fact the response once I had identified fairly precisely who I needed to talk to was overwhelmingly positive: only a very few people failed to reply to my emails and where people were unable to take part in an interview due to other commitments they almost always referred me on to colleagues who would then agree to take part. In one instance a much more senior member of consulate staff heard that I would be conducting an interview with one of his colleagues and asked to join us in order to contribute his views.

My strategy of first contacting staff at the smaller Member State consulates in St Petersburg before approaching their embassy counterparts in Moscow proved successful in that the consulate staff were able to identify their relevant colleagues for me. I also felt that it helped my cause considerably when approaching the Moscow staff to be able to say that I had been referred on to them by their colleagues in St Petersburg. I was also helped unexpectedly at the very beginning of my time in Russia when the European University in St Petersburg held a launch event for the new EU Centre to which all the local Member State consuls were invited. I was asked to give an informal presentation on my research and institutional affiliation, and immediately afterwards was approached by diplomatic staff who offered to put me in touch with colleagues of theirs who worked on human rights issues. This led directly to three subsequent interviews being set up in St Petersburg and Moscow. As will be discussed below, many of the EU respondents seemed flattered to be asked to participate in an interview and responded to my request extremely quickly: this may be due to the fact that, as Aberbach and Rockman (2002) point out, bureaucratic elites tend not to be studied very often by political scientists and as a result response rates can be very high.

NGO representatives:

A second distinct group of respondents with whom I was keen to make contact were representatives of two different types of Russian NGO: those working on issues more related to economic and social rights such as social care, children's rights and trade union issues; and those focusing on civil and political rights issues such as freedom of speech and assembly, police and judicial reform, the prevention of torture, and prison conditions. Again, I began by first approaching potential respondents who I had identified from various Russian online databases by email, although unlike the EU respondents those in Russia often preferred to have a subsequent telephone conversation where I would reiterate the purpose of my research and we would arrange a time and place for the interview. As with the EU respondents, I used these emails (this time in Russian, see Appendix 3 for an example) to outline my own background, institutional affiliation and research project and to emphasise the confidential nature of the interviews. I felt that my affiliation with the European University at St Petersburg was of great assistance when contacting these respondents, particularly those based in St Petersburg itself, as it is a well-known and respected institution whereas many of my Russian respondents were not familiar with the names or locations of UK universities. It was also clear with this group of respondents that there was significant interest in me as a foreigner who was able to communicate in Russian. Although there were far more instances with this group where people simply failed to respond to my emails, those who did frequently complimented me on my knowledge of the language and expressed interest in meeting me. I was also fortunate to have a couple of 'leads' when I arrived in Russia in the form of three contacts at NGOs in St Petersburg and Ryazan whom I had been referred to by colleagues at my own university: all three proved to be extremely helpful in arranging interviews with other staff at their respective organisations. Overall, however, with the 12 interviews I conducted with respondents from this group it was again a very direct approach to making contact rather than 'snowballing' which led to the greatest number of interviews being arranged.

Regional human rights ombudsmen:

A third group with whom I wished to make contact while in Russia were some of the regional human rights and child human rights ombudsmen – government officials whom members of the public can make complaints to regarding alleged violations of their rights by the state and who can then demand a response from whichever government department is responsible for

resolving the issue (see Section 4.2 for more detail). The system is still very much in development and not all of Russia's 87 regions have a human rights or child human rights ombudsman (the current figure stands at 63 for the human rights ombudsman and 74 for the child human rights ombudsman).⁴⁸ In addition, many of my Russian respondents were critical of some of the officials currently occupying this role, claiming that they were too close to the regional authorities to be effective or that they seemed to undertake very little activity. Nevertheless, I felt it would be worthwhile to approach the ombudsmen in the areas where I was intending to carry out other interviews in order to gain some insight into the types of human rights issues being raised by the members of the public who had appealed to them and to find out more about their experience of working with European organisations since the EU backed a Council of Europe-led project to develop the regional ombudsman institution from 2008 to 2009.⁴⁹ The ombudsmen system and the role these officials play within the interaction between Russian government institutions and civil society actors constituted a supplementary issue for this thesis rather than a key focus. Nevertheless, as the only official regional state-affiliated body with specific responsibility for human rights issues and one which was mentioned fairly frequently in my interviews with Russian civil society organisations it seemed useful to approach a small number of them to see if they would agree to an interview.

I was able to make contact with two regional human rights ombudsmen and one child human rights ombudsman in the North-West Federal District which includes the city of St Petersburg and its surrounding regions. All three expressed their willingness either to take part in an interview or to arrange for one to be conducted with a member of their staff, although ultimately it proved impossible to arrange an interview with one of them. In addition, on one of my trips to Moscow I was able to interview a Moscow Region human rights ombudsman. In terms of the other research locations I visited, the Nizhniy Novgorod Human Rights Ombudsman failed to respond to my attempts to contact her and Ryazan Oblast appointed its human rights and child human rights ombudsmen later in 2011 after my fieldwork period had

⁴⁸ 'Ombudsmeni obsudyat zlobodneviye temi v sfere zashiti detstva,' Prava cheloveka v Rossii [Human Rights in Russia], 10 October 2012, available at <http://www.hro.org/print/12020>; Stanovlenoye instituta Upolnomochenniye po pravam cheloveka,' Official site of the Human Rights Ombudsman in the Russian Federation, available at <http://ombudsmanrf.org/2009-11-02-08-43-32/2009-11-19-08-09-17.html>

⁴⁹ http://www.coe.int/t/commissioner/Activities/themes/nhrspeertopeer_en.asp

ended.⁵⁰ In the four cases where I was able to arrange interviews I was assisted greatly by the fact that the ombudsmen in question had extremely active and enthusiastic press officers or other advisors who, as will be discussed further below, were keen for the interviews to take place and clearly saw them as an opportunity to promote the work of their office to an international audience.

Academics:

The final group of respondents with whom I wished to make contact towards the end of my fieldwork period were academics in St Petersburg who specialised in human rights issues and who often had close ties with both the NGO community in the city and international organisations and government representatives. I felt this would be a valuable opportunity to gain some perspective on the communities I was researching from respondents who are involved with them but at the same time remain slightly 'outside' them. Making contact with this set of respondents was very straightforward: one was an academic who I had previously met at a conference in Moscow, while another gave a seminar early on during my stay in St Petersburg which I attended and where I was able to make an initial introduction. The third respondent I contacted by email and he then arranged another interview with one of his colleagues who happened to be visiting the city at the time. Again, I felt my institutional affiliation with a local university was helpful in securing these interviews since the academic community in St Petersburg is fairly small and close and as a result the academics I contacted were able to 'place' me.

It is worth noting that, rather than constituting four completely separate groups of respondents, there was considerable overlap between them. Many of the NGO respondents had close ties with each other, even if they worked in different spheres, and also interacted with some of the EU respondents and the ombudsmen on a fairly regular basis. The academics interviewed were also frequently connected to the civil society community and had often worked in a consultant capacity for EU or Member State-funded projects. In

⁵⁰ 'Ryazan: Upolnomochennym po pravam cheloveka naznachen general FSIN,' Prava Cheloveka v Rossii, www.hro.org/11720; V Ryazani poyavilsya upolnomochenniy po pravam rebyonka,' Prava Cheloveka v Rossii, www.hro.org/12812

addition, several of the EU and Member State respondents had met with the ombudsmen on a number of occasions and were keen to maintain or increase this level of contact.

3.6 Gatekeepers

Most of the interviews I conducted were, as previously mentioned, arranged by making direct email contact with the person with whom I wished to speak, meaning that the ‘snowballing’ technique was not employed as much as I had expected it would need to be, particularly in a post-socialist context where personal contacts and connections can be of vital importance in many areas of professional and personal life (Bruno 1998). There were, however, several occasions where it was necessary to rely on gatekeepers, usually employees or colleagues of the person I was attempting to gain access to. At times, this could lead to interview situations where I felt somewhat ill at ease: with one interview with an NGO it transpired that the gatekeeper who had arranged the meeting wanted his wife, also a researcher, to join me and to conduct her own interview with my respondent immediately afterwards. Although she was in no way obstructive I had nevertheless not expected to conduct my interview in front of someone I had never met before yet did not feel in a position to object. On another occasion with an NGO in Ryazan I had arrived on a Sunday afternoon expecting to conduct my interview at the organisation’s offices the following morning, only to be met by the gatekeeper who informed me that she was going to drive me straight to a forest outside the city where my respondent was camping with friends. When we arrived he was friendly but clearly had not been told who I was and I felt very uncomfortable intruding on his leisure time. I was also completely dependent on the gatekeeper in terms of when I could leave to return to the city.

Where the human rights ombudsmen were concerned, gatekeepers were key in arranging these interviews since in only one instance did I have direct email contact with an ombudsman and ultimately I was unable to arrange an interview with him. In two of these cases the interviews were arranged by press officers or assistants who were very keen for me to speak with the ombudsmen and could not have been more helpful, but upon arriving for the interview I would realise that the ombudsmen in fact had no idea who I was and were not particularly interested in speaking to me. In one of these interviews the gatekeeper joined us for the duration and it was purely thanks to her enthusiasm for it to succeed and her prompting her superior that I was able to obtain some useful data from the interview. In the

other case the ombudsman proved to be very difficult to interview and was clearly more interested in quizzing me on my education and impressions of life in Russia. With these interviews there appeared to be some tension between the ombudsmen themselves, who were much older, had had lengthy careers during the Soviet period and seemed very aware of their relatively high status and somewhat suspicious of speaking to a foreign researcher, and their staff, who were younger and keen to interact with a foreign visitor and promote the work of their organisation. These staff showed great interest in my research and were anxious to ensure that I had access to any of their office's reports or publications which might assist me. One of them also spontaneously invited me to a subsequent event organised by her office in Vyborg, a town approximately 2 hours from St Petersburg by train where the local human rights ombudsman was holding a reception for local people who wished to make a complaint concerning a violation of their rights. The event was open to the press but not the public so without her invitation I would not have known about or been able to attend the event, which proved to be valuable from a research perspective in seeing how the ombudsman interacted with the local community and the type of complaint people were bringing to him.

3.7 The interview process and ethical issues

Most of the interviews I conducted took place at the respondent's place of work, although a few were conducted in cafes. In each case I asked the respondent to choose the location most convenient to them. Whereas in Brussels my respondents all had private offices and seemed familiar with the idea of taking part in a research interview, in Russia the interview location presented a number of practical and ethical challenges. Those conducted in workplaces were frequently interrupted by other colleagues entering the room or by telephone calls, and on one occasion I was required to conduct the entire interview in the presence of other colleagues who were not aware of my reasons for being there. Where the EU or Member State respondents were concerned, I reiterated the information about my role and the confidential nature of the interview and asked them to sign a form consenting to both the interview and the audio-recording of it. In almost all of these interviews my respondents seemed to expect to sign such a form and were keen to stress that their identities must not be traceable. While none of the members of staff working for the EU in Brussels whom I interviewed had any objections to the audio-recording, several of the Member State embassy staff in Moscow were not willing to have it recorded and thus I was forced to rely on note-taking during the interview. Where the Russian interviews were concerned, I felt that the use of formal consent

forms would be inappropriate given that it is not a common research practice in a post-Soviet setting and that it might create suspicion regarding the nature of my research. As a result, I received approval from my university ethics committee to rely on email consent for these interviews provided that my initial email set out all the main points of my research and the confidential nature of the interview. At the beginning of the interview I would reiterate the confidentiality aspect and ask for verbal consent to record the interview, to which none of my Russian respondents had any objection.

Where the EU interviews were concerned, the interview process was somewhat formal and I was conscious of not taking up more than an hour of my respondents' time given their obviously busy schedules – at times I would be informed at the start of the interview that they only had a very set amount of time to spare. At the same time, in many of these interviews I was treated as an equal and almost as an 'expert' on Russia given my previous experience of working with NGOs in Moscow and my knowledge of the language and political developments there, particularly in Brussels where the majority of respondents I spoke with were not Russia specialists and were often responsible for covering other countries in their work as well. Many of these respondents were very approving of my choice of research topic and expressed interest in hearing my conclusions once the thesis was finished. While several clearly had experience of participating in similar research interviews, others seemed flattered to be asked their opinion on various policies and expounded on their views at some length: one diplomat told me how much he had enjoyed the interview since 'no one ever asks me my opinion, usually I'm the one asking others for theirs.'⁵¹ As Kvale (1983:179) points out, respondents can find the interview process to be a positive experience since 'it is probably not a very common experience from everyday life that another person in an hour or more is only interested in, sensitive towards, and seeks to understand as well as possible one's experience of a subject matter.'

With the EU and Member State interviews I conducted in Russia I found it helpful to provide details of the work I had done for a major international human rights NGO in Moscow from 2005 to 2006 since it helped to indicate my familiarity with the field, and the issues and personalities my respondents were dealing with in their work. Upon realising that we had both worked with some of the same organisations and human rights activists, several of my

⁵¹ Interview with John, EU Member State diplomat, Moscow, 18th April 2011

respondents took the opportunity to vent their frustrations at dealing with some of the more difficult personalities in the civil society sector in Russia and seemed to find it cathartic to express these frustrations without needing to worry about any potential impact on their position or reputation due to the confidential nature of the interview. In addition, my strategy of interviewing diplomats representing the same Member State at the country's consulate in St Petersburg and embassy in Moscow generated some interesting data since representatives of the same country but working in different locations often had very different views on both their own country's policy on human rights projects in Russia and on that of the EU.

While my experience of conducting interviews with the Russian respondents was overwhelmingly positive, at the same time a number of very different issues arose. The interviews with the human rights ombudsmen and their staff tended to be more formal and I felt that I was not viewed as being on an equal footing due to my age and perceived lack of experience. This may be related to the fact that there is a general trend in Russian universities for PhD students to begin their degrees very soon after completing their undergraduate or Masters' studies and so they tend to be fairly young. As a result, I felt that some respondents perceived me to be younger than in fact I was: several seemed surprised, for example, to learn that I had already had opportunities to teach, despite still being in the midst of my studies. One factor that was common in all of my interviews with Russian respondents was the level of interest in my background, my reasons for studying Russian language and politics, and my impressions of life in Russia. I frequently found myself being questioned, for example, on my favourite Russian authors and composers, or on which parts of the country I had travelled to. There is no question that my knowledge of the language was an enormous advantage. Many respondents seemed extremely gratified that I had spent a period of several years studying Russian and living in Russia, and the fact that they could speak freely with me and introduce me to their colleagues or take me to meetings in the knowledge that I could understand and communicate without assistance made for a much more relaxed and fruitful interview process. This corresponds with what Welch and Piekkari (2006:420) see as the ability of a shared language between interviewer and interviewee to 'establish an atmosphere of rapport and trust that will allow interviewees to produce genuine and open responses.'

At times, however, my identity as a Russian-speaking foreigner could bring certain disadvantages: whilst I felt it made respondents whom I sought to interview far more likely to

agree to an interview, it also meant that on occasion respondents would in fact not have much interest in my research or questions and simply wanted to meet me on a personal level out of curiosity. Another factor which arose in the Russian interviews and which I felt was particularly important was the idea of reciprocity. As Michailova (2004:369) points out, in the post-Soviet context 'reciprocity is a vitally important feature of personal networking. One is viewed as untrustworthy in Russia if one refuses to return a favour and does not follow the reciprocity rule. Helping friends through connections is regarded as a pleasure by many Russians.' Having conducted an interview with a respondent who had been particularly helpful, out of gratitude I often felt compelled to offer my services as a translator or editor of grant applications to those organisations that had few resources and no access to native speakers of English who could help them with their funding applications to international organisations. This offer was only occasionally taken up and, when it was, it in fact proved useful from a research point of view or interesting from a more personal point of view. At one point I was asked to interpret at a meeting between NGO staff and some international consultants who were interested in working on a project together, an occasion which gave me greater insight into the workings and objectives of the NGO.

In another case I regularly edited grant applications for a well-known academic who had been extremely supportive throughout my time in St Petersburg in addition to agreeing to an interview and with whom I hope to work in the future. Another of my respondents who worked on social care issues asked me to attend a 'coffee morning' which she organised for various elderly local residents and to speak to those present about life in the UK and my impressions of Russia, an event which proved to be extremely enjoyable. At no point was I made to feel obliged to assist former respondents or to attend these events: such requests came only after I had already offered to help. I was, however, anxious to show my appreciation of the kindness I had been shown and at times developing these reciprocal relationships undoubtedly benefited my research since, as Krieger (1996) points out, data consists not just of interview notes but also of time spent participating in the community. The respondent who had organised the coffee morning later invited me to a meeting of the St Petersburg Human Rights Council and introduced me to her colleagues there – since this meeting is usually open only to members of the Council I would not otherwise have been able to attend.

3.8 The field diary

Keeping a research diary while in the field can serve a number of useful purposes. Burgess (1981), for example, points to the diary's ability to provide a substantive account of the interview process and related events; a methodological account of the approaches being used in the research; and an analytic account which focuses on the ideas and 'hunches' that the researcher may have while conducting their fieldwork. Throughout my fieldwork period I kept a research diary which was used for two purposes: to supplement the data generated by my interviews by recording my observations on the research setting and experience of conducting interviews, and to provide an outlet for expressing emotions about any problems or frustrations encountered during the research. In keeping such a diary I was attempting to be more reflective as a researcher and to provide some context to the interviews I was in the process of carrying out.

Janesick (1999:521) argues that journal-writing functions as a powerful tool for reflecting on our own thoughts, beliefs and behaviours and those of our respondents since 'the definitions of the roles of the researcher and the participants in a study are clarified through the reflection and the writing process...keeping a journal is a check and balance in the entire course of a qualitative research project.' As a result, the diary offers a way to revisit and explore some of the tensions which arise in the course of the fieldwork. Although I did not add to this diary on a daily basis, the observations I made note of, particularly during my time in Russia, contributed to my understanding of the social and cultural context in which I was operating and complemented the other data being gathered and were particularly important during the period of post-fieldwork analysis described below. At the same time, this diary was only ever intended to act as a supplementary source of contextual information and an opportunity for reflection, rather than constituting an ethnographic research method in its own right. This conforms to the general purpose of this project, which was to carry out ethnographically-informed qualitative research, rather than a full ethnography.

3.9 Transcription, translation and post-fieldwork analysis

Having conducted my interviews and, in most cases, having recorded them, I was faced with the practical issue of transcribing the recordings, which were in either English or Russian. Transcribing in one's native language is, more often than not, a very time-consuming

process: according to Bryman (2008), one hour of recorded speech can take up to 5-6 hours to transcribe. Nevertheless, I decided to transcribe my 18 English-language interviews myself in order to avoid creating too much distance between myself and the data given the importance of the choices made by the transcriber in producing the final text. As Bucholtz (2000:14440) points out, ‘embedded in the details of transcription are indications of purpose, audience, and the position of the transcriber towards the text.’ Where the Russian-language interviews were concerned, however, I decided to ‘contract out’ the transcription to a Russian student at the European University at St Petersburg who applied for the work after a contact at the university kindly agreed to email the details to all of her graduate students. Although I had imagined it would be necessary to hire a number of students to carry out the work, in fact the first person I dealt with proved to be so efficient that I worked with her for the duration of my time in Russia. In order to maintain confidentiality each audio file was given a number but had no other identifying marker.

Having a native speaker of Russian transcribe these interviews saved me an enormous amount of time and meant that as I arranged more interviews I could look back at the transcripts of those I had already done and refine my interview guide in the light of this. In some cases there were minor omissions in the transcripts or places where the name of an individual or organisation was not quite correct but I was able to rectify these minor issues by checking over the transcripts carefully and comparing them with the original recording. Following my return from fieldwork I found it useful to re-listen to my Russian-language interviews in order to ensure that I had correctly understood the points being made and to check once again that there were no omissions in the transcripts which I was using as the basis for my analysis. In terms of the approach I took to transcribing the interviews I had conducted in English, I took what Oliver et al (2005:1277) describe as a ‘denaturalized approach.’ This approach is less concerned with capturing specific features of language or expression such as accents or non-verbal communication and more to do with capturing the substance of the interview and ‘...the meanings and perceptions created and shared during a conversation.’

In terms of translating these transcripts into English which was necessary both for analysis and to select which excerpts from the transcript would be reproduced in the text of the thesis, I conducted all the translation myself. Although I have many years’ experience of translating

from Russian to English and have been employed formally in this capacity, the translation process nevertheless always poses a number of dilemmas for the researcher, perhaps particularly where Russian is concerned. Müller (2007) and Bruno (1998) have both written of the difficulties in translating a language as rich as Russian, which often has many different words to express similar concepts, into English, which may have only one variant which does not fully convey the true sense of the original term used. Müller (2007: 207), for example, describes the problem of having several different Russian words (*derzhava*, *vlast'* and *sila*) which can all be translated into English as 'power,' yet which all have quite different meanings, with *derzhava* referring to the state as a power, *vlast'* denoting 'a fusion of political power, state and territory,' and *sila* referring to power as military strength. As a result, it is impossible to provide a completely accurate and true translation of a transcript or other text, particularly given that the social, political and cultural contexts in which both text and researcher are embedded also influence both the way in which concepts are expressed in the original language and how they are rendered in translation (Temple and Young 2004). In this sense Muller (2007:208) argues that the act of translation 'assumes a political quality.' In addition, by assuming responsibility for translating the words of their respondents, the 'active' researcher also takes on the responsibility of trying to represent both the participants and their language (Temple and Young 2004). While there are no easy solutions to these dilemmas, having spent a period of many years engaging with Russian language, history, politics and culture I felt I was as well-placed as I could be to render the translation of my interviews in a sensitive and informed manner.

3.10 Conclusions

This chapter has aimed to provide a detailed account of the manner in which the fieldwork aspect of this research project was conducted, and to explore the use of the methods of qualitative methods such as semi-structured interviewing and discourse analysis in gathering and interpreting research data. It has also discussed the rationale behind the programme of fieldwork which was carried out and has sought to reflect on some of the practical and ethical challenges and dilemmas which arose during the process of engaging in fieldwork in two very different countries and frequently in a different language. In this way it has sought to convey that the choice of methods used and the role and experiences of the researcher have had a major influence on the way in which the data has been analysed and the manner in which the findings discussed in the following four chapters have been formulated.

Chapter 4

Constructing Economic and Social Rights in the Russian Context: Conflicting, Contrasting or Coinciding Interpretations?

4.1 Introduction

The previous three chapters have explored the theoretical and contextual frameworks underpinning this study, and the methodological approach taken in terms of carrying out the research in question. This chapter aims to engage in more depth with some of the empirical findings generated by this research. It sets the scene for analysing the interaction between Russia and the EU on economic and social rights issues by examining the influence which Soviet conceptions of human rights continue to exert on contemporary understandings of rights in Russia. It then goes on to explore the way in which economic and social rights were conceptualised by the Russian respondents interviewed for this study⁵² and their perceptions of how important such rights are to the wider Russian public, before exploring the extent to which NGOs which continue to focus on civil and political rights issues have become marginalised as a result of this approach. This chapter will argue that, despite a widespread acknowledgement on the part of almost all the Russian respondents interviewed that economic and social rights are of far greater interest and importance to the general public, many of those engaged in human rights activism have difficulty conceptualising such rights or seeing them as issues which require more of their own or international attention. As a result, there is significant divergence between the rights and issues which human rights NGOs choose to focus on and those which appear to resonate with the public, leading to the increasing isolation of such NGOs both from mainstream public opinion and from more socially-oriented organisations in the civil society sector.

4.2 The landscape of human rights protection in the Russian Federation

Prior to engaging with the themes mentioned above, it is important to provide a brief overview of the different institutions in Russia which have responsibility for the protection and promotion of human rights. As mentioned in Chapter 1, in terms of international human rights treaties Russia is a signatory to the two main covenants of the UDHR (the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social

⁵² See Appendix 1 for the full list of respondents

and Cultural Rights) and to the ECHR and the European Social Charter. Russia's membership of the Council of Europe also makes it subject to the rulings of the European Court of Human Rights (see Section 1.5). In addition, Russia's Constitution has clearly-stated commitments to upholding a range of civil, political, economic and social rights.⁵³ Chapter 3 outlined the civil society actors relevant to this study such as the small community of Russian human rights NGOs and those involved in more socially-oriented work, both of which will be returned to in this chapter, but there are also several domestic institutions tasked with involvement in human rights issues.

The first of these is the Presidential Council for the Development of Civil Society and Human Rights,⁵⁴ an advisory body which counts various NGO leaders and human rights activists among its number and meets with the President several times a year to discuss pertinent human rights issues. The second is the Public Chamber, another advisory body with a number of regional offshoots whose members are partially selected by the presidential administration and which is in theory designed to '...resolve the most important problems of economic and social development...and to defend the rights and freedoms of citizens of Russia,'⁵⁵ although it has been heavily criticised for its lack of accountability and what is perceived to be its overly close relationship with the authorities (Richter 2009a). Finally, and most importantly for the purposes of this study, Russia has established the institutions of the human rights ombudsman and child human ombudsman, which exist at both federal and regional levels.

The federal human rights ombudsman, whose office has been in existence in Russia since 1993, is a state-funded institution designed to advise the Presidential Administration on human rights questions but it is also intended to act independently.⁵⁶ The federal child human rights ombudsman⁵⁷ has a slightly different status in that his office is incorporated within the structure of the Presidential Administration (interview with an advisor to a regional Child Human Rights Ombudsman). Both institutions respond to complaints of human rights

⁵³ See Appendix 8 for the text of the relevant articles of the Russian Constitution

⁵⁴ www.president-sovet.ru

⁵⁵ 'About the Civic Chamber of the Russian Federation,' available at www.oprf.ru/en/about

⁵⁶ www.ombudsmanrf.ru

⁵⁷ <http://english.rfdeti.ru/>

violations made by members of the public and by organisations, but also carry out their own research and publish regular reports on their activities.⁵⁸

The institutions of most relevance to the purposes of this study, however, are those of the regional human rights and child human rights ombudsmen since the NGO representatives and to some extent the EU Member State officials who were interviewed for this project were far more likely to have had contact with these bodies than with the higher-level federal ombudsmen. In addition, as Chapter 5 will explore in more detail, these regional officials tend to see themselves as intermediaries between the state and society and appear to see the focus of their work as relating directly to economic and social rights issues. They are also the only regional-level bodies with direct responsibility for human rights issues.

The development of these two related institutions is a relatively recent phenomenon, dating from the late 1990s onwards (Glushkova 2006), and at present 63 of Russia's 87 federal subjects have a human rights ombudsman and 74 regions have a child human rights ombudsman.⁵⁹ In contrast to the federal-level ombudsmen, the status of the regional human rights and child human rights ombudsmen varies from region to region, as one respondent pointed out:

Child human rights ombudsmen in the various Russian federal subjects don't have a uniform status: in some places they sit within the structure of the local authority and duplicate the status of the federal [child human rights] ombudsman. There are also those ombudsmen who were given an independent status and they have the right to intervene in investigations, they are independent legal figures with their own budget and apparatus and they are independent of any political bias and so on. (Sergey, advisor to a regional child human rights ombudsman)

In terms of their appointment, the regional human rights ombudsmen are approved by the region's local legislature, while for child human rights ombudsmen they can be appointed by the legislature or by the local governor, in which case they are included in the executive

⁵⁸ See for example 'Dokladi,' Upolnomochenniy po pravam cheloveka v Rossiiskoi Federatsii,' available at <http://ombudsmanrf.org/doklady> and 'Dokladi,' Ypolnomochenniy pri Prezidentoi Rossiiskoi Federatsii po pravam rebyenka, available at <http://www.rfdeti.ru/files.php?id=32>

⁵⁹ 'Ombudsmeni obsudyat zlobodnevnye temi v sfere zashiti detstva,' Prava cheloveka v Rossii [Human Rights in Russia], 10 October 2012, available at <http://www.hro.org/print/12020>; Stanovlenoye instituta Upolnomochenniye po pravam cheloveka,' Official site of the Human Rights Ombudsman in the Russian Federation, available at <http://ombudsmanrf.org/2009-11-02-08-43-32/2009-11-19-08-09-17.html>

system (Roudik 2007). Similarly to the federal-level ombudsmen, the regional ombudsmen are expected to deal with individual and collective complaints concerning rights violations by the local authorities, monitor the human rights situation in their region and cooperate with local bodies such as the prosecutor's office and the courts (Gradszkova 2012). While these ombudsmen frequently interact with local NGOs of the type this study focuses on, Chapter 5 will discuss the often complicated and contested nature of this interaction.

4.3 The Soviet context to economic and social rights and public perceptions of 'human rights'

Chapter 1 outlined some of the ways in which the Soviet approach to human rights which emphasised the primacy of economic and social rights over civil and political rights claims influenced and arguably continues to influence contemporary understandings of human rights in Russia. This chapter explores this influence in greater depth since the Soviet concept of human rights appears to remain powerful not only in terms of how the Russian respondents involved in this study interpreted the meaning and significance of economic and social rights, but also in terms of how it seems to shape the activity and perceptions of those Russian NGOs which identify themselves specifically as human rights organisations. This is important within the context of this study since, as will be explored in more detail in Chapter 7, it is precisely these organisations which appear to have the closest links to the EU amongst Russian civil society organisations and which receive a significant proportion of the funding it has available for civil society projects in Russia. As this study will argue, however, such groups have become increasingly marginalised in terms of public support and domestic political impact.

In terms of how 'human rights' were conceptualised on an official level during the Soviet period, it has become common amongst 'Western' scholars to assert that the concept of rights was one which was alien to the Soviet Union and its citizens until the Brezhnev era (Betts 2012). Thomas (2005: 117), for example, argues that 'ideas of human rights have a long pedigree in Enlightenment and liberal thought, but they did not become salient within the countries of the Communist bloc, or within East-West relations, until the 1970s.' Smith (2012), however, contends that basic economic and social rights such as the right to work and social security were in fact conceived of as rights in the Soviet Union as early as the constitution of 1918, although it was only in the period following Stalin's death in 1953 that

such rights came to be realised in practice under Krushchev and Brezhnev. As a result, 'a system of social rights was inherent to Soviet life' (Smith 2012:386). This system continued to be codified on an official level during the later Soviet period: both Hawkesworth (1980) and Sajo (1996) have highlighted the primacy of economic and social rights such as the right to labour, healthcare, housing, education and social security in the Soviet Constitution of 1977, with civil and political rights listed only after these rights and contingent upon them. According to Sajo (1996: 141), under the Soviet legal system economic and social rights were seen as 'a precondition for the enjoyment of more traditional rights like free speech or freedom of beliefs,' while Hawkesworth (1980:72) argues that, according to Marxist-Leninist doctrine, some rights were 'clearly more important than others for the promotion of human well-being. The rights to food, clothing, shelter, work, rest, and education constitute[d] a hierarchy of rights which socialism must advance and protect.'

The practical implementation of such rights was undoubtedly flawed in many respects. Betts (2012: 409) points out that the provision of such rights was highly dependent on the extent to which a Soviet citizen was seen to be 'engaged, productive and cooperative,' while Sajo (1996) argues that the system of social services which was intended to implement these rights was provided on a discretionary basis and in return for loyalty to the state. Nevertheless, the existence of an extensive official discourse on economic and social rights demonstrates that there was in fact a longstanding conception of 'human rights' in the Soviet Union which, while quite different from Thomas' 'liberal' conception of human rights, nevertheless preceded the creation of the key instruments of international human rights law such as the Universal Declaration of Human Rights in 1948 and the European Convention on Human Rights of 1950. Yet, as Betts (2012:407) points out, Western scholars tend to analyse human rights in the Soviet Union in terms of how they measure up to 'Western liberal understandings of these rights ideals' rather than being interpreted in their own context as a particular understanding of human rights.

Smith (2012) also points to the widely-held misconception that the discourse of human rights was imposed on the Soviet Union in the 1970s by international conventions such as the Helsinki Final Act of 1975⁶⁰ and internal pressure from the small dissident movement. As

⁶⁰ This act was signed by 35 member states of the Conference on Security and Cooperation in Europe (now the Organisation for Security and Cooperation in Europe) including the USSR and committed the signatories to,

Smith points out, this stance was in some ways perpetuated by the approach taken by these dissidents, who included human rights activists such as Lyudmila Alexeyeva⁶¹ and Lev Ponomarev⁶² who remain active in the contemporary Russian human rights movement. These activists sought to promote the civil and political rights which were then being denied in the Soviet Union and to hold the Soviet authorities to the commitments to upholding these rights made in the Soviet constitution and in the Helsinki Final Act. They demonstrated little interest in those economic and social rights which, while imperfectly implemented, were nevertheless promoted on an official level. At the same time, they increasingly looked to the West for support for their cause and were successful in attracting the attention of the international press to their struggle and in establishing solid relationships with Western human rights groups (Dean 1980b). In this way ‘the tone of dissidence...was set by intellectuals with left-liberal, Western-oriented views’ (Smolar 1996:32) who saw themselves as part of the *intelligentsia* and as continuing a long tradition of Russian liberal dissent and criticism of the authorities going back to the late 19th century (Lipset and Dobson 1972; Horvath 2005).⁶³ As will be discussed below, this is a pattern which has to some extent continued in the contemporary period in terms of the approach taken by various Russian human rights NGOs.

The Russian respondents interviewed as part of this study represented a range of different organisations and interests and included representatives of human rights NGOs; those engaged in more socially-oriented work such as assisting children, the elderly or the disabled; academics; and regional human rights ombudsmen and their advisors. Yet they demonstrated a considerable degree of consensus in their views on the influence that the legacy of the Soviet definition of human rights continued to exert on public understandings of rights and on the modus operandi of those human rights organisations established and frequently still run by former Soviet-era dissidents. Several pointed, for example, to what they saw as the more ‘collective’ nature of Russian society and the enduring influence of the Soviet emphasis on

amongst other things, ‘respect for human rights and fundamental freedoms.’ For further details see ‘Helsinki Final Act signed by 35 participating states, OSCE, available at <http://www.osce.org/mc/58376>

⁶¹ Alexeyeva is head of the Moscow Helsinki Group NGO and lived in exile in the US between 1977 and 1989 (www.mhg.ru).

