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Written Statement submitted by
The Advocates for Human Rights, an NGO in special consultative status

The Advocates for Human Rights (The Advocates) is a non-profit, non-governmental organization working to implement international human rights standards to promote civil society and reinforce the rule of law. The Women’s Human Rights Program of The Advocates for Human Rights applies international human rights standards to advocate for women’s human rights around the world. Founded in 1993, The Women’s Human Rights Program has specialized expertise in countries with transitioning legal systems that focus on building democracy and respect for human rights.

The Women’s Human Rights Program has worked extensively in Central and Eastern Europe and the former Soviet Union (CEE/FSU), and has published 20 reports on violence against women as a human rights abuse. Our partnerships with NGOs in Bulgaria, Georgia, Kazakhstan, and Lithuania facilitated the passage of domestic violence laws in 2005, 2006, 2009, and 2011 that offer new protective order remedies to the 16 million women in those countries. Our program trains lawyers, police, prosecutors, and judges to implement new and existing laws on domestic violence effectively at the invitation of, and in collaboration with local partners. The Advocates has conducted such trainings in Armenia, Turkey, Kazakhstan, Russia, Bulgaria, Georgia, Latvia, and Lithuania. The Advocates has also hosted regional conferences addressing best practices and legal reform on violence against women which were well attended by Russian activists and supporters of women’s rights. The Women’s Human Rights Program also created training modules on access to justice and drafting legislation on violence against women in all its forms for UN Women’s Virtual Knowledge Centre.

(cover page)

I. EXECUTIVE SUMMARY

1. The Russian Government, at all levels of the law enforcement system, has systematically failed to take action to address mass rapes in the town of Kushchyovskaya in the Krasnodar Region. Impunity for rape in Kushchyovskaya is symptomatic of human rights violations in other parts of Russia.

2. Kushchyovskaya is located in the Northern Caucasus area of Russia. In 2010, the Committee on the Elimination of Discrimination against Women singled out the issue of gender-based violence in this part of Russia, calling on the Russian Republic to:

“take all necessary measures to end the impunity for violence against and killings of women and girls in the northern Caucasus, by ensuring that such cases are fully and promptly investigated and that perpetrators are brought to justice, regardless of whether they are State or non-State actors. The Committee calls on the State party to ensure the provision of adequate reparation to the surviving victims, including the families of the deceased, and to send a clear message that human rights abuses will not be tolerated and will be addressed through human rights complaints, thorough investigations, fair trials and punishment of the perpetrators.”¹

These problems persist, and the Russian Government is not taking adequate measures to address the Committee’s concerns.

3. The Advocates recommends that the Russian Government:

- (a) conduct a full-scale investigation into rape and sexual assault crimes in Kushchyovskaya over the past 20 years, including confidential interviews with all possible victims, taking all possible measures to ensure interviewee safety, and ensure that the perpetrators and any co-conspirators are identified and held accountable;
- (b) establish detailed nationwide data collection and tracking practices on rape and sexual assault, including reported incidents, investigations, charges brought, charges dropped, and convictions obtained;
- (c) take all necessary measures to end impunity for rape and sexual assault in Kushchyovskaya and other localities facing similar human rights violations;
- (d) ensure that victims of violence against women receive adequate reparations;
- (e) establish a comprehensive program to protect women from sexual violence, including public education, heightened criminal penalties, aggressive prosecutions, and training for law enforcement, investigators, prosecutors, judges, and education officials;
- (f) establish crisis centers throughout Russia for victims of sexual and domestic violence.

