

**Security First: Human Rights Case Studies in Russia and the United States**

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## I. Introduction

“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.” - Article 2 of the Universal Declaration of Human Rights

Human rights norms, as enshrined in the Universal Declaration of Human Rights, may be eroded in the pursuit of domestic security. Our paper explores how domestic security concerns influence the United States’ and Russia’s commitment to human rights norms.<sup>1</sup> Though they are major international players in the United Nations Security Council, these countries have consistently shirked the authority of other international organizations responsible for the enforcement of human rights laws and norms. Although both the US and Russia signed the Rome Statute in 2000 and demonstrated general support for the International Criminal Court, ultimately both nations withdrew their intent of ratification in May 2002 and in November 2016, respectively. For this reason, the most relevant legal institutions for human rights cases is the Supreme Court for the United States and the ECHR for Russia, although the latter does not always adhere to this Court.<sup>2</sup> The general movement away from international legal bodies by the US and Russia stands in stark contrast to the strong adherence to global human rights norms and the institutions that defend them by the member states of the European Union.<sup>3</sup>

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<sup>1</sup> This paper defines domestic security the same way as Mariano-Florentino Cuellar of the Hoover Institute, who “use[s] the term ‘domestic security’ to describe those issues related to the capacity of the state and society to control or respond to terrorism, reduce criminal violence, and mitigate natural disasters.” (Mariano-Florentino Cuellar, “Domestic Security and Foreign Policy,” Working Group on Foreign Policy and Grand Strategy, accessed September 27, 2017, [http://www.hoover.org/sites/default/files/uploads/documents/Domestic-Security-Cuellar\\_0.pdf](http://www.hoover.org/sites/default/files/uploads/documents/Domestic-Security-Cuellar_0.pdf).)

<sup>2</sup> In recent years Russia has increasingly failed to comply fully with rulings from the Council of Europe and the European Court of Human Rights. An example of this is the Russian Constitutional Court’s striking down of the ECHR’s ruling that awarded €1.9 billion to Yukos. The Court argued that the ECHR’s ruling was a violation of Russian sovereignty. In this as well as in other rulings, Russia is not fulfilling its legal commitment under the Convention. (Lauri Mälksoo, “Russia’s Constitutional Court Defies the European Court of Human Rights,” *European Constitutional Law Review* 12, no. 2 (09, 2016): 377-395, doi: <http://dx.doi.org/10.1017/S1574019616000237>. <http://ezproxy.cul.columbia.edu/login?url=https://search.proquest.com/docview/1812165263?accountid=10226>.)

<sup>3</sup> Lauri Mälksoo, *Russian Approaches to International Law* (Oxford, United Kingdom: Oxford University Press, 2015), 20.

The United States and Russia discount international law when it threatens to limit their perceived ability to ensure their own domestic security, opting instead for domestic resolutions of claims of human rights violations. In this paper, we examine two such instances: in the case of the US, President Trump's 2017 travel ban, and in the case of Russia, persecution of gay men in Chechnya. Although these examples are not perfectly analogous, the focus of this paper is on how great powers maintain the balance between human rights and security. We comparatively analyze the travel ban in the US and the incarceration of gay men in Chechnya, which share three common elements. First, security has been prioritized over human rights in both instances. Second, the cases are resolved at the domestic level. Third, the US and Russia may have undermined their own legal authority and national security in the long run by allowing potential human rights violations to occur. This can be observed in how the travel ban may serve as a recruitment tool for ISIS and other terrorist organizations. Additionally, the Chechen gay concentration camps demonstrate a loss of control of the Russian government over one of its republics. However, even though the above points have emerged as similar aspects of how the US and Russia have de-emphasized human rights in favor of security and national sovereignty, a key difference is that the formal system of checks and balances in the US – evident in the consistent blocking of Trump's executive orders by the court system – is not present in Russia, where the human rights abuses were committed extrajudicially and were informally addressed.