⁶² Ponomarev was one of the founders of the Memorial human rights NGO in the late 1980s and now heads the ‘For Human Rights’ (*Za prava cheloveka*) NGO (www.zaprava.ru)

⁶³ It is worth noting that the Soviet dissident movement was not a homogenous group of activists but rather brought together supporters of various ideologies including Marxism-Leninism, Christianity and liberalism under the banner of a ‘Democratic Movement’ committed to the rule of law and the observance of basic human rights (Lipset and Dobson 1972; Keep 1971).

economic and social rights on contemporary values and conceptions of rights:

Here we have above all the idea of a collective society, whether that be the state, society, in Soviet times it was the party, and as a result values such as solidarity, collectivism and so on – if the Western European tradition is characterised above all by the priority given to individual rights and freedoms, then in the Russian tradition, and this was defined and upheld particularly clearly during the Soviet period, social and economic rights take precedence. (Pavel, academic, St Petersburg)

This idea of a historic gap between Russian and ‘Western’ concepts of human rights and their differing emphases on group and individual rights was also expressed by another respondent, an academic specialising in law:

The public’s awareness of the law undoubtedly favours social and economic guarantees rather than the legal culture of individual rights which is characteristic of the West. (Andrey, academic, St Petersburg)

According to Ordzhonikidze (2008:20), ‘for the most part, when Russians think about ‘human rights’ they have in mind a paternalistic state’s guarantees ensuring the life of an individual, his work and the pay that he receives for his work, his education, medical treatment, social security and so on.’ The most recent Russian Constitution of 2008 appears to uphold these guarantees while also outlining the protection of the ‘rights and freedoms of man and the citizen’ which cover civil and political rights such as the right to life and freedom of speech. It proclaims that Russia is,

...a social State whose policy is aimed at creating conditions for a worthy life and the unhindered development of man... the labour and health of people shall be protected, guaranteed minimum wages and salaries shall be established, state support ensured for the family, maternity, paternity and childhood, for disabled persons and the elderly, a system of social services developed, state pensions, allowances and other social security guarantees shall be established.⁶⁴

⁶⁴ See Appendix 8 for the text of the relevant Article of the Russian Constitution.

In terms of public opinion, survey data from 2010 appears to indicate that economic and social rights are indeed held to be the most important rights claims and at the same time the most at risk in the eyes of the public. A survey conducted by the Russian Public Opinion Research Center (VTsIOM) in December 2010 asked respondents ‘which fundamental rights and freedoms proclaimed in the Constitution are violated most often in our country?’ A total of 38% felt that the right to health protection was the most frequently violated, with 35% citing the right to housing and 32% the right to education. A further 21% highlighted the right to leisure and 20% to the right to social security. Only 19% pointed to violations of the right to freedom and security of the person, 18% to the right to life, and 14% to freedom of thought and expression. When asked which categories of the population suffered the most frequent rights violations, respondents identified orphans (39%), the disabled (35%) and the elderly (31%) as the most likely to have their rights violated.⁶⁵

Similar data gathered by the Levada Center in October 2010 asked respondents to rank various rights in their perceived order of importance: 69% cited the right to free education, medical assistance and social security in sickness and old age, while 57% pointed to the right to life as the most important. The right to well-paid work in one’s discipline (50%) and the right to a state-guaranteed minimum level of subsistence (36%) came ahead of freedom of speech (34%) and freedom of information (22%).⁶⁶

This data indicates that there is in fact a significant degree of awareness of the existence and importance of certain civil and political rights, and this awareness may increase given the wave of political protests against elections which were believed to be fraudulent which took place across Russia in late 2011 and early 2012, although this is very hard to predict.⁶⁷ To some extent this challenges the concept of cultural relativism expounded by theorists such as Pollis (2008) and Inoue (2003), who argue that civil and political rights issues are a feature of ‘Western’ political culture only. Yet it also indicates that economic and social rights and

⁶⁵ ‘Press Release No.1648: Whose Rights and Which Rights Are Being Violated Today?’ [in Russian], VTsIOM, 10 December 2010, available at <http://wciom.ru/index.php?id=459&uid=111158>

⁶⁶ ‘Which human rights are, in your opinion, the most important?’ [in Russian], Levada Center, 8 September 2011, available at <http://www.levada.ru/archive/prava-cheloveka/kakie-iz-prav-cheloveka-po-vashemu-mneniyu-naibolee-vazhny-otvety-ranzhirova>

⁶⁷ See for example BBC News, ‘Moscow protest: Thousands rally against Vladimir Putin,’ 25 December 2011, available at <http://www.bbc.co.uk/news/world-europe-16324644>; RIA Novosti, ‘Russians Rally as Putin Hints Reforms, Warns of Regime Change,’ 4 February 2012, available at <http://en.rian.ru/society/20120204/171125937.html>

violations of such rights are, at least at present, perceived as being of more immediate concern to the public at large.

In addition, issues connected to economic and social rights also have the ability to cause large-scale protests. Perhaps the best-known example is those which took place in early 2005 when hundreds of thousands across the country protested following an attempt by the government to replace *l'goty*, or in-kind benefits, such as free transport and subsidised housing and medicines which were paid to certain specific categories of citizen such as pensioners, war veterans and the disabled with lower-value cash payments (Buckley and Ostrovsky 2005; Wengle and Rasell 2008). More recently in September 2012 and January 2013 there were protests in several Russian towns and cities following announcements that first the federal authorities and then the regional authorities planned to increase the cost of housing services and public utilities [*zhilishno-kommunalnoye khozaistvo* or *ZhKKh*] which are payable by all residents but have been heavily subsidised by the state since the Soviet period, although the level of subsidy varies between regions.⁶⁸ As one regional publication pointed out, this increase was likely to have the most impact on pensioners and those on low incomes since increases in utility tariffs have outstripped increases in wages and pensions over the past nine years.⁶⁹ Although President Putin responded to the outcry by insisting that any increase in the tariff must be 'socially fair,'⁷⁰ housing and utilities are now the main issue of concern for Russians, with 58% of respondents choosing these issues followed by low living standards (51%) and corruption (50%).⁷¹

There is also some evidence of citizens using the courts in an attempt to challenge perceived infringements of their economic and social rights such as the 'monetization' of in-kind benefits mentioned above. According to Chandler (2013), who has examined 97 cases concerning social welfare issues brought mostly by individuals at Russia's Constitutional Court between 1992 and 2009, the majority of these cases invoked the constitutional right to

⁶⁸ 'Politika: Rossiyanе vyshli na ulitsi protestovat' protiv rosta tarifov ZhKKh,' Argument i Fakti, 22nd September 2012, available at <http://www.aif.ru/society/news/211959> [accessed 14th March 2013]

⁶⁹ 'Vserossiiskaya aktsiya protesta protiv rosta tarifov na usluzhi ZhKKh proshla v Irkutske,' Gazeta Irkutsk, 22nd September 2012, available at <http://www.gazetairkutsk.ru/2012/09/22/id61824/> [accessed 14th March 2013]

⁷⁰ 'Putina shokirovali dannymi o roste tarifov ZhKKh v regionakh: "s uma soshli, chto li,?" Newsru.com, 25th February 2013, available at http://realty.newsru.com/article/25Feb2013/putin_shok [accessed 15th March 2013]

⁷¹ 'Housing Problems Bother Russians Most – Poll,' RIA Novosti, 9th January 2013, available at <http://rianovosti.com/russia/20130109/178661238.html> [accessed 15th March 2013]

social protection⁷² and over a quarter related to the 2004 monetization law, thus constituting what Chandler (2013:9) claims is a ‘peaceful, constitutional form of protest’ against unpopular welfare reform measures. All of this indicates both a high level of awareness of economic and social rights and a deep sense of insecurity about the extent to which they are being upheld in contemporary Russian society.

One respondent who took part in my own study expressed the view that, rather than being caused by any great feeling of ‘collective solidarity’ in Russian society, this ongoing concern with economic and social rights issues was in fact linked both to age and to a sense of individualism whereby people only became interested in such issues when they had a direct impact on their own lives:

The older generation only start to see all of these social problems as civic problems when they start to impinge on their own interests. That means that in terms of the wider political situation they don’t feel affected by them. But when their home is taken away from them, or something is taken away from their children or grandchildren, that’s when they start to engage in personal activism. (Anya, NGO manager, St Petersburg)

Another respondent who was Russian but worked for an EU Member State consulate saw the level of interest in economic and social issues more positively as a spur for greater civic, as opposed to individualist, activism. She argued that, while people were largely indifferent to the work of those Russian human rights NGOs which focused predominantly on civil and political rights campaigns, they were far more likely to get involved in volunteering for various social causes and organisations:

Not many young people get involved with the human rights defenders – they are indifferent for various reasons. There is definitely more public support for social rights issues than traditional human rights issues. Even in the big cities people feel social problems are closer to their own lives - health, children and so on - so more people volunteer for these issues. (Katya, EU Member State diplomat)

⁷² See Appendix 8 for the relevant articles of the Russian Constitution

Another respondent also pointed to the growing popularity of grassroots activist groups which tend to coalesce around a single social issue or campaign:

There are people who come together to defend their social rights - people who took part in the Chernobyl clean-up and other victims of Chernobyl, army servicemen who have not been given proper housing. But one has to be aware that their aims are very limited. They don't as a rule see their situation as the result of some systemic breakdown or failure and they tend not to insist on systemic or institutional changes – they are only demanding a very localised form of redress for the violation of their rights. (Andrey, academic, St Petersburg)

These views on public awareness of social and economic rights issues raise the question of the extent to which the wider public is better able to engage with economic and social rights issues which can be related to the more concrete realities of everyday life, as opposed to the perhaps more distant and obscure issues pursued by human rights NGOs which are nevertheless the most integrated into a civil society network which encompasses international donors such as the EU and its individual Member States (Klitsounova 2008). As will be argued below, many respondents felt this had a major impact on the way in which such NGOs are perceived by others within the NGO community and by the public at large as it has implications for the degree of public support and interest which these NGOs are able to command.

4.4 Civil society actors and contemporary constructions of economic and social rights

Having explored the issue of public support for, and interest in, economic and social rights issues, attention now turns to one of the key aims of this study, which was to ascertain how the different groups of Russian respondents who were interviewed themselves conceptualised these rights (see Appendix One for a list of interviews conducted). A number of interviews were conducted with representatives of Russian NGOs which identify themselves as engaging in human rights activism and which often had substantial experience of working with international donors such as the EU and US government agencies and foundations such as USAID.

These respondents expressed a range of opinions which indicated that, rather than subscribing

to a broadly similar definition of what economic and social rights mean and of their significance, or lack of it, they in fact conceptualised economic and social rights in very different ways. This was despite the fact that they engaged in quite similar and frequently overlapping activism in support of what they defined as ‘human rights’ issues which tended to concentrate on the civil and the political such as freedom of assembly or the prevention of torture, and that they were frequently acquaintances in the close-knit Russian human rights community. They also acknowledged that economic and social rights were far more prominent in the public eye than the more ‘liberal’ concepts of civil and political rights which they were engaged in promoting. Yet, as will be discussed below, this acknowledgement was on occasion tinged with a hint of disdain for the Russian public and their seeming lack of understanding of what ‘real’ human rights should mean.

One respondent, a veteran human rights activist from St Petersburg who has been a prominent figure in local civil society since the early 1990s, began by talking at great length about the various human rights problems she and her colleagues worked on, all of which related to aspects of civil and political rights issues such as the right to hold demonstrations and the need to improve prison conditions. When, however, she eventually turned to the issue of economic and social rights, she revealed a strong view on the meaning and importance of such rights:

As far as social rights are concerned...in areas such as pensions, education services, medical services, social and cultural services etc – the fact is that the word ‘guarantee’ has been replaced with the word ‘assistance’ – and these are completely different things. So that’s a human rights violation. Before you start speaking about civil rights you need to feed the population and social rights are more important. You have to start with social rights, the right to work, the right to life, the right to a decent standard of living and so on. Civil rights will only appear in a society which has already realised social rights. (Nadya, human rights activist, St Petersburg)

This view that the former system of social rights guaranteed by the state have been replaced by a far more conditional and uncertain system of social ‘assistance’ reflects some of the issues first raised in Sections 1.7 and 1.8 concerning the re-imagining of the role of the state in relation to economic and social rights and the extent to which such rights have lost some

of their power as moral entitlements in the context of contemporary neoliberalism and austerity. It also indicates that these issues resonate in a Russian as well as an EU context, despite the fact that, as mentioned above, the Russian Constitution in theory makes an unequivocal commitment to upholding various social ‘guarantees.’ The idea that the system of welfare provision in Russia has moved from one of rights entitlements to ‘handouts’ is one that appears to be shared by another veteran human rights activist, Lev Ponomarev, head of the ‘For Human Rights’ [*Za prava cheloveka*] NGO. In a recent commentary on ‘the destruction of the social state in the Russian Federation,’ he claimed that,

At the moment Russia has a system of distributing socio-economic handouts and benefits, but there are no guaranteed rights. Neither decent medical care, nor education, nor a roof over one’s head are guaranteed...There are no reliable democratic mechanisms for defending social rights. (Ponomarev 2013)

This indicates that some of the more experienced human rights activists have a very clear-sighted view of the nature of economic and social rights and the extent to which they are currently being compromised in the contemporary Russian context. Despite her strong stance on the meaning and importance of economic and social rights, however, Nadya’s position encapsulated a possible contradiction which also came to light during other interviews with longstanding human rights activists, many of whom were friends and colleagues of hers: namely, that they acknowledged explicitly that the bulk of their work concentrated on issues and campaigns which were of little or no interest to the general public. Nevertheless, the idea that the implementation of social rights either preceded or should precede civil and political rights was also expressed by another human rights activist who was not part of the former ‘dissident’ generation and was working in a very different location – the town of Ryazan near Moscow:

It’s more important to resolve everyday problems. The most important social issue is the right to housing. This affects the disabled, orphans, the poor...it’s very important to them that this problem is resolved, they won’t think about civil or political rights until they have a roof over their heads. (Dmitriy, human rights activist, Ryazan)

Such an understanding of the positioning of economic and social rights stands in stark contrast to the neoliberal concept of human rights outlined in Chapter 1 which only

encompasses the civil and political rights of the individual (Falk 2008). By arguing that economic and social rights must precede civil and political rights, it also challenges the influential characterisation of human rights first articulated by Vasak (1977) as developing in three consecutive ‘generations.’ This included the first generation of civil and political rights from the 18th century onwards; the second generation of economic and social rights which began to be articulated in the late 19th and early 20th centuries; and the third generation of rights such as the right to development and self-determination of the late 20th century. Yet it is a position which is in many respects much more in tune with the previously mentioned Soviet-era ‘culture of rights’ which emphasised the importance of economic and social rights, although certainly neither of these human rights activists would have wished to deny the importance of civil and political rights and indeed much of their work focused on these particular rights. As with the organisation Nadya represented, the NGO Dmitriy worked for had previously focused exclusively on more ‘liberal’ human rights issues such as freedom of speech but had been working since 2009 on a project aimed at upholding the right to state-subsidised housing for teenagers leaving the care system and to respite care for children with disabilities. The organisation also stood out amongst the human rights NGOs contacted for this study since in its publicity materials it declared its work in the area of defending orphans’ and invalids’ rights to be part of its ‘strategic human rights work,’ thus making it clear that for them these issues constituted part of the broader concept of ‘human rights.’ As Dmitriy’s colleague pointed out, this approach had led to a change in the way their organisation was perceived by the public:

When the human rights that we promote remain abstract in the public sphere we get a lot of criticism accusing us of taking American money, of not understanding anything, of engaging in politics – they [the public] do nothing but criticise us. But when we changed our strategy and started to talk in more concrete terms about problems which apply to people more broadly, within six months the criticism of us had virtually stopped. (Tanya, human rights activist, Ryazan)

This again raises the idea of a distinction between ‘abstract’ human rights and what Dmitriy called the ‘everyday’ problems which mean that ‘economic and social rights are closer to people.’ In addition, some respondents representing human rights NGOs were quick to identify specific violations of social and economic rights which they believed to be a problem

in contemporary Russian society, with the issue of the low rate of the state pension being perhaps the most prominent:

Violations of social rights are happening not just at the municipal level, they're happening all over the country. This is connected above all with pension reform, up until now the pensions we've had have been so small that they barely meet the minimum level of subsistence, which for us is 5,500 Rubles, so \$200. That's the level of subsistence. And that's it. And you have to dress and feed yourself and pay for communal housing services and utilities with this. (Nadya, human rights activist, St Petersburg)

If we're talking about economic rights, then in actual fact pensions in Russia are not very big, at the moment we have a minimum pension of around 6,000 Rubles, so very little, and the maximum is around 25,000 Rubles but that's only for disabled army veterans who are aged over 80 and, of course, for state officials – they retire early and have very good pensions. So all the rest, that is the majority, get \$200-250. And at the same time we have very high rates for communal housing services and utilities. So the elderly are living in dire poverty. (Svetlana, human rights activist, St Petersburg)

One of these respondents also identified the issue of labour rights and the right to form and join a trade union as a major problem and something which her organisation had recently come to focus on:

Last year one of our main projects was protecting the rights of trade unions. This is a very serious matter because we have this so-called Trade Union of the Russian Federation which has been completely absorbed into the existing power structure and so I personally wouldn't describe them as people who are really battling for their members' labour rights. So other trade unions have been quietly springing up, they have the right to exist but unfortunately they are not part of this official union. These new unions need legal assistance and protection for their leaders, who are subjected to physical threats. (Nadya, human rights activist, St Petersburg)

Overall, then, it appears that even those activists who have spent the bulk of their professional work engaged in projects promoting civil and political rights issues had a clear

understanding of what economic and social rights meant, were able to acknowledge their importance to the wider public in Russia, and could point to clear examples of violations of these rights. Not all the respondents from this type of organisation, however, held this view. Some maintained that social and economic rights were not on a par with civil and political rights, a view in line with that expressed by Cranston (1983), whereby economic and social rights are not seen as universal rights because they do not pertain to every human being, but rather are rights belonging to certain groups of people such as workers who pay in to social security systems. As a result, these rights become 'earned or acquired' rights as opposed to the individual and universal right to life and liberty:

The government can hand out a big pension or a small pension, that's its choice, but this does not make it an inalienable right like the right to life, the right not to be tortured or the right to a private life. (Sergey, human rights activist, Nizhniy Novgorod)

This same respondent and several others expressed frustration with, or even contempt for, the supposed failure of the Russian people to understand what human rights 'really' mean. According to Sergey, who represented a human rights NGO which has worked on numerous projects with international donors:

People [in Russia] don't understand what human rights are, and at times human rights depend on how socially useful they are to people. With human rights everyone has them equally, a citizen can be socially useful or socially harmful but regardless of this he is still a person and there is a certain fundamental basis which cannot be violated. But people don't understand this, and it hasn't become a value which they hold. Bad people must be beaten, bad people must be killed. That's the understanding of human rights. (Sergey, human rights activist, Nizhniy Novgorod)

Another respondent also expressed disdain for what she called the 'Russian mentality' and the public's failure to understand the 'real' meaning of human rights:

Old people live in dire poverty. But they still support the authorities and vote for them every time, they're given presents before the elections. But then that's the mentality of an old person used to Soviet times, unfortunately. In Soviet times we didn't have any human rights, and now I think many people don't understand

what human rights mean. And then of course you have the Russian mentality – to hope for a tsar-figure, for a ruler of some kind. (Svetlana, human rights activist, St Petersburg)

This view coincides with the previously mentioned assumption that the idea of ‘human rights’ was alien to the Soviet system. It also indicates that for some human rights activists there is a very clear and strict definition of human rights which is confined to the civil and political and which does not include more ‘mundane’ but widely-felt issues relating to people’s standard of living. It thus seems clear that there is to some extent a lack of consensus amongst what some respondents called the ‘old-school,’ dissident-led human rights organisations over the meaning of social and economic rights and, even though almost all acknowledged that such ‘everyday’ rights were of greater interest to the public, not all saw this as a positive or desirable situation. Even where such organisations were able to pinpoint concrete violations of social or economic rights and were engaged to some degree in addressing such violations, the vast majority of their work continued to focus on more ‘liberal’ rights issues.

Despite Nadya’s apparent conviction that social and economic rights were of the utmost importance and her work on trade union rights, it is worth noting that in the annual report for 2010 compiled by the organisation she is chiefly involved with, the St Petersburg Human Rights Council, the vast majority of the report focuses on issues relating to violations of the right to life, media freedom and human dignity, with the only issue mentioned which relates to economic and social rights being ‘the right to social security,’ which is relegated to a small section at the report’s end.⁷³ The Council’s report for 2011, which is the most recent available, makes no mention of economic or social rights issues whatsoever.⁷⁴ Where the human rights NGO in Ryazan is concerned, much of its work related to conducting historical research on victims of the Stalinist repression in Russia, and there appeared to be a lack of consensus between the two colleagues interviewed over the importance of their work on social rights. While Dmitry was directly involved in this project and keen to highlight its importance, Tanya did not seem very interested in discussing it and preferred talking about the work she had done on issues such as media freedom with their international partners.

⁷³ ‘Doklad o polozhenii del c pravami cheloveka v Sankt-Peterburge v 2010 godu’ [in Russian], St Petersburg Human Rights Council 2011, http://www.hrcspb.ru/UserFiles/File/pravo_2010_int_2.pdf

⁷⁴ ‘Doklad o polozhenii del c pravami cheloveka v Sankt-Peterburge v 2011 godu’ [in Russian], St Petersburg Human Rights Council 2012, available at <http://www.hrcspb.ru/page/page16.html>

4.5 Human rights NGOs: consigned to the margins?

This leads to an issue which was raised time and again by a range of representatives of more socially-oriented NGOs, academia and even some human rights NGOs themselves, namely the idea that the ‘old-school’ human rights NGOs of the kind represented in this study had become increasingly isolated and alienated from society at large in part due to their decision, or at least their perceived decision, to focus on more ‘abstract’ civil and political rights issues over those connected to economic and social rights. This issue merits further examination since, as Chapter 7 will discuss in more detail, such NGOs continue to dominate EU lobbying and funding networks yet appear to have largely failed to engage the public’s attention (Klitsounova 2008). A number of respondents highlighted the legacy of the involvement of many veteran human rights activists in the Soviet-era dissident movement, pointing to how this has influenced both their understandings of what human rights stand for and their approach towards pursuing their goals in the post-Soviet period. One respondent argued that social rights had become discredited in the eyes of some of these human rights activists due to their perceived links to the Soviet regime, leading to divisions between those civil society actors working on civil and political rights campaigns and those involved in more socially-oriented work:

Social rights are still seen as being left-wing or Communist. That’s been the agenda since the Cold War, when it was based on bourgeois rights as being liberal and Soviet rights as being economic. And it’s stayed that way ever since. When people start working on social and economic rights...this division is damaging. There’s no need to separate them in this way, it does no good if you do, but nevertheless people, including human rights activists, continue to do so. (Pavel, academic, St Petersburg)

This links back to an issue first raised in Chapter 1, namely the idea that economic and social rights are frequently seen as more ‘politicized’ than civil and political rights and that their association with left-wing ideologies is sometimes used as an argument against their universal applicability. In the Russian context, given the primacy of economic and social rights and the role of the state in the official Soviet discourse on ‘rights,’ it is perhaps hardly surprising that, as previously mentioned, during the late Soviet and post-Soviet period human rights activists adopted and to a large extent have continued to adopt a more classically ‘liberal’ discourse of human rights which sees the role of the state as more limited in relation

to human rights.

In addition, Lipset and Dobson (1972:152) point out that this particular group of activists came to see themselves as being both ‘the conscience of the nation’ and as constituting an educated elite which was isolated within society during the late Soviet period, thus setting themselves both apart from and, in some respects, above the rest of society. Mendelson and Gerber (2007:51) argue that this elitist approach has continued well into the post-Soviet period and claim that post-Soviet human rights groups target ‘...their own group members, not potentially sympathetic constituents who might be mobilized. Purity and principle take precedence over strategy and action.’ Often, however, keeping to this approach was seen by those operating outside the close-knit community of human rights NGOs as having negative consequences for their ability to connect with the public in the contemporary context and to understand the public’s conception of rights, particularly when combined with the fact that many of these former dissidents were perceived as continuing to form some sort of exclusive clique. According to one respondent, for example, who ran a much more socially-oriented NGO working on children’s welfare issues:

It’s the old Sakharov⁷⁵ band, they all know each other and they’ve all known each other for hundreds of years. Part of it is the way that rights discourse is used here and so much of it comes out of that old school, the language and the actions of the dissidents fighting against the big power, but that big power is no longer there. And no matter what you think about Putin he is not the Soviet Union, he is not the Communist Party, he is not all of that old stuff. They’re incredibly defensive, very ‘why can’t you understand?’ and it’s partly because the world has changed and they haven’t, that’s what it is unfortunately, and maybe what they do and the way they do it just isn’t needed any more. (Nadezhda, children’s charity manager, St Petersburg)

As Chapters 5 and 7 will examine in more detail, there was a clear perception amongst respondents representing more socially-oriented NGOs of the type Nadezhda worked for that, while the ‘old-school’ human rights activists spent their time railing against the authorities

⁷⁵ Andrei Sakharov was a leading Soviet dissident and human rights activist who in 1975 was awarded the Nobel Peace Prize. See for example ‘Personality and Destiny of Andrei Sakharov,’ The Andrei Sakharov Museum and Public Center, <http://www.sakharov-center.ru/museum/expositions/english/sakharov-personality-destiny/>

but garnering little public or media attention, they simply ‘got on with things’ in terms of trying to meet the needs of those they were committed to supporting. The idea that a large part of the problem for these human rights activists was the type of rights discourse they employed was one which was shared by a number of other respondents, including one who was well-acquainted with several prominent human rights activists in St Petersburg and elsewhere:

Human rights activists and workers don’t speak the same language...human rights has become an intellectual amusement for the small, educated middle-class which is kept within the walls of our institutes, universities and cultured society. As a result, it rarely gets beyond the limits of this community. The problem is that where defending human rights is concerned we have already created a kind of professional elite of top managers. (Pavel, academic, St Petersburg)

This criticism of the type of discourse employed by human rights activists in Russia raises the question of how international human rights concepts are ‘translated’ into local contexts (Merry 2006). While the type of rights discourse utilised by some Russian human rights activists is undoubtedly influenced by any experience they may have had of dissident activity during the Soviet period, it is also shaped by the aims and objectives of those international donors such as the EU and USAID which have funded human rights and other civil society projects in Russia since the collapse of the Soviet Union in 1991, something which will be explored in more detail in Chapter 5. Bruno (1998: 171), for example, talks of the ‘complex system of patronage, social relations and survival strategies’ which developed between international donors and Russian civil society actors who were the recipients of aid in the early to mid-1990s, several of whom continue to be so. Bruno argues that, rather than being a one-way street in which ‘Western’ values and methods of working were simply transmitted to the Russian context, this relationship was in fact frequently exploited or manipulated by Russian aid recipients. Nevertheless, as previously mentioned, in terms of human rights norms specifically many human rights activists looked to international human rights NGOs and Western governments and foundations for support and guidance during the late Soviet period, and arguably have continued to do so, partly because there has been so little domestic private or public funding for human rights activities during the 1990s and 2000s.

According to Merry (2006), who has explored the role that local activists play in transmitting

international human rights norms to more local contexts, these ‘translators’ of global human rights concepts benefit from their mastery of the discourse on rights employed by donors and thus become recipients of their funding, but must also frame this discourse in a way that is acceptable to the local community. As a result, ‘...translators work within established discursive fields that constrain the repertoire of ideas and practices available to them...as they scramble for funds, they need to select issues that international donors are interested in...and connect these agendas to problems that interest local populations’ (Merry 2006:40-42). Naturally this is no easy task for human rights activists in Russia, particularly given that, as Chapter 5 will discuss further, the political context in which they must operate has hardly been conducive to their ability to carry out their aims and objectives.

Nevertheless, it appears that, while they may indeed have become adept at replicating the rights discourse employed by international donors and human rights NGOs which tend to emphasise civil and political rights, they have been far less successful in framing their campaigns in ways which do indeed resonate with local agendas. As Klitsounova (2008: 5) points out, ‘they are unlikely to succeed in reaching the Russian public and becoming a catalyst for human rights policy change unless they manage to convert their claims and agendas into messages that resonate with norms that are already widely accepted by Russians.’

What is less clear is the extent to which this apparent lack of success has been intentional or not. Several of the academics interviewed for this study expressed the view that human rights activists were motivated by quite rigid ideological concerns and values:

Our human rights activists are not oriented towards society in terms of their agenda. This lack of a social agenda is a problem for me, you have to put money towards improvements, education...There are some very strong fundamentalist tendencies in our human rights community. I would say it’s a kind of liberal fundamentalism. (Pavel, academic, St Petersburg)

Several saw this ideological rigidity as putting human rights activists at odds with what mattered to the wider public and thus making their activities increasingly irrelevant:

The mistake made by some of our human rights activists is that they focus their attention on this group of rights which, from the perspective of the hierarchy of needs which the average Russian citizen has, are in the very last place. So concentrating on this category and avoiding or ignoring problems which affect the average Russian man on the street on a daily basis allows the majority of Russians to become alienated from the human rights movement. They focus their attention on electoral and individual rights and freedoms such as the right to protest and demonstrate, the right to express one's opinion, freedom of conscience and so on. Human rights activists must choose: they can defend only those ideals which mean something to them, in which case most of the public will not be on board, or they can include some element of rational populism in their plans and calculations. (Andrey, academic, St Petersburg)

This view is interesting because it again raises the issue of a divide between the 'abstract' concerns of human rights NGOs and the more 'everyday' concerns of the average 'man on the street,' but also posits the idea of a 'hierarchy of rights' or needs existing in Russia which may differ from those in place elsewhere. This view that focusing on civil and political rights only led to isolation from the mainstream of public opinion was also shared by another respondent:

These [human rights] groups are oriented towards political and civil rights, and so they find themselves in isolation. And to some extent it's self-isolation. This came about because of tradition, they'd been working on political rights since the Soviet period. But the fact remains that these organisations are isolated. Groups such as the Soldiers' Mothers,⁷⁶ for example, are connected to problems such as political rights, individual freedoms and civil rights. But because the issues they work on have a specific social resonance and they affect a large number of people they have achieved much greater popularity and authority with the public.

⁷⁶ The Committee of Soldiers' Mothers of Russia is a national NGO with branches in most of Russia's regions which was set up in 1989 to defend the rights of conscripts and others serving in the Russian military (<http://ksmrus.ru/>). Military service is compulsory in Russia for men aged 18-27 but poor living conditions and abuse of new recruits are rife in the armed forces. For further details see 'How to Dodge the Draft in Russia,' Marina Kamenev, Time, March 30th 2009, available at <http://www.time.com/time/world/article/0,8599,1888238,00.html>; 'Hazing on rise in Russian armed forces,' RIA Novosti, 27th July 2010, available at http://en.rian.ru/military_news/20100727/159963922.html

Memorial and Citizens' Watch⁷⁷ and the Moscow Helsinki Group exist in their own world. (Vadim, academic, St Petersburg)

In some respects this criticism of the 'old-school' human rights NGOs may not be entirely fair: from 2009 to 2011, for example, Citizens' Watch ran a project entitled 'Strengthening Access to Justice for the Poor in the Russian Federation' which set up 10 legal aid centres in the Leningrad and Perm regions.⁷⁸ Support was targeted at the poorest and most vulnerable groups in the participating regions including the disabled, war veterans and other pensioners, children, the unemployed and the homeless. In addition, the commentary by Lev Ponomarev on 'the destruction of the social state in the Russian Federation' cited previously indicates that there is some interest in economic and social rights issues on the part of even these activists and organisations. Yet once again it comes down to an inability or unwillingness to draw attention to this work in the same way that campaigns focusing on civil and political rights issues are publicised.

In terms of how respondents who represented more socially-oriented NGOs perceived the approach taken by their more explicitly human rights-focused colleagues, several highlighted what they saw as the negative stance towards any interaction with local or federal government often taken by human rights activists which contrasted with their own need to cooperate with the local authorities in order to resolve various social problems and their desire to 'get things done':

The human rights activists always talk about the system's failures, but I'm trying to get results...they're always able to talk about how bad things are: ok, we don't have an infrastructure, there's a lack of access to this and that. But you can talk about concrete things, how you would resolve them if you were doing it. Just to say that everything is bad when even in this bad situation you can find laws, mechanisms, steps and so on which could actually help to resolve the issue...because our organisation operates in the social sphere I cannot ignore the authorities like the human rights activists do, I have to work with them, I ask them for help. (Anya, NGO manager, St Petersburg)

⁷⁷ Citizens' Watch (Grazhdanskiy Kontrol') is a St Petersburg-based NGO which describes its mission as 'bringing the Russian legislation related to human rights and the practice of its application closer to international legal standards' (<http://www.citwatch.org/en/>). It is headed by veteran human rights activist Boris Pustyntsev.

⁷⁸ For further details see 'Strengthening Access to Justice for the Poor in the Russian Federation, Citizens' Watch, <http://www.citwatch.org/en/projects/1/>.

They're just banging on the table and shouting at the government about how rubbish they are without gathering an evidence base, without proving, showing, demonstrating – and without offering constructive suggestions that are also backed by evidence, there's no reason why the government should listen to them. (Nadezhda, children's charity manager, St Petersburg)

In some respects a lack of willingness on the part of some human rights activists to engage with institutions representing the state is not entirely surprising given that so much of the dissident movement was predicated on opposition to the authorities and their discourse on what 'rights' and legality should mean. As Horvath (2005:84) points out, 'the characteristic dissident notion of legality...was founded upon the citizen and his rights, not upon the prerogatives of the state.' The idea of a division between the 'old-school' human rights organisations and the more socially-oriented NGOs working with the wider community and the authorities to try to effect change was also raised by a human rights activist, who made it clear that in her view human rights NGOs and 'social' NGOs were operating in separate spheres:

Social organisations are a different sphere, they work directly with various social groups such as children and families and so on. They offer an open service for immediate rights, working with vulnerable groups. Everyone does their own thing. (Lyuda, human rights activist, St Petersburg)

In this particular instance the respondent is again making reference to the concept of 'immediate' or 'everyday' rights which relate to social organisations, as opposed to the presumably more distant or abstract set of rights promoted by her type of human rights NGO. Yet drawing such a distinction reinforces the idea that this more 'social' work may have a rights aspect to it but is not the same as the 'human rights' work being carried out by Lyuda and her colleagues. In this sense it may only serve to reinforce the self-isolation of this type of organisation and to reinforce barriers between those organisations identifying themselves as human rights groups and those engaging in more socially-oriented work which nevertheless can have a strong rights component to it.

