THE STATE OF RUSSIAN MEDIA THROUGH THE LENS OF DEMOCRATIZATION: 1991 AS THE PEAK OF OPENNESS IN RUSSIA'S MEDIA LAWS

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INTRODUCTION

Once upon a time, Liberty was given to us as a gift, but unfortunately, it was lost right away. Tell us, my dear Reader, have you seen it by any chance?

Pyotr Potymkin (From "Liberty, Despondency and the Reader")[1]

This article draws reader's attention to 1991 as an important moment in the history of Russian media laws and policy-making, known for the least regimented censure of media channels (TV and radio at the time, and not so much for the Internet due to its recent commercialization on the territory of the newly formed post-Soviet nation-states), and hence as the time when the country was most open to the process of democratization.[2] We can view media information networks as one of the powerful contemporary institutions through which "diffusion," defined as "the process whereby past events make future

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1. This is an excerpt from a Russian fable dated 1905 or 1906 (Author's translation from the original Russian: *Однажды нам была дарована Свобода, Но, к Сожалению, такого рода, Что в тот же час куда-то затерялась. Тебе, читатель мой, она не попадалась?* Петр Потемкин "Свобода, Сожаление и Читатель,"). Pyotr Potymkin, *Svoboda, Sozhalenie, i Chitatel* [*Liberty, Despondency, and the Reader*], available at https://proza.ru/2021/03/20/377 [https://perma.cc/UJR2-NU3T].

2. Experts posit that during this period, in essence, the "old" Soviet laws and policies were challenged by the spirit of glasnost (openness) and perestroika (re-structuring) promulgated by Mikhail Gorbatchev administration. Further, "democratization" in the context of this article is defined as "a change in political regime within a sovereign state from nondemocracy to democracy." David Samuels, *Democratization*, OXFORD BIBLIOGRAPHIES, https://www.oxfordbibliographies.com/display/document/obo-9780199756223/obo-9780199756223-0016.xml [https://perma.cc/NQ9A-9KJS] (last updated Nov. 29, 2011).

events more likely"[3] is spread with an ease that was not afforded to societies in the "pre-networked"[4] world. Koesel and Bunce propose that various dictatorial regimes (and also regimes in transit) use various techniques to dampen, or to stop, the diffusion. Evgeniĭ Morozov, studying the utilization of the Internet by political regimes agrees with these authors in his *The Net Delusion: The Dark Side of Internet Freedom*, offering that no matter how free media systems (and the Internet in particular) appear at the initial stages of their commercialization, governments that tend to be more authoritarian will use any novel technology to their advantage to eventually control the spread of information, and to silence popular protest,[5] therefore preventing the opposition from organizing.

Further, Brinks and Coppedge stress that "[t]he strong influence of international factors on changes in levels of democracy highlights the importance of taking international influences into account in . . . analyses of democratization."[6] The existence of media systems, such as that of television, preceding and contemporary to the times of perestroika, and, later the Internet, have had a great impact on how protest in Russia has been organized over the last three decades. In turn, Russian political elites have been responding with creation of more stringent laws, starting after the ephemeral moment of sense of expanded media freedoms in 1991 as the case study discussed demonstrates.

I take works by sociologist Paul Starr *The Creation of the Media: Political Origins of Modern Communications* and that of economist Lawrence White as a backbone in understanding how media systems developed in the USSR.[7]

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3. I use the term "diffusion" in the same way that Koesel and Bunce used it in *Diffusion-Proofing: Russian and Chinese Responses to Waves of Popular Mobilizations against Authoritarian Rulers*, 11 PERPS. ON POL. 753, 753 (2013), based on work of Pamela E. Oliver & Daniel J. Myers, *Networks, Diffusion, and Cycles of Collective Action in* SOCIAL MOVEMENTS AND NETWORKS: RELATIONAL APPROACHES TO COLLECTIVE ACTION (Mario Diani & Doug McAdam eds., 2003).

4. Author refers here to general order of things prior to the advent of print and such networks as telegraphy, telephony, cable, wireless communication, and eventually the Internet.