## **II. The Movement toward Sovereignty: The US and Russia Withdraw from the ICC**

The International Criminal Court (ICC) began functioning on July 1, 2002. Less than a year prior, nearly 3,000 people were killed during the September 11 terrorist attacks and less than a month thereafter the US began military operations in Afghanistan. Fear of further terrorist acts and the possible handicapping of US operations by the country's participation in the ICC

predicated the Bush administration's decision to withdraw from the organization on May 6, 2002. After the 9/11 terrorist attacks, the opposition to the ICC gained momentum and shifted from the question of sovereignty to one of national security. On September 20, 2001, President Bush unequivocally proclaimed: “We will take the actions necessary to ensure that our efforts to meet our global security commitments and protect Americans are not impaired by the potential for investigations, inquiry, or prosecution by the International Criminal Court, whose jurisdiction does not extend to Americans and which we do not accept.”<sup>4</sup> The United State’s decision to leave the organization was ultimately sealed by the US’s status as a great power and the perceived obstruction of security operations by the ICC. Since President Clinton signed the Rome Statute, but never sent it to the Senate for ratification, President Bush was able to withdraw from the ICC without any say from Congress. As a result, the US Supreme Court remains the highest court for adjudication of human rights violations in the United States.

Similar to the US, Russia has used security concerns as a reason to increasingly retain legal sovereignty over human rights issues. In 2000, Russia was also a signatory to the Rome Statute, but never ratified the Treaty, and therefore was never legally under the jurisdiction of the ICC.<sup>5</sup> Nonetheless, Russia formally withdrew its intent to ratify on November 15, 2016, only one day after the ICC declared that “the situation within the territory of Crimea and Sevastopol factually amounts to an on-going [sic] state of occupation.”<sup>6</sup> In a statement explaining its decision, the Russian Foreign Ministry announced that “Unfortunately the Court failed to meet

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<sup>4</sup> President George W. Bush, “U.S. National Security Strategy: Transform America’s National Security Institutions to Meet the Challenges and Opportunities of the 21st Century,” (speech, Washington, DC, September 20, 2001), US Department of State, <https://2001-2009.state.gov/r/pa/ei/wh/15430.htm>.

<sup>5</sup> Shaun Walker and Owen Bowcott, “Russia withdraws signature from international criminal court statute,” *The Guardian*, November 16, 2016, <https://www.theguardian.com/world/2016/nov/16/russia-withdraws-signature-from-international-criminal-court-statute>.

<sup>6</sup> “Report on Preliminary Examination Activities: 2016,” The Office of the Prosecutor, International Criminal Court, November 14, 2016, [https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-PE\\_ENG.pdf](https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-PE_ENG.pdf).

the expectations to become a truly independent, authoritative international tribunal.”<sup>7</sup> It is telling that once the ICC issued this condemnation vis-à-vis Crimea, then from Moscow’s perspective the Court “failed to meet the expectations” that Russia had.

Yet, given the perpetual emphasis that Russia places on international law, the withdrawal from the ICC may still seem incongruous. But, as Lauri Mälksoo, a scholar of international law at the University of Tartu, asserts, “when Moscow rhetorically defends ‘international law’, it primarily defends its own power and special status enshrined in the UN Charter.”<sup>8</sup> Viewed in this light, the ICC appears to have been seen by Russia as a barrier to great power status once the Court questioned Russia’s annexation of Crimea and thus no longer served as a viable attempt by Russia to assert its power on the global stage. Ultimately, Russia’s de-emphasis on international law parallels the United States’ withdrawal from the ICC. In both cases international law was tactically discarded by great powers. It is important to note, however, that the US’s withdrawal from the ICC was in response to a domestic terror threat, while Russia’s withdrawal was predicated on the country’s actions in Ukraine and a desire to reassert great power status. Great powers, as “major cultures and power centres,” strategically interpret international law so as to be in the right.”<sup>9</sup> Sometimes, as in the case of the US and Russian withdrawal from the ICC, international law is seen as an impediment to rather than a facilitation of the pursuit of security, and so sovereignty is prioritized in the quest for domestic security.