4.6 Conclusions

This chapter has sought to explore an area of human rights research which has received relatively little previous attention but is nevertheless fundamental to the aims and objectives

of this study, namely the ways in which the respondents involved in this project and to some extent the wider Russian public construct the meaning of economic and social rights, and the influence of the Soviet-era culture of rights on these constructions. It has also sought to explore some of the differences in these constructions and subsequent variations in methods of working and the choice of discourse employed which exist between some of the longer-standing Russian human rights NGOs and those which engage in more directly 'social' work in the community. One of the key findings has been that, while there is widespread recognition amongst both types of organisation that economic and social rights are of considerable importance to the wider public, there is a far lesser degree of consensus on the meaning and importance of these rights when it comes to the positions taken by some of those NGOs which identify themselves explicitly as 'rights-defending' [*pravozashitnye*] organisations. This is not to say that representatives of such organisations did not support the idea of economic and social rights as worthy and important. Indeed, several of the human rights activists interviewed had themselves worked on projects which could be seen as directly linked to the promotion of these rights. Yet in terms of where such rights stood in within the overall 'hierarchy' of human rights, they frequently seemed to struggle to give them the kind of prominence which these rights appear to occupy in Russian society outside the relatively small community of human rights activists. This has clear implications in terms of their ability to garner public support for or interest in their campaigns, but also for the EU's strategy towards promoting human rights in Russia since it maintains such close links with these organisations. This theme will be returned to in Chapter 7, but first Chapter 5 will examine in more detail conceptualisations of the role of the State in relation to economic and social rights, and the relationship between the types of Russian NGO which are the focus of this study and the institutions of the Russian state.

Chapter Five

The State, rights and civil society in Russia

5.1 Introduction

The purpose of this chapter is to examine in greater detail two themes which first emerged in the preceding chapters, namely the ways in which the Russian and EU respondents involved in this study conceptualise the role of the State in guaranteeing economic and social rights; and the ways in which civil society actors such as human rights and more socially oriented NGOs view interaction with State structures such as local government and state-supported structures such as the institution of the regional human rights ombudsman. The chapter demonstrates that there appears to be some degree of consensus amongst the various Russian, EU and Member State respondents and institutions regarding the role of the State in guaranteeing economic and social rights both in Russia specifically and in a more abstract context.

Yet, where cooperation with explicitly or implicitly state-sponsored institutions is concerned, opinion regarding the merits of such cooperation is divided amongst representatives of different groups operating within Russia's civil society sector, between the separate groups of Russian and EU/Member State respondents, and amongst the EU and Member State representatives interviewed. Where the approach taken by human rights NGOs and those engaged in more explicitly 'social' work is concerned, this lack of consensus on relations with the State is particularly marked: socially oriented NGOs generally adopt a highly pragmatic and cooperative position on engagement with local authorities and other State bodies, with human rights NGOs tending to take a more oppositional stance.

The chapter begins with a discussion of some of the perceptions of the State's obligations in guaranteeing economic and social rights as expressed by various respondents representing a range of Russian civil society organisations. This discussion is situated in the context of both the influence of the centrality of the State in the lives of its citizens in the Soviet period and of more recent government social policy which has attempted in part to re-position the State as the key provider of social services. The chapter then goes on to engage with some of the theoretical debates surrounding the relationship between the State and civil society, before

applying some of these theories to the approaches taken by various human rights and socially-oriented NGOs towards engagement or non-engagement with the State.

5.2 The role of the State in securing economic and social rights in Russia

Prior to exploring the ways in which various respondents conceptualised the role of the State in securing economic and social rights, it is worth reiterating that the concept of ‘the State’ as some form of unitary actor or singular idea is a highly problematic one. Scholars such as Kapferer (2005) and Migdal and Schlichte (2005) have warned against over-emphasising the autonomy and coherence of the State as an actor, and highlight instead the blurred boundaries between state and society, and the diversity and complexity of the practices and processes that constitute ‘the State.’ For the purposes of this study, however, the focus is on how the State is perceived, rather than attempting to investigate what constitutes the State: as Migdal and Schlichte (2005: 15) point out, both state actors and non-state actors “see’ the state in a particular way; they have a mental picture of it as an integral unit, a way of conceiving what it is about and in which kind of affairs it plays or should play a role.’ This is certainly true where economic and social rights are concerned, since various Russian respondents appeared to see the State as the key actor when it comes to guaranteeing such rights or providing social services, and emphasised its central place in the public’s conception of the relationship between state and society:

Here we have above all a sense of collective solidarity, that means the state, society, in the Soviet period it meant the party and as a result we have values such as solidarity and collectivism. (Andrey, academic, St Petersburg)

The question of social and economic rights rests on the Soviet legacy, and the idea that the state must provide everything that’s necessary. People make a connection between these perceptions and paying taxes, so it’s perfectly possible not to pay taxes but still make demands on the state. People hide their income from the government, but at the same time they demand certain guarantees from the state. (Pavel, academic, St Petersburg)

Yet it was not simply the Russian respondents who saw the role of the State as crucial in guaranteeing economic and social rights. As will be discussed in Chapter 6, in rhetorical terms at least certain EU institutions appear to see the State’s role as being of particular relevance to the realisation of ‘group’ or collective rights such as fundamental social rights:

Fundamental social rights...mean rights to which the individual citizen is entitled, which he can exercise only in his relationship with other human beings as a member of a group and which can be made effective only if the State acts to safeguard the individual's environment...in contrast to civil rights and liberties, this means that it is not freedom from the State that is achieved, but freedom with the State's help. (European Parliament Working Paper: Fundamental Social Rights in Europe 2000)

Guaranteeing an individual's social rights thus requires the State to take concrete, although in this case unspecified, action to protect its citizens and help them to achieve 'freedom,' albeit a different form of freedom from that offered by the realisation of civil and political rights and liberties. One EU Member State representative went even further than this particular statement in linking not just economic and social rights, but human rights as a more general concept very clearly to the actions of the State which, in her view, requires Russian human rights NGOs to engage more with State structures in order to effect change:

Human rights are about the state's responsibility, so if you're a human rights activist what you want to do is influence the state to take some action. So if I was a human rights activist of course on the one hand I could go out and demonstrate in favour of freedom of assembly or whatever, but I would also like to engage in political dialogue with the authorities, be it the ombudsmen, federal ombudsman, be it the human rights council, be it whatever. These things have to happen on the national level, on the domestic level and that is how I see the role of human rights activists. (Christina, EU Member State diplomat, Moscow)

It seems, therefore, that while there may be an overall lack of consensus amongst some of the Russian and EU/Member State respondents on both the meaning and importance of economic and social rights, there is at least a degree of agreement regarding the role played by the State in relation to such rights. Yet in a specifically Russian context the State's role may be perceived as even more prominent given what several respondents referred to as the Soviet 'legacy' of emphasising the centrality of the State in political and social life and on economic and social rights over civil and political rights. Indeed, the idea that this legacy continues to exert a major influence on public expectations of the State's role is one that was raised on several occasions by the Russian respondents interviewed for this study, regardless of the type of organisation they represented.

In many ways this is perhaps not surprising: the Soviet Constitution of 1977⁷⁹ clearly placed economic and social rights such as the right to labour, healthcare and housing at the top of its ‘hierarchy’ of rights, and enshrined the vital role of the State in guaranteeing such rights (Hawkesworth 1980; Dean 1980a), leading to the State assuming full responsibility for providing social services and benefits to Soviet citizens (Cook 2007a; Orenstein 2008). The collapse of Communism in Russia brought political and economic reforms which dismantled various welfare structures and introduced privatization, market mechanisms, decentralization and reductions in state subsidies and entitlements (Sajo 1996; Cook 2007a), a liberalising policy trend which largely continued during current President Putin’s first term from 2000-2005 (Cook 2011). His reforms to the pension and social benefits systems indicate a high level of continuity with the reforms of the Yeltsin era (Hemment 2009) and, according to Cerami (2008:106), were aimed at introducing ‘a residual, neo-liberal-oriented model of welfare arrangement.’

Such measures were very much in line with the trend in economic and social policies in various European countries from the early 1990s onwards to redefine the relationship between the State and the individual by emphasising personal rather than state responsibility for welfare provision (Soysal 2012; Dean 2007) since they attempted to re-allocate responsibility for welfare provision from the state to individuals and markets (Cook 2007a; Henry 2009). Many scholars argue, however, that, despite these changes in the formal role of the state in providing welfare, the wider Russian public continues to see the State as the first port of call for solving social problems. Crotty (2003), for example, claims that the population continues to rely on the State as a ‘caretaker,’ while Domrin (2003:201) argues that ‘...in the Russian interpretation...the state is responsible for maintaining social justice and approximately equal levels of material wealth for its citizens.’ This appears to be supported by polling data from 2010, which indicates that 77% of those surveyed thought that ‘the State should care more about its people,’ while only 12% believed that ‘people should act on their own initiative and take care of themselves.’⁸⁰ Indeed, as mentioned in Chapter 4, in January 2005 an attempt by the government to reduce the state’s obligations in the social sphere, by

⁷⁹ See Appendix 6 for the text of the relevant Article of the 1977 Constitution

⁸⁰ ‘Kakoi printsip otnoshenii mezhdou gosudarstvom i evo grazhdanami vy by lichno podderzhali?’, Levada Centre, 2011, available at <http://www.levada.ru/archive/gosudarstvo-i-obshchestvo/grazhdane-i-vlast/kakoi-printsip-otnoshenii-mezhdou-gosudarstvom-i->

replacing various ‘in-kind’ social subsidies for housing, healthcare and transport dating from the Soviet era and paid to groups such as pensioners and the disabled with lower-value cash payments, led to the largest public demonstrations against the government in a decade (Buckley and Ostrovsky 2005; Wengle and Rasell 2008).

These public expectations have not gone unnoticed by Russia’s power-brokers: from 2005 onwards the then-Putin administration started to move away from a more explicitly market-based social policy and tried to portray itself as a champion of social rights issues with the launch of a series of ‘national priority projects’ aimed at raising standards in four key policy areas: healthcare, housing, education and agriculture.⁸¹ Cook (2011:23) argues that these national projects and other policy initiatives were part of an attempt to re-introduce a statist model of welfare by providing the State with a more ‘activist and interventionist role’ in welfare provision. This attitude towards the State’s role in the lives of Russia’s citizens is not, however, one that has been held consistently by the presidential administration: in 2009 the then-incumbent Dmitriy Medvedev criticised what he described as the Russian public’s ‘paternalistic attitudes,’ which he claimed were ‘widespread in our society:’

There seems to be a certain conviction that the State should solve every problem...the desire to ‘do something oneself,’ to achieve personal success step by step is not one of our national characteristics. That leads to a lack of initiative and new ideas, unresolved issues and a low level of public discussion.⁸²

Yet since Putin’s re-election as president in February 2012 his approach of flagging up his intentions to uphold social rights in order to appease public protests appears once again to be coming to the fore. This is demonstrated by a recent article written in response to large-scale political demonstrations across Russia in late 2011 and early 2012 protesting against electoral fraud committed during the country’s parliamentary elections in December 2011.⁸³ While stating his commitment to ‘genuine democracy,’ Putin also claimed:

⁸¹ ‘Kak rozhdalis’ ideya natsionalnikh proektov?,’ Presidential Council on Implementing National Priority Projects and Demographic Policy, 16 March 2006, available at <http://www.rost.ru/main/what/01/01.shtml>

⁸² ‘Rossiya, vperyod! Statya Dmitriya Medvedeva,’ Official Site of the President of Russia, 10 September 2009, available at <http://президент.рф/news/5413>

⁸³ See for example BBC News, ‘Moscow protest: Thousands rally against Vladimir Putin,’ 25 December 2011, available at <http://www.bbc.co.uk/news/world-europe-16324644>; RIA Novosti, ‘Russians Rally as Putin Hints Reforms, Warns of Regime Change,’ 4 February 2012, available at <http://en.rian.ru/society/20120204/171125937.html>

In terms of which rights people consider to be their priorities, the right to employment (and with it the right to earn an income), the right to free healthcare and education for children are a long way ahead at the top of the list. Restoring and guaranteeing people these rights has been the key objective of the Russian state.⁸⁴

While in a meeting with Russia's regional human rights ombudsmen in August 2012 Putin made clear his views on the role of the state in securing various rights by telling his audience that,

The state is doing a great deal to protect the legitimate rights and interests of its citizens. In fact, this is the main goal of any state and executive authority at any level, be it municipal, regional or federal.⁸⁵

Interestingly, Putin makes a distinction here between his definition of 'legitimate' and, presumably, 'illegitimate' rights, implying that the state determines which rights are legitimate for its citizens and acts accordingly. He thus appears to be elevating economic and social rights to the position of 'legitimate' rights claims while civil and political rights issues as raised by those who participated in the protests such as the right to free and fair elections and even the very right to protest itself implicitly become 'illegitimate.' His decision to emphasise the centrality of the State's role in guaranteeing economic and social rights may thus simply be a political ploy, and indeed critics have pointed to the failure of the national projects to achieve their stated goals.⁸⁶ One respondent claimed that,

The government understands that this game with economic and social rights, giving the impression that Russia is a social state, is all just a kind of populist stunt. (Pavel, academic, St Petersburg)

This perception of the government's agenda as being a highly cynical one was echoed by an EU Member State representative, who questioned whether economic and social rights issues

⁸⁴ Vladimir Putin, 'Democracy and the quality of government,' Government of the Russian Federation, 6 February 2012, available at <http://www.premier.gov.ru/eng/events/news/18006/>

⁸⁵ Vladimir Putin, 'Meeting with regional human rights ombudspersons,' Official site of the President of Russia, available at <http://eng.kremlin.ru/transcripts/4299>

⁸⁶ Nezavisimaya Gazeta, 'Zabitiye Natsproekti,' 29 December 2009, available at http://www.ng.ru/economics/2009-12-29/1_nazprojects.html?mthree=1

were even ‘rights’ per se while also pointing to what he saw as an attempt by the authorities to ensure stability by focusing specifically on promoting these rights:

The Russian authorities today seek to address most issues of economic and social rights, not necessarily because those are rights but because that is what the people want and they will maintain stability. (Thomas, EU Member State diplomat, Moscow)

This view may help to explain the apparent reluctance of the EU and its individual Member States to engage in the explicit promotion of economic and social rights issues in their interactions with both government officials and civil society in Russia since it implies that such rights have become discredited in the eyes of the European donor community in Russia due to their co-optation by the Russian State. Yet, as discussed in the previous chapter, the continuing popularity of such rights amongst the wider Russian public and certain sectors of Russia’s civil society make this approach somewhat questionable. The Russian economist Yevgeniy Gontmakher has described this co-optation of economic and social rights as Putin’s ‘new social contract’ with the population in exchange for ‘society’s political indifference.’⁸⁷ The extent to which this ‘social contract’ can continue to hold is as yet unclear given the recent political protests and the fall in Putin’s usually high popularity ratings in 2012.⁸⁸ Nevertheless, it represents a significant shift in the rhetoric on the State’s role in welfare provision and, as Henry (2009: 52) argues, ‘can be seen as representative of a new discourse on the nature of the state’s responsibilities to the public and, by implication, the source of state legitimacy.’ Where actual policy implications are concerned, one respondent sounded a cautiously positive note regarding the impact of such rhetoric on her sector of child welfare:

Government policy [on child welfare] has changed over the last four or five years in the direction we want it to go and I don’t know to what extent that’s been due to organisations like ours getting our message across or to what extent it’s to do with the wider modernisation agenda of the Russian government or whether it’s to do with EU funding over the years which has been significant and which has

⁸⁷ ‘Doktrina Putina-1,’ Polit.ru, 22 October 2012, available at <http://www.polit.ru/article/2012/10/22/gontmakher/>

⁸⁸ In August 2012 the Levada Center conducted a poll asking ‘do you have a favourable or unfavourable impression of Vladimir Putin?’ 48% said they had a favourable impression of him, compared to 60% in May 2012 and 80% in April 2008. Data available at ‘V. Putin teryaet podderzhku i vliyaniye, vpechatleniye o nyom ykhuzhdayetsya,’ Levada Center, available at <http://www.levada.ru/17-08-2012/vputin-teryayet-podderzhku-i-vliyanie-vpechatlenie-o-nem-ukhudshaetsya>

helped lots and lots of key decision-makers at the federal and regional levels to consider and think about other options but it's all going in the right direction.
(Nadezhda, children's charity manager, St Petersburg)

This view reflects the pragmatic stance taken by some socially-oriented NGOs, whereby the process by which change or reform happens appears to be less important than the final, practical outcome. While the true intentions of the government's rhetoric may be unclear, based on some of the interviews conducted with this type of NGO it seems that it may to some extent be influencing policy development and this is borne out by the State's increased efforts to engage with a certain category of NGOs, as will be discussed below. At the same time, it is important to keep sight of the gap which exists between official rhetoric on social policy and economic and social rights entitlements, and the actual policies being pursued. Rivkin-Fish (2010:714), for example, points to the dangers of treating 'state claims as genuine intentions' where Russia's welfare regime is concerned and the broad range of ideological approaches informing welfare policy. The rhetoric reasserting the role of the State in the lives of its citizens and the importance of certain economic and social rights claims is in fact contradicted by two important factors.

The first of these is that, despite measures such as the National Priority Projects which appear to bring back a 'statist' approach to social welfare, the liberalising reforms of Putin's first term as president have not been undone. This has left Russia with a mixed system of welfare provision encompassing a public/private mix of healthcare services, a residual system of unemployment protection, a basic safety net of social assistance for the poorest in society and private markets in education and housing (Cerami 2008). The second factor is that even those policies which appear to explicitly re-position the state as the provider of certain social benefits may have an agenda which also conforms to a broadly or partially neoliberal approach.

One example of this is the *materinskiy kapital*, or maternity capital, payment introduced in late 2006 which is awarded to women who have had their second or subsequent child since 1st January 2007.⁸⁹ Part of an attempt to tackle Russia's demographic crisis, this policy is highly selective and, as Rivkin-Fish (2010:717) points out, 'largely circumscribed by pro-natalist

⁸⁹ See 'Informatsiya o materinskom (semyeinom) kapitale,' Pensionniy Fond Rossiiskoi Federatsii, available at http://www.pfrf.ru/family_capital/

assumptions about women and the nature of the ‘family’.’ As a result, Hemment (2009:36) argues that such policies do not constitute a rejection of the earlier liberalising reforms but instead form part of a policy of ‘Soviet-style neoliberalism’ whereby social welfare issues and ‘socialist-sounding claims’ are emphasised in official rhetoric but not matched by actual policies aimed at improving welfare provision. This approach of selecting elements of neoliberal and more socialist political discourse and policy and combining them in a curious hybrid is indicative of the Putin regime’s broader strategy of attempting to be all things to all people, a strategy which Matza (2009:495) argues combines a mixture of ‘...individualist, patriotic, liberal, neoliberal, and socialist discourses of the self.’

5.3 The State-civil society relationship in Russia

One of the key ways in which this changing rhetoric on the State’s role in providing welfare has influenced state-society relations has been the increased level of attention paid by the Putin and Medvedev administrations to the question of the State’s interactions with civil society organisations working on social issues. Prior to examining the practical implications this move has had on cooperation between certain state institutions and both socially-oriented and human rights NGOs, it is important to consider the Russian State’s engagement with civil society on a more theoretical level. Scholars such as Hale (2002) and Domrin (2002) have contrasted what they see as the Russian government’s more ‘statist’ concept of relations with civil society with the more liberal model prevalent in certain Western countries which, broadly speaking, sees civil society as consisting of organisations which exist and operate independently of the State. Under this statist model, state and society are interdependent and cannot be separated into two constituent parts. As a result, non-state society is seen as completing the State rather than diminishing or challenging it. This formulation therefore gives the State a key role in the establishment and activities of civil society organisations: Hale (2002: 309) argues that within this model ‘the state’s role is to protect non-state society, ensuring its continued existence, as well as to protect the interests of the state itself, which is seen as the embodiment of the nation.’

In several respects the argument that Russia’s government is pursuing this statist model in its relations with NGOs is borne out by various measures taken by the Putin and Medvedev administrations since 2005. One major new policy has been to increase the amount of state funding available for NGOs: from 2006 onwards the Kremlin has sponsored annual grant

competitions for NGOs which have largely focused on funding projects relating to health; youth; civil society development; socially disadvantaged groups; education; and culture (Henderson 2011). Although in 2010 human rights NGOs were added to the list of organisations eligible to receive government grants, the focus has very much been on assisting 'socially-oriented NGOs' (Kononova 2010). Richter (2009b:8) argues that this funding drive is part of the Kremlin's policy of making Russian civil society a 'coherent, ordered space where individuals assist the state in the interest of the whole.' This policy has been replicated at a regional level for NGOs providing certain essential social services and has begun to replace funds provided by Western donors who until 2005 were the main sources of financing for Russia's civil society organisations (McIntosh Sundstrom and Beznosova 2009). Yet, while endeavouring to create closer ties between the State and these 'socially-oriented' NGOs, Putin in particular has shown a somewhat hostile attitude towards those NGOs which explicitly promote human rights and/or political aims and rely mostly on funding from abroad. In May 2004 Putin (2004) used his annual address to the Federal Assembly to criticize such groups, saying that,

...not all of the organisations are oriented towards standing up for people's real interests. For some of them, the priority is to receive financing from influential foreign foundations. Others serve dubious group and commercial interests.

In 2006 new legislation on regulating domestic and foreign NGOs drew international criticism (RFERL 2006: 1; BBC News 2006) and prominent Russian human rights NGOs which receive foreign funding from abroad were accused of involvement in espionage (RFERL 2006: 1). In July 2012 Putin approved a new law forcing NGOs in receipt of funding from abroad and considered to be involved in political activity to register as 'foreign agents' and include this information in all promotional materials (BBC News 2012). Henderson (2011: 25) argues that this strategy is aimed at engaging and rewarding those NGOs who are seen as able to assist the State in delivering services, while alienating or ignoring those whose objectives are seen as running counter to those of the State: 'The Putin administration's strategy...has designed a complex of policies with which to select and encourage NGOs that are likely to support...national projects the Kremlin deems compelling and important. These policies reward the 'good' behaviour of NGOs that perform social services that can improve the social and economic well-being of the population.' At the same time, this fits with the

neoliberal approach of shifting responsibility for providing social services from the state to third-sector, voluntary organisations (Salmenniemi 2010).

These ties between the State, or state institutions, and more socially-oriented NGOs were mentioned frequently by respondents from organisations working in the social sector, who talked of their longstanding cooperation with local and sometimes federal authorities and the degree of input they had into social service delivery:

We work quite closely with regional governments so we've got partnerships at the moment with the Leningrad Oblast authorities, with St Petersburg, various *rayons* [districts] of St Petersburg, and we work at the city level as well. We've also got discussions going on in Moscow and we have quite a lot of requests for support in developing services but also training and education from various regions which, depending on what funding we have and they have, we can either fulfil or not fulfil. (Nadezhda, children's charity manager, St Petersburg)

Another respondent pointed to the necessity of such collaboration for socially-oriented NGOs if they want to realise their aims, which refers back to the point raised in the previous chapter about such NGOs taking a pragmatic stance towards dealing with the authorities in order to 'get things done':

Because we have a lot of projects that are connected to social services...we have to maintain a more restrained position [than human rights NGOs] and try to cooperate with the authorities, find compromises and engage in dialogue. (Lydia, healthcare charity, St Petersburg)

The application of the 'statist' model to relations with civil society is often seen in a negative light since it appears to imply the cooptation of civil society by the State and the subsequent diminishing of independence for civil society groups, with those deemed 'undesirable' or unhelpful in terms of realising the State's goals ostracised or punished. McIntosh Sundstrom and Beznosova (2009), for example, argue that, unlike grants supplied by Western donors, State funding to civil society organisations is an attempt to control their political agendas while, according to Kononova (2010), Russian and international human rights groups see state support and state control as 'different sides of the same coin.' This attitude of suspicion towards interacting with State institutions on the part of Russian human rights groups was

highlighted by one respondent, a consul-general representing an EU Member State in Russia which has a long-standing programme for working with local NGOs:

Relations between human rights NGOs and local officials are pretty bad. Some in the NGO community lack the skill of diplomacy, they can behave aggressively towards the other side. (Robert, EU Member State consul, St Petersburg)

Another EU Member State representative appeared to support this attitude of distrust towards state involvement in civil society:

They [the Russian government] associate liberal reforms with instability therefore they see the need for a strong state but over-control strangles the development of civil society. (Karl, political advisor to MEPs, European Parliament, Brussels)

As will be discussed in further detail below, this attitude of distrust not only stands in stark contrast to the more cooperative stance taken by the socially-oriented NGOs who took part in this study, but also extends to relations with State-supported representatives who have a specific mandate for dealing with human rights issues such as the regional human rights ombudsmen. Yet it is not clear that any state involvement in funding or collaborating with civil society organisations must automatically be a dangerous move which compromises an NGO's independence or forces it to adopt political objectives which it would not otherwise have done.

As the respondents cited above noted, cooperation with the authorities is both a fact of life for socially-oriented NGOs and a potential means for them to influence policy development and practice in the social sector. In addition, even if the State's support for a particular organisation does lead it to adopt certain aims or objectives in order to ensure that this support continues, this is surely no different from the effects of funding which comes from Western donors. Henderson (2002: 142) points out that prior to the Kremlin's policy of providing funding to certain segments of civil society, Russian NGOs tailored their projects and agendas to meet what they believed to be the interests of potential Western donors rather than the Russian population since these donors were 'the voice that mattered.' As a result, it seems to be something of a double standard to assume that Western, including EU, financial support for NGOs is always benign and apolitical whereas grants from the Russian state must automatically have some sinister intent. It therefore seems possible that the emphasis on the

statist conceptualisation of state-civil society relations as the model that best represents current interactions between the Russian State and NGOs, and on the presumed negative consequences of this model, has been overstated. Kulmala (2011:55), for example, argues for the application of a ‘Nordic’ model to the Russian case since the norm in Nordic countries is for civil society organisations to receive full or partial state subsidies and ‘close collaboration between state authorities and civil society without destroying the autonomy of civil society is achievable.’

The potentially positive impact of state involvement in the NGO sector on social sector reform was also raised by one respondent, who again pointed to its influence on the child welfare sector:

We’ve worked quite closely alongside the National Foundation for Support of Children in Difficult Life Situations⁹⁰ which is the big quango which was founded in 2008. The money is Russian government money and it’s quite a lot of money mainly for regional governments to carry out innovation programmes – so child welfare reform basically. It allows the region to experiment and innovate– it’s actually quite radical and interesting and in the children’s social sector it’s a really key player and it’s going to be quite interesting to see how it develops. They talk about all the things the human rights organisations should be talking about but this government quango talks about them – that 2,000 children a year are killed or abused in Russia and this isn’t acceptable and we’ve got to do something about it. And that’s good, they are doing something about it.
(Nadezhda, children’s charity manager, St Petersburg)

This respondent therefore makes clear that, at least where child welfare is concerned, she believes government-funded bodies are in fact proving to be far more effective in ‘getting things done’ and raising the important issues concerning children’s rights than the ‘old-school’ human rights organisations which tend to take a dim view of cooperating with the authorities.

It is, however, worth noting that where ‘everyday’ economic and social rights issues (Turbine 2007) are concerned it is often those state structures such as the regional governor’s office

⁹⁰ <http://www.fond-detyam.ru/>

and the regional and municipal parliaments and local authorities with which NGOs operating in this area must interact, rather than the federal government. While the socially-oriented NGOs operating in St Petersburg were broadly positive about their relations with the city and *oblast* [regional] authorities, in the case of Ryazan the situation was more complex. The Ryazan-based NGO involved in this study had traditionally focused much more on civil and political rights issues and had close ties to some of the larger and more longstanding human rights NGOs based in Moscow. Recently, however, it had initiated a programme asserting the rights of children leaving the care system in Ryazan Oblast [the federal subject which includes the city of Ryazan] to housing which the local authorities are legally obliged to provide. While the NGO's employees highlighted the positive response to this campaign that they had received from many amongst the local population, they maintained that their actions had antagonised the region's governor, Oleg Kovalev, who then set out to discredit their organisation and limit public access to information about their campaign:

The governor ordered the local media not to publish any information provided by us, so effectively information from us and our organisation was censored. (Dmitriy, human rights activist, Ryazan)

Then the local government press service said that we'd lost our minds and were demanding that they take apartments away from people who already had them, that we had just totally lost it. (Tanya, human rights activist, Ryazan)

This indicates firstly that the apparent emphasis at the level of federal government on upholding economic and social rights has not necessarily filtered down unadulterated to the individual regions. This picture of regional diversity is confirmed by a report compiled in 2010 by the Council of Europe, which runs a joint EU-Council of Europe programme on national human rights structures which in the Russian case includes the regional human rights ombudsmen.⁹¹ According to the report, which concerned the role of the human rights ombudsman in the defence of social rights during economic crisis,

The current reality in Russia, as concerns the respect of social and economic rights, is characterised by a very diverse national legislation, the absence of a

⁹¹ 'Joint European Union-Council of Europe Programme: setting up an active network of independent non-judicial human rights structures,' Council of Europe Commissioner for Human Rights, available at http://www.coe.int/t/commissioner/Activities/themes/nhrspeertopeer_en.asp

common benchmark and the different approach by each region according to budget availability. Thus, the respect for the rights of socially vulnerable people greatly varies in the Russian Federation. (Valenti 2010).

It also indicates that, even where an NGO takes up an economic or social rights issue which is clearly of importance to the local population and is in line with what Putin apparently sees as a 'legitimate' rights claim, its efforts can potentially be stymied by opposition from regional power-brokers. This therefore makes it difficult to talk of any uniform approach towards economic and social rights on the part of 'the State' in Russia since there is a plurality of relevant state structures on both a federal and regional level which may have quite different objectives.

5.4 Engagement v. non-engagement with State human rights structures: the case of the regional human rights ombudsman

One example of a state structure towards which human rights and more socially-oriented NGOs appear to have somewhat different attitudes concerning engagement is the only State-affiliated institution which works explicitly on human rights issues in Russia's regions, namely the regional human rights ombudsmen and child human rights ombudsmen whose function was outlined in Section 4.2. Although these officials have a mandate to look at a wide range of human rights issues which is not restricted solely to those relating to economic and social rights, they are relevant to the purposes of this project because many of the NGOs interviewed for this study saw the ombudsmen as representatives of the State in some form and in either a positive or negative sense:

Russia is the only country in the world that has set up both a federal and regional ombudsman structure, I think it's very interesting and is a reflection of Russia's split personality in terms of whether it is a kind of power vertical centrally-driven non-democracy or whether it's actually trying to be a federation of locally-governed local governments. I find the ombudsman function, the theoretical one, a good one and I think it can play a really important role in terms of children's rights. (Nadezhda, children's charity manager, St Petersburg)

This is a bureaucrat, a state body which receives money from the government – a human rights activist becoming the ombudsman has not yet happened in St

Petersburg. So what can you say about effectiveness? The ombudsman will never go against the authorities. (Svetlana, human rights activist, St Petersburg)

Putin himself inadvertently highlighted the confusion surrounding the degree of independence from the State enjoyed by the ombudsmen in a meeting with 60 of them in August 2012 by telling his audience on the one hand that,

The work you do as agents who are totally independent of the state or municipal authorities takes on paramount importance.

But at the same time calling the ombudsmen,

...my direct allies in the protection of citizen's interests and legal rights and this is the most important part of my work as well as the essence and objective of my whole work.⁹²

One of the EU respondents also highlighted the contested issue of the ombudsmen's degree of operational independence, pointing out that the development of the institution has varied from region to region:

Some of the [regional human rights ombudsmen] are very, very good indeed but others are way too beholden to the local governor or the local, regional authorities. So they can't claim independence, they're not independent, they're not reporting independently - so it's very difficult to generalise about the regional ombudsmen - they're so different in the way they operate. (Rachel, EEAS official, Brussels)

As will be further discussed below, this view is very much in keeping with the view of several of the Russian human rights activists interviewed.