5. EVGENIĬ MOROZOV, THE NET DELUSION: THE DARK SIDE OF INTERNET FREEDOM (2011). *See also* Andrea Peterson, *Ukraine's 1984 Moment: Government Using Cellphones to Track Protesters*, WASH. POST (Jan. 21, 2014, 1:59 PM), https://www.washingtonpost.com/news/the-switch/wp/2014/01/21/ukraines-1984-moment-government-using-cellphones-to-track-protesters/ (explaining that government officials texted protesters the following message during multiple protests taking place in Ukraine of 2014: "[d]ear subscriber, you are registered as a participant in a mass disturbance.").

6. Daniel Brinks & Michael Coppedge, *Diffusion Is No Illusion: Neighbor Emulation in the Third Wave of Democracy*, 39 COMP. POL. STUDS. 463, 464 (2006).

7. *See* PAUL STARR, THE CREATION OF THE MEDIA: POLITICAL ORIGINS OF MODERN COMMUNICATIONS (2004); LAWRENCE J. WHITE, U.S. PUBLIC POLICY TOWARD NETWORK INDUSTRIES 3–13 (1999) (describing the types of networks that exist in contemporary societies, and how the nature of their structuring defines their economies). The fact media systems are networks (for instance, telegraphy, telephony, cable, and later the Internet) puts them into a special category of business modeling, at their very initiation and once these technologies become fully commercialized and ubiquitously used by societies. Economies of scale and externalities play a major role, for only business entities with high initial capital can support network growth. In case of Russia, these networks have been primarily controlled by Soviet and later Russian state.

Contemporary Russian legal and policy agencies have been greatly influenced by preceding Soviet legal apparatus. This is especially important when understanding the nature of network as examined by White: the initial capital investment and initial ownership rarely change in case of networks. Consequently, it is not surprising that ideologies, and regulations influenced by them, which were prevalent during creation of such first networks as telegraphy and telephony in the USSR, find their way in contemporary Russian television and Internet systems.

As Starr puts it in his introduction:

> The communications media have so direct a bearing on the exercise of power that their development is impossible to understand without taking politics fully into account, not simply in the use of the media, but in the making of constitutive choices about them.
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> By *constitutive* choices I mean those that create the material and institutional framework of fields of human activity.[8]

During the Soviet Union times, Russia's media systems were centralized and controlled by the ideologies of the Communist Party. Therefore, it is possible to predict that the state's control over them will continue to be quite strong into the future, hindering democracy's consolidation in the country. (Notably, this was not so apparent during the peak of liberalization reforms promulgated by Mikhail Gorbachev in late 1980s during the fall of the USSR).

As scholars studying political regimes argue, "it is highly unlikely that the government that has once gained additional powers will be willing to relinquish them."[9] Another aspect of media laws, and laws in general, is important to consider. We take the view of legal philosopher Scott Shapiro[10] that laws are essentially plans regulating large groups of people. Plans take time to be adapted, especially if we deal with large populations and multiple institutions. This complicates prospects for democratization in such large nation as the Russian Federation if we see law, media law particularly, as one of the institutions via which democracy can be spread.

I. THE INFAMOUS 1991 "LENIN-MUSHROOM" INTERVIEW OF AVANT-GARDE ARTIST AND POLITICAL DISSIDENT SERGEI KUREKHIN

This article focuses on a revealing broadcast event in the Russian media system during the years of perestroika and glasnost. This singular era was

8. STARR, *supra* note 7, at 1.

9. Maurer School of Law, Indiana University Bloomington, *Snowden Panel: Can You Hear Me Now? A Panel Discussion on Edward Snowden and the NSA Surveillance Program*, YOUTUBE (Sept. 6, 2013), https://www.youtube.com/watch?v=L6KOz8GJFUk (A statement by legal scholar and privacy expert Prof. Fred Cate. From author's ethnographic notes).

10. Yale Law School professor, lawyer and philosopher by education. *See generally* SCOTT J. SHAPIRO, LEGALITY (2011).

marked by policies under the Mikhail Gorbachev[11] administration that allowed unprecedented freedom of media expression by Russia's intellectual and artistic communities, and hence a fruitful ground for strengthening of civil society in the country. The specific televised program addressed here is a type of parody, or an example of "stiob,"[12] that took place on May 17, 1991, in a televised interview of a well-known Russian underground rock and jazz musician, Sergei Kurekhin. Kurekhin gave this seventy-minute interview on a popular St. Petersburg program, *The Fifth Wheel*,[13] whose audience counted millions of viewers.