### **III. The US Supreme Court and the Trump Travel Ban**

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<sup>7</sup> “Statement by the Russian Foreign Ministry,” Ministry of Foreign Affairs of the Russian Federation, November 16, 2016, [http://www.mid.ru/ru/foreign\\_policy/news/-/asset\\_publisher/cKNonkJE02Bw/content/id/2523566?p\\_p\\_id=101\\_INSTANCE\\_cKNonkJE02Bw&\\_101\\_INSTANCE\\_cKNonkJE02Bw\\_languageId=en\\_GB](http://www.mid.ru/ru/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/2523566?p_p_id=101_INSTANCE_cKNonkJE02Bw&_101_INSTANCE_cKNonkJE02Bw_languageId=en_GB).

<sup>8</sup> Mälksoo, *Russian Approaches to International Law*, 174-175.

<sup>9</sup> Mälksoo, *Russian Approaches to International Law*, 35.

On January 27, 2017, President Trump issued Executive Order No. 13769 (i.e., EO-1) entitled, “Protecting the Nation from Foreign Terrorist Entry into the United States.” The three main provisions of EO-1 were a restriction of entry of citizens from seven Muslim-majority countries (Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen) to the US for 90 days, a suspension of the United States Refugee Admissions Program (USRAP) for 120 days, and a limit of 50,000 immigrants to the US for fiscal year 2017.<sup>10</sup> This action was challenged from several avenues in the US judicial system.<sup>11</sup> In order to improve the chances that the ban would survive, Executive Order No. 13780 (i.e., EO-2) replaced EO-1 on March 6.<sup>12</sup> While EO-2 retained the limit of 50,000 refugees and the suspension of USRAP for 120 days, Iraq was dropped from the list of banned countries, and citizens of the remaining six Muslim-majority nations were granted exemptions from the travel ban if they could demonstrate what was later termed a “bona fide relationship with a person or entity in the United States.”<sup>13</sup> Once EO-2 expired on September 24, it was replaced with a Presidential Proclamation that removed Sudan from the travel ban and added in Chad, North Korea, and Venezuela.<sup>14</sup> The Supreme Court, which on June 26 had

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<sup>10</sup> “EXECUTIVE ORDER: PROTECTING THE NATION FROM FOREIGN TERRORIST ENTRY INTO THE UNITED STATES,” The White House Office of the Press Secretary, January 27, 2017, <https://www.whitehouse.gov/the-press-office/2017/01/27/executive-order-protecting-nation-foreign-terrorist-entry-united-states>. While EO-1 does not explicitly list the countries of Iran, Iraq, Libya, Somalia, Sudan, and Yemen (Syria, however, is briefly mentioned), the executive order cites “countries referred to in section 217(a)(12) of the INA, 8 U.S.C. 1187(a)(12),” which are the above seven Muslim-majority nations. The exemptions to the first ban were “mostly for diplomats, people traveling to the United Nations in New York, and others involved in international organizations.” (Adam Liptak, “President Trump’s Immigration Order, Annotated,” *The New York Times*, January 28, 2017, <https://www.nytimes.com/2017/01/28/us/politics/annotating-trump-immigration-refugee-order.html>.)

<sup>11</sup> “Trump’s executive order: Who does travel ban affect?” *BBC*, February 10, 2017, <http://www.bbc.com/news/world-us-canada-38781302>.

<sup>12</sup> “Executive Order Protecting The Nation From Foreign Terrorist Entry Into The United States,” The White House Office of the Press Secretary, March 6, 2017, <https://www.whitehouse.gov/the-press-office/2017/03/06/executive-order-protecting-nation-foreign-terrorist-entry-united-states>.

<sup>13</sup> *Trump v. International Refugee Assistance Project*, 582 U. S. \_\_\_\_ (2017), [https://www.supremecourt.gov/opinions/16pdf/16-1436\\_l6hc.pdf](https://www.supremecourt.gov/opinions/16pdf/16-1436_l6hc.pdf), 13.