Secondly, the small number of ombudsmen and their advisors interviewed for this study situated themselves very clearly as intermediaries between local authorities and local residents, and also appeared to see the bulk of their work in advising citizens and dealing with their complaints about the authorities as relating to economic and social rights issues:

⁹² 'Meeting with regional human rights ombudspersons,' Official site of the President of Russia, 16th August 2012, available at <http://eng.news.kremlin.ru/news/4299/print>

The ombudsman is a middleman who deals with complaints made against the authorities. The immediate task in hand is making sure everyone has what they need and that they are not experiencing discomfort in their everyday lives. Politics and gay parades are not very interesting because obviously that is defending human rights but that's a slightly different category, in my opinion there are much more important tasks at hand. In the first place that means water supply, gas, heating. Helping with social rights is more relevant to people. (Nikolai, regional human rights ombudsman)

The main problems the [child human rights] ombudsman deals with are children's housing rights, 31% of the complaints we get concern housing rights. The right of the child to health protection and medical care makes up only about 2% but for us this is a fundamental child right which ought to be in first place. The right of the child to education makes up 10% of complaints so that's quite high. The main idea for us is that the ombudsman acts as an intermediary between the authorities and society, the ombudsman should be someone who can act as a bridge between the authorities and society and resolve problems with the bureaucracy. (Sergey, advisor to a regional child human rights ombudsman)

This picture differs slightly to that provided by the work of Federal Human Rights Ombudsman Vladimir Lukin: according to Lukin's annual report on the work of his office in 2010-2011, the majority of complaints received (57.7%) concerned violations of civil rights such as the right to an effective legal defence and freedom of conscience, while social rights violations such as the right to housing and social security made up 25% and violations of economic rights such as the right to work and the right to own private property made up 13.2% of the total complaints received.⁹³

While the number of complaints concerning violations of political rights such as the right to free association was extremely small (1.8%), in a meeting with then-President Dmitriy Medvedev in February 2012 Lukin pointed out that it was too early for his office to have received complaints relating to the major political protests then taking place in some of the

⁹³ 'Doklad Upolnomochennovo po pravam cheloveka v Rossiiskoi Federatsii za 2011,' Office of the Federal Human Rights Ombudsman, available at <http://www.ombudsmanrf.org/index.php/doklady/717-2011>

country's major cities.⁹⁴ In contrast the regional ombudsmen and their aides seemed to see their role as very much focused on responding to citizens' 'everyday' needs such as housing and health, and on attempting to ensure the smoother running of local social services. In part, this is a reflection of where they happen to be operating: those interviewed represented regions such including the cities of Moscow and St Petersburg and Leningrad Oblast rather than parts of Russia which have suffered extreme and often state-sponsored violence such as the republics of the North Caucasus, as one respondent pointed out:

In the North Caucasus the Ministry of Internal Affairs and the federal forces are very powerful so most of the complaints [to the human rights ombudsmen] revolve around them. In other places the police are more civilized so instead issues such as utility costs, poor housing, benefits and the lack of pensions come first so the ombudsmen work on those. (Stanislav, academic, St Petersburg)

This concentration on social issues appears to be both recognised and approved of by President Putin, who commented recently,

The regional human rights ombudspersons give a significant amount of attention to social issues; I feel this is just as it should be. I do not think that issues of a political nature, issues of defending human rights in the broader sense of the word, should be viewed as secondary. But social issues should not be relegated to the background either. And the fact that you, as experts in defending human rights, are paying attention to those social aspects is very good, because frankly that's the area where most people's problems lie.⁹⁵

Unsurprisingly perhaps, not all respondents, including some representing EU institutions or Member States, agreed with this view: they attributed the ombudsmen's focus on social and economic problems to their desire to avoid antagonising the authorities by raising issues more associated with civil and political rights issues such as freedom of speech:

The ombudsmen are hamstrung in a sense, there are some things they can't say or show or they don't even want to. They try to avoid anything controversial. (Lyuda, human rights NGO, St Petersburg)

⁹⁴ 'Meeting with Russian Human Rights Ombudsman Vladimir Lukin,' Official Site of the President of Russia, 28th February 2012, available at <http://eng.news.kremlin.ru/news/3485>

⁹⁵ 'Meeting with regional human rights ombudspersons,' Official site of the President of Russia, 16th August 2012, available at <http://eng.news.kremlin.ru/news/4299/print>

The local human rights ombudsman rarely deviates from the official line and just acts as window-dressing. (Robert, EU Member State diplomat, St Petersburg)

This view was also shared by the human rights activists interviewed in Ryazan: although at the time of the interview in the summer of 2011 the regional authorities of Ryazan Oblast were still at the stage of debating the appointment of a regional human rights and child human rights ombudsman, these activists were convinced that the eventual appointees would be docile state functionaries rather than genuine experts on local human rights issues:

It will only be former judges, prosecutors or representatives of law enforcement agencies who will meet the criteria. We're afraid that they'll put some 'convenient' person in the post of ombudsman who won't act in the interests of society - they'll appoint someone who suits the authorities. And that's not what an ombudsman should be. (Dmitriy, human rights activist, Ryazan)

They'll listen to whoever appoints them. That means the governor. The governor will appoint them, and our governor is not very good. (Tanya, human rights activist, Ryazan)

This view proved to be somewhat prophetic: in August 2011 the region's legislature approved the governor's nomination of Aleksandr Grishko, a former police captain and high-ranking prison service official as the local human rights ombudsman.⁹⁶ In December 2011 the legislature approved the appointment to the post of child human rights ombudsman of Ekaterina Mukhina, a former representative of the United Russia party in the regional parliament and head of the regional Union of Rural Women, who promised to focus on the issues of child neglect, families with several children, and children with disabilities.⁹⁷ Regardless of their previous career history, however, the ombudsmen interviewed for this study would argue, and in fact did argue, that their role is to respond to the issues which local residents raise in their formal complaints to the ombudsman's office, which as mentioned above tend for the most part to concern the delivery of social services. Whether or not people avoid raising civil and political rights violations with them because 'they understand it's pointless' (interview with Aleksey, academic, St Petersburg), the fact remains that within

⁹⁶ 'Ryazan: Upolnomochennym po pravam cheloveka naznachen general FSIN,' Prava Cheloveka v Rossii, www.hro.org/11720

⁹⁷ 'V Ryazani poyavilsya upolnomochenniy po pravam rebyonka,' Prava Cheloveka v Rossii, www.hro.org/12812

their fairly limited mandate they can only respond to the complaints that they receive.

Nevertheless, it is clear that there is a major difference in the attitudes taken towards cooperating with the human rights and child human rights ombudsmen by those NGOs focusing on civil and political rights, and those working on social issues. For the most part, the human rights activists interviewed for this study were extremely negative about the role played by the ombudsmen and their potential to effect any real progress on human rights issues. One respondent, for example, made clear her belief that the regional human rights ombudsmen were just a 'front' put on by the authorities to give the impression that they cared about human rights issues:

[The regional human rights ombudsman] is just an imitation of human rights work, a pretence at defending human rights which is put on by the government.
(Nadya, human rights activist, St Petersburg)

Another human rights activist took issue with their focus on economic and social issues because he questioned the validity of these rights when compared to what he saw as 'inalienable' civil and political rights:

For the most part the people who take up the post of human rights ombudsman in the regions are former bureaucrats who've worked for the state for 20-30 years. They prefer to deal with general things which are less obvious and painful like pensions being too small, salaries not being paid on time, the low rate of social benefits, the lack of children's homes and poor conditions in old people's homes...these are certain social rights that Russian citizens have but they hardly constitute an inalienable human right like the right to life, the right not to be tortured or detained illegally, the right to a private life. It's these rights that for some reason our ombudsmen don't like to deal with. The people who take up this role don't have even the most basic knowledge of human rights. (Sergey, human rights NGO, Nizhniy Novgorod)

This view indicates, however, that certain human rights groups might be out of step with public opinion on which rights and issues should be focused on by the regional ombudsmen and the State in general. It also points to a certain arrogance on the part of some human rights activists who assume that their understanding of what human rights mean is the correct

version and seem content to dismiss extensive social problems which affect large swathes of the Russian population as ‘less obvious and painful.’ Such a stance does, however, coincide with Henderson’s (2002: 142) argument that certain Russian NGOs such as the one this respondent represents which rely largely on Western donors for financial and moral support target these funders rather than the Russian population as ‘the voice that matters.’

Unfortunately this position can lead, and arguably has led, to certain organisations becoming alienated from the mainstream of public opinion and policymaking, becoming what Hemment (2004:215) calls ‘a professionalized realm of NGOs, inaccessible to most local groups and compromised by its links to a neoliberal vision of development.’ This sidelining of certain human rights organisations was raised by one representative of a socially-oriented NGO who claimed that,

The government and the NGO community and the people who are getting on with things tend to just bypass them. (Nadezhda, children’s charity manager, St Petersburg)

Again, this implies that human rights NGOs are either consciously or unconsciously isolating themselves from those people who are trying to ‘get things done’ and achieve concrete results which have an impact on people’s day-to-day lives. In contrast, those representing more socially-oriented NGOs were cautiously optimistic about cooperating with the regional human rights and child human rights ombudsmen, while stressing that much depended on the individual who took up the post and recognising the limitations of what they can do in practice:

If you’re talking about cooperation with human rights organisations we actually work more closely with the Child Human Rights Ombudsman both for Russia and for St Petersburg. We work well with the ombudsmen, they have the right approach and are focused on defending children’s rights. In this case a lot depends on the ombudsman’s personal authority, and they can only act based on their authority. Despite the fact that they are called ombudsmen, they don’t have sufficient powers to bring about changes in the activities of our social structures. So an ombudsman can be involved in a particular problem, they can support our work as we have asked them to do, but in reality there is little they can do to help. (Lydia, healthcare NGO manager, St Petersburg)

I think that as it is at the moment in Russia absolutely everything, too much, depends on the individual who's in the position and their background and their interests and their abilities. I really like the idea of the ombudsman, and I think it should and could develop in Russia into quite a useful and important instrument. They have a way of taking our advocacy points to an audience we would otherwise never reach and that's a really important thing. (Nadezhda, children's charity manager, St Petersburg)

This more pragmatic stance was not, however, limited exclusively to the socially-oriented NGOs, but was also reflected by the Ryazan human rights NGO in terms of its campaign on housing rights, in spite of their recognition that their local ombudsman might well prove to be simply an *apparatchik*:

As soon as a human rights ombudsman and child rights ombudsman are appointed in our region we will immediately try to work with these bodies to resolve certain problems. Ideally where our work is concerned, we don't want more people to come to us or for there to be more of this work: we want the local authorities to operate effectively. If the child rights ombudsman works hard then it's not important whether or not he's some protégé of the authorities or a former police official. So long as he works hard then that will be great. And the same goes for the human rights ombudsman. (Dmitriy, human rights activist, Ryazan)

This indicates that, where social rights issues related to state provision of social services are concerned, some NGOs recognise the necessity of cooperating with state structures to whatever degree they reasonably can since ultimately such problems can only be resolved by the state. In general, therefore, the consensus from both these respondents and the academics specialising in human rights who were interviewed for this study was that, although there were certain problems with the role of the regional ombudsmen it was still better to have them than not:

On the federal level the human rights ombudsmen can do something, on the regional level – it's a long story, it all depends on the political regime in place because in some places where there's a more liberal-democratic regime and

where the people who come in are up to the job they do good things. (Pavel, academic, St Petersburg)

They certainly haven't lived up to expectations but it's better to have them than not to have them. (Andrey, academic, St Petersburg)

Interestingly, this stance was similar to the one taken by several of EU Member State representatives, who also pointed to the importance of the existence of the institution, while again recognising its limitations:

I've met with the St Petersburg Human Rights Ombudsman and Child Human Rights Ombudsman: they are quite influential, they have a lot of resources and staff but there are constraints on them as well. It's very important to have contact with them even if it doesn't lead to much. We need to support them and work with them on projects which coincide with our aims. (Frieda, EU Member State diplomat, St Petersburg)

One EU respondent who had met Yekaterinburg's Human Rights Ombudsman, a woman who even several of the human rights activists interviewed recognised as being a very active and positive representative of the institution,⁹⁸ also pointed out that the ombudsman's work reflected the concerns of the local population:

The human rights ombudsmen from Lukin⁹⁹ down see themselves as someone people appeal to rather than taking an active role themselves but there is a clear role for the human rights ombudsmen and they do good work. People in the regions are more willing to talk about economic and social rights, the Yekaterinburg Human Rights Ombudsman says she focuses on economic and social rights because that's what people care about. (John, Member State diplomat, Moscow)

In addition, some of the EU respondents were again critical of the categorical stance taken by some human rights NGOs towards cooperation with the authorities:

⁹⁸ Interview with Sergey, human rights activist, Nizhniy Novgorod; and Nadya, human rights activist, St Petersburg

⁹⁹ Russia's current Federal Human Rights Ombudsman

Many human rights NGOs have been around for many years, they always have to be in opposition to the authorities and won't change. They need to be open to a degree of contact with the authorities. (Frieda, EU Member State diplomat, St Petersburg)

The fact that some of these respondents appear to be advocating a softening of the stance taken by some 'old-school' human rights groups towards engagement with State institutions is important in two respects: firstly, it implies that certain European funders would like to see, at least on some level, a more flexible and less intransigent strategy from some of the groups they finance. Secondly, it indicates that, despite their apparent strategy of targeting Western donors as the 'voice that matters' when it comes to formulating their aims and objectives, these groups may be operating on an outdated basis which no longer appeals in quite the same way to EU and Member State donors. Indeed, McIntosh Sundstrom and Beznosova (2009: 24) point out that European funders of civil society projects in Russia have long emphasized 'close engagement with partner governments through dialogue-driven planning and joint decision-making.' Ultimately, continuing to pursue a policy of non-engagement could lead to such groups becoming even further marginalised than they already are.

5.5 Conclusions

This chapter has provided greater insight into the way in which the Russian respondents interviewed for this study conceptualise the role of the State in guaranteeing economic and social rights. It has situated these understandings in the context of a Soviet legacy of emphasizing social and economic rights over civil and political human rights, which continues to shape public expectations of what the State can and should provide. In addition, this has influenced the policy of the various presidential administrations since 2005 of reasserting the State's primacy in relation to guaranteeing economic and social rights through social service provision on a rhetorical level while maintaining a broadly neoliberal model of social policy.

This chapter has also explored the differing approaches taken by human rights and more socially oriented NGOs to engagement with various State structures and State-affiliated structures such as the regional human rights ombudsmen. Overall, while there is certainly a plurality of opinions regarding the merits and effectiveness of cooperating with the authorities, on a local level at least it seems apparent that socially-oriented NGOs generally

have a more pragmatic approach to cooperation with State structures in order to influence government policy and practice. This position is to some extent shared by some of the European donors who fund some of the projects of socially-oriented NGOs as well as those of the more 'traditional,' long-standing Russian human rights groups. Yet it appears that, while the longer-established Russian human rights organisations choose to stick to a policy of non-cooperation and often dismiss outright the suggestion that they engage with the authorities, they run the risk of making themselves increasingly irrelevant to the values and concerns of the wider Russian public and, potentially, alienating some of those donors who provide them with a financial lifeline.

Chapter Six

The EU's Institutional Conceptualisation of Economic and Social Rights

6.1 Introduction

The previous chapter examined the way in which the Russian respondents interviewed for this study conceptualised economic and social rights and the role of the State, and the potential marginalisation of those human rights NGOs which focus largely on civil and political rights issues in Russia. The purpose of this chapter is to explore how economic and social rights are constructed in the discourse of various EU institutions, using data drawn from official EU documents on internal and external human rights policy and from interviews with representatives of the EU and some of its individual Member States with responsibility for human rights policy which were conducted in Brussels, Moscow and St Petersburg. It will demonstrate that, despite a rhetorical commitment at the official level to promoting economic and social rights on an equal basis to civil and political rights in the EU's internal and external relations, those representing EU institutions and Member States in the context of relations with Russia often expressed conflicting views on the importance of such rights and the need for the EU to promote these rights in its civil society initiatives in Russia and its political engagement with the Russian leadership. As will be further discussed in Chapter 7, this lack of consensus on the importance and relevance of such rights has important implications for the coherence and effectiveness of the EU's policy on human rights in Russia given the importance of economic and social rights to the Russian public which was widely acknowledged by the respondents involved in this study.

6.2 Internal EU constructions of economic and social rights

Prior to examining the discourse on economic and social rights in the context of the Union's external relations, it is important to explore how such rights are understood and expressed within the EU's internal policy on human rights governing its own Member States since the way in which the EU perceives and portrays its own values will arguably have an impact on its external approach towards countries such as Russia. Indeed, according to Alston and Weiler (1999: 8), the internal and external dimensions of the EU's human rights policy are 'two sides of the same coin.' It is worth noting that the development of EU policy on human rights in general is a relatively recent phenomenon, given that the original European

Community was aimed at restoring Western Europe's economic standing and promoting economic growth and competition (Hansen and Schierup 2005). It was the Treaty on European Union (TEU) in 1992 which, while transforming the European Community into the European Union, first affirmed the new Union's commitment to human rights and fundamental freedoms alongside peace, liberty, democracy and the rule of law as its founding principles in its Article 6. These principles were reiterated in relation to both internal and external relations and given new legal force in the subsequent Treaty of Amsterdam of 1997 and the Lisbon Treaty of 2009 (Alston and Weiler 1999; Tocci 2008). While the concept of 'human rights' is used in the treaties in a broad and generally undefined sense, economic and social rights have not simply been ignored. In the Preamble to the Treaty of Amsterdam, for example, the Union's Member States affirm their "attachment to fundamental rights as defined in the European Social Charter...and in the 1989 Community Charter of the Fundamental Social Rights of Workers" (de Witte 2001: 158).

In addition, in 2000 the European Council adopted a Charter of Fundamental Rights of the EU. While four of the Charter's six chapters focus on civil and political rights grouped under dignity, freedoms, citizen's rights and justice, two chapters cover certain economic and social rights relating to employment, access to medical care and social security, and non-discrimination under the headings of equality and solidarity (Charter of Fundamental Rights of the EU 2000). The Charter's inclusion of such rights is significant since, while the civil and political rights reaffirmed by the Charter are already enshrined in the European Convention on Human Rights (ECHR) to which all of the Union's Member States are signatories, the Convention does not explicitly cover economic and social rights (Defeis 2007), making the Charter in some respects more progressive in terms of the breadth of rights it aims to uphold.

Where more specific legal mechanisms are concerned, the European Court of Human Rights in Strasbourg has traditionally been seen as the most important actor in terms of ruling on cases concerning human rights violations both in the Union's Member States and in non-Member States which are members of the Council of Europe such as those from the former Soviet bloc. Yet Douglas-Scott (2006) and Defeis (2007) point to the critical role played by the EU's own European Court of Justice in Luxembourg in handing down rulings which have important implications for the development of human rights case law within the Union.

Douglas-Scott (2006: 630) highlights the fact that there is a frequent overlap in jurisdiction

between the two courts, with cases involving the same State being heard in both, while Defeis (2007: 1108) claims that ‘it is the ECJ that has been instrumental in integrating human rights into the fabric of the Union’ by ruling in several cases that human rights, which the ECJ prefers to refer to as fundamental rights, are effectively enshrined in Community law and therefore protected by the Court. This is all the more important given that the EU itself has not yet acceded to the ECHR, although it is legally obliged to under the terms of the Lisbon Treaty and is currently in the process of doing so.¹⁰⁰

Where economic and social rights more specifically are concerned, the ECJ has also taken some important steps. Defeis (2007: 1112) points to the fact that the ECJ has had considerable impact with its decisions in cases involving issues of equality and non-discrimination since the 1970s, even claiming that ‘the ECJ expanded the equality principle into a general equality rights between men and women which exists at the core of EU law.’ The fact remains, however, that the ECJ is not designed and was never intended to be a human rights court in the same way that the European Court of Human Rights is, with the result that the majority of cases it hears relate to issues concerning economic integration and as yet relatively few concern human rights in general or economic and social rights more specifically, although this is likely to change given the fact that the Lisbon Treaty has invested the ECJ with greater powers to legislate on fundamental rights. Most cases concerning violations of such rights in EU Member States tend therefore to be taken as collective complaints to the European Committee of Social Rights, a body within the Council of Europe with responsibility for advising states on how to bring their domestic legislation into line with the European Social Charter¹⁰¹ but whose resolutions on these collective complaints are not legally binding and therefore dependent on the willingness of the state in question to implement the Committee’s recommendations.¹⁰²

Nevertheless, on a rhetorical level at least the Union appears to be all too conscious of its perceived ‘spiritual and moral heritage’ where the promotion of human rights and human dignity are concerned (Charter of Fundamental Rights of the European Union 2000: 8). In

¹⁰⁰ For further details see ‘EU accession to the European Convention on Human Rights,’ Council of Europe, <http://www.coe.int/web/coe-portal/what-we-do/human-rights/eu-accession-to-the-convention>

¹⁰¹ For further details see ‘European Social Charter,’ Council of Europe, available at <http://conventions.coe.int/Treaty/en/Treaties/Html/035.htm>

¹⁰² For further details see ‘European Committee of Social Rights,’ Council of Europe, available at http://www.coe.int/t/dghl/monitoring/socialcharter/ECSR/ECSRdefault_en.asp

terms of public opinion, this apparent belief in the existence of specific European values with an emphasis on human rights appears to be shared by the populations of the EU's Member States: a EuroBarometer poll of the EU27 from 2012 indicates that, when asked which values best represent the EU, 35% chose human rights, coming just behind peace (39%) and democracy (37%).¹⁰³ In addition to the legal mechanisms mentioned above, several different institutions are heavily involved in formulating the Union's internal and external approach towards human rights in general and economic and social rights more specifically and the discourse they utilise to formulate their concept of economic and social rights is therefore worthy of analysis. These institutions can include the Commission, the Council of the EU, the European Parliament, the European Council, a monitoring body such as the European Agency for Fundamental Rights, and consultative bodies such as the European Economic and Social Committee and the Committee of the Regions.

In terms of official statements on human rights, the European Parliament, the Union's only directly elected body, has been particularly outspoken and is often perceived to be taking an 'activist' stance on such issues in both internal and external relations (European Inter-University for Human Rights and Democratisation 2006: 7). Where economic and social rights are concerned, long before the Union proclaimed the internal Charter of Fundamental Rights in 2000, the Parliament made its official position on the importance of these rights clear in some of its formal resolutions. In its Declaration of Fundamental Rights and Freedoms of 1989, for example, several key economic and social rights such as the right to social welfare, education and collective social rights were included alongside a more extensive list of civil and political rights such as the right to life, freedom of association and expression, and the prohibition of the death penalty.¹⁰⁴ These rights were further elaborated upon a few years later:

The European Parliament considers that economic, social, trade union and cultural rights should be respected and that the right to work, housing, education, social protection and culture in particular should be recognized as fundamental rights. [The Parliament] urges the Member States to take decisive action in the

¹⁰³ See 'Standard Eurobarometer 77: The Values of Europeans,' Spring 2012, available at http://ec.europa.eu/public_opinion/archives/eb/eb77/eb77_value_en.pdf

¹⁰⁴ See 'Resolution adopting the Declaration of fundamental rights and freedoms,' European Parliament, 1989, available at http://www.europarl.europa.eu/charter/docs/pdf/a2_0003_89_en_en.pdf

following fields: the right to work, the right to social security, the right to protection against poverty and social exclusion, the right to housing and other social rights. [The Parliament] advocates the drawing up at Community level of instruments laying down minimum guarantees in respect of income, social protection, and the right to medical treatment and housing as an essential prerequisite for ensuring a quality of life consistent with human dignity. (European Parliament Resolution 1996)

In 2000 an internal document provided further detail on the Parliament's concept of social rights:

Fundamental social rights...mean rights to which the individual citizen is entitled, which he can exercise only in his relationship with other human beings as a member of a group and which can be made effective only if the State acts to safeguard the individual's environment. Social rights are a necessary complement to civil rights and liberties, since the latter cannot be enjoyed without a minimum of social security. In contrast to civil rights and liberties, this means that it is not freedom from the State that is achieved, but freedom with the State's help. These are, then, fundamental rights in the form of entitlements. Although this would appear at first glance to indicate that they can be distinguished from the classical civil rights and liberties and the general principle of equality, there is considerable overlap. (European Parliament Working Paper: Fundamental Social Rights in Europe 2000)

This statement is important in two respects: firstly, it sets out a position in which social rights are 'group' or collective rights which are inextricably linked to the State and can only be realised 'with the State's help.' This coincides with what Hertel and Minkler (2007: 9) see as a tendency on the part of both states and international organisations to see civil and political rights as 'negative' rights, in that they merely require a state to refrain from interfering with an individual's liberty, whereas economic and social rights are seen as 'positive' since they 'obligate government and others to actually provide something to an individual.' Secondly, the idea that social rights are a 'necessary complement' to civil and political rights recognises the importance of such rights while falling short of acknowledging them as being equal to civil and political rights and liberties. As will be discussed below, this view is reflected by several of the EU representatives interviewed for this study.

Many of the economic and social rights highlighted by the 1996 parliamentary resolution did ultimately make their way into the Charter of Fundamental Rights in December 2000, where, as discussed earlier, they fell under the heading of ‘solidarity’ (Charter of Fundamental Rights of the European Union 2000). Yet, judging by the working paper cited above, just a few months earlier that year the Parliament had not been confident that this would necessarily be the case and in fact appeared somewhat pessimistic about the prospects for upholding these rights at Union level given the diversity of approaches to such rights taken by the individual Member States:

It remains to be seen how far social rights will form part of an EU bill of rights since, unlike the classical liberal civil rights and liberties recognised in all constitutions, social rights are not regarded as fundamental rights in all Member States...Owing to the liberal basic attitude in Austria and the United Kingdom, for example, there are no constitutional social rights in these countries. The Benelux countries, France and the Scandinavian countries have fundamental social rights in the form of individual rights, policy clauses or provisions defining the state's objectives, but tend to be restrained when it comes to detail, leaving this to ordinary legislation. The southern European countries all have extensive bills of rights, which also include detailed fundamental social rights...however, they are not as a rule enforceable rights but instructions to the legislature to make them effective. (European Parliament Working Paper: Fundamental Social Rights in Europe 2000)

This document makes clear some of the challenges facing any attempt to formulate a coherent Union-level position on economic and social rights as fundamental rights since there appears to be little consensus amongst the Member States as to just how ‘fundamental’ these rights should be. One of the principal challenges in this area has been the fact that Member State governments reserve the right to opt out of certain aspects of EU treaties with which they disagree, including those relating to fundamental rights in general and to economic and social rights issues more specifically.¹⁰⁵ The UK has particular form in this respect, having been the only one of the then-12 Member States to opt out of adopting the Community Charter of Fundamental Social Rights for Workers in 1989 and the adoption of the Protocol on Social

¹⁰⁵ For further details see ‘Opt-out,’ Eurofound, <http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/optout.htm>

Policy at the Maastricht summit in 1991 which expanded on this Charter's provisions, although this decision was later reversed at the Amsterdam summit in 1997 (Hansen and Schierup 2005). It also negotiated a partial opt-out from the Charter on Fundamental Rights of 2000, as did Poland.¹⁰⁶ This state of affairs not only poses practical problems in terms of ensuring fundamental rights are upheld by all the Member States on an equal basis, but also reflects a degree of ambivalence on the part of individual states within the Union on the importance of economic and social rights and whether they can even be defined as 'human rights.' This issue was also raised by one of the respondents interviewed for this study, a diplomat working as a political officer at the British Embassy in Moscow:

The debate over differing social models in Europe makes economic and social rights stuff more controversial – so the UK might agree with the Scandinavians on civil and political rights but not on taxation or social welfare and so on. (John, EU Member State diplomat, Moscow)

This appears to indicate that attitudes towards both the welfare state and economic and social rights remain very much divided on a national level. Several commentators have linked this firstly to historical differences between what are sometimes categorised as the liberal, Continental and Scandinavian models of welfare and social rights protection in Europe (Katragoulos 1996) or, according to Esping-Anderson's (1990) famous typology, the liberal, conservative-corporatist and social democratic systems of welfare; and secondly to the fact that certain political and economic theories dominant in Western thinking see economic and social rights either as being out with the remit and control of the state, or even as compromising the freedoms inherent in civil and political rights. According to Gavison (2003: 24), for example, 'many Western theories of political justice and liberalism make civil and political rights a necessary component of the liberal, democratic state, but do not include social and economic benefits in the order of rights...some such theories present the taxation required for efforts of redistribution seeking to address social and economic concerns as a violation of civil and political rights, specifically the right to liberty and property.' The shift towards a more neoliberal approach in economic and social policy and politics more generally on the part of various Western European and non-European states including the UK

¹⁰⁶ For further details see 'Poland to join UK in EU rights charter opt-out,' EU Observer, 7th Sept 2007, available at <http://euobserver.com/18/24723>

and US from the late 1970s onwards (Mudge 2008) and those former Communist states in Central and Eastern Europe who aspired to begin the EU accession process in the early 1990s (Bohle and Greskovits 2007) has also had important implications for the way in which a whole range of economic and social rights are perceived and upheld at both national and EU level. A further important factor has been that a number of social democratic parties who came to power in various EU Member States in the late 1990s also maintained to varying degrees certain aspects of neoliberal political and economic approaches (Hansen and Schierup 2005).

Arguably this ‘turn’ towards neoliberalism has led to a fundamental and lasting change in expectations of what the State can and should provide in terms of social security and employment. According to Katragoulos (1996: 312), the dominant trend has for some time been ‘a reduction of the public sector, the curtailment of social benefits and the abandonment of the goal of full employment in favour of economic efficiency and flexibility in the labour market,’ while Gamble (2001: 132) argues that the neoliberal approach maintains that ‘as many costs as possible should be shifted from the state and back on to individuals, and markets, particularly labour markets, should be made as flexible as possible.’ This is particularly the case given the current dominance of ‘austerity’ measures involving cutbacks in funding for social provision in a number of European countries in the wake of the 2008 global financial crisis. This has led to a situation where, according to Farnsworth and Irving (2012:134), ‘...the neoliberal model of the small state combined with individual responsibility for welfare provision is coming to be seen as the only ‘realistic’ option.’ This has, however, led to fears that austerity measures will lead to a rollback of economic and social rights in certain EU Member States. In 2011 separate reports by the UN’s Office of the High Commissioner for Human Rights and the Council of Europe’s Commissioner for Human Rights expressed concern over the effect budget cuts were having on the social rights of vulnerable groups in Greece and Ireland.¹⁰⁷ In 2012 the Council of Europe’s Parliamentary Assembly issued a resolution expressing its fears over the impact of austerity programmes on social rights standards and warning that,

¹⁰⁷ ‘Greek austerity measures could violate human rights, UN expert says,’ UN News Centre, 30th June 2011, available at <http://www.un.org/apps/news/story.asp?NewsID=38901&Cr=auster#.UZ0CxsrrSSo>; ‘Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Ireland from 1 to 2 June 2011,’ Commissioner for Human Rights, 15th September 2011, available at <https://wcd.coe.int/ViewDoc.jsp?id=1831077>

...the restrictive approaches currently pursued, predominantly based on budgetary cuts in social expenditure, may not reach their objective of consolidating public budgets, but risk further deepening the crisis and undermining social rights as they mainly affect lower income classes and the most vulnerable categories of the population.¹⁰⁸

The resolution called instead for the welfare state to be strengthened and the European social model protected in the face of “unbridled” economic liberalism.’¹⁰⁹ The context of austerity may help to explain why, in terms of contemporary EU policymaking on human rights, there seems to be a tendency to see issues concerning economic and social rights as practical problems relating to the areas of social policy or social work rather than ‘classical’ human rights with corresponding entitlements, an approach reflected by one respondent working for the European Parliament:

The Council of the European Union for a long time couldn’t officially work on human rights inside the EU, it was the Council of Europe that did that so that’s why we don’t label a lot of the social work that we do human rights. Even in our hearings [at the Parliament] there’s a lot of let’s say housing, jobs so no, they will rarely call them economic and social rights but yes, they’ll be addressing the practical issues...even though we don’t have an EU model we have a common baseline that’s respected in EU directives on what we have as social policy so yes, we don’t have the same position for everyone on the minimum wage but on a lot of other, say, housing issues we have a sort of minimum common denominator which makes a sort of European model. (Anna, human rights researcher, European Parliament)

It is also worth noting that, while several key economic and social rights were in fact included in the final Charter of Fundamental Rights in 2000, the failure of all the Member States to ratify the Treaty of Lisbon until December 2009 meant that none of the rights outlined by the Charter became legally binding until that point. As a result, at present it is

¹⁰⁸ ‘Resolution 1884: Austerity measures – a danger for democracy and social rights,’ Parliamentary Assembly of the Council of Europe, 26th June 2012, available at <http://assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=18916&Language=en>

¹⁰⁹ Ibid

somewhat difficult to assess the impact it will have on the EU's internal human rights strategy. Nevertheless, the thematic areas outlined by the European Union Agency for Fundamental Rights (FRA), an EU advisory body set up in 2007 to monitor implementation of the rights outlined by the Charter at both EU and Member State level, provide some indication of where the priorities lie. While the issues of access to justice; child rights; LGBT rights; minorities; people with disabilities; racism and xenophobia; and the Roma and Traveller communities constitute the FRA's 'themes,' there is no mention of monitoring economic and social rights issues as 'fundamental' rights.¹¹⁰ Overall, then, it appears that, while on a rhetorical level economic and social rights are proclaimed to be fundamental rights belonging to all EU citizens, to some extent there is a lack of internal consensus at Member State and EU level on their true meaning and importance.