After analysis of how this program strikingly departed from the tightly-regulated media policies that preceded a new era of openness (or glasnost) in 1991, this article will also consider major legal changes within media systems of the time which were directed at the spread of democracy in the Russian Federation. The following questions will be posed: What did Kurekhin target in this particular "stiob"? What possible interconnections were there between his remarkable interview and important political events that took place on May 17, 1991? What led to this event being possible, much less acceptable, in the existing legal and popular culture? How were media laws, within a glasnost era culture, supportive of the emergence of such liberal programs as *The Fifth Wheel*?

A. 1991 Media Events as Representative of Transformations Taking Place in Early 1990s Democratically-Inclined Russia

It would be impossible to fully appreciate the unique nature of Kurekhin's "Lenin-Mushroom" interview without examining his image as a performer, and his creative endeavors in the underground entertainment world of Saint Petersburg of the late 1980s. He gave the May 1991 interview as an already well-established and renowned founder of "Popular Mechanics Orchestra" a popular staged performance. This controversial program featured musicians and artists, symphony orchestras, folklore and professional dance groups, rock

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11. Mikhail Gorbachev served as General Secretary of the Communist Party of the Soviet Union (CPSU) from 1985 until 1991. He was the first (and last) president of the Soviet Union from 1988 until its dissolution in 1991.

12. "Stiob" is a Russian concept that emerged during the years of perestroika in late 1990s. *See* Dominic Boyer & Alexei Yurchak, *AMERICAN STIOB: Or, What Late-Socialist Aesthetics of Parody Reveal about Contemporary Political Culture in the West*, 25 CULTURAL ANTHROPOLOGY 179, 181 (2010) (Stiob "'differed from sarcasm, cynicism, derision or any of the more familiar genres of absurd humor' in that it 'required such a degree of *overidentification* with the object, person, or idea at which [it] was directed that it was often impossible to tell whether it was a form of sincere support, subtle ridicule, or a peculiar mixture of the two.'").

13. *The Fifth Wheel* was one of the most liberal programs of early 1990s on Leningrad's (the city's name was changed to St. Petersburg in 1991) Fifth Channel. *The Fifth Wheel* was broadcast nationally. The organizers often interviewed authors who were previously prohibited by the regime, and enlightened wide Russian audiences about topics in contemporary music, literature, and art. The program became rather popular amongst various strata of Russian society. *See Peredacha "Pyatoe Koleso"* [*The Fifth Wheel Program*], TELEPEREDACHI SSSR [TV PROGRAMS OF THE USSR], https://tv-80.ru/informacionnye/pyatoe-koleso/ [https://perma.cc/T4WN-9CPZ].

and jazz bands, magicians, mimes and circus acrobats, pop soloists and opera singers."[14] Besides his work with "Popular Mechanics Orchestra," Kurekhin also gave solo concerts featuring fortepiano improvisations and duets. He composed music for theater and films[15] and played keyboard for the legendary St. Petersburg underground rock band Aquarium. His discography included scores of albums—*Insect Culture*, *Pop Mechanica # 17*, *Polynesia: Introduction to History*, *Opera for Wealthy People*, and *Sparrow Oratory*, to name a few. An accomplished pianist with a distinctive hairstyle, Kurekhin was the first in Russia's music history to record for the English free jazz label *Leo Records*, leading in promotion of European improvised music. His *Ways of Freedom* (1981) and *A Few Combinations of Fingers and Passion* (1991) are considered classics. Sergei's widow, Anastasiya Kurekhina, continues to present the "Sergei Kurekhin International Festival in Saint Petersburg" to keep her late husband's legacy alive. Many recognize Kurekhin for his extraordinary wit, on display in the *Fifth Wheel* TV "Lenin-Mushroom" interview.[16] Almost immediately, "Lenin-Mushroom" became the most-talked about topic of the day in Russia, and Kurekhin was hailed as one of the first creators of "media viruses" in Russian media history.[17]