II. DOMESTIC LEGAL FRAMEWORK

4. Russian law criminalizes rape and sexual assault (identified as “crimes against gender freedom” and “crimes against gender inviolability” in the Russian Criminal Code).² Under Article 151 of the Criminal Procedure Code, the public prosecutor’s office has jurisdiction to investigate reports of these crimes.³ Under Article 144, “[w]hen checking a report on a crime, the . . . investigator and prosecutor shall be entitled to demand carrying out documentary and audit inspections and to draw specialists to participation therein.”⁴ Mass media reports of crimes

trigger an obligation to investigate.⁵ The public prosecutor's office has three days to act on a report of a crime, but that period may be extended by "up to thirty days on the petition of the investigator or inquirer."⁶

III. 2009 UPR AND RUSSIA'S RESPONSE

5. Paragraph 85(32) of the Report of the Working Group contained recommendations from four Member States pertaining to violence against women. Several recommendations focused on *domestic violence*, while others included broader recommendations to "[c]ollect statistical data on cases of violence against women" (Czech Republic) and to "[e]nhance the efforts to combat violence against women and to improve women's access to safe shelter" (Sweden).

6. Russia's response to these recommendations, however, mentioned only domestic violence, neglecting broader issues concerning violence against women relevant to this stakeholder report: "The Russian Federation accepts this recommendation to continue and step up the campaign against domestic violence, including attitudes to women, with the proviso that the choice of the organizational and political measures required to implement it will be left to the discretion of the Russian Federation."

IV. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND: MASS RAPES IN KUSHCHYOVSKAYA

7. Since the 1990s, an organized criminal gang called the "Tsapki," named after founder Nikolai Tsapok, has been active in the town of Kushchyovskaya. Since the gang's formation, Tsapok's nephews, Sergei and Nikolai Tsapok, and several hundred young men have joined the gang. The Tsapki gang has conducted mass rapes of women and girls in the town of Kushchyovskaya since the 1990s. Gang members openly select their sexual assault victims in schools, the medical training institute, other educational establishments, and on town streets.⁷

8. The town of Kushchyovskaya is a large regional center with a population of 30,200. The Kushchyovskaya sub-region includes 74 population centers and 12 rural settlements. For inhabitants of the many neighboring towns, Kushchyovskaya is the sole opportunity to obtain a higher education. Young women who come to Kushchyovskaya to further their academic studies typically live in a dormitory or rent a room from local townsfolk.

9. The gang deliberately selects its victims from among these newcomers.⁸ In many places around the world, perpetrators of violence against women frequently select such populations as targets. Perpetrators understand that such women are a vulnerable, transitory population not likely to be available for any subsequent criminal investigation. According to one report, "[t]he majority of the victims are female students at the medical college. 400 students are enrolled, and 350 of them are 17- to 20-year-old women."⁹

A. Right to life, liberty and security of the person

10. According to a 2010 report, "[m]ore than 200 women were raped [in Kushchyovskaya]. The Tsapki took anyone they liked the looks of by force."¹⁰ One reporter who spent extensive time investigating mass rapes in Kushchyovskaya concluded: "I think that there were far more than 220 rapes. From 2008 to 2010 alone there were 47 reports made to the Kushchyovskaya police (incidentally, criminal charges were brought in only two of those cases). The gang has been active for 20 years. But the majority of young women who are victims did not go to the police. And will not go."¹¹

11. A local woman explained the gang's tactics to one reporter:

“They come up: ‘Oh, I like the looks of that girl, do you want to come with me?’ Those of us who are locals, we know how to present ourselves: ‘I have a boyfriend, I’m practically a married woman,’ —but the main thing is to be very polite and smile! If you’re good with them, then they’re good . . . But if the young woman is a newcomer, a student, doesn’t know the local customs and starts to be rude in response—that’s it. It’s like you’re signing your own sentence . . . They sat the newcomer woman down in the car and announced to her: ‘This guy likes your looks and you will be in love with him, starting from tonight.’ If the girl protested, they were happy: ‘You don’t want to be in love? Oh, yeah, you’re a prostitute! You want to be with everyone, and right away!’ The girl could do nothing but, in tears, agree to the less traumatic option.”¹²

12. A teacher told a reporter how gang members prey on young women attending school dances:

“When there’s a school dance, they come to the parking lot. We know that they’ve come to select girls. The police patrols walk past, sign in at the principal’s office and then stand aside. . . . The girls are afraid Yes, we let the Tsapki into the dance. . . . They didn’t take the girls right at the doors, but over by the exit from the school grounds there is a dark area where cars are parked. And neither the police nor we see what is going on there.”¹³