6.3 Understandings of human rights in the EU's external relations policy

Having examined the manner in which economic and social rights are conceptualised within the EU's internal human rights strategy, attention now turns to the Union's external strategy on human rights promotion, the extent to which economic and social rights are integrated into this approach and the degree to which the Union sees itself as acting as a 'normative power' in this area. Once again, on a general rhetorical level it appears that the EU has a strong commitment to upholding economic and social as well as civil and political rights in its external relations policy. In policy documents released by various EU institutions which mention the place of human rights in the Union's external relations strategy, the importance of human rights as a defining value for the EU is reiterated. The European External Action Service (EEAS), for example, the new body which took over from the European Commission in late 2009 in overseeing the implementation of the EU's external policies and strategies around the world, refers to clauses from the Treaty on European Union as amended in 2009 to emphasise respect for human rights as a fundamental principle for the EU:

If it is true that our values and principles define who we are, the EU's identity is clear:

“The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights...These values are common to the Member States in a society in which pluralism, non-

¹¹⁰ For further details see 'The European Union Agency for Fundamental Rights,' available at http://fra.europa.eu/fraWebsite/home/home_en.htm

discrimination, tolerance, justice, solidarity and equality between women and men prevail.”(Article 2 of the Treaty on European Union). Beyond this, the EU has a vocation to bring the same values to its external relations. “The Union’s action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law” (Article 21 of the Treaty on European Union). (EEAS Report on Human Rights in the World 2010)

The use of the word ‘vocation’ here is interesting because it implies that the Union is some sort of ‘moral crusader’ when it comes to promoting human rights on the world stage. This notion is also emphasised in a recent statement by the EU’s High Representative for Foreign Affairs and Security Policy, Catherine Ashton:

Respect for human rights and fundamental freedoms is at the core of the European Union. The protection and promotion of human rights is a silver thread running through all EU action both at home and abroad. On human rights and democracy, the EU must be principled when it comes to the norms and values it seeks to uphold, creative in the ways it does so, and absolutely determined to achieve concrete results. The EU promotes human rights inside and outside its borders on the basis that human rights are indispensable both for individual dignity and social justice. (High Representative of the European Union for Foreign Affairs and Security Policy 2011)

It seems clear from these statements that the EU has a very strong self-identification as a defender of human rights around the world and confidence in its ability to promote these norms in its relations with non-Member State countries. There appears, however, to be some official recognition of the fact that the intention to make human rights a ‘silver thread’ running through the EU’s external relations policy has not yet come to fruition and has in fact been hampered by the inconsistencies in its internal approach to human rights at a time when the EU is trying to promote human rights externally:

The EU is extremely serious about delivering on its pledges. This is vital when it comes to the EU's credibility on the world stage. Increasingly the EU is subject to scrutiny by others, who question its record on human rights. It is a defining characteristic of the EU. (EEAS Report on Human Rights in the World 2010)

There is...the perception that the EU's statements on human rights and democracy are not always fully matched by its external or internal policies. The EU's internal human rights record has come under increasing scrutiny. The EU has not always been as effective or as joined-up as it might have been. The task in hand is to ensure the clarity, coherence, and effectiveness of policy, by being smarter and more strategic... The EU should commit itself to promoting and protecting freedom, dignity, equality and justice for all as a key foreign policy priority. (EU High Representative Joint Communication to EP 2011)

This awareness of the fact that a lack of coherence and clarity in internal attitudes towards human rights policy and the resultant criticism has an impact on the Union's external approach was shared by one of the EU respondents:

We're not allowed to have a human rights-based approach because what we do is called an internal market. Now we're starting to have a new Charter on Fundamental Rights but it's really new and you've seen in the press whenever the EU starts to talk about the Roma it gets bashed on the head so we have no interest in talking about what we do inside Europe on human rights. We progressively will have more and more of that but it's not in the culture to say what we do in Europe on human rights. I think progressively we'll get there as we get more confident about what we do in Europe but no, it definitely would be better accepted, it would be taken more seriously, and it would have more value-added [impact]. (Anna, human rights researcher, European Parliament)

This view underlines the fact that in many ways the EU's strategy on human rights as a whole remains in a fairly nascent form and may not be meeting the lofty goals set for it in the Union's official statements on the issue. In addition, it points to a certain defensiveness on the part of the Union and its individual Member States when it comes to discussing internal

problems with human rights violations which may compromise its ability to promote human rights internationally and in relation to Russia particularly, a point this respondent then elaborated upon:

The problem is our Member States don't like us to talk about what goes on in Member States when we have dialogues with third countries and that is a huge weakness because the EU has no mandate to work on human rights. So it's very difficult for us to go to these dialogues and the Russians would say 'so what about prisons inside the EU, what is the EU doing?' and the EU would say 'oh, no, we can't talk about that because it's not our mandate' and they'd be like 'well why are we talking to you about ours?'... it's extremely difficult in these dialogues to refer to what we do internally because it's not an area where we have a mandate because our Member States get angry with us if we raise the way they do things. So it's been difficult to raise the EU model. (Anna, human rights researcher, European Parliament)

One interesting aspect of the view expressed by this respondent is that, despite the apparent obstacles created by Member States when it comes to discussing human rights issues with third countries, she appears to believe that there is nevertheless an 'EU model' for approaching human rights which could be raised if they would allow it. What is less clear is precisely what this model of human rights promotion consists of: again, this seems to refer back to the 'vague notion that the EU is 'doing good' in the world' (Sjursen 2006:170) encompassed by the normative power Europe concept. Regardless of whether the obstructive stance on the part of some Member States mentioned by this respondent is due to defensiveness over any discussion of their internal human rights record or a fear of being 'bashed on the head' in public, it undoubtedly leaves the EU open to accusations of 'double standards' from countries such as Russia which themselves face criticism from the Union of their domestic human rights record. It also hinders the Union's ability to fulfil its 'vocation' of promoting its perceived internal values of human rights in its external relations since it compromises its ability to lead by example. One possible solution some respondents highlighted as a way of tackling the lack of coherence in the Union's external human rights policy was the idea of 'mainstreaming' human rights throughout the EU's overall external relations policy, rather than treating the issue as a separate theme only to be discussed at very

specific meetings or events. This idea reflects the earlier concept of a ‘silver thread’ of human rights running through EU external relations policy:

The main answer I’ve tried to give is mainstreaming, so it’s like making sure that human rights arise at summit level, to raise it in political dialogue meetings, or high-level meetings on visa dialogue, it’s just put a bit of human rights everywhere and make sure that there is no human rights in a box side-lined somewhere, that’s one thing, it’s also showing the message that you are consistent with your concerns. (Anton, EEAS official, Brussels)

If we had a more common line, or a common line at a higher level, let’s put it that way – if we had even a common line on internal energy policy then it would free the EU’s hands to talk in a strengthened way about any number of issues including energy but also including human rights. If human rights policy is hermetically sealed then it can’t play a role in the dynamics of linkages, trade-offs. It has to be part of the mix otherwise it’s out of the game. (Rachel, human rights advisor, EEAS)

These same respondents also expressed frustration, however, that the idea of ‘mainstreaming’ was, at best, being taken up extremely slowly at an official level. Some respondents expressed the more cynical yet fairly prevalent view that the whole idea of promoting human rights in the EU’s foreign policy was not as important as issues surrounding trade and energy negotiations, particularly where large and oil-rich countries such as Russia are concerned:

Business trumps human rights and EU businesspeople are not interested in human rights. (Neil, European affairs think-tank analyst, Brussels)

There are some Member States where with Russia they would have an interest in just keeping human rights out of discussions. (Anton, EEAS official, Brussels)

This view may not be entirely fair since, as will be discussed in further detail in the following chapter, in practical as well as rhetorical terms the EU does appear to have a commitment to promoting human rights in its relations with Russia through longstanding project funding

programmes such as the European Instrument for Democracy and Human Rights.¹¹¹ Nevertheless, the views expressed by these respondents highlight the level of concern over the perceived inconsistencies in the EU's internal and external strategy on promoting human rights and a degree of frustration at the extent to which the Union is in some respects hamstrung by its need to respect the often differing agendas of its individual Member States. It also points to the fact that, rather than operating in a vacuum, human rights issues in EU-Russia relations must also interact with other factors which are important in that relationship, be that trade, energy or visa questions.

6.4 Constructions of economic and social rights in the EU's external relations with Russia

Despite the possible inconsistencies in the Union's general approach towards human rights, when it comes to understandings of economic and social rights specifically the EU's institutions appear to be at pains to stress the indivisibility of these rights and civil and political rights in its external policies:

The EU attaches the same importance to economic, social and cultural rights as it does to civil and political rights. As is the case for political and civil rights issues, the EU also raises economic, social and cultural rights during EU human rights dialogues and consultations with non-EU countries, as well as during meetings with relevant civil society groups. (European External Action Service)

All human rights – civil, political, economic, social and cultural – are universal in nature, valid for everyone, everywhere... the EU should reaffirm its commitment to the universality, indivisibility and interdependence of all human rights – civil, political, economic, social and cultural. (High Representative of the European Union for Foreign Affairs and Security Policy 2011)

Despite this seeming commitment to the universality and indivisibility of rights, however, in practice it appears that there is some recognition that economic and social rights come second

¹¹¹ For further details see 'Civil Society Dialogue: Overview,' Delegation of the European Union to Russia, available at http://eeas.europa.eu/delegations/russia/eu_russia/civil_society_dialogue/overview/index_en.htm

to civil and political rights in both EU thinking and actual policy. The European Economic and Social Committee (EESC), for example, has called for greater emphasis on these rights in the Union's external policies on human rights and civil society development, particularly in the context of the global economic crisis:

The EESC calls for economic, social and cultural rights to be given greater importance in the European Union's policies. Due to the financial and economic crisis, this priority has now become more urgent than ever. The EESC considers that as protagonists of the social dialogue, social partners must be seen as indispensable players and partners of the EU and must be fully integrated into the political dialogue. The EESC stresses the importance of protecting work and the associated rights set out by the International Labour Organisation core conventions (right to work, right to organise and collective bargaining, non-discrimination at work, outlawing of child and forced labour). (European Economic and Social Committee 2009)

Several of the EU and Member State representatives interviewed for this study also expressed the view that these rights were not seen by the EU as being on the same level as 'classical' civil and political rights and were therefore of less interest when it came to discussions on human rights with Russia and other third countries:

Economic and social rights come far down the EU agenda, the EU could and should do more on economic and social rights...there is less EU clarity and consensus about economic and social rights despite the stuff in the Treaties. (John, EU Member State diplomat, Moscow)

We still have a rather classic definition of human rights...there is perhaps a need to modernise the approach because our too traditional definition of our human rights is not always a vehicle for ensuring that you facilitate your dialogue with the authorities here [in Russia]. I wouldn't say that our approach to human rights definitely does not need a substantial change - our rhetoric, as we started off with the conservative definition [of human rights], we need to work on this, broaden the understanding, diversify this image a bit and accept that human rights

research has a broader definition... as we have so many topics to go over in the classic definition I see that that space has not been made in the political agenda but I do see that we could win by broadening perhaps sometimes that understanding of human rights and that it could give perhaps some more allies on the authority side here. (Matthew, EU Delegation official, Moscow)

The idea that the EU is choosing to make economic and social rights a lesser priority and that its definition of what ‘human rights’ mean might be too narrow relates back to the idea first raised in Chapter 1 that economic and social rights, and indeed ‘human rights’ in general, remain a contested area open to multiple different interpretations and emphases. Various EU and Member State respondents also acknowledged that insisting on a somewhat narrow definition of human rights could be counterproductive in terms of the EU’s policy towards Russia given the importance of such rights to the Russian public at large discussed in the previous chapters and the possibility that Russian government officials might be more willing to discuss such issues:

There is always at least one topic if not two or three on economic, social and cultural rights [during the human rights consultations] and these are of course the ones where you can usually get a little more traction with the Russian side: the rights of women, education, health issues – these are issues where there’s real common ground with Russia and where I think we could do a lot more than we do currently. (Rachel, human rights advisor, EEAS)

There is definitely more public support [in Russia] for social rights issues than traditional human rights issues. Even in the big cities, people feel social problems are closer to their own lives e.g. health, children etc. (Katya, Netherlands Consulate, St Petersburg)

One respondent highlighted the fact that the EU essentially chooses to disregard such attitudes by choosing to concentrate on civil and political rights problems:

There's more focus [by the EU] on political than socio-economic rights issues but there is more appetite for economic and social issues in the [Russian] regions than for our distant political concerns (John, British diplomat, Moscow)

Again, this appears to suggest that the EU may be deliberately downgrading economic and social rights issues within its own 'hierarchy of rights,' regardless of what might be appropriate or effective in the Russian context. It also suggests a certain assumption on the part of the Union that its 'EU model' of human rights is both the 'best' approach and the most suitable in relation to Russia, regardless of what the wider public might actually prioritise. Another respondent indicated that there was indeed an overall tendency within the Union's human rights policy towards third countries to focus on civil and political rights, but that there was also a division between the individual Member States when it came to discussing economic and social rights in the EU's official consultations with Russia. This reflects the internal lack of consensus on the meaning and importance of such rights discussed earlier:

There are always certain items that are on the agenda, the 'evergreens,' that include the usual suspects of political and civil rights, human rights defenders...We do talk as well about economic, social and cultural rights, probably there's less of an emphasis on this than on the civil and political rights but I wouldn't characterise this as being isolated to the Russian case, I would say that this is overall a problem of balance in our human rights consultations and dialogues, we do tend to focus more on the first Convention¹¹² rather than the second. There are certain Member States which have pushed very hard to include more economic, social and cultural rights. We acknowledge the importance and the indivisibility of applied rights but many Member States feel that we should be focusing on civil and political rights in Russia because that's where there are glaring violations that we see. (Rachel, human rights advisor, EEAS)

This point about the influence of individual Member States was also raised by another respondent, who highlighted the often troubled relationship between Russia and some of the

¹¹² The 'Convention' the respondent is referring to here is the UN's International Covenant on Civil and Political Rights of 1966. That same year the UN's original Universal Declaration of Human Rights was divided into this Covenant and the International Covenant on Economic, Social and Cultural Rights. For further details see 'The United Nations International Covenant on Civil and Political Rights,' available at <http://www.hrweb.org/legal/cpr.html>

newer EU Member States from Central and Eastern Europe as a potential obstacle in discussing economic and social rights issues:

I think it also reflects what a lot of Member States want, they think emphasis should be put on [civil and political rights], especially given the legacy, the historical legacy of some of them where you know the situation.¹¹³(Anton, EEAS official, Brussels)

If, however, it is the case that ‘at least one’ if not more topics related to economic and social rights always make it on to the agenda of the biannual EU-Russia Human Rights Consultations, then this is not reflected in recent official accounts of the discussions, which indicate that all of the issues raised are connected to civil and political rights issues:

Both sides discussed at length the worrying situation of civil society in the Russian Federation, in particular the wave of restrictive legislation, the recent checks conducted on the basis of the “foreign agents” law and the ongoing court cases... The EU raised a number of specific human rights issues in the Russian Federation, enquired about the impact of Russia's efforts to fight against torture and to foster the independence of the judiciary in light of the recent visit of the UN Special Rapporteur on the independence of judges and lawyers. The EU asked Russia to ensure that defence lawyers are able to work freely, in particular in the Northern Caucasus. The EU also called on Russia to refrain from adopting a federal legislation on ‘homosexual propaganda,’ which it believed could increase discrimination and violence against LGBTI individuals. (Council of the European Union May 2013)

The EU and Russia focussed in particular on the working of civil society [and] rule of law, as well as cooperation in international fora and the fight against discrimination... Regarding the Northern Caucasus, the EU touched on the issues of abductions and enforced disappearances, forced evictions and women's rights. (Council of the European Union November 2011)

¹¹³ The respondent is referring to EU Member States such as the Baltic countries which were part of the Soviet Union until 1991 and Poland which was one of the Warsaw Pact countries until 1989.

This apparent failure to raise economic and social rights issues is not necessarily entirely down to the EU's reluctance to discuss them: some respondents maintained that the Russian government representatives party to discussions with the EU on human rights issues either showed little interest in human rights in general or had not shown any particular desire to discuss economic and social rights issues more specifically:

It is difficult for us to know what the Russians are interested in because they refuse to play an active part even in the backseat... they're honestly not interested in human rights, they want energy cooperation...They were apparently interested in citizenship issues but no, to my knowledge they're not interested in talking about economic and social rights that I'm aware of. (Anna, human rights researcher, European Parliament)

Another respondent contrasted the Russian approach with that of China, which he claimed tends to emphasise economic and social rights in its own human rights discussions with the EU:

Russia particularly likes to raise issues of racism and hate crime so there's a feature more politically on that. It's a recent thing, there is space to change but probably also it's not a request that we get from the Russian side, on the contrary we see it with China for example, China was very much pushing to get social and economic rights on the agenda so we were always trying to do it. (Anton, EEAS official, Brussels)

Yet several respondents who are responsible for implementing the human rights policies of individual Member States in Russia expressed opinions on the validity of promoting economic and social rights which appear to be reflected in the Union's official stance on such matters and might therefore explain the EU's apparent reluctance to raise them in its discussions with Russia. Some, for example, seemed to see economic and social rights as 'budgetary' issues which should be taken care of solely by the State rather than becoming a focus for international concern or intervention. Where Russia is concerned, they felt this was something the State could easily afford to do:

The State has the money for social services, the [Russian] public is interested in social rights but not in human rights violations – we shouldn't focus on things the government can afford to do. (Edith, EU Member State diplomat, Moscow)

Political and civil rights are much more prevalent than economic and social rights. Economic and social rights are often to do with budgetary possibilities, and stuff like that. My feelings are the Russian authorities today seek to address most issues of economic and social rights, not necessarily because those are rights but because that is what the people want and they will maintain stability and the recent popularity for the authorities, whereas in some areas they actually strive to limit civil and political rights. I think that is why the attention is primarily focused on that area. (Thomas, EU Member State diplomat, Moscow)

These views both reassert the role of the state in relation to realising economic and social rights which was highlighted in Chapter 5, and again make the distinction between economic and social rights on the one hand, and 'real' human rights on the other, thus referring back to the highly contested nature of economic and social rights and the lack of consensus within the EU and amongst its Member States over the meaning and importance of these rights. One respondent further emphasised this by pointing to the perception on the part of some Member States that so-called 'soft rights' related to economic and social issues could distract from official discussions of civil and political rights, particularly when the time available for such discussions was so limited:

The [human rights] Consultations are short, I mean you're talking about two days every year, so there is probably also a fear that some 'soft right' as it could be seen could distract from the focus of the Consultations. Take for example China wanted to discuss pensioners' rights or the right to health some years ago. (Anton, EEAS official, Brussels)

This indicates that there is a degree of ambivalence towards promoting economic and social rights on both the official level of the EU Member States and on the part of some of those countries' representatives working 'on the ground' on human rights issues in Russia. It also reflects the institutional approach discussed earlier whereby economic and social rights are seen as falling under the categories of social or economic policy or social work, rather than being defined as rights claims on a par with civil and political rights. As a result, despite the

Union's pronounced commitment to the indivisibility of civil, political, economic and social rights, it seems a certain hierarchy of rights is already in place before the formal discussions with the Russian side have even begun.

6.5 Conclusions

This chapter has attempted to explore some of the ways in which human rights in general and economic and social rights in particular are constructed in official EU discourse on internal and external policy and by individual representatives of the Union and its Member States working in the area of human rights policy. Where both the internal and external context is concerned, a picture emerges of a lack of clarity and consensus in the Union's conceptual aims and objectives when it comes to accepting and promoting economic and social rights as fundamental rights for EU citizens and as values to be promoted in the Union's relations with third countries. Much of this can be attributed to the fact that there appears to be an internal divide between the different Member States in terms of desirable models of delivering welfare and consequently realising social rights, as well as a reluctance by Member States to have their internal human rights affairs raised in discussions with Russia and other external partners which leaves the Union open to accusations of double standards when it attempts to raise human rights violations with third countries such as Russia and China. As a result, despite the Union's lofty and oft-stated commitment to upholding the universality and indivisibility of all human rights, it appears that ultimately this aim is not being realised and that there is a clear and longstanding emphasis on those rights which coincide with values that are perceived to be 'liberal' and are to some extent perhaps more compatible with neoliberal theories on the role of the state in providing access to welfare and the realisation of economic and social rights.

As many involved in formulating EU and Member State policy on human rights recognise, however, maintaining a somewhat narrow classical definition of what human rights are at a time when many on the Russian side appear to define both the meaning and hierarchy of human rights somewhat differently poses a number of problems for the long-term impact of the Union's policy and programmes in this area and undermines its efforts to portray itself as some form of international 'moral arbiter' where human rights are concerned. The extent to which this has an impact in practical policy terms will be further explored in the following chapter.

Chapter Seven

The EU's Promotion of Economic and Social Rights in Russia: Beyond Theory

7.1 Introduction

The previous chapter aimed to explore the way in which the EU conceptualises economic and social rights within the context of its internal and external relations policies. The purpose of this chapter is to examine the impact its interpretation of such rights has on its strategy towards promoting various rights in Russia by focusing on the EU's interactions with human rights and social NGOs in Russia of the type discussed in Chapters 4 and 5 and the ways in which such NGOs respond to and view this policy. The data utilised has been drawn from interviews conducted with representatives of Russian human rights and social NGOs with experience of cooperating on projects with various EU institutions; Russian academics specialising in research on human rights issues; and representatives of the EU institutions and individual Member States with responsibility for implementing human rights projects in Russia. The chapter aims to demonstrate that the EU's apparent emphasis on promoting one set of rights over another within its human rights policy towards Russia has resulted in a degree of incoherence and lack of clarity in its approach on the ground which compromises its ability to be an effective actor in this policy area and its interaction with certain sectors of Russian civil society.

7.2 Funding human rights: the European Instrument for Democracy and Human Rights

Prior to analysing the opinions expressed by various respondents on the impact of the EU's policy initiatives in relation to human rights, it is important to provide some context to the types of policy instruments the EU has at its disposal when it comes to promoting human rights in its external relations with Russia. The two programmes most relevant for the purposes of this study are the European Instrument for Democracy and Human Rights (EIDHR) of 2006 (previously the European Initiative for Democracy and Human Rights from 2000-2006), which focuses on working directly with NGOs in third countries to promote democratization, the rule of law, civil society development and human rights issues such as

the abolition of the death penalty;¹¹⁴ and the Institution Building Partnership Programme: Support to Civil Society and Local Initiatives (IBPP) which ran in Russia from 2002 to 2011 and focused on working with state and non-state actors on social sector reform.¹¹⁵ In terms of the formal approach taken towards the promotion of various different rights by these policy instruments, the EIDHR is unsurprisingly the most explicitly rights-focused initiative and provides direct funding to Russian NGOs to work on micro and macro projects relating most recently to ‘promoting justice and rule of law; fostering a culture of human rights; promoting democratic processes; and advancing equality, tolerance and peace’ (Delegation of the EU to Russia 2012). Its most recent call for proposals in Russia in 2011 further elaborates on these themes by providing funding for projects aimed at:

Consolidating civil society efforts to bring about legislative changes and to improve state policy on fundamental human rights issues, such as combating racism and xenophobia, prevention of torture and ill-treatment, promotion of the rule of law, democratic oversight, enhancing freedom of opinion, freedom of the press and freedom of assembly, promotion of electoral rights etc; Strengthening civil society and reinforcing the protection of human rights defenders; Enhancing inclusiveness and pluralism in society, protecting women's rights and the rights of minorities such as migrants, ethnic minorities, people living with AIDS, disabled people, LGBT people etc. (EIDHR 2011)

It therefore seems apparent that, despite the rhetorical commitment on the part of the EU to the inclusion of economic and social rights within its programmes to promote universal human rights standards in its relations with third countries discussed in the previous chapter, in terms of the main human rights funding instrument employed in Russia there is a clear emphasis on covering issues relating to civil and political rights violations and discrimination against certain vulnerable groups. This is reflected by the EU Delegation to Russia’s own reporting on the implementation of the EIDHR: in 2011-2012, for example, the 9 new

¹¹⁴ For further details see ‘European Instrument for Democracy and Human Rights,’ Development and Cooperation – EuropeAid, European Commission, 17 February 2012, available at http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm

¹¹⁵ For further details see ‘Institution Building Partnership Programme (IBPP): Support to Civil Society and Local Initiatives,’ European External Action Service, http://eeas.europa.eu/delegations/russia/eu_russia/tech_financial_cooperation/ibpp_civil_society/index_en.htm

projects awarded funding covered issues such as election monitoring, freedom of expression, defending human rights in the North Caucasus and protecting the rights of minorities and prisoners against discrimination (Delegation of the European Union to the Russian Federation 2012). In 2010-2011, just two of the 14 new EIDHR projects launched concerned an issue relating to economic and social rights: a homeless charity in St Petersburg received a grant to ‘improve access to free medical help for Russian citizens without registration’ and the Danish Refugee Council received funding to motivate internally displaced persons (IDPs) in Chechnya and Ingushetia to ‘establish a channel for asserting their rights to adequate living conditions’ by distributing materials on social rights and benefits to provide IDPs with ‘increased knowledge of their humanitarian and socio-economic rights’ (Delegation of the European Union to the Russian Federation 2011:15).

It is worth noting, however, that this is the only project in recent years which explicitly mentions social and economic rights and it applies only to two North Caucasus republics which, as a post-conflict zone, have very specific problems and living standards which do not necessarily apply to the same degree elsewhere in Russia. In 2009-2010, two out of 27 projects funded concerned issues which could be seen as related to economic and social rights: a project entitled ‘Defending Social and Labour Rights: Raising Awareness and Promoting Self-Organisation Among Russian Teachers’ (Delegation of the European Commission to Russia 2010: 11) and one entitled ‘Providing Labour Migrants with Support and Assistance’ aimed at reducing labour exploitation in Moscow (Delegation of the European Commission to Russia 2009). One striking aspect of the projects funded is the fact that a relatively small number of Russian human rights NGOs often receive repeat grants: organisations such as the Youth Human Rights Movement,¹¹⁶ the Committee Against Torture,¹¹⁷ the Humanist Research and Methodology Centre,¹¹⁸ and two of the oldest Russian human rights NGOs – Memorial¹¹⁹ and the Moscow Helsinki Group¹²⁰ - have all received a number of macro and micro grants for different projects since 2003. This is not to say that other, smaller and less well-known NGOs are unsuccessful in gaining funding, but, as will be further discussed below, the fact that the same organisations tend to dominate the funding

¹¹⁶ <http://yhrm.org/eng/>

¹¹⁷ <http://www.pytkam.net/web/index.php?newlang=en>

¹¹⁸ www.humanist.ru

¹¹⁹ www.memo.ru

¹²⁰ www.mhg.ru

process has become cause for concern amongst several of the Russian and EU respondents interviewed for this study.

7.3 The EU and human rights NGOs: preaching to the converted?

In terms of the response this approach to funding human rights activities received from the Russian respondents interviewed for this study, several with experience of working on EU-funded projects either as grant-holders or consultants pointed out that the type of NGO most likely to receive support from the EU under the EIDHR programme was also the type least likely to have much impact in terms of public support or sympathy:

The European Union is supporting people who in the eyes of the majority are completely marginal, they have no political support. The gay parades¹²¹ and so on – that’s all great, but it’s a very small group of people. From the point of view of the majority these are not relevant issues: people don’t understand problems which are not related to their lives. (Pavel, academic, St Petersburg)

For Russians this kind of rights discourse is not theirs, it’s not how they see the world. I just found them [human rights NGOs] very dysfunctional actually. I understand where that’s come from, that sort of dissident, over-intellectualised approach but it’s increasingly in my view irrelevant and not helpful. (Nadezhda, children’s charity manager, St Petersburg)

Klitsounova (2008: 4) supports this contention, arguing that Russian human rights NGOs ‘have not yet coalesced into a movement attracting a great deal of press coverage or public support: at present they are unlikely to be capable of dramatically shifting domestic incentives that define Russia’s current human rights policy. Human rights NGOs – their agendas, arguments and practices – do not engage many Russians.’ Some respondents representing more socially-oriented organisations criticised the EU’s emphasis on funding

¹²¹ Local authorities in Moscow and St Petersburg have consistently refused to grant permission to Russian LGBT activists wishing to hold Gay Pride marches in the two cities. See for example ‘Moscow Says No to May 25 Gay Pride Parade,’ RIA Novosti, 15th May 2013, available at <http://www.en.ria.ru/russia/20130515/181167995/Moscow-Says-No-to-May-25-Gay-Pride-Parade.html>; ‘Gay Parades Banned in Moscow for 100 Years,’ BBC.com, 17th August 2012, available at <http://www.bbc.co.uk/news/world-europe-19293465>

civil and political rights projects, pointing out that there are a number of serious social problems in Russia which in their opinion require more urgent or at least greater attention:

Those who represent European human rights organisations are unfortunately more interested in protecting political rights in Russia and throughout the world. We have quite a few problems in the housing sphere and the social sphere, and of course these need to be resolved above all. But the European Commission tries to make sure attention stays on the protection or lack of protection of political rights. (Sergey, advisor to a regional child human rights ombudsman).

[Focusing on civil and political over economic and social rights] is a negative tendency, not just for the European Union but unfortunately for all donors. For some reason it's become much less important for the majority of donors to provide social assistance, even though this is still very important for Russia. Their focus has shifted to human rights and legal activities which are not effective without real support for social assistance and there are a lot of people who need this type of service but can't access it. (Lydia, healthcare charity, St Petersburg).

One of the issues such views highlight is that, regardless of what the EU might be doing in practical policy terms in the social sphere in Russia which, as will be discussed below, can be significant, the perception amongst some Russian civil society and state-affiliated actors is that it is placing undue emphasis on civil and political rights and organising its funding accordingly. This also links back to an issue raised in Chapter 6, namely the idea that the EU is deciding what is 'best' for Russia where human rights are concerned according to its own definition of 'human rights,' rather than considering what might be both necessary and more appealing to a wider audience in Russia. In addition, representatives of the more socially-oriented type of organisation contrasted what they saw as their approach of working with local authorities to achieve concrete results in the social sphere and 'get things done' with the more 'oppositional' stance of human rights NGOs such as the Moscow Helsinki Group and Memorial which are still dominated by figures from the Soviet dissident movement and which have been highly successful in obtaining funding from the EU:

They [human rights activists] take a very categorical, even oppositional stance. In our country it's quite difficult to operate and be effective if you take this stance. Because we have a lot of projects that are connected to social services, if we were

to join this opposition camp we would quickly lose the chance to get things done in this city. (Lydia, healthcare charity, St Petersburg)

Those old-style groups have a very different understanding of what rights are, and a very different understanding of how to create change, how to facilitate change, how to have a normal constructive discussion with the government, how to discuss, how to talk to people in a normal way. The government and the NGO community and the people who are getting on with things tend to just bypass them. (Nadezhda, children's charity manager, St Petersburg)

This points to a problem which was also acknowledged by a number of EU and Member State representatives, namely that the EU and its Member States are in a sense 'locked in' to a small network of closely connected human rights NGOs in Russia which share its discourse on human rights but have largely been sidelined politically and appear to lack the ability to appeal to a wider and younger domestic audience and the desire to interact with local authorities:

In terms of co-operation with local human rights groups we meet them quite regularly to know what is going on and have formal contacts with them. It is a limited number of people of course engaged in this: that is not the problem, the cooperation. It's more that there are not so many people involved in this. I think it is not their fault so much, it is more that this is not the priority which is the highest on the agenda of the Russian people at this particular moment in history. (Thomas, EU Member State diplomat, Moscow)

While this respondent suggested that the human rights NGO community was not itself responsible for its apparent isolation, several other EU Member State respondents expressed frustration with what they saw as the somewhat dated or unhelpful attitudes and behaviour of some of the more established human rights activists who tend to dominate EU funding and lobbying networks:

The most frustrating thing is preaching to the converted: it's hard to get the authorities involved but some NGOs don't even try. It's mainly older people who are engaging with human rights. The human rights community is quite conservative, a bit rigid, has the attitude that 'our method is best.' (Edith, EU Member State diplomat, Moscow)

The human rights activists are wonderful people but they are locked in a certain position, dragging their historical luggage along with them. It's not a human rights movement but a group of personalities who all know each other and have their own personal agendas and know where each other stands because of their degree of experience. It's a closed shop with a hierarchy. They need to be open to a degree of contact with the authorities. (Frieda, EU Member State diplomat, St Petersburg)

To some extent, as various respondents acknowledged, this state of affairs has come about due to factors which may be beyond the control of the EU: several made reference to the fact that Russia is a huge country and that EU funding for human rights projects has diminished sharply since its high point in the early to mid-1990s. At present, for example, the EU Delegation to Russia has only one dedicated human rights officer and there are also issues of language and experience of the funding application process to contend with. As a result, there tends to be a bias in favour of those organisations which have staff able to communicate in English and meet the application requirements, as various respondents acknowledged:

There is probably space to do more on social and economic rights but it is also the resources we have and the interaction we have with NGOs for example tends to focus mostly on civil and political rights rather than economic and social rights. ... civil society is very much closed to the people who come to us basically or who are using resources to get organized or speak English and find out that maybe it might be worth lobbying the EU one way or another so yes it's definitely part of the picture. We know it's a certain part of civil society that we talk to. (Anton, EEAS official, Brussels)

Inevitably, however, as one respondent pointed out, this can lead to the problem of 'grant-seeking,' whereby NGOs approach the EU with potential projects which they feel are likely to mesh with what the EU is looking for and is likely to fund but which may not reflect the most urgent issues or at least those of most concern to the population of the country itself (interview with Frieda, EU Member State diplomat). This relates to an issue raised in Chapter 4, namely the degree to which local NGOs act as 'translators' of international human rights norms in the domestic context and the extent to which they attempt to master the discourse on rights employed by their potential funders in order to improve their chances of working with them (Merry 2006). In addition, a number of Russian and EU respondents were critical of the

way in which the EU's human rights agenda for Russia is determined and what they saw as a disconnect between policymaking in Brussels and the realities of life 'on the ground' in Russia:

The [EU's] agenda in Russia is not decided by Russian problems, how they are understood here, but how they are understood by the European Union. That's the way it works – the agenda is transformed under pressure from the donors. It's very obvious how European standards clash with the reality of life in Russia....nothing is getting done. (Pavel, academic, St Petersburg)

The EU puts the individual rights of numerous different groups first in its dialogue with Russia, and social and economic rights, which are more significant for the population as a whole, end up coming last. (Vadim, academic, St Petersburg)

There should be more emphasis on economic and social rights issues. The EU tends to focus on freedom of speech and assembly but what is the result? The press for example reaches only a very small audience – there are more long-term results with social issues and it's better for the long-term development of Russia in political terms as well as social. (Frieda, Member State diplomat, St Petersburg)

Such opinions serve to highlight a fundamental problem with the EU's strategy on human rights in Russia which was raised in the previous chapter, namely that it is attempting to promote a certain somewhat narrow vision of human rights in Russia via cooperation with a small and closely-connected network of human rights NGOs which may not resonate with the wider, more 'everyday' concerns of both Russian civil society and the Russian public.

7.4 'Rights' projects v. 'social' projects: a false divide?