Both Kurekhin's eclectic show image and artistic endeavors can be viewed as vibrantly reflecting transformations in Russian media life in the late 1980s and early 1990s. Ol'ga Tereshkova, in her "Moskovskiy Komsomolets" article on abrupt transformations in Soviet culture of late 1980s, observes:

> Year 1989. Time of wondrous interconnections between the old-and-communist and the new-and-democratic. Times when those at the top no longer want to live according to the old tenets, while those at the bottom cannot help but live according to the old rules. These are times when profession of journalist is at the apogee of its

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14. *See* T.L. Karklit, *Fenomen Sergeya Kuryokhina v Otechestvennom Kinematografe Konsta 80-nachala 90-kh godov* [*The Phenomenon of Sergei Kurekhin in Domestic Cinema of the Late 80s and Early 90s*], (M.A. Thesis, All-Russian State Institute of Cinematography) (on file with SERGEY LETOV, https://kuryokhin.letov.ru/Karklit/diplom/index.html [https://perma.cc/LCH7-9M7K]).

15. "Mr. Designer" and "It" are two of a few other films for which Kurekhin composed music. *See Sergey Kuryokhin—Passed 20 Years Ago Away—Podcast Online*, RADIO PANIK (Aug. 2, 2016), https://www.radiopanik.org/emissions/moacrealsloa/sergey-kuryokhin-passed-20-years-ago-away// [https://web.archive.org/web/20241228161947/https://www.radiopanik.org/emissions/moacrealsloa/sergey-kuryokhin-passed-20-years-ago-away/].

16. Kurekhin died on June 9, 1996, in St. Petersburg due to a rare heart disease. He was 42 years old. His doctors identified the disease as 'heart cancer.' According to statistics, only 1 to 7 people suffer every 100 years from this lethal disorder. Notably, Sergei underwent a full oncological examination one year before his death and was found to be absolutely healthy. *Sergey Kuryokhin*, UNEARTHING THE MUSIC [*hereinafter* UNEARTHING THE MUSIC], https://database.unearthingthemusic.eu/Sergey_Kuryokhin [https://perma.cc/LU3N-HTKJ] (last updated May 26, 2020, 4:59 PM).

17. *Lenin Is with Us*, RT QUESTION MORE (April 22, 2009, 1:28 PM), https://rt.com/art-and-culture/lenin-is-with-us/ [https://web.archive.org/web/20141003225700/http://rt.com/art-and-culture/lenin-is-with-us/].

> popularity. Russian society is shattered by new and novel sensations. Is it true that Pavlik Morozov was a misfit and his father's murderer? Is it true that the whole brigade was working for Stakhanov? Esenin was killed, Mayakovskiy was assassinated, Pupkin was eaten, and Lenin was a mushroom . . . ."[18]

Tereshkova posits that the satirical "Lenin-Mushroom" theory was "the last straw" (or, "drop" as Russians would phrase it) in the ultimate disintegration of communism, and the imminent advent of the democracy.[19] For the first time in Russia's history, it was possible to ridicule Vladimir Lenin. More importantly, Kurekhin's interview and the reactions that followed showed that "with the help of television, it was possible to introduce Russian public to the most preposterous ideas. The most important thing was that they had to be sensational."[20] Timur Novikov, an artist who assisted Kurekhin in formulating the "Lenin-Mushroom" idea, commented that "if it were not for Kurekhin, there would be no Zhirinovskiy, no Anpilov, no Limonov. There would be no Yeltsin, with his public dances."[21] Novikov's statement reflects the influential role of prominent entertainment figures. Not only was Kurekhin a product of his time, but, at the same time, he was an artistic precursor to such controversial political personas as Eduard Limonov.[22] Kurekhin was a pioneer for what was to follow, not only in the realm of media but also that of politics. Media of early 1990s St. Petersburg truly reflected the country's transformational times while also shaping them.