<sup>14</sup> The White House Office of the Press Secretary, “Presidential Proclamation Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats,” September 24, 2017, <https://www.whitehouse.gov/the-press-office/2017/09/24/enhancing-vetting-capabilities-and-processes-detecting-attempted-entry>.

allowed part of the travel ban to continue, later canceled oral arguments that were scheduled for October 10 once the Proclamation may have rendered the earlier legal proceedings obsolete.<sup>15</sup>

The way in which the United States has handled the travel ban case is striking both in its similarities and differences to how Russia has often dealt with perceived security threats. On the one hand, in both countries security was prioritized over human rights norms without the external influence of any international legal body. The resolution of US human rights cases at the domestic level is indicative of the influence of “American isolationism and exceptionalism” vis-à-vis how international law is applied to the US.<sup>16</sup> This exceptionalism is clearly tangible in the context of great power status because the United States, like Russia, enjoys a privileged position in international law as a permanent member in the Security Council, as established in the UN Charter. The US has demonstrated a “reluctance to enter into international commitments in the field of human rights,” and thus does not always abide by human rights norms such as allowing in refugees regardless of their country of origin.<sup>17</sup> Specifically, the United Nations Declaration of Human Rights asserts in Article 7 that “All are equal before the law and are entitled without any discrimination to equal protection of the law” and affirms in Article 14 that “Everyone has the right to seek and to enjoy in other countries asylum from persecution.”<sup>18</sup> This international norm of accepting and protecting refugees was superseded by the argument that following this norm

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<sup>15</sup> Ariane de Vogue, “Supreme Court cancels travel ban oral arguments,” *CNN*, September 25, 2017, <http://www.cnn.com/2017/09/25/politics/travel-ban-3-0-could-derail-supreme-court-case/index.html>.

<sup>16</sup> Mälksoo, *Russian Approaches to International Law*, 16.

<sup>17</sup> Peter Baehr and Monique Castermans-Holleman, *The Role of Human Rights in Foreign Policy*, Third Edition (Houndmills [England] ; New York : Palgrave Macmillan, 2004), 94.

<sup>18</sup> “Universal Declaration of Human Rights,” <http://www.un.org/en/universal-declaration-human-rights/>. These international norms were echoed by the United Nations High Commissioner for Refugees (UNHCR), which released a statement the day after the implementation of EO-1 that “We strongly believe that refugees should receive equal treatment for protection and assistance, and opportunities for resettlement, regardless of their religion, nationality or race. We will continue to engage actively and constructively with the U.S. Government, as we have done for decades, to protect those who need it most, and to offer our support on asylum and migration matters.” (“Joint IOM-UNHCR Statement on President Trump’s Refugee Order,” *UNHCR*, January 28, 2017, <http://www.unhcr.org/en-us/news/press/2017/1/588bc4e34/joint-iom-unhcr-statement-president-trumps-refugee-order.html>.)

could entail security risks to the US. When in June the Supreme Court allowed parts of the travel ban to continue, it cited the “bona fide relationship” aspect of EO-2 as a reasonable requirement and noted that “when it comes to refugees who lack any such connection to the United States...the balance tips in favor of the Government’s compelling need to provide for the Nation’s security.”<sup>19</sup> Considering that the Supreme Court may no longer hear the travel ban case after the most recent Presidential Proclamation, the above decision offers the only glimpse into how the Court would have addressed balancing security and accepting refugees.

However, the very fact that this ruling was a legal decision made by the court system comprises the substantive difference between how the US and Russia domestically resolve human rights cases. This formal system of checks and balances present in the United States stands in contrast to the informal power relationships in which such human rights issues may be settled in Russia, such as when President Putin stopped the killings of gay men in Chechnya in a conversation with Ramzan Kadyrov, as will be discussed later.