Where the promotion of economic and social rights specifically is concerned, focusing only on the type of projects funded under the EIDHR is to some extent misleading since the EU has in fact funded a number of projects which relate to the realisation of economic and social rights by promoting access to healthcare and other social services and children's rights under its separate Institution Building Partnership Programme: Support to Civil Society and Local

Initiatives programme in Russia. Although this programme ended in 2011, similar work will continue under the new Non-State Actors and Local Authorities in Development Programme.¹²² While this particular programme had a much greater focus on social projects and working with social NGOs as partners, in contrast to the EIDHR this instrument did not take an explicitly rights-based approach, although children's rights have emerged as a more prominent theme and the project descriptions often talk of ensuring their 'equal life chances' (European Union Delegation to Russia 2009). It also worked with state as well as non-state actors by encouraging networking and joint projects between NGOs and local authorities working on various issues affecting the social sector. In 2006, for example, projects covered issues such as the de-institutionalisation of child welfare services; tackling homelessness amongst adults and adolescents; supporting adults and children with disabilities; and civil society development (Delegation of the European Commission to Russia 2006). Following evaluation of the programme's results the decision was then taken to focus exclusively on the social sector, with the 2007 and 2008 calls for proposals focusing on Children, Women and Youth and the 2009 call limited to Child Welfare and Disability.¹²³

In contrast to the criticism of the EIDHR made by numerous different respondents, several of those who represented Russian social NGOs and had received funding for various projects under the IBPP scheme were full of praise for the programme, particularly for its emphasis on working in concert with local authorities who are the key actors with whom the social NGOs interviewed said they must engage in order to effect change:

They have a very clear focus on children and child protection and on disability, and women and gender. But within that framework there's a lot of flexibility so you can sit down with your partners and come up with your own solutions that meet what's going on on the ground. I think they have quite a rights-based approach. And they tend to talk about children's rights – equal life chances is the term that they've used quite a lot over the last 10 years or so and you can fit a

¹²² For further details see 'Non-state actors and local authorities in development,' European Commission, http://ec.europa.eu/europeaid/how/finance/dci/non_state_actors_en.htm

¹²³ ¹²³ For further details see 'Institution Building Partnership Programme (IBPP): Support to Civil Society and Local Initiatives,' European External Action Service, http://eeas.europa.eu/delegations/russia/eu_russia/tech_financial_cooperation/ibpp_civil_society/index_en.htm

rights-based agenda into that quite easily. (Nadezhda, children's charity manager, St Petersburg)

[The EU] takes a very balanced approach, they don't go to extremes. If you go to extremes, you risk falling out with the Russian authorities and in my opinion that's not very effective. So I like that they take a moderate approach with human rights. Because our government likes to say we have a strong state which can provide this assistance itself, but, based on our experience of working in this field, we can see that unfortunately the clients which we try to hand over to the state social services are refused support and end up back with us anyway. (Lydia, healthcare charity, St Petersburg)

This again highlights the contradiction between the rhetoric of a 'strong state' taking an active role in welfare provision which is utilised by the authorities and the reality of the limited services available to vulnerable groups. Where this type of socially-oriented NGO was concerned, the approach taken by the IBPP scheme appeared to resonate much more strongly with their previously mentioned desire to 'get things done' than that taken by the EIDHR programme which works only with non-state actors. Yet at the same time the apparent reluctance to employ the language of economic and social rights in relation to such projects, except where those relating to children are concerned, is significant since, in contrast to the projects funded by the EIDHR, it gives the impression that projects focused on issues surrounding health, education, and social services are either charitable endeavours or part of an attempt to promote good governance rather than rights entitlements.

In addition, after 2006 the decision to reorient the IBPP programme away from projects which concerned wider issues such as access to healthcare and towards those which focus exclusively on issues affecting children and teenagers is also important in the context of economic and social rights. Although the IBPP tends to be fairly clear about using 'rights' language in relation to children and young people, as one respondent who works in the children's social sector in Russia pointed out, 'children have no power. Adults have a certain amount of power so they can do things with their rights that children can't, or at least up until a certain point in their lives they tend not to' (Nadezhda, children's charity manager, St Petersburg). The same respondent also highlighted the fact that, despite the commitment the

EU appears to have to advocating children's rights, projects concerning such rights are still funded under the 'social' funding stream rather than the 'human rights' stream of the EIDHR:

I think there's this artificial split about what's rights and what's social. We have applied to the EIDHR instrument before and never got it, and I think it's because somewhere in the system they think of organisations like us as social, and therefore we are IBPP-type organisations and no matter what we apply for in a rights instrument we're unlikely to get it. My sense is that they've put more money into social-type programmes than they have into rights-type programmes over the last 10 years or so, and that when they talk about civil society they mean our type of civil society as much as they do the rights and political-type civil society, the social services and setting up of things around education, health, social work etc. (Nadezhda, children's charity manager, St Petersburg)

As this respondent indicates, there is a contradiction in that projects funded under the IBPP were always 'macro' projects in that the grants made were rarely for less than 150,000 Euro and were often up to 1 Million Euro, whereas micro projects funded by the EIDHR can only be for between 30,000 and 150,000 Euro¹²⁴ and, although in theory the macro grants can also go from 150,000 to 1 Million Euro, in practice this happens rarely. In 2012, for example, only one out of nine new EIDHR projects received a macro grant (Delegation of the European Union to the Russian Federation 2012). This indicates that the EU appears to have a greater financial commitment at least to supporting 'social' projects than human rights projects, while at the same time maintaining the 'artificial split' between them mentioned by the respondent quoted above. Yet it is not clear that such a divide is either necessary or constructive, and several respondents felt that the EU could do a great deal more where economic and social rights were concerned, although they did not necessarily see this happening in the near future:

If it is easier to co-operate in areas of social and economic rights, I think we should co-operate in this area, but then co-operation should be based on some level of equality. But if the Russians are prepared to engage in some kind of co-

¹²⁴ For further details see 'European Instrument for Democracy and Human Rights,' Development and Cooperation – EuropeAid, European Commission, 17 February 2012, available at http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm

operation on an equal basis then I think we should do that, and the more the better. (Thomas, Member State diplomat, Moscow)

In principle we could build bridges from economic rights into human rights. But this is not taking place, somehow everybody remains in his isolated focus. (Matthew, EU official, Moscow)

Ultimately the decision up until now to maintain this split between the two types of project and essentially between the two sets of rights only serves to perpetuate the idea that the EU pursues one rule for its own citizens by highlighting economic and social rights within its section on ‘solidarity’ in the Charter of Fundamental Rights (Charter of Fundamental Rights of the EU 2000) and another for those who live outside its borders. This idea was raised by one respondent who pointed out the contradictions inherent in such an approach:

The EU should emphasise its ideology on human rights in relation to the protection of human rights in Russia, it should rely on the basis it created in its act on fundamental rights in the EU in 2000 which was constructed as fundamental values relating to solidarity which are guaranteed equally by social, political and economic rights. This means the EU is contradicting its own approach which it has proclaimed for all EU citizens – that there are values which are underpinned to an equal degree by a varied spectrum of rights. If the EU were to take the same strategy in relation to Russia which it takes with its own citizens then that would be one thing, if not then...(Vadim, academic, St Petersburg)

According to this respondent, therefore, the EU in fact already has a type of ‘blueprint’ for promoting economic and social rights in the form of its Charter of Fundamental Rights, but is making a conscious and flawed decision not to use this as a framework in its relations with countries outside the Union.

7.5 The EU’s institutional structure: an ‘outspoken’ Parliament v. the more pragmatic Commission?

Having examined the key policy initiatives concerning human rights and social issues in Russia, it is important to consider other factors which influence the EU’s policymaking

process in this context. The process of formulating EU policy and deciding which issues are to be priorities for its human rights programmes in third countries is clearly a highly complex one. On the one hand the new European External Action Service (formerly European Commission and European Council) is now the main bureaucratic structure responsible for the practical task of implementing funding initiatives such as the EIDHR and the IBPP. On the other hand, various members of the European Parliament have proven to be outspoken critics of Russia's human rights record and have made efforts to raise a variety of such issues in their capacity as members of various parliamentary committees such as the Sub-Committee on Human Rights¹²⁵ and the EU-Russia Parliamentary Cooperation Committee¹²⁶ by passing resolutions which criticise the Russian government on a more formal level. Most recently such resolutions have condemned Russia for local legislation which discriminates against the LGBT community,¹²⁷ the lack of progress in solving the murders of reporter Anna Politkovskaya and human rights activist Nataliya Estemirova,¹²⁸ and the violation of the right to peaceful assembly and the perceived lack of political pluralism during and after the parliamentary elections in Russia in December 2011 and the presidential elections in March 2012.¹²⁹

This is significant given the high level of contact which exists between the Committees and representatives of the Commission who attend Committee meetings and brief their members regularly before and after official visits to Russia and occasions such as the EU-Russia

¹²⁵ For further details see 'European Parliament/Committees/Human Rights,' <http://www.europarl.europa.eu/committees/en/droi/home.html>

¹²⁶ See 'European Parliament/Delegations/Russia,' <http://www.europarl.europa.eu/delegations/en/d-ru/home.html>

¹²⁷ 'The European Parliament strongly condemns Russia's LGBT censorship laws,' European Parliament's Intergroup on LGBT Rights, 16th February 2012 <http://www.lgbt-ep.eu/press-releases/the-european-parliament-strongly-condemns-russias-lgbt-censorship-laws>

¹²⁸ 'European Parliament Joint Motion for a Resolution on the rule of law in Russia,' 16th February 2011, <http://www.scribd.com/doc/49040436/EU-Parliament-s-Resolution-on-the-Rule-of-Law-in-Russia>. The Russian journalist Anna Politkovskaya was murdered in Moscow in 2006. The subsequent police investigation has been dogged by accusations of incompetence and failure to find those responsible. For further details see 'Russian ex-policeman charged over killing of journalist Anna Politkovskaya,' Daily Telegraph, 17 July 2012, <http://www.telegraph.co.uk/news/worldnews/europe/russia/9404823/Russian-ex-policeman-charged-over-killing-of-journalist-Anna-Politkovskaya.html>. Nataliya Estemirova was a Russian human rights activist who was murdered in Chechnya in 2009. The case remains unsolved. For further details see 'Russian activist found murdered,' BBC News, 15 July 2009, <http://news.bbc.co.uk/1/hi/world/europe/8152351.stm>

¹²⁹ 'European Parliament resolution on the upcoming presidential election in Russia,' European Parliament, 14th March 2012 <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=P7-RC-2012-0052&language=EN>

Human Rights Consultations (Neuhold 2001; interviews with Anna, human rights researcher, European Parliament and Anton, EEAS official). Yet, as a number of EU respondents acknowledged, where this criticism is concerned there is a clear bias in favour of civil and political rights issues such as free elections, freedom of speech and high-profile individual cases such as those of the jailed former oligarch Mikhail Khodorkovskiy¹³⁰ and banker Sergey Magnitskiy, who died in controversial circumstances while being held in pre-trial detention in Moscow in 2009 (Rettman 2012):

The most important human rights issues for the European Parliament include the Khodorkovskiy case because it is a symbol of many things in Russia and he has a strong lobby in Brussels. (Karl, political adviser, European Parliament, Brussels)

[Where Russia is concerned] we raise the eternal human rights problems of freedom of the press and freedom of speech, the detention of human rights activists, right-wing extremism, attitudes to immigrants especially from the Southern Caucasus, young men in the army, the Khodorkovskiy case. (Kurt, MEP, Strasbourg)

In some respects the decision to focus on these issues is unsurprising: cases such as those of Khodorkovskiy and Magnitskiy have attracted considerable international media and political attention in recent years and, as one respondent pointed out, MEPs tend to prefer to focus on the more ‘newsworthy’ cases:

Parliamentarians will say they’re interested in shocking things – people getting killed, people getting jailed so long-term structural work...not so headline-grabbing, right? (Anna, human rights researcher, European Parliament, Brussels)

Another respondent highlighted the fact that MEPs often have their own particular interests and contacts when it comes to determining which human rights issues to focus on in terms of debates, resolutions and meetings of the Parliament’s Sub-Committee on Human Rights and the EU-Russia Parliamentary Cooperation Committee:

¹³⁰ ‘Mikhail Khodorkovsky case: European Court faults Russia,’ BBC News, 31 May 2011 <http://www.bbc.co.uk/news/world-europe-13600198>

It is hard to control MEPs sometimes: most are not specialists and many have their own agendas. There is much more interest in civil and political rights issues from MEPs. (Karl, political adviser, European Parliament, Brussels)

A related issue which was raised repeatedly by the EU respondents was the fact that MEPs from countries such as the Baltic States and Poland which had experienced repression and occupation during the Soviet period are in many respects setting the agenda, or at least attempting to, where the Parliament's work on human rights in Russia is concerned:

The problem is on our side – some of my Baltic colleagues, some of the Polish colleagues, they have their own very special and personal experiences [with Russia] and we have to take this into account on the one hand, on the other hand our duty is not to look back but forward and they are very few but one is enough to destroy the atmosphere in a discussion and this is not very helpful. (Johannes, MEP, Strasbourg)

There's definitely been a spike of interest in Russia since the new Member States joined, so it's definitely under this legislature that there's been real, increasing interest in the work of the Parliament on Russia. And it also means that within the Parliament it's a majority of MEPs from these countries that tend to lead the debates on Russia and it tends also to be based on the fact that their countries were occupied by Russia so there's a whole specific background there. (Anna, human rights researcher, European Parliament)

Clearly, however, this has the potential to skew the debate on human rights issues in Russia in two directions: firstly towards civil and political rights issues, and secondly to specific issues within that sub-set of rights which are of particular interest to MEPs from the newer Member States. In addition, there are other factors at play which can affect which cases and issues parliamentarians choose to raise both publically and in their more private discussions with their Russian counterparts. Several respondents mentioned that MEPs tended to have contact with those Russian human rights NGOs such as Memorial which have a high profile

internationally, English-speaking members of staff, and the means to travel to Brussels and lobby both individual members of parliament and groups or committees of MEPs:

How do things make it onto our agenda? It depends on lobbying by our members, it depends on lobbying by NGOs. We can't pay guests to come to the Sub-Committee [on Human Rights] so sometimes it depends on who's in town that we can take advantage of. They [MEPs] are very interested in the Khodorkovskiy case, that's a case I would say of very good lobbying, the Magnitskiy issue - that's also a case of good lobbying. We at the Parliament are entirely dependent on people coming to us and publicizing their problems, on people willing to come and express themselves in an eloquent, Westernized way, summarising things in sound-bites. (Anna, human rights researcher, European Parliament, Brussels)

As mentioned previously, however, such NGOs tend to dominate the EU Delegation to Russia's network of contacts within the country itself and are also frequent beneficiaries of the EU's funding initiatives. It could therefore be argued that one particular sub-division of Russian civil society is capable of exerting considerable influence on the EU's policymaking process regarding human rights in Russia from both Moscow and Brussels. Again this raises questions concerning the potential skewing of the EU's agenda on human rights towards issues which are clearly seen as important by this particular section of civil society but may ultimately only reflect the interests of a relatively small 'elite' of Russian human rights activists. The same respondent also highlighted the fact that parliamentarians will tend to raise issues such as the Magnitskiy and Khodorkovskiy cases which concern the violation of an individual's rights and are perhaps easier to relate to or understand than more complex, long-term issues surrounding economic and social rights such as health and housing:

Trying to discuss housing – it's a very complex policy, you would need a whole day – it's much easier to raise individuals getting jailed or tortured to be honest. It would be a different exercise to really go into structural issues on how you develop a housing policy and a budget. To be honest the work of the Parliament isn't necessarily to reach out to Russia, it is to put pressure on the EU institutions to take things into account. So we use a language that the EU institutions understand. Our job here is to hit on the head of the EU so we try and keep that

simple and clear and loud and vulgar and blunt. (Anna, human rights researcher, European Parliament, Brussels)

This is an important point since it implies that MEPs raise certain issues to influence policymaking by internal EU institutions such as the Commission and now the External Action Service, rather than trying to effect actual change in Russia itself. It is hard to trace the direct influence of the Parliament's resolutions and other discussions on human rights in Russia on the Commission/External Action Service's funding initiatives on human rights and its dialogues with Russian officials on human rights. Some respondents representing the External Action Service appeared, however, to highlight some of the same considerations regarding the 'newsworthiness' of certain human rights cases and the success of certain Russian NGOs in lobbying for their interests in Brussels and Moscow which were raised by advisors to the Parliament:

The human rights issues that we follow are the ones that are high in the news, we can't follow every individual case but when someone like Politkovskaya gets killed or Estemirova, or Khodorkovskiy – when we have to produce statements that's what we follow. (Nathalie, EEAS official, Brussels)

Russian human rights NGOs are very well-integrated, they're in constant contact with the embassies and Delegation in Moscow so we're well-aware of the things that they would like to see on the agenda and we consult them, this is part of how the EU works on human rights, that we talk early and often with NGOs. (Rachel, EEAS official, Brussels)

In terms of the issues which the EEAS respondents highlighted as being particularly prominent in the EU's policy strategy on human rights in Russia, there was considerable overlap with those mentioned by several of the parliamentary officials:

Human rights defenders is certainly an issue, the situation in the North Caucasus, the rule of law and obviously law enforcement bodies and the criminal justice system. Then of course we have the issues of freedom of association, we also touch on freedom of religion and belief, Russia particularly likes to raise issues of

racism and hate crime so there's a feature more politically on that. We have raised in the past the issue of torture for example, the difficult situation in prisons or the army so it is very wide. (Anton, EEAS official, Brussels)

Yet at the same time, and perhaps unsurprisingly, respondents from the EEAS appeared to take a more measured and perhaps pragmatic view of the process of formulating policy on human rights than some of those MEPs who have shown willingness to speak out on what they see as major rights violations in Russia. Several pointed out that the EU should be more flexible in its approach when it comes to discussing human rights issues with Russia at meetings such as the regular EU-Russia Human Rights Consultations and implementing policy on the ground. Indeed one respondent claimed that this was already beginning to take place with the adoption of a more 'tailor-made' approach:

This approach towards human rights, if you don't give it a title of human rights it seems already more acceptable. I don't see any problem with that, we should do it far more. If we would rename our consultations, find another name for it. We should not be so conservative on that terminology. Before there was more a policy all over the world where you get an instruction from the Directorate saying 'this month you will deal with the rights of the child and next month it is a week against homophobia and now we will work on LGBT people.' Headquarters [Brussels] somehow has adapted that approach and said we'll let you, the EU, develop a local implementation strategy for how you will deal with human rights defenders and what is your local strategy on this and I foresee that this kind of approach will be how we will try to assist here in Russia so it is more a tailor-made approach for the major topics. (Matthew, EU Delegation official, Moscow)

Where economic and social rights are concerned, however, it is not clear whether this more 'tailor-made' approach will have much effect: this same respondent acknowledged that the topics most likely to receive attention and project funding were,

...the rights of the child, domestic violence, we will get LGBT, we will get more requests to set up your modus operandi, how you will deal with all these specific issues. (Matthew, EU Delegation official, Moscow)

Other respondents were also keen to see a more pragmatic approach gain ground and to focus on more practical issues rather than ‘preaching’ to the Russian authorities about what the EU perceives to be their failings on certain human rights issues:

We think one of the most important things would be to have other entities and agencies other than just the Foreign Ministry [at the Human Rights Consultations] so that we could talk to the people who are actually in charge of prison reform or setting up shelters for women who have undergone violence or who are in charge of orphanages. (Rachel, EEAS official, Brussels)

There is a need to focus on practical issues e.g. prison reform, training of judges, cultural exchanges etc and to look at trade unions and striking rights, consumer rights, education and health. (Neil, think-tank analyst, Brussels)

One of the respondents cited above also pointed out the need for those human rights NGOs with which the EU deals most regularly to have more realistic expectations of what such discussions can really achieve:

Some will say the fact that we do have these consultations happening is already a result in itself. Of course from a human rights activist’s position this is not satisfactory but that is the reality in which we relate and there is always a question about tempering certain expectations versus what we can do. For some people this leads to frustration, others are willing to see the limitations of the whole exercise but also the necessity nevertheless to maintain it. (Matthew, EU Delegation official, Moscow)

Once again, however, the issue of individual Member States having strong yet conflicting views on the manner in which the EU conducts its human rights strategy vis-a-vis Russia serves to prevent any real consensus emerging, despite the apparently more open and pragmatic approach taken by those responsible for implementing the EU’s actual policies. Several respondents representing Member States which run their own human rights projects

in Russia were critical of what they saw as the EU's lack of willingness to raise the human rights issues which they felt to be of particular concern in the right manner:

Perhaps we as the West have not really found the right tone in our criticism and if we become more outspoken we should find a way to frame that so that it becomes more difficult for those that we criticise, in other words the political leadership of Russia, to frame our criticism as some kind of aggressive Western arrogance. The other problem is on the Brussels side because the people who set the framework for these kinds of dialogues are mostly interested in ticking off various boxes rather than getting anything done. I think the European Parliament somehow fills the void that we have left by toning down our values rhetoric, I think in that sense it is good but I feel overall the more vocal critics have to be a little bit careful so they don't come just across as Russia-haters. (Thomas, Member State diplomat, Moscow)

The EU Delegation is worried about offending people: they should be aware of the power they have. The Human Rights Consultations need to be integrated into the wider political agenda: human rights issues have to be raised at a political level. The EU forgets how powerful its voice is. A teaching approach does get people's backs up but it has to be done. (John, Member State diplomat, Moscow)

This illustrates one of the difficulties for the EU in terms of the differing expectations of its individual Member States. It also poses a problem for the EU in that Member States tend to criticise its approach for being ineffectual while at the same time letting the EU raise some of the trickier issues on its own in its political dialogue with Russia in order to avoid compromising their individual bilateral relations with Russia. Perhaps understandably, some of the EU respondents expressed resentment at this tactic and the fact that it might give the impression that Member States did not have the same concerns over Russia's human rights record:

For the Member States it now seems 'the EU will play the bad guy because they will be dealing with human rights, we in our diplomatic relations with the country can quietly focus on our trade relations.' You will see a difference of course on

human rights if you have a Scandinavian country, particularly Sweden. I think they will still maintain this. There is co-ordination but somehow Member States still find it difficult to be fully transparent on this. (Matthew, EU Delegation official, Moscow)

I know this concern that the Delegation has, and again it's not only in Moscow but that the EU would be the bad guy passing nasty messages to third countries and it's again with China they were very clever in saying 'well you mention these human rights concerns but nobody else told us that you had concerns on human rights,' that's also why for the last round of the [Human Rights] Consultations we invited Member States in Brussels to sit at the Consultations as observers and we had a few States to show that it was not only the EEAS but that Member States had an interest and were supportive of the process. (Anton, EEAS official, Brussels)

Again, however, this gives the impression of a lack of consensus at both the Member State level and the EU level in terms of the approach the Union should be taking regarding its strategy of promoting human rights in Russia and highlights the problem the Union appears to face of trying to balance Member States' and NGOs' high expectations of what it can and should achieve with what in practical terms is actually possible. One of the Russian respondents pointed out that this lack of consensus hinders policymaking and cautioned the Union against falling into the trap of taking a very inflexible stance on human rights:

There's an internal split in Europe which means that there is simply no policy on Russia. I would advise taking small steps and gradually widening the areas being discussed because this very dogmatic approach which is there now started with the dialogue in the 1990s when various slogans were put forward about needing to protect and uphold human rights and so on. That's true, but it doesn't work in a real political situation, and can even be counter-productive. One shouldn't have such big expectations – if something is going to change in Russia then it will change because of internal factors, not because of EU policy. In theory the EU is taking the right approach, democracy and political rights are very important and we should strive to achieve them, but there's no need to make this a direct aim because at the moment it's not achievable. (Vadim, academic, St Petersburg)

This view raises the question of the extent to which the EU is ‘stuck’ using a certain *modus operandi* which relies heavily on a small network of human rights NGOs and may have been more relevant during the immediate post-Soviet period but is failing to have much effect in the contemporary period. It also highlights the fact that, rightly or wrongly, the EU is seen by some to be employing a very ‘dogmatic’ and narrow approach to human rights which does not fully take into account Russia’s domestic political context.

7.6 Conclusions

The purpose of this chapter has been to examine some of the more practical aspects of EU policymaking on human rights in Russia in order to complement the preceding chapter on the Union’s conceptualisations of various human rights, particularly economic and social rights. It seems clear from both the EU Delegation to Russia’s own reporting on the projects it funds in cooperation with Russian civil society and the interviews conducted with representatives of Russian civil society and academia and of the various EU institutions and Member States that, where Russia is concerned, the EU’s human rights strategy retains a somewhat narrow focus on mostly civil and political rights issues. While the Union has provided and is likely to continue to provide substantial and well-received funding for more socially-oriented projects, it largely avoids framing such projects in rights terms, thus potentially reducing issues such as access to healthcare and housing to charitable or governance initiatives rather than areas where Russians have specific rights entitlements. This stands in stark contrast to the clear emphasis on the universality of human rights and the importance of international human rights law where the Union’s funding for what it defines as its human rights projects under the EIDHR is concerned. This division is reinforced by the close relationship a number of prominent Russian human rights NGOs appear to enjoy with both the Delegation in Moscow and the European Parliament and Commission in Brussels.

At the same time, a number of the EU representatives interviewed were critical of this situation and of the high expectations these NGOs appear to have of the Union’s ability to promote the issues they see as important. Nevertheless, ultimately the EU’s main source of information and cooperation on human rights issues and projects seems to be a relatively small section of Russian civil society with its own agenda to promote, meaning that, while some social NGOs enjoy a fruitful and positive relationship with the Delegation in terms of receiving funding, they are effectively shut out of the lobbying network when it comes to

discussing human rights issues with both the Commission and members of the European Parliament. This can be explained in part by the fact that they do not have the advantage of the same resources and profile as some of the more internationally-recognised human rights organisations. Nevertheless, the end result is that those interested in promoting civil and political rights issues appear to enjoy much greater political and public support from the various EU institutions than those aiming to resolve economic and social rights issues which resonate far more with the wider Russian public. This helps to contribute to the perception that the EU has a very clear and narrow definition of the ‘hierarchy of rights,’ despite the fact that its contribution to schemes in Russia which directly or indirectly promote the improved observation of economic and social rights has been significant.

Chapter 8

Conclusions and discussion

8.1 Introduction

This thesis has explored the important yet contested position occupied by economic and social rights within the broader concept of contemporary human rights, and the way in which the contested status of these rights influences the interaction between the EU and Russia in relation to human rights commitments and violations. It has also examined this category of human rights within the framework of the European human rights system and the role that understandings of these rights play within EU and Russian policy processes in institutional and political contexts. This study has situated the varying conceptualisations of economic and social rights in their historical contexts, and demonstrated that, despite the rhetoric of the indivisibility of all human rights, the application of this particular set of rights continues to be uneven, conditional and dependent upon the political will of both national governments and international organisations such as the EU for their effective implementation. It has shown this through an analysis of Russian and EU official and unofficial EU discourse on economic and social rights. This thesis has argued that the lack of clarity and commitment demonstrated by the EU in terms of the implementation of economic and social rights has negative consequences for the Union's ability to achieve its apparent aim of improving Russia's human rights record, as well as its ability to influence longer-term social development there. It also undermines any attempt by the EU to act as a 'normative power' in terms of promoting its vision of human rights norms in its relations with non-Member States, which highlights the limitations of applying this highly idealistic concept to the EU's actions in the area of human rights promotion.

The thesis makes the following five contributions:

- Conceptually, it contributes to a better understanding of the under-explored area of economic and social rights within rights-based literature and the ways in which these rights are contested within the broader concept of 'human rights' and within certain political contexts such as the growth of austerity in Europe.
- Empirically, it allows for greater insight into understandings of both economic and social rights and human rights more generally in the Russian context, including the

ways in which these understandings are interpreted and used by the Russian authorities. This in turn helps to illuminate the complex relationship that exists between the authorities and various sectors of Russian civil society.

- From an EU perspective, the thesis contributes insights into the gaps that exist between the EU's rhetorical position on human rights and its practical implementation of policy in this area, including some of the problems caused by the EU's structural set-up in terms of policy formulation and implementation. These gaps and problems arguably undermine the EU's attempts to portray itself as a form of 'moral arbiter' when it comes to promoting human rights norms around the world.
- The thesis also contributes to a more nuanced and broader understanding of the relationship between the EU and Russia where human rights are concerned, and allows certain policy recommendations to be put forward which could contribute to a more coherent and effective level of engagement between the two sides on a range of human rights issues. This could have a potentially positive effect on the more general relationship between the EU and Russia, which has at times been characterised by a degree of apparently mutual incomprehension.
- Finally, on a broader theoretical level, the thesis critiques the idea of 'normative power Europe' in the context of the Union's relations with Russia which has implications for the EU more widely in its relations with non-member states. It also contributes to a more detailed understanding of the development of ideas of human rights and the existence of an apparent 'hierarchy of rights' in the context of post-socialism which can be applied beyond the case study of Russia used in this thesis to other post-Soviet states. The thesis demonstrates that failure to engage with these developments again has implications for the EU's ability to act as a 'normative power' in its external relations policy with states both within and without the post-Soviet space.

8.2 The contested nature of economic and social rights within the concept of 'human rights'

One of the key claims that this thesis has made is that, despite the consistent claims of the indivisibility of all human rights in the major UN and European human rights treaties and the rhetoric on such rights used by the EU, the place which economic and social rights occupy in

the 'hierarchy' of international human rights norms remains contested. It has also argued that understandings of such rights are heavily influenced by the political context in which they come to be shaped and applied. The precarious position such rights currently occupy can partly be explained by the end of the Cold War, the collapse of Communist regimes which had strongly emphasised economic and social rights over civil and political rights and freedoms, and what Pieterse (2003:7) calls the 'degrading' of economic and social rights which were associated with socialist values and systems. Yet other factors have clearly contributed to this outcome, not least the simultaneous and subsequent flourishing of neoliberal ideologies which have held sway even under late 20th-century European governments led by social democratic parties who appeared to accept the necessity of labour market deregulation and adaptation to market forces (Mudge 2008). Unsurprisingly, this has had a profound effect on the policies and policy discourse utilised by the EU in relation to economic and social policy, leading to a vacillation between what appear to be explicitly neoliberal economic policy measures and attempts at mitigating the social effects of these by retaining those elements of the 'European Social Model' which can be reconciled with the market (Hansen and Schierup 2005).

The fact that the neoliberal concept of human rights tends to paint economic and social rights claims as optional, an obstacle to the success of the market and not part of the wider concept of 'human rights' (O'Connell 2007) has led to a fundamental reimagining of the role of the State in relation to guaranteeing such rights. It has shifted the emphasis from state provision of various social services as a matter of right and entitlement to the individual responsibility of the person seeking to access these services, turning them into 'market citizens' (Pieterse 2003:7). Economic and social rights have thus become subject to a highly conditional application which depends upon the 'market citizen' shouldering certain responsibilities and exhibiting certain behaviours deemed to be appropriate such as taking part in workfare schemes and job-seeking in order to access their 'rights.' The influence of some of this thinking could be seen in the views expressed by some of the respondents representing EU Member States who took part in this study and which were analysed in Chapter 6: namely, the fact that some of them did not see economic and social rights as 'real' rights per se, but as 'budgetary' matters or 'soft' rights. The trend towards conditionality and a supposed balance of 'rights and responsibilities' has only been exacerbated during a period of economic crisis and the ascendancy of austerity policies based on welfare budget cuts in countries such as Greece, Ireland and the UK which, as MacLeavy (2011:3) argues, have become 'shorthand

for an increasing focus on frugality, self-sufficiency and fiscal prudence.’ Yet increasing the degree of conditionality already inherent in the system and further restricting access to welfare provision for certain groups such as youth, women and the low-skilled which are the consequences of these austerity measures (MacLeavy 2011) risks a major rollback of economic and social rights entitlements in contemporary Europe.¹³¹

It is not, however, simply in the context of the EU and its Member States that neoliberal ideologies and social policy approaches have found resonance and had an impact on the realisation of economic and social rights, as Chapter 5 highlighted and as will be further discussed below. In the post-Soviet context the Russian experience of market reform and liberalisation has been very different to that of the majority of EU Member States who were part of the Union before the Central and East European countries acceded. Yet this thesis has argued that where access to certain economic and social provisions are concerned, a broadly neoliberal approach of reducing free access to social services and a push towards increased self-reliance for welfare needs in practice has characterised the Putin and Medvedev administrations. This has, however, been ‘masked’ in recent years by the use of a political discourse which emphasises the state’s responsibility for the lives of its citizens and its commitment to upholding economic and social rights entitlements.

This approach has been predicated on the broad support for economic and social rights issues which still exists in Russia, partly as a result of the Soviet era’s official emphasis on the primacy of the state in relation to welfare provision and of economic and social rights. It is also in large part due to the insecurity and sense of dislocation caused by the chaotic reform period of the 1990s under Yeltsin and the more explicitly neoliberal welfare reforms of Putin’s first term from 2000 to 2004 (Hemment 2009). As a result, while the discourse on the meaning and importance of such rights may be different in the Russian context to that of the

¹³¹ This situation has not gone unnoticed by NGOs and other organizations with an interest in human rights issues: in April 2013 Amnesty International passed a resolution condemning what it called the UK Coalition Government’s ‘regressive and lethal assault’ on the human rights of sick and disabled people by cutting access to health and housing benefits (see ‘2013 AGM Resolutions and Board Background Notes,’ Amnesty International UK, available at www.amnesty.org.uk/uploads/documents/doc_23021.pdf). In May 2013 the chairman of the Scottish Human Rights Commission highlighted the adverse impact of the UK government’s welfare reforms on the public’s human rights (see ‘Welfare reforms may breach rights,’ The Herald, 29th May 2013, available at <http://www.heraldscotland.com/politics/political-news/welfare-reforms-may-breach-rights.21204106>). On a wider international level, Oxfam has made the ‘right to economic justice’ and the ‘right to essential services’ two of its five main strategic aims for the period up to 2015 (see ‘Oxfam Strategic Steer 2012/13 – 2014/15,’ Oxfam, available at <http://www.oxfam.org.uk/what-we-do/about-us/plans-reports-and-policies>)

EU and its Member States, there is considerable overlap in terms of the approach taken to the practical realisation, or lack thereof, of these rights. Overall it seems that, rather than constituting clearly-defined and largely uncontested human rights norms along the lines of civil and political rights such as freedom of expression, the realisation of economic and social rights depends to a much greater extent on the political will of national governments and entities such as the EU, political will which in the contemporary European context appears to be somewhat lacking.