13. Gang members single out particular young women and stalk them for weeks. Attempting to avoid attack, some young women change their telephone numbers, move apartments, and travel around exclusively by taxi.¹⁴

14. The stigma associated with rape silences victims. People in Kushchyovskaya call women who are known to have been raped “otkhody” (waste products).¹⁵ “To be raped is an indelible shame. Not for the rapist—for the woman. It isn’t ‘respectable’ to spend time with her. No one will marry her. The life of a woman who admits that she was raped is ruined by her parents, her female peers, male friends, and police officers even without the Tsapki’s participation.”¹⁶

B. Administration of justice and the rule of law

15. The Tsapki established de facto control over Kushchyovskaya by cultivating connections with people in law enforcement and the judicial system. President Medvedev in December 2010 described a “direct fusion of criminal groups” with local government in Kushchyovskaya.¹⁷ The Tsapki pay for the education of local police employees.¹⁸ Sergei Tsapok tapped the head of the District Department for Organized Crime to be the godfather to his child.¹⁹ The head of the Regional Department for Internal Affairs is so friendly with the Tsapok family that he calls the mother of Sergei and Nikolai Tsapok “mama.”²⁰ The founder of the gang, Nikolai Tsapok, was living with federal judge Irina Pozorova, and after he died she walked at the head of his funeral procession carrying his portrait.²¹ Sergei Tsapok eventually became a member of parliament. “Since 2005, the Tsapki have been openly bribing the [Regional Department of Internal Affairs]: they purchase furniture, computers, and split-systems for the department, provide hot meals”²² “In essence, these Tsapki set up Kushchyovskaya as an exclusive enclave and ruled it by manipulating corrupt law enforcement officials, on-the-take bureaucrats, and frightened townsfolk.”²³

16. In 2010, Kushchyovskaya Department of Internal Affairs Investigator Yekaterina Rogoza posted on YouTube.ru a recording of her video address to Russian Federation President Dmitrii Medvedev, because Kushchyovskaya police commanders began to subject employees to repression. Rogoza points out that in Kushchyovskaya “highly placed commanders are covering up for the Tsapki.”²⁴ Her video address received national media coverage.²⁵

17. One tactic employed by many gang members is to obtain a “yellow ticket” from the local psychiatric hospital.²⁶ The yellow ticket—referred to by some as their “trump card”²⁷—amounts to a “free pass” allowing them to avoid criminal responsibility and instead be referred for medical treatment. With yellow cards in hand, “[t]he Tsapki do not answer for their actions before the law.”²⁸

18. People who speak out against the Tsapki face well-publicized reprisals. In 2005, 170 students from the Northern Kuban Humanities and Technological Institute, located in Kushchyovskaya, signed an official appeal for assistance addressed to Governor Aleksandr Tkachev, prosecutor Sergei Yeremin, and Chief of the Krasnodar Region Main Administration for Internal Affairs Sergei Kucheruk. The students had the support of Dean Galina Ivanovna Kroshka. In the letter, students described the activities of “an organized criminal gang” terrorizing Kushchyovskaya with impunity. “We are afraid to turn to law enforcement authorities because those who have made reports to the police have been beaten half to death, and no measures have been taken against the criminals. All inhabitants of the region, including the police, know about this situation, but they have not taken any measures to fight this mayhem, remaining deaf to our cries for help. We are unable to fight this criminality by ourselves, and therefore in order to maintain our health we simply have to quit school and return home, not having received the education we had hoped for.”²⁹

19. The letter did not mention the Tsapki by name or the rapes and sexual assaults committed by gang members. But the students also sent this letter to *Rossiiskaya Gazeta*, the official government newspaper. On 25 October 2005, an article in that newspaper described the students’ appeal. That article also made reference to sexual violence in Kushchyovskaya. Dean Kroshka told the reporter about the mass rapes of students and pointed the finger at the Tsapki.³⁰ She was “the first and only person to utter the name Tsapok.”³¹