Aside from these *prima facie* correlations and distinctions, a broader theme emerges in the balance between protecting human rights and pursuing security. As noted by Finnemore and Sikkink in an oft-cited article on international norms, “frequently heard arguments about whether behavior is norm-based or interest-based miss the point that norm conformance can often be self-interested, depending on how one specifies interests and the nature of the norm.”<sup>20</sup> In the case of the United States, there are compelling security-based reasons *not* to have the current travel ban. Given the selection of mostly Muslim-majority countries in the Presidential Proclamation (Iran, Libya, Syria, Yemen, Somalia, and Chad, but not North Korea and Venezuela), the travel ban

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<sup>19</sup> Trump v. International Refugee Assistance Project, 582 U. S. \_\_\_\_ (2017), [https://www.supremecourt.gov/opinions/16pdf/16-1436\\_l6hc.pdf](https://www.supremecourt.gov/opinions/16pdf/16-1436_l6hc.pdf), 13.

<sup>20</sup> Martha Finnemore and Kathryn Sikkink. "International Norm Dynamics and Political Change." *International Organization* 52, no. 4 (1998): 912.



may actually damage rather than improve national security in the long run. Senators John McCain (R-AZ) and Lindsey Graham (R-SC) pointed out this potential backfiring of the travel ban two days after EO-1:

“Our most important allies in the fight against ISIL are the vast majority of Muslims who reject its apocalyptic ideology of hatred. This executive order sends a signal, intended or not, that America does not want Muslims coming into our country. That is why we fear this executive order may do more to help terrorist recruitment than improve our security.”<sup>21</sup>

In addition to the possibility of increased terrorist recruitment, the eight countries in the travel ban have not been sources of major terrorist attacks in the United States since 9/11. In the six major acts of terrorism that have occurred on US soil since 2000, the terrorists originated from Saudi Arabia, Egypt, the United Arab Emirates, Lebanon, Kuwait, Chechnya, Pakistan, and the United States.<sup>22</sup> The ban of citizens from Iran, Libya, Somalia, Syria, Yemen, Chad, North Korea, and Venezuela bears no resemblance to the nationalities of previous terrorists, so the link between the travel ban and national security is dubious. In addition to the fact that the travel ban carries the risk of serving as a recruitment tool for radicals, the travel ban also does not take into account the actual countries of origin of previous terrorists. Thus, it is actually in the self-interest of the United States to welcome and respect refugees. Even great powers have an incentive to respect international norms.

#### **IV. The ECHR and Gay Rights Violations in Chechnya**

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<sup>21</sup> “STATEMENT BY SENATORS JOHN MCCAIN & GRAHAM ON EXECUTIVE ORDER ON IMMIGRATION,” [www.mccain.senate.gov](http://www.mccain.senate.gov), January 29, 2017, <https://www.mccain.senate.gov/public/index.cfm/2017/1/statement-by-senators-mccain-graham-on-executive-order-on-immigration>.

<sup>22</sup> Of the 19 hijackers on 9/11, 15 were from Saudi Arabia, 2 were from the United Arab Emirates, 1 was from Egypt, and 1 was from Lebanon. In the 2009 Fort Hood shooting, the shooter was born in the US. The 2013 Boston Marathon bombers were of Chechen origin. The 2015 Chattanooga Navy Reserve Facility shooter was born in Kuwait. The 2015 San Bernardino shooters were from Pakistan and the US. The 2016 Orlando nightclub shooter was born in the US.

In February 2017, news reports began to emerge from Chechnya that a large number of gay men were being detained by local authorities.<sup>23</sup> On July 9, 2017, *Novaya Gazeta* published a list of 27 men who were shot by Chechen police and security service officers in early January 2017.<sup>24</sup> Beyond these cases there were numerous other individuals who reported being arrested, imprisoned, and subjected to torture such as electrocution and beating, and forced to provide names of other gay men in Chechnya.<sup>25</sup> Executions committed by the Chechen authorities are both a violation of international law and human rights as well as a violation of the Russian Constitution. These acts violate Article 2, equal protection under the law, and Article 20, against torture and degrading punishment, of the Universal Declaration of Human Rights.<sup>26</sup> Article 20 of the Russian Constitution grants everyone the right to life and on the topic of capital punishment specifically states that “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 jury trial.”<sup>27</sup> Furthermore, Russian constitutional courts have issued rulings in 1999 and again in 2009 that eliminate, at least temporarily, the government's power to execute individuals. These reports of extrajudicial killings of gay men in Chechnya therefore reflect a diminishment of the Russian Constitution’s