8.3 Human rights and civil society in the Russian context

The second major focus of this thesis has been an exploration of how economic and social rights are understood in the very specific context of post-Soviet Russia. As discussed in Chapter 4, it has also examined the extent to which what a number of Russian respondents called the ‘Soviet legacy’ of official rhetoric which emphasised a strong state and economic and social rights and provisions has influenced these understandings. While this ‘legacy’ has undoubtedly had considerable impact on the expectations of the State’s obligations with respect to economic and social rights which appear to endure in the contemporary period, various other factors must also be taken into account. These include the impact of the period since the collapse of the Soviet Union in 1991 with its dismantling of large swathes of the previous system of welfare provision and more recent and unpopular welfare reforms such as the monetisation of certain benefits in 2004-05 and the increase in the rate of utilities in late 2012 and early 2013, as detailed in Chapter 5. The Russian public generally continues to see a range of economic and social rights as the most important ‘human rights,’ even in the aftermath of recent post-election political protests.¹³² At the same time, there is also a sense that these rights are the least likely to be realised in practice and that certain groups such as children, the elderly and the disabled are most vulnerable to having these rights violated, as Chapter 4 discussed. As a result, public expectations of the State and its obligations in this sphere are not being met, regardless of the ‘active and interventionist’ rhetoric on the role of the state in welfare provision deployed by the authorities (Cook 2011:23) and its more

¹³² As mentioned in Chapter 1, a poll conducted in Russia in February 2013 indicated that only 4% of those surveyed expressed concern over restrictions on civil rights and democratic freedoms, while 68% saw rising prices as the main threat to the country and 52% cited the impoverishment of large sections of society (Interfax, 21st March 2013, available at <http://russialist.org/russians-greatest-worry-is-corruption-only-4-percent-worried-about-rights-poll>)

proactive approach towards engaging with those NGOs which carry out social projects deemed to be ‘useful.’

While the impact of the Soviet ‘legacy’ on public perceptions of human rights appears in some respects to have been significant, it has been no less profound in its influence on the contemporary Russian human rights movement, many of whose NGOs continue to be run by former Soviet-era dissidents, as Chapters 4 and 5 detailed. These former dissidents have tended to subscribe to a more ‘liberal’ definition of human rights which favours the civil and political over the economic and social. This approach is more in line with their previous experience of struggling for civil and political liberties against the Soviet regime and of seeing themselves as an elite group separated from both mainstream public opinion and government policy (Lipset and Dobson 1972; Horvath 2005; Mendelson and Gerber 2007). It also overlaps with the neoliberal approach to human rights mentioned in Section 8.2 which privileges individual civil and political rights and freedoms over more collective economic and social rights. While some of the human rights activists interviewed as part of this study demonstrated a high degree of awareness of the meaning of economic and social rights and their importance to the wider public, the fact remains that these rights rarely become the subject of their campaigns and project activities. In some respects this is to be expected: international donors such as the EU provide a financial lifeline to Russian human rights NGOs and contacts between this type of NGO and the EU’s representatives working on Russia are close and extensive. As a result, it is hardly surprising that there should be overlap between their visions of what human rights mean, how they should be promoted and the place that economic and social rights occupy in the overall ‘hierarchy’ of rights.

What is clear, however, is that rather than acting as effective ‘translators’ of human rights norms from the international to the local context (Merry 2006), these NGOs may enjoy an excellent relationship with their EU and Member State colleagues but have largely failed to establish a public support base or to promote issues which resonate with the wider population. They have also failed to find much common ground with other NGOs such as those working in the social sector who also took part in this study, and instead have created the impression amongst both third sector colleagues and several Member State representatives that they form an exclusive clique based on personal relationships dating back many years. As will be further discussed below, this acts as a serious obstacle to the EU’s

attempts to formulate a coherent and effective approach towards promoting human rights in Russia. Their approach also stands in striking contrast to that of the more socially-oriented NGOs who took part in this study and who work with vulnerable groups such as children, the elderly and the disabled to improve their access to essential services while not identifying themselves explicitly as ‘rights-defending’ [*pravozashitniye*] organisations. These organisations appeared to be much more embedded in the local community in terms of their success in attracting volunteers and financial sponsorship from local businesses, their focus on issues such as housing, healthcare and general living standards which resonate with a large proportion of the public, and their more pragmatic and cooperative stance on interacting with the local authorities. At the same time, these organisations are not as integrated into the EU’s network of civil society contacts as the ‘old-school’ human rights NGOs because the type of work they do may make a clear contribution to the realisation of their clients’ economic and social rights, but does not appear to fit as easily into the EU’s definition of the hierarchy of human rights.

8.4 Problems within the EU’s structure and its strategy on promoting human rights

Having outlined the initial conceptual and empirical contributions this study makes to the literature on human rights theory, understandings of human rights in the Russian context and the relationship between human rights and more socially-oriented NGOs in Russia and their relationship with the EU, attention now turns to the third main contribution of this thesis. One of the key issues it has examined is the way in which human rights in general and economic and social rights in particular are constructed in official EU discourse on internal and external policy and by individual representatives of the Union and its Member States working in the area of human rights. Where both the internal and external EU context is concerned, a picture has emerged from both the EU’s own policy documents and interviews with the EU, Member State and Russian respondents involved in this study of a lack of clarity and consensus in the Union’s conceptual aims and objectives when it comes to accepting and promoting economic and social rights as fundamental rights for EU citizens. This lack of clarity also extends to the EU’s position on economic and social rights as values to be promoted in its relations with third countries. Overall, despite the oft-repeated claims of the indivisibility of all human rights in its policy documents and treaties, there appears to be an emphasis on those rights which coincide with values that are perceived to be ‘liberal’ and are to some extent perhaps

more compatible with neoliberal theories on the role of the state in providing access to welfare and the realisation of economic and social rights.

While this lack of consensus can partly be attributed to the influence of neoliberal policy approaches at the EU level and the consequent contestations surrounding the value and status of economic and social rights mentioned in Section 8.2, there are also more practical, structural explanations for this state of affairs. The first of these is the fact that, as various respondents pointed out, there is clearly a division between the different Member States over the merits and importance of promoting economic and social rights and the benefits of different welfare models which hinders the EU's ability to establish a common position on promoting such rights in relation to third countries. There is also the problem of Member States' reluctance to have their internal human rights records discussed with third countries, which leaves the EU open to accusations of hypocrisy when it tries to intervene in human rights matters in Russia. An additional factor is the presence of outspoken MEPs within the European Parliament who have an interest in Russian affairs, tend to emphasise civil and political rights over economic and social issues and concentrate on the most 'newsworthy' and controversial cases which suit their own agendas. Finally, any attempt by the Union to raise human rights issues of any kind in its dealings with Russia must compete with its more instrumental interests in areas such as trade and energy. All of this adds up to a picture of confusion, inconsistency and competing priorities which arguably compromise any attempt by the EU to act as a 'normative power' in promoting its vision of human rights norms outside its own borders.

8.5 Understanding the EU-Russia interaction on human rights in practice

It seems clear from both the EU Delegation to Russia's own reporting on the projects it funds and the interviews conducted as part of this study that, where Russia is concerned, the EU's human rights strategy retains a somewhat narrow focus on mostly civil and political rights issues. While the Union has provided and is likely to continue to provide substantial and well-received funding for more socially-oriented projects, it largely avoids framing such projects in rights terms, thus potentially reducing issues such as access to healthcare and housing to charitable or governance initiatives rather than areas where Russians have specific rights entitlements. This stands in stark contrast to the clear emphasis on the universality of human rights and the importance of international human rights law where the Union's funding for what it defines as its human rights projects under the EIDHR is concerned. This

division is reinforced by the close relationship a number of prominent Russian human rights NGOs appear to enjoy with both the EU's Delegation in Moscow and the European Parliament and Commission in Brussels. At the same time, a number of the EU representatives interviewed were critical of this situation and of the high expectations these NGOs appear to have of the Union's ability to promote the issues they see as important. Nevertheless, ultimately the EU's main source of information and cooperation on human rights issues and projects seems to be a relatively small section of Russian civil society with its own agenda to promote. This means that, while some social NGOs enjoy a fruitful and positive relationship with the Delegation in terms of receiving funding, they are effectively shut out of the lobbying network when it comes to discussing human rights issues with both the Commission and members of the European Parliament. This can be explained in part by the fact that they do not have the advantage of the same resources and profile as some of the more internationally-recognised human rights organisations. Nevertheless, the end result is greater political and public support from the various EU institutions for a particular type of Russian human rights NGO than for those aiming to resolve economic and social rights issues which resonate far more with the wider Russian public. This helps to contribute to the perception that the EU has a very clear and narrow definition of the 'hierarchy of rights,' despite the fact that its contribution to schemes in Russia which directly or indirectly promote the improved observation of economic and social rights has been significant.

8.5 Critiquing 'normative power Europe' and the development of ideas of human rights in post-Soviet states

Building on the empirical insights which this thesis has generated, it is possible to make a broader theoretical contribution to the question of whether this 'normative power Europe' concept has much validity in the context of both the EU's relations with Russia where human rights are concerned, and in its relations with other non-Member States. It seems apparent that, despite the obvious desire of the Union to act as a normative power in promoting its vision of 'European' human rights norms alongside its other oft-proclaimed standards regarding democracy and the rule of law, it is largely failing to do so. By retaining a somewhat narrow definition of the meaning of 'human rights' and the order in which the 'hierarchy of rights' should sit, with economic and social rights apparently relegated to the lower echelons of this hierarchy, the EU is precluding the possibility of a real dialogue on the meaning and implementation of human rights in its often difficult relations with non-Member

States such as Russia and China. While this thesis does not argue in favour of a culturally relativist approach which would imply that certain human rights norms only apply in certain contexts, it seems clear that a state's domestic political, social and historical context will to some extent shape its perceptions of human rights. Indeed it seems apparent that, while the EU may lack consensus on the meaning and importance of economic and social rights, in the Russian case these rights are not contested and form part of what is in fact a very clear concept of 'human rights.' As a result, engaging with rather than ignoring or dismissing these perceptions would allow external partners to have more input into the supposed 'dialogue' on human rights that currently exists. Otherwise there is a danger that, as Sjursen (2006) and Diez (2005) have pointed out, the 'normative power' thesis will remain too close to how the EU perceives itself, or would like to perceive itself, as a champion of certain values which it itself defines, rather than reflecting its actual ability to transmit norms and standards outside its own borders.

The fact that Russia appears to have a fairly definite 'culture of rights' also has important implications for the development of the ideas and practice of human rights in post-Soviet states. Given that all 15 of those republics which made up the Soviet Union were subject to its constitutional emphasis on economic and social over civil and political rights, it seems reasonable to suppose that such perceptions of rights may continue to have some currency in the successor states to these republics in the contemporary transition and post-transition period, with the obvious caveat that the three Baltic states which are now members of the EU have experienced a somewhat different trajectory to the others. As a consequence, rather than acting as a largely untouched 'site' for the promotion of 'European' or 'Western' ideas of human rights, the post-Soviet region in fact represents a complex and contested field for the development of human rights norms, their implementation in practice, and for the continuing development of civil society in its various forms. Failing to take account of this will again impede the EU's ability to act as any kind of 'normative power.'

8.7 The way forward: policy recommendations and further research

One of the clearest findings to emerge from this study is that, if the EU wishes to exert any real influence on the respect for and promotion of human rights in Russia, it needs to rethink its existing strategy of engaging primarily with a small group of Russian human rights NGOs on issues which fit a fairly narrow definition of 'human rights.' It should put greater emphasis on economic and social rights issues in its engagement with these organisations, those

involved in more directly socially relevant work, and its interactions with Russian officials during bilateral meetings such as the EU-Russia Human Rights Consultations. While this thesis does not argue that civil and political rights issues in Russia should in any way be dismissed from the EU's agenda, it seems likely that a broader and more inclusive approach towards the definition of human rights which fully includes the economic and social alongside the civil and the political, could lead to a more fruitful dialogue and the potential for significant social and political development. This would constitute a step forward from the current position of mutual incomprehension and occasional distrust where human rights issues are concerned. It would also allow for more open dialogue on economic and social rights issues at a time when several EU Member States are facing challenges in this area in relation to austerity programmes and welfare reform, and could avoid the accusations of 'double standards' from the Russian side which have dogged discussions on human rights in the past.

In terms of future research agendas, this study points to wider questions concerning expectations of the State and the individual in relation to the provision of welfare and the realisation of human rights in both the post-Soviet and EU contexts, and the extent to which austerity measures during times of crisis can impact on human rights agendas. In addition, the contemporary context of this study means that the political landscape in Russia, the relationship between the state and civil society there and the EU-Russia relationship are constantly changing, particularly in the light of the 'foreign agent' law of 2012 which is currently being used against the type of 'politically active' NGO which the EU has close contacts with.¹³³ As a result, further research is needed to track the development of the Russian domestic situation regarding human rights and civil society, and the impact this may have on EU-Russia relations both in general and in relation to human rights specifically.

¹³³ See 'Russian NGOs fight 'foreign agent' status,' Deutsche Welle, 2nd May 2013, available at <http://www.dw.de/russian-ngos-fight-foreign-agent-status/a-16784923>; 'Russia's oldest human rights group fights 'foreign agent' tag,' Reuters, 24th May 2013, available at <http://www.reuters.com/article/2013/05/24/us-russia-memorial-idUSBRE94N06L20130524>

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Appendix One

Qualitative Interviews

Interviews conducted in Strasbourg:

1. Johannes, MEP, European Parliament: 16th June 2010
2. Kurt, MEP, European Parliament: 21st June 2010

Interviews conducted in Brussels:

1. Karl, political advisor to MEPs, European Parliament: 25th January 2011
2. Rachel, European External Action Service official: 27th January 2011
3. Nathalie, European External Action Service official: 27th January 2011
4. Neil, head of a European affairs think-tank: 25th January 2011
5. Anna, human rights researcher, European Parliament: 14th September 2011
6. Anton, European External Action Service official, 13th September 2011

Interviews conducted in Russia:

EU and EU Member State Representatives:

1. Katya, EU Member State diplomat, St Petersburg: 2nd March 2011
2. Robert, EU Member State consul, St Petersburg: 2nd March 2011
3. Frieda, EU Member State diplomat, St Petersburg: 24th March 2011
4. Christina, EU Member State diplomat, Moscow: 11th April 2011
5. Thomas, EU Member State diplomat, Moscow: 11th April 2011

6. John, EU Member State diplomat, Moscow: 18th April 2011
7. Edith, EU Member State diplomat, Moscow: 12th April 2011
8. Matthew, representative of the EU Delegation to the Russian Federation, Moscow: 15th April 2011

Social Sector NGOs:

1. Anya, manager of an NGO working with the elderly and disabled, St Petersburg: 11th March 2011
2. Nadezhda, children's charity manager, St Petersburg: 22nd February 2011
3. Lydia, healthcare NGO manager, St Petersburg: 5th April 2011
4. Alisa, employee of an NGO promoting foster care, St Petersburg: 28th February 2011
5. Yana, manager of an NGO promoting foster care, St Petersburg: 28th February 2011
6. Marina, programme officer for an NGO promoting labour rights, Moscow: 14th April 2011

Human Rights NGOs:

1. Svetlana, human rights activist, St Petersburg: 18th February 2011
2. Nadya, human rights activist, St Petersburg: 25th April 2011
3. Lyuda, human rights activist, St Petersburg: 22nd March 2011
4. Oleg, human rights activist, St Petersburg: 22nd March 2011
5. Dmitriy, human rights activists, Ryazan: 13th June 2011
6. Tanya, human rights activists, Ryazan: 13th June 2011
7. Sergey, human rights activist, Nizhniy Novgorod: 7th June 2011

Regional Human Rights/Child Human Rights Ombudsmen:

1. Sergey, advisor to the St Petersburg Child Human Rights Ombudsman: 20th March 2011
2. Nikolai, regional human rights ombudsman, Northwestern Federal District: 5th April 2011

3. Andrey, regional human rights ombudsman, Moscow Region: 14th April 2011

Academics:

1. Andrey, academic, St Petersburg: 20th May 2011

2. Pavel. Academic, St Petersburg: 20th May 2011

3. Stanislav, academic, St Petersburg: 26th May 2011

4. Aleksey, academic, St Petersburg: 18th June 2011

5. Vadim, academic, St Petersburg: 20th June 2011

Appendix Two

Interview Consent Form (EU Respondents)

My name is Eleanor Bindman and I am a doctoral student in the Department of Central and East European Studies at the University of Glasgow, UK. As part of my research I am interviewing a number of respondents to ascertain their views on the European Union's policy on promoting human rights in Russia. Data from the interviews is likely to be used in my doctoral thesis and potentially in articles for publication in academic journals but your identity will be kept anonymous in all written work. By signing this form, you are giving consent for your interview responses to be used in this manner.

Upon completion the thesis will be assessed by staff members within the Faculty of Law, Business and Social Sciences and external examiners. You will be entitled to a copy of the interview transcript should you wish to have one and I will email you copies of the final pieces of written work upon submission.

By signing below you will be consenting to being interviewed:

Name:

Signature:

Please sign here if you consent to the interview being audio recorded:

Signature:

Following the interview, feedback or any other comments or questions will be very welcome and I can be contacted at e.bindman.1@research.gla.ac.uk. If you have any concerns about the nature or conduct of the research which you would prefer to discuss with someone else, please contact Dr John Francis McKernan, deputy ethics officer at the College of Social Sciences, University of Glasgow at john.mckernan@glasgow.ac.uk.

Appendix Three

Interview Consent Email Sent to Russian Respondents

Translation from Russian:

Dear _____,

I am a PhD student at the University of Glasgow in the UK and recently came to St Petersburg to carry out research at the European University here. My subject is the European Union's policy on promoting human rights in Russia, particularly economic and social rights. While I am in St Petersburg I hope to conduct a number of interviews with representatives of non-governmental organisations. I have already heard much about your organisation and it would be extremely interesting for me to carry out a short, informal and completely confidential interview with you at a time which is convenient to you. If you require any further information from me please let me know and I hope that you will take part.

Yours sincerely,

Eleanor Bindman

Appendix Four

The Universal Declaration of Human Rights (1948)

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.

Everyone has the right to life, liberty and security of person.

Article 4.

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6.

Everyone has the right to recognition everywhere as a person before the law.

Article 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9.

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11.

(1) Everyone charged with a penal offence has the right to be presumed innocent until

proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13.

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14.

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to

the purposes and principles of the United Nations.

Article 15.

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16.

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17.

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right

includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20.

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 21.

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22.

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23.

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24.

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25.

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food,

clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26.

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27.

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28.

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29.

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30.

Nothing in this Declaration may be interpreted as implying for any State, group or

person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Source: The Canadian Museum for Human Rights, available at <http://museumforhumanrights.ca/exhibits/udhr>

Appendix Five

Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocol No. 11

Rome, 4.XI.1950

The text of the Convention had been amended according to the provisions of Protocol No. 3 (ETS No. 45), which entered into force on 21 September 1970, of Protocol No. 5 (ETS No. 55), which entered into force on 20 December 1971 and of Protocol No. 8 (ETS No. 118), which entered into force on 1 January 1990, and comprised also the text of Protocol No. 2 (ETS No. 44) which, in accordance with Article 5, paragraph 3 thereof, had been an integral part of the Convention since its entry into force on 21 September 1970. All provisions which had been amended or added by these Protocols are replaced by Protocol No. 11 (ETS No. 155), as from the date of its entry into force on 1 November 1998. As from that date, Protocol No. 9 (ETS No. 140), which entered into force on 1 October 1994, is repealed and Protocol No. 10 (ETS no. 146) has lost its purpose.

- The governments signatory hereto, being members of the Council of Europe, Considering the Universal Declaration of Human
- Rights proclaimed by the General Assembly of the United Nations on 10th December 1948;
- Considering that this Declaration aims at securing the universal and effective recognition and observance of the Rights therein declared;
- Considering that the aim of the Council of Europe is the achievement of greater unity between its members and that one of the

methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms;

- Reaffirming their profound belief in those fundamental freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the human rights upon which they depend;
- Being resolved, as the governments of European countries which are like-minded and have a common heritage of political traditions, ideals, freedom and the rule of law, to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration,

Have agreed as follows:

Article 11 – Obligation to respect human rights

The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.

Section II – Rights and freedoms

Article 21 – Right to life

- 1 Everyone's right to life shall be protected by law. No one shall be deprived of his life

intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

- 2 Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
 - a in defence of any person from unlawful violence;
 - b in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
 - c in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 32 – Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 41 – Prohibition of slavery and forced labour

- 1 No one shall be held in slavery or servitude.
- 2 No one shall be required to perform forced or compulsory labour.
- 3 For the purpose of this article the term “forced or compulsory labour” shall not include:
 - a any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
 - b any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
 - c any service exacted in case of an emergency or

calamity threatening the life or well-being of the community;

- d any work or service which forms part of normal civic obligations.

Article 51 – Right to liberty and security

1 Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- a the lawful detention of a person after conviction by a competent court;
 - b the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
 - c the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
 - d the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
 - e the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
- 2 the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

3 Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his

arrest and of any charge against him.

4 Everyone arrested or detained in accordance with the provisions of paragraph 1.c of this article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

5 Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

6 Everyone who has been the victim of arrest or detention in

contravention of the provisions of this article shall have an enforceable right to compensation.

Article 63 – Right to a fair trial

1 In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2 Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3 Everyone charged with a criminal offence has the following

minimum rights:

a to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

b to have adequate time and facilities for the preparation of his defence;

c to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

d to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

e to have the free assistance of an interpreter if he cannot

understand or speak the language used in court.

Article 74 – No punishment without law

1 No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

2 This article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was

committed, was criminal according to the general principles of law recognised by civilised nations.

Article 81 – Right to respect for private and family life

- 1 Everyone has the right to respect for his private and family life, his home and his correspondence.
- 2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 91 – Freedom of thought, conscience and religion

- 1 Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
- 2 Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 101 – Freedom of expression

- 1 Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart

information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

- 2 The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 115 – Freedom of assembly and association

- 1 Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
- 2 No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Article 121 – Right to marry

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

Article 131 – Right to an effective remedy

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

Article 141 – Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 151 – Derogation in time of emergency

- 1 In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.
- 2 No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.
- 3 Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to

operate and the provisions of the Convention are again being fully executed.

Article 161 – Restrictions on political activity of aliens

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

Article 176 – Prohibition of abuse of rights

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

Article 181 – Limitation on use of restrictions on rights

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed

Section II7 – European Court of Human Rights

Article 19 – Establishment of the Court

To ensure the observance of the engagements undertaken by the High Contracting Parties in the Convention and the Protocols thereto, there shall be set up a European Court of Human Rights, hereinafter referred to as "the Court". It shall function on a permanent basis.

Article 20 – Number of judges

The Court shall consist of a number of judges equal to that of the High Contracting Parties.

Article 21 – Criteria for office

- 1 The judges shall be of high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognised competence.
- 2 The judges shall sit on the Court in their individual capacity.
- 3 During their term of office the judges shall not engage in any activity which is incompatible with their independence, impartiality or with the demands of a full-time office; all questions arising from the application of this paragraph shall be decided by the Court.

Article 22 – Election of judges

- 1 The judges shall be elected by the Parliamentary Assembly with respect to each High Contracting Party by a majority of votes cast from a list of three candidates nominated by the High Contracting Party.
- 2 The same procedure shall be followed to complete the Court

in the event of the accession of new High Contracting Parties and in filling casual vacancies.

Article 23 – Terms of office

- 1 The judges shall be elected for a period of six years. They may be re-elected. However, the terms of office of one-half of the judges elected at the first election shall expire at the end of three years.

- 2 The judges whose terms of office are to expire at the end of

the initial period of three years shall be chosen by lot by the Secretary General of the Council of Europe immediately after their election.

- 3 In order to ensure that, as far as possible, the terms of office of one-half of the judges are renewed every three years, the Parliamentary Assembly may decide, before proceeding to any subsequent election, that the term or terms of office of one or more judges to be elected shall be for a period other than six years but not more than nine and not less than three years.
- 4 In cases where more than one term of office is involved and where the Parliamentary Assembly applies the preceding paragraph, the allocation of the terms of office shall be effected by a drawing of lots by the Secretary General of the Council of Europe immediately after the election.
- 5 A judge elected to replace a judge whose term of office has

not expired shall hold office for the remainder of his predecessor's term.
- 6 The terms of office of judges shall expire when they reach the

age of 70.
- 7 The judges shall hold office until replaced. They shall, however, continue to deal with such cases as they already have under consideration.

Article 24 – Dismissal

No judge may be dismissed from his office unless the other judges decide by a majority of two-thirds that he has ceased to fulfil the required conditions.

Article 25 – Registry and legal secretaries

The Court shall have a registry, the functions and organisation of which shall be laid down in the rules of the Court. The Court shall be assisted by legal secretaries.

Article 26 – Plenary Court

The plenary Court shall

- a elect its President and one or two Vice-Presidents for a period of three years; they may be re-elected;
- b set up Chambers, constituted for a fixed period of time;
- c elect the Presidents of the Chambers of the Court; they may be re-elected;
- d adopt the rules of the Court, and
- e elect the Registrar and one or more Deputy Registrars.

Article 27 – Committees, Chambers and Grand Chamber

- 1 To consider cases brought before it, the Court shall sit in committees of three judges, in Chambers of seven judges and in a Grand Chamber of seventeen judges. The Court's Chambers shall set up committees for a fixed period of time.
- 2 There shall sit as an ex officio member of the Chamber and

the Grand Chamber the judge elected in respect of the State Party concerned or, if there is none or if he is unable to sit, a person of its choice who shall sit in the capacity of judge.

- 3 The Grand Chamber shall also include the President of the Court, the Vice-Presidents, the Presidents of the Chambers and other judges chosen in accordance with the rules of the

Court. When a case is referred to the Grand Chamber under Article 43, no judge from the Chamber which rendered the judgment shall sit in the Grand Chamber, with the exception of the President of the Chamber and the judge who sat in respect of the State Party concerned.

Article 28 – Declarations of inadmissibility by committees

A committee may, by a unanimous vote, declare inadmissible or strike out of its list of cases an application submitted under Article 34 where such a decision can be taken without further examination. The decision shall be final.

Article 29 – Decisions by Chambers on admissibility and merits

- 1 If no decision is taken under Article 28, a Chamber shall decide on the admissibility and merits of individual applications submitted under Article 34.
- 2 A Chamber shall decide on the admissibility and merits of inter-State applications submitted under Article 33.
- 3 The decision on admissibility shall be taken separately unless

the Court, in exceptional cases, decides otherwise.

Article 30 – Relinquishment of jurisdiction to the Grand Chamber Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may,

at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects.

Article 31 – Powers of the Grand Chamber

The Grand Chamber shall

1 a determine applications submitted either under Article 33 or Article 34 when a Chamber has relinquished jurisdiction under Article 30 or when the case has been referred to it under Article 43; and

b consider requests for advisory opinions submitted under Article 47.

Article 32 – Jurisdiction of the Court

- 1 The jurisdiction of the Court shall extend to all matters concerning the interpretation and application of the Convention and the protocols thereto which are referred to it as provided in Articles 33, 34 and 47.
- 2 In the event of dispute as to whether the Court has jurisdiction, the Court shall decide.

Article 33 – Inter-State cases

Any High Contracting Party may refer to the Court any alleged breach of the provisions of the Convention and the protocols thereto by another High Contracting Party.

Article 34 – Individual applications

The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto. The High Contracting

Parties undertake not to hinder in any way the effective exercise of this right.

Article 35 – Admissibility criteria

- 1 The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law, and within a period of six months from the date on which the final decision was taken.
- 2 The Court shall not deal with any application submitted under Article 34 that
 - a is anonymous; or
 - b is substantially the same as a matter that has already been examined by the Court or has already been submitted to another procedure of international investigation or settlement and contains no relevant new information.
- 3 The Court shall declare inadmissible any individual application submitted under Article 34 which it considers incompatible with the provisions of the Convention or the protocols thereto, manifestly ill-founded, or an abuse of the right of application.
- 4 The Court shall reject any application which it considers inadmissible under this Article. It may do so at any stage of the proceedings.

Article 36 – Third party intervention

- 1 In all cases before a Chamber or the Grand Chamber, a High Contracting Party one of whose nationals is an applicant shall have the right to submit written comments and to take part in hearings.

- 2 The President of the Court may, in the interest of the proper

administration of justice, invite any High Contracting Party which is not a party to the proceedings or any person concerned who is not the applicant to submit written comments or take part in hearings.

Article 37 – Striking out applications

- 1 The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that
 - a the applicant does not intend to pursue his application; or
 - b the matter has been resolved; or
 - c for any other reason established by the Court, it is no longer justified to continue the examination of the application. However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the protocols thereto so requires.
- 2 The Court may decide to restore an application to its list of cases if it considers that the circumstances justify such a course.

Article 38 – Examination of the case and friendly settlement proceedings

- 1 If the Court declares the application admissible, it shall
 - a pursue the examination of the case, together with the representatives of the parties, and if need be, undertake an investigation, for the effective conduct of which the States concerned shall furnish all necessary facilities;
 - b place itself at the disposal of the parties concerned with a view to securing a friendly

settlement of the matter on the basis of respect for human rights as defined in the Convention and the protocols thereto.

- 2 Proceedings conducted under paragraph 1.b shall be confidential.

Article 39 – Finding of a friendly settlement

If a friendly settlement is effected, the Court shall strike the case out of its list by means of a decision which shall be confined to a brief statement of the facts and of the solution reached.

Article 40 – Public hearings and access to documents

- 1 Hearings shall be in public unless the Court in exceptional circumstances decides otherwise.
- 2 Documents deposited with the Registrar shall be accessible to the public unless the President of the Court decides otherwise.

Article 41 – Just satisfaction

If the Court finds that there has been a violation of the Convention or the protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.

Article 42 – Judgments of Chambers

Judgments of Chambers shall become final in accordance with the provisions of Article 44, paragraph 2.

Article 43 – Referral to the Grand Chamber

- 1 Within a period of three months from the date of the judgment of the Chamber, any party to the case may, in exceptional cases, request that the case be referred to the Grand Chamber.
- 2 A panel of five judges of the Grand Chamber shall accept the request if the case raises a serious question affecting the interpretation or application of the Convention or the protocols thereto, or a serious issue of general importance.
- 3 If the panel accepts the request, the Grand Chamber shall decide the case by means of a judgment.

Article 44 – Final judgments

- 1 The judgment of the Grand Chamber shall be final.
- 2 The judgment of a Chamber shall become final
 - a when the parties declare that they will not request that the case be referred to the Grand Chamber; or
 - b three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or
 - c when the panel of the Grand Chamber rejects the request to refer under Article 43.
- 3 The final judgment shall be published.

Article 45 – Reasons for judgments and decisions

- 1 Reasons shall be given for judgments as well as for decisions declaring applications admissible or inadmissible.
- 2 If a judgment does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

Article 46 – Binding force and execution of judgments

- 1 The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.
- 2 The final judgment of the Court shall be transmitted to the

Committee of Ministers, which shall supervise its execution.

Article 47 – Advisory opinions

- 1 The Court may, at the request of the Committee of Ministers, give advisory opinions on legal questions concerning the interpretation of the Convention and the protocols thereto.
- 2 Such opinions shall not deal with any question relating to the content or scope of the rights or freedoms defined in Section I of the Convention and the protocols thereto, or with any other question which the Court or the Committee of Ministers might have to consider in consequence of any such proceedings as could be instituted in accordance with the Convention.
- 3 Decisions of the Committee of Ministers to request an advisory opinion of the Court shall require a majority vote of the representatives entitled to sit on the Committee.

Article 48 – Advisory jurisdiction of the Court

The Court shall decide whether a request for an advisory opinion submitted by the Committee of Ministers is within its competence as defined in Article 47.

Article 49 – Reasons for advisory opinions

- 1 Reasons shall be given for advisory opinions of the Court.
- 2 If the advisory opinion does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.
- 3 Advisory opinions of the Court shall be communicated to the

Committee of Ministers.

Article 50 – Expenditure on the Court

The expenditure on the Court shall be borne by the Council of Europe.

Article 51 – Privileges and immunities of judges

The judges shall be entitled, during the exercise of their functions, to the privileges and immunities provided for in Article 40 of the Statute of the Council of Europe and in the agreements made there under.

Section III 8,9 – Miscellaneous provisions

Article 521 – Inquiries by the Secretary General

On receipt of a request from the Secretary General of the Council of Europe any High Contracting Party shall furnish an explanation of the manner in which its internal law ensures the effective implementation of any of the provisions of the Convention.

Article 531 – Safeguard for existing human rights

Nothing in this Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any High Contracting Party or under any other agreement to which it is a Party.

Article 541 – Powers of the Committee of Ministers

Nothing in this Convention shall prejudice the powers conferred on the Committee of Ministers by the Statute of the Council of Europe.

Article 551 – Exclusion of other means of dispute settlement

The High Contracting Parties agree that, except by special agreement, they will not avail themselves of treaties, conventions or declarations in force between them for the purpose of submitting, by way of petition, a dispute arising out of the interpretation or application of this Convention to a means of settlement other than those provided for in this Convention.

Article 5610 – Territorial application

11

- 1 Any State may at the time of its ratification or at any time

thereafter declare by notification addressed to the Secretary General of the Council of Europe that the present Convention shall, subject to paragraph 4 of this Article, extend to all or any of the territories for whose international relations it is responsible.

2 The Convention shall extend to the territory or territories named in the notification as from the thirtieth day after the receipt of this notification by the Secretary General of the Council of Europe.

3 The provisions of this Convention shall be applied in such

territories with due regard, however, to local requirements.

2

4 Any State which has made a declaration in accordance with

paragraph 1 of this article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided by Article 34 of the Convention.

Article 571 – Reservations

1 Any State may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the provision. Reservations of a general character shall not be permitted under this article.