20. After the letter appeared in *Rossiiskaya Gazeta*, police conducted a perfunctory investigation. “‘They gathered us in the auditorium,’ explains a student at the medical college. ‘A police officer came in. He says, ‘Who here has been raped?’ And about twenty of the Tsapki’s girls are sitting in the auditorium. We look at them and say, ‘Nobody.’ Dear investigators, interview students one-on-one. . . . And ask for a list of the students who have failed out and who quit school over the past 20 years. Talk with them.’”³²

21. Four months after the letter appeared, the Kushchyovskaya District Department for Fighting Organized Crime, headed by Aleksandr Khodych (godfather of Sergei Tsapok), brought trumped-up criminal charges against Dean Kroshka and one of her colleagues, charging them with operating an organized criminal gang trading in forged diplomas.³³ Kroshka spent a year in solitary confinement; her sentence was eventually converted to probation.³⁴ Then two former employees of the Regional Department of Internal Affairs lodged a complaint, and she was sent back to prison.³⁵ Kroshka had two strokes while in prison and has been transferred to a psychiatric hospital.³⁶ Her colleague is serving a seven-year sentence.³⁷ Townsfolk view Kroshka’s case as a cautionary tale against speaking out against the Tsapki.³⁸

22. The Tsapki retaliate against individuals who agree to testify against them. One reporter explains, “I would like to say, ‘Go and give evidence!’ —but I can’t. I talked with a guy—one of the few who came and testified against the Tsapki. The following day the Kushchyovskaya [Patrol-Post Service] met up with him at a bar. They asked him to get in their car. In the car they beat him up. At the police station they took his shoes, stripped him, and then locked him in ‘the glass’—a narrow cell with a cement floor. The conversation was about refusing to testify. The next morning they took him to court. The judge slapped him with drunk and disorderly conduct in a public place. Right then and there, the guy called the Investigative Committee and told them that he was not going to give testimony.”³⁹

23. The impunity for human rights violations in Kushchyovskaya is not unique. “Experts say that in Russia there are dozens of criminal enclaves ruled by similar medieval mayhem.”⁴⁰ One national opposition leader says the Tsapki are a “tumour” that has spread across the entire country.⁴¹

24. Mechanisms for providing compensation to victims of violence are ineffective; there are no clear criteria for determining the extent of moral injury. The amount of compensation to be paid by the offender is left to the individual discretion of the judge. In cases involving physical violence, this sum is no more than 10,000 rubles (\$330 USD). There is no mechanism for victims to receive payment from government funds.

25. Mechanisms to protect victims of sexual violence are ineffective. Federal law No. 119 ‘On the protection of victims, women, and other participants in the criminal justice system,’ enacted in 2004,⁴² is practically inoperative in cases of sexual violence. Few law enforcement employees are aware of the law or of how to invoke government protective measures. As a result, women are deterred from turning to law enforcement for assistance. Safety concerns render victims unable to report crimes or to give testimony freely. Victims have no access to justice. Moreover, entities that deal with reports of sexual violence provide little or no training for individuals who work with victims in order to meet the unique needs of victims and to further investigate the reports.

C. Right to education

26. Students are the primary victims of these mass rapes. Impunity has direct implications for female students seeking to further their education. Students fear being singled out for attack even in their classrooms and as they walk to school. Educational institutions do nothing to protect them. Students who are attacked receive no support from their educational institutions; they frequently quit school to return home or fail out. Mass rape, and the culture of impunity toward rape and sexual assault, amount to discrimination against women seeking to further their education.

V. RECOMMENDATIONS

27. The Advocates recommends that the Russian Federation:
- (a) conduct a full-scale investigation into rape and sexual assault crimes in Kushchyovskaya over the past 20 years, including confidential interviews with all possible victims, taking all possible measures to ensure the safety of interviewees, and ensure that the perpetrators and any co-conspirators are identified and held accountable;

- (b) establish detailed nationwide data collection and tracking practices on rape and sexual assault, including reported incidents, investigations, charges brought, charges dropped, and convictions obtained;
- (c) take all necessary measures to end impunity for rape and sexual assault in Kushchyovskaya and other localities facing similar human rights violations;
- (d) ensure that victims of violence against women receive adequate reparations;
- (e) establish a comprehensive program to protect women from sexual violence, including public education, heightened criminal penalties, aggressive prosecutions, and training for law enforcement, investigators, prosecutors, judges, and education officials;
- (f) establish crisis centers throughout Russia for victims of sexual and domestic violence.