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<sup>23</sup> LGBT rights in Russia have undergone a number of pertinent developments in recent years. Homosexuality was decriminalized in Russia in 1993, but discrimination and persecution still remain widespread. In 2013, President Putin signed the Russian federal law “for the Purpose of Protecting Children from Information Advocating for a Denial of Traditional Family Values,” also known as the “gay propaganda law.” On June 20, 2017 the ECHR ruled that Russia’s gay propaganda law was “discriminatory and, over all, served no legitimate public interest.” Although the ruling is binding, the ECHR cannot enforce it. The prosecutions of gay individuals in Chechnya both reflect this broader trend of discrimination in Russia, and come as a more systematized and extreme form.

<sup>24</sup> Elena Milashina, “Eto byla v noch na 26 yanvarya v groznom rasstrelyany desyatki lyudey,” last modified July 9, 2017, <https://www.novayagazeta.ru/articles/2017/07/09/73065-eto-byala-kazn-v-noch-na-26-yanvarya-v-groznom-rasstrelyany-desyatki-lyudey>.

<sup>25</sup> Masha Gessen, “The Gay Men Who Fled Chechnya’s Purge,” *The New Yorker*, last modified July 3, 2017, <https://www.newyorker.com/magazine/2017/07/03/the-gay-men-who-fled-chechnyas-purge>.

<sup>26</sup> “Universal Declaration of Human Rights,” United Nations, last modified September 18, 2017, <http://www.un.org/en/universal-declaration-human-rights/>.

<sup>27</sup> “Chapter 2: Rights and Freedoms of Man and Citizen,” *The Constitution of the Russian Federation*, last modified September 17, 2017, <http://www.constitution.ru/en/10003000-03.htm>.

legal authority and a loss of the Russian government's control over the security of one of its republics.<sup>28</sup> More broadly, it reflects a deterioration of the Russian state's ability to enforce the rule of law domestically and illustrates the danger of conceding some sovereignty in the region.

These alleged abuses were allowed to occur partially due to the fear of a return to chaos and instability in the Northern Caucasus. Following the Second Chechen War (1999-2000), Putin struck a deal with Akhmad Kadyrov, and later his son Ramzan Kadyrov, in which financial support and greater autonomy were exchanged for stability in the republic and unwavering loyalty to the president.<sup>29</sup> For this reason, Putin has been unwilling to commit much effort into investigating the abuses. For example, Tatyana Moskalkova, Russia's Commissioner for Human Rights, visited Chechnya to announce the start of a Kremlin-led investigation into the alleged abuses a full five months after the publication of *Novaya Gazeta's* first article.<sup>30</sup> The critical moment that allegedly ended the killings of gay men had already come during Putin's meeting with Kadyrov on April 21, 2017, when the Chechen leader strongly denied the allegations.<sup>31</sup>

For many outside observers and activists, this informal relationship between Kadyrov and Putin has been central to the current cessation of the systematic imprisonment, torture, and execution of gay men in Chechnya carried out by local police and security personnel. This shows

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<sup>28</sup> In recent years the Russian government's relationship with the Constitution has often been strained in the eyes of the Russian public. Lauri Mälksoo's *Russian Approaches to International Law* details the way in which the Soviet Union and later the Russian Federation conceived of and implemented international law. On this point she states that "concerning international law and the USSR, among several challenges of interpretation the main one was that actual life often did not correspond to legal texts as e.g. in the case of the right of peoples to self determination. Law, in other words, has a different meaning and function in society" (Mälksoo, 6). The divide between the Constitution and actual enforcement of the law is reflected in a 2013 Levada Centre poll in which nearly 60 percent of Russian respondents thought that their government did not respect the Constitution (Mälksoo, 7). This historical disregard for the constitution by the government not only undercuts rule of law, but also forces many political decisions to be made personally instead of formally through the government.