2 Any reservation made under this article shall contain a brief statement of the law concerned.

Article 581 – Denunciation

1 A High Contracting Party may denounce the present Convention only after the expiry of five years from the date on which it became a party to it and after six months' notice contained in a notification addressed to the

Secretary General of the Council of Europe, who shall inform the other High Contracting Parties.

2 Such a denunciation shall not have the effect of releasing the

High Contracting Party concerned from its obligations under this Convention in respect of any act which, being capable of constituting a violation of such obligations, may have been performed by it before the date at which the denunciation became effective.

3 Any High Contracting Party which shall cease to be a member

of the Council of Europe shall cease to be a Party to this Convention under the same conditions.

12

4 The Convention may be denounced in accordance with the

provisions of the preceding paragraphs in respect of any territory to which it has been declared to extend under the terms of Article 56.

Article 5913 – Signature and ratification

1 This Convention shall be open to the signature of the members of the Council of Europe. It shall be ratified. Ratifications shall be deposited with the Secretary General of the Council of Europe.

2 The present Convention shall come into force after the deposit of ten instruments of ratification.

3 As regards any signatory ratifying subsequently, the Convention

shall come into force at the date of the deposit of its instrument of ratification.

4 The Secretary General of the Council of Europe shall notify

all the members of the Council of Europe of the entry into force of the Convention, the names of the High Contracting Parties who have ratified it, and the deposit of all instruments of ratification which may be effected subsequently.

Done at Rome this 4th day of November 1950, in English and French, both texts being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatories.

References

- 1 Heading added according to the provisions of Protocol No. 11 (ETS No. 155).
- 2 Heading added according to the provisions of Protocol No. 11 (ETS No. 155).
- 3 Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

4 Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

5 Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

6 Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

7 New Section II according to the provisions of Protocol No. 11 (ETS No. 155).

8 Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

9 The articles of this Section are renumbered according to the provisions of Protocol No. 11 (ETS No. 155).

10 Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

11 Text amended according to the provisions of Protocol No. 11 (ETS No. 155).

12 Text amended according to the provisions of Protocol No. 11 (ETS No. 155).

13 Heading added according to the provisions of Protocol No. 11 (ETS No. 155).

Appendix Six

CONSTITUTION (FUNDAMENTAL LAW)

OF

THE UNION OF SOVIET SOCIALIST REPUBLICS

Adopted at the Seventh (Special) Session of
the Supreme Soviet of the USSR
Ninth Convocation
On October 7, 1977

Chapter 6: CITIZENSHIP OF THE USSR / EQUALITY OF CITIZENS' RIGHTS

Article 33. Uniform federal citizenship is established for the USSR. Every citizen of a Union Republic is a citizen of the USSR.

The grounds and procedure for acquiring or forfeiting Soviet citizenship are defined by the Law on Citizenship of the USSR.

When abroad, citizens of the USSR enjoy the protection and assistance of the Soviet state.

Article 34. Citizens of the USSR are equal before the law, without distinction of origin, social or property status, race or nationality, sex, education, language, attitude to religion, type and nature of occupation, domicile, or other status.

The equal rights of citizens of the USSR are guaranteed in all fields of economic, political, social, and cultural life.

Article 35. Women and men have equal rights in the USSR.

Exercise of these rights is ensured by according women equal access with men to education and vocational and

professional training, equal opportunities in employment, remuneration, and promotion, and in social and political, and cultural activity, and by special labour and health protection measures for women; by providing conditions enabling mothers to work; by legal protection, and material and moral support for mothers and children, including paid leaves and other benefits for expectant mothers and mothers, and gradual reduction of working time for mothers with small children.

Article 36. Citizens of the USSR of different races and nationalities have equal rights.

Exercise of these rights is ensured by a policy of all-round development and drawing together of all the nations and nationalities of the USSR, by educating citizens in the spirit of Soviet patriotism and socialist internationalism, and by the possibility to use their native language and the languages of other peoples in the USSR.

Any direct or indirect limitation of the rights of citizens or establishment of direct

or indirect privileges on grounds of race or nationality, and any advocacy of racial or national exclusiveness, hostility, or contempt, are punishable by law.

Article 37. Citizens of other countries and stateless persons in the USSR are guaranteed the rights and freedoms provided by law, including the right to apply to a court and other state bodies for the protection of their personal, property, family, and other rights.

Citizens of other countries and stateless persons, when in the USSR, are obliged to respect the Constitution of the USSR and observe Soviet laws.

Article 38. The USSR grants the right of asylum to foreigners persecuted for defending the interests of the working people and the cause of peace, or for participation in the revolutionary and national-liberation movement, or for progressive social and political, scientific, or other creative activity.

Chapter 7: THE BASIC RIGHTS, FREEDOMS, AND DUTIES OF CITIZENS OF THE USSR

Article 39. Citizens of the USSR enjoy in full the social, economic, political and personal rights and freedoms proclaimed and guaranteed by the Constitution of the USSR and by Soviet laws. The socialist system ensures enlargement of the rights and freedoms of citizens and continuous improvement of their living standards as social, economic, and cultural development programmes are fulfilled.

Enjoyment by citizens of their rights and freedoms must not be to the detriment of the interests of society or the state, or infringe the rights of other citizens.

Article 40. Citizens of the USSR have the right to work (that is, to guaranteed employment and pay in accordance with the quantity and quality of their work, and not below the state-established minimum), including the right to choose their trade or profession, type of job and work in accordance with their inclinations, abilities, training and education, with due account of the needs of society.

This right is ensured by the socialist economic system, steady growth of the productive forces, free vocational and professional training, improvement of

skills, training in new trades or professions, and development of the systems of vocational guidance and job placement.

Article 41. Citizens of the USSR have the right to rest and leisure.

This right is ensured by the establishment of a working week not exceeding 41 hours, for workers and other employees, a shorter working day in a number of trades and industries, and shorter hours for night work; by the provision of paid annual holidays, weekly days of rest, extension of the network of cultural, educational, and health-building institutions, and the development on a mass scale of sport, physical culture, and camping and tourism; by the provision of neighborhood recreational facilities, and of other opportunities for rational use of free time.

The length of collective farmers' working and leisure time is established by their collective farms.

Article 42. Citizens of the USSR have the right to health protection.

This right is ensured by free, qualified medical care provided by state health institutions; by extension of the network of therapeutic and health-building institutions; by the development and improvement of safety and hygiene in industry; by carrying out broad prophylactic measures; by measures to improve the environment; by special care for the health of the rising generation, including prohibition of child labour, excluding the work done by children as part of the school curriculum; and by developing research to prevent and reduce the incidence of disease and ensure citizens a long and active life.

Article 43. Citizens of the USSR have the right to maintenance in old age, in sickness, and in the event of complete or partial disability or loss of the breadwinner.

The right is guaranteed by social insurance of workers and other employees and collective farmers; by allowances for temporary disability; by the provision by the state or by collective farms of retirement pensions, disability pensions, and pensions for loss of the breadwinner; by providing employment for the partially disabled; by care for the elderly and the disabled; and by other forms of social security.

Article 44. Citizens of the USSR have the rights to housing.

This right is ensured by the development and upkeep of state and socially-owned housing; by assistance for co-operative and individual house building; by fair distribution, under public control, of the housing that becomes available through fulfilment of the programme of building well-appointed dwellings, and by low rents and low charges for utility services. Citizens of the USSR shall take good care of the housing allocated to them.

Article 45. Citizens of the USSR have the right to education.

This right is ensured by free provision of all forms of education, by the institution of universal, compulsory secondary education, and broad development of vocational, specialised secondary, and higher education, in which instruction is oriented toward practical activity and production; by the development of extramural, correspondence and evening courses, by the provision of state scholarships and grants and privileges for students; by the free issue of school textbooks; by the opportunity to attend a school where teaching is in the native language; and by the provision of facilities for self-education.

Article 46. Citizens of the USSR have the right to enjoy cultural benefits.

This rights is ensured by broad access to the cultural treasures of their own land and of the world that are preserved in state and other public collections; by the development and fair distribution of cultural and educational institutions throughout the country; by developing television and radio broadcasting and the publishing of books, newspapers and periodicals, and by extending the free library service; and by expanding cultural exchanges with other countries.

Article 47. Citizens of the USSR, in accordance with the aims of building communism, are guaranteed freedom of scientific, technical, and artistic work. This freedom is ensured by broadening scientific research, encouraging invention and innovation, and developing literature and the arts. The state provides the necessary material conditions for this and support for voluntary societies and unions of workers in the arts, organises introduction of inventions and innovations in production and other spheres of activity.

The rights of authors, inventors and innovators are protected by the state.

Article 48. Citizens of the USSR have the right to take part in the management and administration of state and public affairs and in the discussion and adoption of laws and measures of All-Union and local significance.

This right is ensured by the opportunity to vote and to be elected to Soviets of People's Deputies and other elective state bodies, to take part in nationwide discussions and referendums, in people's control, in the work of state bodies, public organisations, and local community groups, and in meetings at places of work or residence.

Article 49. Every citizen of the USSR has the right to submit proposals to state bodies and public organisations for improving their activity, and to criticise shortcomings in their work.

Officials are obliged, within established time-limits, to examine citizens' proposals and requests, to reply to them, and to take appropriate action.

Persecution for criticism is prohibited. Persons guilty of such persecution shall be called to account.

Article 50. In accordance with the interests of the people and in order to strengthen and develop the socialist system, citizens of the USSR are guaranteed freedom of speech, of the press, and of assembly, meetings, street processions and demonstrations.

Exercise of these political freedoms is ensured by putting public buildings, streets and squares at the disposal of the working people and their organisations, by broad dissemination of information, and by the

opportunity to use the press, television, and radio.

Article 51. In accordance with the aims of building communism, citizens of the USSR have the right to associate in public organisations that promote their political activity and initiative and satisfaction of their various interests.

Public organisations are guaranteed conditions for successfully performing the functions defined in their rules.

Article 52. Citizens of the USSR are guaranteed freedom of conscience, that is, the right to profess or not to profess any religion, and to conduct religious worship or atheistic propaganda. Incitement of hostility or hatred on religious grounds is prohibited.

In the USSR, the church is separated from the state, and the school from the church.

Article 53. The family enjoys the protection of the state.

Marriage is based on the free consent of the woman and the man; the spouses are completely equal in their family relations.

The state helps the family by providing and developing a broad system of childcare institutions, by organising and improving communal services and public catering, by paying grants on the birth of a child, by providing children's allowances and benefits for large families, and other forms of family allowances and assistance.

Article 54. Citizens of the USSR are guaranteed inviolability of the person. No one may be arrested except by a court decision or on the warrant of a procurator.

Article 55. Citizens of the USSR are guaranteed inviolability of the home. No one may, without lawful grounds, enter a

home against the will of those residing in it.

Article 56. The privacy of citizens, and of their correspondence, telephone conversations, and telegraphic communications is protected by law.

Article 57. Respect for the individual and protection of the rights and freedoms of citizens are the duty of all state bodies, public organisations, and officials.

Citizens of the USSR have the right to protection by the courts against encroachments on their honour and reputation, life and health, and personal freedom and property.

Article 58. Citizens of the USSR have the right to lodge a complaint against the actions of officials, state bodies and public bodies. Complaints shall be examined according to the procedure and within the time-limit established by law.

Actions by officials that contravene the law or exceed their powers, and infringe the rights of citizens, may be appealed against in a court in the manner prescribed by law.

Citizens of the USSR have the right to compensation for damage resulting from unlawful actions by state organisations and public organisations, or by officials in the performance of their duties.

Article 59. Citizens' exercise of their rights and freedoms is inseparable from the performance of their duties and obligations.

Citizens of the USSR are obliged to observe the Constitution of the USSR and Soviet laws, comply with the standards of socialist conduct, and uphold the honour and dignity of Soviet citizenship.

Article 60. It is the duty of, and matter of honour for, every able-bodied citizen of the USSR to work conscientiously in his chosen, socially useful occupation, and strictly to observe labour discipline. Evasion of socially useful work is incompatible with the principles of socialist society.

Article 61. Citizens of the USSR are obliged to preserve and protect socialist property. It is the duty of a citizen of the USSR to combat misappropriation and squandering of state and socially-owned property and to make thrifty use of the people's wealth.

Persons encroaching in any way on socialist property shall be punished according to the law.

Article 62. Citizens of the USSR are obliged to safeguard the interests of the Soviet state, and to enhance its power and prestige.

Defence of the Socialist Motherland is the sacred duty of every citizen of the USSR. Betrayal of the Motherland is the gravest of crimes against the people.

Article 63. Military service in the ranks of the Armed Forces of the USSR is an honorable duty of Soviet citizens.

Article 64. It is the duty of every citizen of the USSR to respect the national dignity of other citizens, and to strengthen friendship of the nations and nationalities of the multinational Soviet state.

Article 65. A citizen of the USSR is obliged to respect the rights and lawful interests of other persons, to be uncompromising toward anti-social behaviour, and to help maintain public order.

Article 66. Citizens of the USSR are obliged to concern themselves with the upbringing of children, to train them for socially useful work, and to raise them as worthy members of socialist society. Children are obliged to care for their parents and help them.

Article 67. Citizens of the USSR are obliged to protect nature and conserve its riches.

Article 68. Concern for the preservation of historical monuments and other cultural

values is a duty and obligation of citizens of the USSR.

Article 69. It is the internationalist duty of citizens of the USSR to promote friendship and co-operation with peoples of other lands and help maintain and strengthen world peace.

Source: Bucknell University,

<http://www.departments.bucknell.edu/russian/const/77cons02.html#chap07>

Appendix Seven

Constitution of the Russian Federation (1993)

Chapter 2. Rights and Freedoms of Man and Citizen

Article 17

1. In the Russian Federation recognition and guarantees shall be provided for the rights and freedoms of man and citizen according to the universally recognized principles and norms of international law and according to the present Constitution.

2. Fundamental human rights and freedoms are inalienable and shall be enjoyed by everyone since the day of birth.

3. The exercise of the rights and freedoms of man and citizen shall not violate the rights and freedoms of other people.

Article 18

The rights and freedoms of man and citizen shall be directly operative. They determine the essence, meaning and implementation of laws, the activities of the legislative and executive authorities, local self-government and shall be ensured by the administration of justice.

Article 19

1. All people shall be equal before the law and court.

2. The State shall guarantee the equality of rights and freedoms of man and citizen, regardless of sex, race, nationality,

language, origin, property and official status, place of residence, religion, convictions, membership of public associations, and also of other circumstances. All forms of limitations of human rights on social, racial, national, linguistic or religious grounds shall be banned.

3. Man and woman shall enjoy equal rights and freedoms and have equal possibilities to exercise them.

Article 20

1. Everyone shall have the right to life.

2. Capital punishment until its complete elimination may be envisaged by a federal law as an exclusive penalty for especially grave crimes against life, and the accused shall be granted the right to have his case examined by jurytrial.

Article 21

1. Human dignity shall be protected by the State. Nothing may serve as a basis for its derogation.

2. No one shall be subject to torture, violence or other severe or humiliating treatment or punishment. No one may be subject to medical, scientific and other experiments without voluntary consent.

Article 22

1. Everyone shall have the right to freedom and personal immunity.

2. Arrest, detention and remanding in custody shall be allowed only by court decision. Without the court's decision a person may be detained for a term more than 48 hours.

Article 23

1. Everyone shall have the right to the inviolability of private life, personal and family secrets, the protection of honour and good name.

2. Everyone shall have the right to privacy of correspondence, of telephone conversations, postal, telegraph and other messages. Limitations of this right shall be allowed only by court decision.

Article 24

1. The collection, keeping, use and dissemination of information about the private life of a person shall not be allowed without his or her consent.

2. The bodies of state authority and local self-government, their officials shall ensure for everyone the possibility of acquainting with the documents and materials directly affecting his or her rights and freedoms, unless otherwise provided for by law.

Article 25

The home shall be inviolable. No one shall have the right to get into a house against the will of those living there, except for the cases established by a federal law or by court decision.

Article 26

1. Everyone shall have the right to determine and indicate his nationality. No one may be forced to determine and indicate his or her nationality.

2. Everyone shall have the right to use his or her native language, to a free choice of the language of communication, upbringing, education and creative work.

Article 27

1. Every who legally stays in the territory of the Russian Federation shall have the right to free travel, choice of place of stay or residence.

2. Everyone may freely leave the Russian Federation. Citizens of the Russian Federation shall have the right to freely return to the Russian Federation.

Article 28

Everyone shall be guaranteed the freedom of conscience, the freedom of religion, including the right to profess individually or together with other any religion or to profess no religion at all, to freely choose, possess and disseminate religious and other views and act according to them.

Article 29

1. Everyone shall be guaranteed the freedom of ideas and speech.

2. The propaganda or agitation instigating social, racial, national or religious hatred and strife shall not be allowed. The propaganda of social, racial, national, religious or linguistic supremacy shall be banned.

3. No one may be forced to express his views and convictions or to reject them.

4. Everyone shall have the right to freely look for, receive, transmit, produce and distribute information by any legal way. The list of data comprising state secrets shall be determined by a federal law.

5. The freedom of mass communication shall be guaranteed. Censorship shall be banned.

Article 30

1. Everyone shall have the right to association, including the right to create trade unions for the protection of his or her interests. The freedom of activity of public association shall be guaranteed.

2. No one may be compelled to join any association and remain in it.

Article 31

Citizens of the Russian Federation shall have the right to assemble peacefully, without weapons, hold rallies, meetings and demonstrations, marches and pickets.

Article 32

1. Citizens of the Russian Federation shall have the right to participate in managing state affairs both directly and through their representatives.

2. Citizens of the Russian Federation shall have the right to elect and be elected to state bodies of power and local self-government bodies, and also to participate in referenda.

3. Deprived of the right to elect and be elected shall be citizens recognized by court as legally unfit, as well as citizens kept in places of confinement by a court sentence.

4. Citizens of the Russian Federation shall enjoy equal access to the state service.

5. Citizens of the expenditures shall have the right to participate in administering justice.

Article 33

Citizens of the Russian Federation shall have the right to address personally, as well as to submit individual and collective appeals to state organs and local self-government bodies.

Article 34

1. Everyone shall have the right to a free use of his abilities and property for entrepreneurial and economic activities not prohibited by law.

2. The economic activity aimed at monopolization and unfair competition shall not be allowed.

Article 35

1. The right of private property shall be protected by law.

2. Everyone shall have the right to have property, possess, use and dispose of it both personally and jointly with other people.

3. No one may be deprived of property otherwise than by a court decision. Forced confiscation of property for state needs may be carried out only on the proviso of preliminary and complete compensation.

4. The right of inheritance shall be guaranteed.

Article 36

1. Citizens and their associations shall have the right to possess land as private property.

2. Possession, utilization and disposal of land and other natural resources shall be exercised by the owners freely, if it is not detrimental to the environment and does not violate the rights and lawful interests of other people.

3. The terms and rules for the use of land shall be fixed by a federal law.

Article 37

1. Labour is free. Everyone shall have the right to freely use his labour capabilities, to choose the type of activity and profession.

2. Forced labour shall be banned.

3. Everyone shall have the right to labour conditions meeting the safety and hygienic requirements, for labour remuneration without any discrimination whatsoever and not lower than minimum wages and salaries established by the federal law, as well as the right to protection against unemployment.

4. Recognition shall be given to the right to individual and collective labour disputes with the use of methods of their adjustment fixed by the federal law, including the right to strike.

5. Everyone shall have the right to rest and license. Those working by labour contracts shall be guaranteed the fixed duration of the working time, days off and holidays, and the annual paid leave established by the federal law.

Article 38

1. Maternity and childhood, and the family shall be protected by the State.

2. Care for children, their upbringing shall be equally the right and obligation of parents.

3. Able-bodied children over 18 years of age shall take care of disabled parents.

Article 39

1. Everyone shall be guaranteed social security at the expense of the State in old age, in case of an illness, disablement, loss of the bread-winner, for upbringing of children and in other cases established by law.

2. State pensions and social allowances shall be established by law.

3. Promotion shall be given to voluntary social insurance and the creation of additional forms of social security and charity.

Article 40

1. Everyone shall have the right to a home. No one may be arbitrarily deprived of his or her home.

2. The bodies of state authority and local self-government shall encourage housing construction and create conditions for exercising the right to a home.

3. Low-income people and other persons mentioned in law and in need of a home shall receive it gratis or for reasonable payment from the state, municipal and other housing stocks according to the norms fixed by law.

Article 41

1. Everyone shall have the right to health protection and medical aid. Medical aid in state and municipal health establishments shall be rendered to individuals gratis, at the expense of the

corresponding budget, insurance contributions, and other proceeds.

2. In the Russian Federation federal programmes of protecting and strengthening the health of the population shall be financed by the State; measures shall be adopted to develop state, municipal and private health services; activities shall be promoted which facilitate the strengthening of health, the development of physical culture and sport, ecological and sanitary-epidemiological well-being.

3. The concealment by officials of the facts and circumstances posing a threat to the life and health of people shall entail responsibility according to the federal law.

Article 42

Everyone shall have the right to favourable environment, reliable information about its state and for a restitution of damage inflicted on his health and property by ecological transgressions.

Article 43

1. Everyone shall have the right to education.

2. Guarantees shall be provided for general access to and free pre-school, secondary and high vocational education in state or municipal educational establishments and at enterprises.

3. Everyone shall have the right to receive on a competitive basis a free higher education in a state or municipal educational establishment and at an enterprise.

4. The basic general education shall be free of charge. Parents or persons in law

parents shall enable their children to receive a basic general education.

5. The Russian Federation shall establish federal state educational standards and support various forms of education and self-education.

Article 44

1. Everyone shall be guaranteed the freedom of literary, artistic, scientific, technical and other types of creative activity, and teaching. Intellectual property shall be protected by law.

2. Everyone shall have the right to participate in cultural life and use cultural establishments and to an access to cultural values.

3. Everyone shall be obliged to care for the preservation of cultural and historical heritage and protect monuments of history and culture.

Article 45

1. State protection of the rights and freedoms of man and citizen shall be guaranteed in the Russian Federation.

2. Everyone shall be free to protect his rights and freedoms by all means not prohibited by law.

Article 46

1. Everyone shall be guaranteed judicial protection of his rights and freedoms.

2. Decisions and actions (or inaction) of bodies of state authority and local self-government, public associations and officials may be appealed against in court.

3. Everyone shall have the right to appeal, according to international treaties

of the Russian Federation, to international bodies for the protection of human rights and freedoms, if all the existing internal state means of legal protection have been exhausted.

Article 47

1. No one may be deprived of the right to the consideration of his or her case in that court and by that judge in whose cognizance the given case is according to law.

2. The accused of committing a crime shall have the right to the examination of his case by a court of jury in cases envisaged by the federal law.

Article 48

1. Everyone shall be guaranteed the right to qualified legal assistance. In cases envisaged by law the legal assistance shall be free.

2. Any person detained, taken into custody, accused of committing a crime shall have the right to receive assistance of a lawyer (counsel for the defence) from the moment of detention, confinement in custody or facing charges accordingly.

Article 49

1. Everyone accused of committing a crime shall be considered innocent until his guilt is proved according to the rules fixed by the federal law and confirmed by the sentence of a court which has come into legal force.

2. The accused shall not be obliged to prove his innocence.

3. Unremovable doubts about the guilt of a person shall be interpreted in favour of the accused.

Article 50

1. No one may be convicted twice for one and the same crime.

2. In administering justice it shall not be allowed to use evidence received by violating the federal law.

3. Everyone convicted for a crime shall have the right to appeal against the judgement of a superior court according to the rules envisaged by the federal law, as well as to ask for pardon or a mitigation of punishment.

Article 51

1. No one shall be obliged to give incriminating evidence, husband or wife and close relatives the range of whom is determined by the federal law.

2. The federal law may envisage other cases of absolution from the obligation to testify.

Article 52

The rights of victims of crimes and of abuse of office shall be protected by law. The State shall provide access to justice for them and a compensation for sustained damage.

Article 53

Everyone shall have the right for a state compensation for damages caused by unlawful actions (inaction) of bodies of state authority and their officials.

Article 54

1. A law introducing or aggravating responsibility shall not have retrospective effect.

2. No one may bear responsibility for the action which was not regarded as a crime when it was committed. If after violating law the responsibility for that is eliminated or mitigated, a new law shall be applied.

Article 55

1. The listing in the Constitution of the Russian Federation of the fundamental rights and freedoms shall not be interpreted as a rejection or derogation of other universally recognized human rights and freedoms.

2. In the Russian Federation no laws shall be adopted cancelling or derogating human rights and freedoms.

3. The rights and freedoms of man and citizen may be limited by the federal law only to such an extent to which it is necessary for the protection of the fundamental principles of the constitutional system, morality, health, the rights and lawful interests of other people, for ensuring defence of the country and security of the State.

Article 56

1. In conditions of a state of emergency in order to ensure the safety of citizens and the protection of the constitutional system and in accordance with the federal constitutional law certain limitations may be placed on human rights and freedoms with the establishment of their framework and time period.

2. A state of emergency may be introduced in the whole territory of the Russian Federation and in its certain parts in case there are circumstances and according to the rules fixed by the federal constitutional law.

3. The rights and freedoms envisaged in Articles 20, 21, 23 (the first part), 24, 28, 34 (the first part), 40 (the first part), 46-54 of the Constitution of the Russian Federation, shall not be liable to limitations.

Article 57

Everyone shall be obliged to pay the legally established taxes and dues. Laws introducing new taxes or deteriorating the position of taxpayers may not have retroactive effect.

Article 58

Everyone shall be obliged to preserve nature and the environment, carefully treat the natural wealth.

Article 59

1. Defence of the Fatherland shall be a duty and obligation of citizens of the Russian Federation.

2. A citizen shall carry out military service according to the federal law.

3. A citizen of the Russian Federation shall have the right to replace military service by alternative civilian service in case his convictions or religious belief contradict military service and also in other cases envisaged by the federal law.

Article 60

A citizen of the Russian Federation may exercise his or her rights and duties in full from the age of 18.

Article 61

1. A citizen of the Russian Federation may not be deported from Russia or extradited to another State.

2. The Russian Federation shall guarantee to its citizens protection and patronage abroad.

Article 62

1. A citizen of the Russian Federation may have the citizenship of a foreign State (dual citizenship) according to the federal law or an international agreement of the Russian Federation.

2. The possession of a foreign citizenship by a citizen of the Russian Federation shall not derogate his rights and freedoms and shall not free him from the obligations stipulated by the Russian citizenship, unless otherwise provided for by federal law or an international agreement of the Russian Federation.

3. Foreign nationals and stateless persons shall enjoy in the Russian Federation the rights and bear the obligations of citizens of the Russian Federation, except for cases envisaged by the federal law or the international agreement of the Russian Federation.

Article 63

1. The Russian Federation shall grant political asylum to foreign nationals and stateless persons according to the universally recognized norms of international law.

2. In the Russian Federation it shall not be allowed to extradite to other States those people who are persecuted for political convictions, as well as for actions (or inaction) not recognized as a crime in the Russian Federation. The extradition of people accused of a crime, and also the handover of convicts for serving sentences in other States shall be carried out on the basis of the federal law or the international agreement of the Russian Federation.

Article 64

The provisions of the present chapter comprise the basis of the legal status of the individual in the Russian Federation and may not be changed otherwise than according to the rules introduced by the present Constitution.

Source: The Constitution of the Russian Federation,
<http://www.constitution.ru/en/10003000-03.htm>

Appendix Eight

THE CONSTITUTION OF THE RUSSIAN FEDERATION (with the Amendments and Additions of December 30, 2008)

We, the multinational people of the Russian Federation, united by a common fate in our land, establishing human rights and freedoms, civil peace and accord, preserving the historically established unity of the state, proceeding from the universally recognised principles of equality and self-determination of peoples, revering the memory of ancestors who have conveyed to us love and respect of the Fatherland, belief in good and justice, reviving the sovereign statehood of Russia and asserting the firmness of its democratic basis, striving to ensure the well-being and prosperity of Russia, proceeding from the responsibility for our Fatherland before present and future generations, recognising ourselves as part of the world community, adopt the *CONSTITUTION OF THE RUSSIAN FEDERATION*.

Chapter 1. The Fundamentals of the Constitutional System

Article 7

1. The Russian Federation is a social State whose policy is aimed at creating conditions for a worthy life and the unhindered development of man.

2. In the Russian Federation the labour and health of people shall be protected, guaranteed minimum wages and salaries shall be established, state support ensured for the family, maternity, paternity and childhood, for disabled persons and the elderly, a system of social services developed, state pensions, allowances and other social security guarantees shall be established.

Chapter 2. Rights and Freedoms of Man and Citizen

Article 17

1. In the Russian Federation recognition and guarantees shall be provided for the rights and freedoms of man and citizen according to the universally recognised principles and

norms of international law and according to the present *Constitution*.

2. Fundamental human rights and freedoms are inalienable and shall be enjoyed by everyone from the day of birth.

3. The exercise of the rights and freedoms of man and citizen shall not violate the rights and freedoms of other people.

Article 18

The rights and freedoms of man and citizen shall operate directly. They determine the essence, meaning and implementation of laws, the activities of the legislative and executive authorities, local self-government and shall be ensured by the administration of justice.

Article 19

1. All people shall be equal before the law and courts.

2. The State shall guarantee the equality of rights and freedoms of man and citizen, regardless of sex, race, nationality, language, origin, property and official status, place of residence, religion,

convictions, membership of public associations, and also of other circumstances. All forms of limitations of human rights on social, racial, national, linguistic or religious grounds shall be banned.

3. Men and women shall enjoy equal rights and freedoms and have equal possibilities to exercise them.

Article 20

1. Everyone shall have the right to life.

2. Capital punishment until its complete abolition may be envisaged by a federal law only as a penalty for especially grave crimes against life, and the accused shall be granted the right to have his case examined by a jury.

Article 21

1. Human dignity shall be protected by the State. Nothing may serve as a basis for its derogation.

2. No one shall be subject to torture, violence or other cruel or humiliating treatment or punishment. No one may be subject to medical, scientific and other experiments without voluntary consent.

Article 22

1. Everyone shall have the right to freedom and personal immunity.

2. Arrest, detention and remanding in custody shall be allowed only by court decision. Without the court's decision a person may not be detained for a term of more than 48 hours.

Article 23

1. Everyone shall have the right to the inviolability of private life, personal and

family secrets, the protection of one's honour and good name.

2. Everyone shall have the right to privacy of correspondence, of telephone conversations, postal, telegraph and other messages. Limitations of this right shall be allowed only by court decision.

Article 29

1. Everyone shall be guaranteed the freedom of ideas and speech.

2. Propaganda or agitation instigating social, racial, national or religious hatred and strife shall not be allowed. The propaganda of social, racial, national, religious or linguistic supremacy shall be banned.

3. No one may be forced to express his views and convictions or to reject them.

4. Everyone shall have the right to freely look for, receive, transmit, produce and distribute information by any legal means. The list of data comprising state secrets shall be determined by a federal law.

5. The freedom of mass communication shall be guaranteed. Censorship shall be banned.

Article 30

1. Everyone shall have the right to association, including the right to create trade unions for the protection of his or her interests. The freedom of activity of public association shall be guaranteed.

2. No one may be compelled to join any association and remain in it.

Article 31

Citizens of the Russian Federation shall have the right to assemble peacefully, without weapons, hold rallies, meetings and demonstrations, marches and pickets.

Article 33

Citizens of the Russian Federation shall have the right to address personally, as well as to submit individual and collective appeals to state bodies and local self-government bodies.

Article 37

1. Labour is free. Everyone shall have the right to freely use his labour capabilities, to choose the type of activity and profession.

2. Forced labour shall be banned.

3. Everyone shall have the right to labour conditions meeting the safety and hygiene requirements, to labour remuneration without any discrimination whatsoever and to wages and salaries not lower than the minimum established by federal law, as well as the right to protection against unemployment.

4. Recognition shall be given to the right to individual and collective labour disputes with the use of methods for their resolution established by federal law, including the right to strike.

5. Everyone shall have the right to rest and leisure. Those working under labour contracts shall be guaranteed a fixed duration of working time, days off and holidays, and annual paid leave established by federal law.

Article 38

1. Maternity and childhood, and the family shall be protected by the State.

2. Care for children and their upbringing shall be equally the right and obligation of parents.

3. Able-bodied children over 18 years of age shall take care of disabled parents.

Article 39

1. Everyone shall be guaranteed social security at the expense of the State in old age, in case of illness, disability, loss of the bread-winner, for bringing up children and in other cases established by law.

2. State pensions and social allowances shall be established by law.

3. Promotion shall be given to voluntary social insurance and the creation of additional forms of social security and charity.

Article 40

1. Everyone shall have the right to a home. No one may be arbitrarily deprived of his or her home.

2. The bodies of state authority and local self-government shall encourage housing construction and create conditions for exercising the right to a home.

3. People on low-incomes and other persons mentioned in law and in need of a home shall receive it gratis or for reasonable payment from the state, municipal and other housing stocks according to the norms established by law.

Article 41

1. Everyone shall have the right to health protection and medical aid. Medical aid in state and municipal health establishments shall be rendered to individuals gratis, at the expense of the

corresponding budget, insurance contributions and other proceeds.

2. In the Russian Federation federal programmes for protecting and improving the health of the population shall be financed by the State; measures shall be adopted to develop state, municipal and private health services; activities shall be promoted which facilitate the improvement of health, the development of physical culture and sport, ecological and sanitary-epidemiological well-being.

3. The concealment by officials of facts and circumstances posing a threat to the life and health of people shall entail responsibility according to federal law.

Article 43

1. Everyone shall have the right to education.

2. Guarantees shall be provided for general access to and free pre-school, secondary and higher vocational education in state or municipal educational establishments and at enterprises.

3. Everyone shall have the right to receive on a competitive basis a free higher education in a state or municipal educational establishment and at an enterprise.

4. The basic general education shall be free of charge. Parents or those acting as such shall enable their children to receive a basic general education.

5. The Russian Federation shall establish federal state educational standards and support various forms of education and self-education.

Source: Website of the Constitution of the Russian Federation, available at <http://constitution.garant.ru/english/>