¹ Committee on the Elimination of Discrimination against Women, Concluding Observations, Russian Federation, para. 25, 16 August 2010.

² Criminal Code of the Russian Federation, articles 131–133.

³ Criminal Procedure Code of the Russian Federation, article 151(2)(1)(a).

⁴ Criminal Procedure Code of the Russian Federation, article 144(1).

⁵ Criminal Procedure Code of the Russian Federation, article 144(2).

⁶ Criminal Procedure Code of the Russian Federation, article 144(1)–(3).

⁷ Yelena Kostyuchenko, “We are to live here. Part I,” *Novaya Gazeta*, No. 136 (3 December 2010) available at <http://www.novayagazeta.ru/society/555.html> (last visited 9 October 2012).

⁸ Yelena Kostyuchenko, “We are to live here. Part II,” *Novaya Gazeta*, No. 137 (6 December 2010) (“The Tsapki tried to take non-local girls. . . They most frequently ‘pinched’ the girls from neighboring towns who had come to Kushchyovskaya to study. The victims were between 14 and 20 years old. They were grabbed on the streets. At the entrance gate of the institute. In a café. In the parks. Taken from school dances. From 1993 through 2002—the period of Nikolai Tsapok’s rule—they were taken ‘the tough way.’ They went into institutes, into classrooms, pointed a finger at the ones they liked the looks of. They burst into apartments, breaking down the doors, and sometimes the windows. They dragged them off into cars out on the streets. Under Sergei the ‘chesa’ method was popular. A car stops and a smiling guy leans out: ‘What’s your name?’ It’s not possible not to respond—it is rude, and rudeness is punished. It’s not possible to respond—you would be making contact, and that would mean that you wanted to get to know him. . . There is no point in hiding your telephone number or address—the Tsapki can easily get that information from the place where you go to school. There’s no longer any need to break down apartment doors—the landlords recognize the Tsapki by sight and unlock the doors on demand.”) available at <http://www.novayagazeta.ru/society/529.html> (last visited 9 October 2012).

⁹ *Ibid.*

¹⁰ First Channel, *Man and Law* (18 November 2010), at the 7:15 minute mark, available at http://www.1tv.ru/sprojects_edition/si=21&d=18.11.2010#, <http://www.youtube.com/watch?v=uNVZBPaiRKc> (last visited 9 October 2012).

¹¹ Yelena Kostyuchenko, “We are to live here. Part II,” *Novaya Gazeta*, No. 137 (6 December 2010).