<sup>29</sup> Diana Markosian and Judith Matloff, "Islam and Chechnya," *World Policy Journal* 29, No. 1 (Spring 2012): 54.

<sup>30</sup> Olga Bobrova, "Den kogda mertvye voskresli," *Novaya Gazeta*, last modified September 22, 2017, <https://www.novayagazeta.ru/articles/2017/09/22/73943-den-kogda-mertvye-voskresli>.

<sup>31</sup> Tanya Lokshina, "Chechen Leader Denies Anti-Gay Purge in Putin Meeting," *Human Rights Watch*, last modified April 20, 2017, <https://www.hrw.org/news/2017/04/20/chechen-leader-denies-anti-gay-purge-putin-meeting>.

the broader trend of Putin resolving human rights issues through personal diplomacy, while in the US institutional levers are more commonly used to address human rights concerns. However, whether the ECHR or the Russian government is willing or able to bring to justice the perpetrators of the abuses has yet to be seen.

Since the collapse of the Soviet Union, Russia has viewed international law as a tool with which to counter US unilateralism.<sup>32</sup> Thus, in the case of Chechnya, international law and its concomitant institutions may not serve a clear foreign policy goal for Russia from the perspective of the Kremlin. In fact, criticism from organizations like the ECHR may be seen as diminishing Russia's idea of its unique standing in the international community. As Mälksoo states, "the governmental discourse of international law in Russia also has Messianic traits."<sup>33</sup>

Similar to the US, Russia also has an interest in respecting human rights norms. Allowing extrajudicial killings to happen in the first place and not be formally investigated for five months reflects an erosion of the rule of law and of sovereignty. Russia's exceptionalism has been a driving force in its selective adherence to international laws and norms. Kadyrov's disregard for Russian constitutional law and international human rights norms could be a proverbial slippery slope in the Russian regions. This breakdown in order could inspire other regional leaders to also breach Russian law in a way that might ultimately undermine Russia's domestic security. By allowing Kadyrov the autonomy to violate international norms even temporarily, Putin may ironically contribute to a broader regional security concern through actions intended to subdue such a threat. In this way, the protection of minority rights is in the direct interest of the Russian state as one way of guaranteeing security throughout the country.

## **V. Conclusion**

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<sup>32</sup> Mälksoo, *Russian Approaches to International Law*, 149.

<sup>33</sup> Mälksoo, *Russian Approaches to International Law*, 149.

The major implication of this paper for policymakers in the US and Russia is that adherence to human rights norms can be in a nation's self-interest within the context of domestic security. In the cases of the travel ban and the persecution of gay men in Chechnya, the potential violation of human rights in the pursuit of security may actually undermine that selfsame security. This is seen in how the travel ban's alleged bias toward Muslims could be used as a recruitment tool for terrorist organizations such as ISIS. On the Russian side, failure to properly investigate the murder of gay men in Chechnya may further erode President Putin's loss of authority over Kadyrov and Chechnya as a whole. Both these cases are a continuation of the trend of great powers undervaluing international law, as was manifestly evident when the US and Russia pulled out of the ICC.

When policymakers undervalue human rights and their importance to domestic security, unintended security problems may arise. For both the US and Russia there is a thematic link between their view of themselves as great powers and their overall desire to deal with human rights cases at a domestic level. Even though these cases are thematically linked through their shared instances of security trumping human rights, we want to stress that there is not a moral equivalence between a travel ban and the abuses committed by police and security personnel in Chechnya. Yet for all these differences, these countries' movement away from international human rights bodies in favor of increased sovereignty is a move that is partially a similar product of their great power status, but arguably one that does not aid their long-term security goals.

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