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- ¹² Ulyana Skoibeda, “Gang that terrorized the town of Kushchyovskaya accused of raping 220 women,” *Komsomolskaya Pravda* (15 November 2010) available at <http://www.kp.ru/daily/24590.5/759653/> (last visited 9 October 2012).
- ¹³ Yelena Kostyuchenko, “We are to live here. Part II,” *Novaya Gazeta*, No. 137 (6 December 2010).
- ¹⁴ Yelena Kostyuchenko, “We are to live here. Part II,” *Novaya Gazeta*, No. 137 (6 December 2010).
- ¹⁵ Yelena Kostyuchenko, “We are to live here. Part II,” *Novaya Gazeta*, No. 137 (6 December 2010).
- ¹⁶ Yelena Kostyuchenko, “We are to live here. Part II,” *Novaya Gazeta*, No. 137 (6 December 2010).
- ¹⁷ Anna Arutunyan, “A criminal cancer in Krasnodar,” *Moscow Times* (6 December 2010) available at <http://themoscownews.com/russia/20101206/188259583.html> (last visited 9 October 2012).
- ¹⁸ Yelena Kostyuchenko, “We are to live here. Part I,” *Novaya Gazeta*, No. 136 (3 December 2010).
- ¹⁹ Yelena Kostyuchenko, “We are to live here. Part I,” *Novaya Gazeta*, No. 136 (3 December 2010).
- ²⁰ Yelena Kostyuchenko, “We are to live here. Part I,” *Novaya Gazeta*, No. 136 (3 December 2010).
- ²¹ Yelena Kostyuchenko, “We are to live here. Part III,” *Novaya Gazeta*, No. 138 (8 December 2010) available at <http://www.novayagazeta.ru/society/499.html> (last visited 9 October 2012).
- ²² Yelena Kostyuchenko, “We are to live here. Part III,” *Novaya Gazeta*, No. 138 (8 December 2010).
- ²³ Grigorii Sanin, “Kushchyovskaya Rus’,” *Itogi*, No. 48 (29 November 2010) available at <http://www.itogi.ru/criminal/2010/48/159290.html> (last visited 9 October 2012).
- ²⁴ Yekaterina Rogoza, Kushchyovskaya Police employee, video address to Russian President Dmitrii Medvedev (2010) available at <http://www.youtube.com/watch?v=hQkIFOQNWOY> (last visited 23 August 2012).
- ²⁵ *Ekho Moskvy*, 24-hour Russian radio station, established in 1990, news webcast (6 December 2010), available at <http://echo.msk.ru/news/731914-echo.html> (last visited 9 October 2012).
- ²⁶ Yelena Kostyuchenko, “We are to live here. Part I,” *Novaya Gazeta*, No. 136 (3 December 2010).
- ²⁷ Tatyana Pavlovskaya, “Constrained by fear,” *Rossiiskaya Gazeta* (federal edition), No. 3908 (25 October 2005) available at <http://www.rg.ru/2005/10/25/studenty.html> (last visited 9 October 2012).
- ²⁸ Yelena Kostyuchenko, “We are to live here. Part I,” *Novaya Gazeta*, No. 136 (3 December 2010).
- ²⁹ Tatyana Pavlovskaya, “Constrained by fear,” *Rossiiskaya Gazeta* (federal edition), No. 3908 (25 October 2005).
- ³⁰ Steve Rosenberg, “Rosenberg’s Russia: On the Election Trail,” *BBC News* (1 March 2012) available at <http://www.bbc.co.uk/news/world-europe-17218593> (last visited 9 October 2012).
- ³¹ Yelena Kostyuchenko, “We are to live here. Part II,” *Novaya Gazeta*, No. 137 (6 December 2010).

³² Yelena Kostyuchenko, “We are to live here. Part II,” *Novaya Gazeta*, No. 137 (6 December 2010).

³³ Yelena Kostyuchenko, “We are to live here. Part II,” *Novaya Gazeta*, No. 137 (6 December 2010).

³⁴ Yelena Kostyuchenko, “We are to live here. Part II,” *Novaya Gazeta*, No. 137 (6 December 2010).

³⁵ Yelena Kostyuchenko, “We are to live here. Part II,” *Novaya Gazeta*, No. 137 (6 December 2010).

³⁶ Yelena Kostyuchenko, “We are to live here. Part II,” *Novaya Gazeta*, No. 137 (6 December 2010).

³⁷ Yelena Kostyuchenko, “We are to live here. Part II,” *Novaya Gazeta*, No. 137 (6 December 2010).

³⁸ Yelena Kostyuchenko, “We are to live here. Part III,” *Novaya Gazeta*, No. 138 (8 December 2010).

³⁹ Yelena Kostyuchenko, “We are to live here. Part III,” *Novaya Gazeta*, No. 138 (8 December 2010).

⁴⁰ Grigorii Sanin, “Kushchyovskaya Rus’,” *Itogi*, No. 48 (29 November 2010).

⁴¹ “Authorities to blame for criminalization of Russia - TV report,” *BBC Monitoring International Reports* (23 November 2010) available at <http://www.accessmylibrary.com/article-1G1-242748526/authorities-blame-criminalization-russia.html> (last visited 9 October 2012) (quoting Boris Nemtsov, co-chairman of the Solidarity opposition movement).

⁴² FZ No. 119, 20 August 2004.