B. Content of the "Lenin-Mushroom" Media Event and Reactions of the 5th Channel Managerial Personnel and Those of Russian Audiences as Representative of Political Climate in Russia at the Time

Experts examining the "Lenin-Mushroom" phenomenon posit that Kurekhin's main motivation was to illustrate that almost anything, no matter how absurd or surreal, could be "proven"[23] with facts, especially with the help

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18. Ol'ga Tereshkova, *Sergei Kurekhin: Ego Urok Drugim Nauka?* [*Sergei Kurekhin: His Lesson to Others Is Science?*], MKRU (Nov. 30, 2011,), https://www.mk.ru/editions/daily/article/2000/11/30/116239-sergey-kurehin-ego-urok-drugim-nauka.html [https://perma.cc/A2EC-YZR9] (Author's translation from Russian: Here, Tereshkova lists famous Russian literary characters and cultural heroes who had been idolized during the communist regime only to be found too human and feeble after this very regime's fall).

19. *Id.*

20. *Id.*

21. *Id.*

22. Eduard Limonov was a Russian writer and a political activist who lived in Russia, France and the US. After the collapse of the USSR, he returned to Russia and founded the National Bolshevik Party in 1993. He also was a leader of a political opposition group, the Other Russia. *See* Neil Genzlinger, *Eduard Limonov, Russian Writer and Dissident, Dies at 71*, N.Y. TIMES (Mar. 17, 2020), https://www.nytimes.com/2020/03/17/books/eduard-limonov-dead.htmlhtml.

23. Kurekhin did exactly that during this interview: he demonstrated with the assistance of logical argumentation that Lenin, indeed, was a mushroom. *See* UNEARTHING THE MUSIC, *supra* note 16.

of live television. For instance, the interviewer, Sergei Sholokhov,[24] a friend and artistic comrade of Kurekhin, kept a professional and formal tone throughout the "Lenin-Mushroom" interview. There were no immediate traces of parody or irony normally attributed to comic performances. In turn, Kurekhin spoke in a calm, confident, and authoritative manner. He supplemented his monologue with references to interviews with mycologists.[25] In addition, this televised segment took place in Kurekhin's office, whose bookshelves were filled with scientific books which he consulted extensively during the interview.

Kurekhin observed during his interview that his motivation for hallucinogenic research was a sense of mystery he always felt about the 1917 Russian October Revolution. He referred to this mystery as a "secret," one that he once promised himself to unravel. Now, he intended to share his findings with the national audience. With minor interruptions from Sholokhov, Kurekhin engaged in a seventy-minute monologue in which he methodically led his audience to his famous claim:

> I have absolutely irrefutable proof that the October Revolution was carried out by people who had been consuming certain mushrooms for many years. And these mushrooms in the process of being consumed by these people, had displaced their personalities. These people were turning into mushrooms. In other words, I simply want to say that Lenin was a mushroom.[26]

Kurekhin further added: "Moreover, [Lenin] was not only a mushroom, but also a radio-wave. His armored-car, the famous 'bronevik,' served as a spawn while Lenin was a fly agaric."[27]

Sholokhov, later interviewed by Tul'chinskiy,[28] commented on the "Lenin-Mushroom" program. At one point, Tul'chinskiy observed: "It is possible, that nobody before Kurekhin attempted to do something similar," that is, undermine the image of Lenin and that of the October Revolution. "But,"

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24. Sholokhov was the leading producer of the program, and Kurekhin's link to *The Fifth Wheel*. He was also the only interviewer during the "Lenin-Mushroom" episode. *See* Jesse Walker, *V.I. Lenin, Psychedelic Mushroom*, REASON (Sep. 20, 2019, 9:00 AM), https://reason.com/2019/09/20/v-i-lenin-psychedelic-mushroom// [https://perma.cc/DX6Z-PQCA].

25. Mycologists are scientists who specialize in the study of fungi. *See* Kara Rogers, *Mycology*, BRITANNICA, https://www.britannica.com/science/mycology [https://perma.cc/TT44-DLXN].

26. Alexei Yurchak, *A Parasite from Outer Space: How Sergei Kurekhin Proved That Lenin Was a Mushroom*, 70 SLAVIC REV. 307, 308 (2011).

27. *Sergey Kuryokhin: Lenin was a Mushroom*, WFMU'S BEWARE OF THE BLOG (June 18, 2010), http://blog.wfmu.org/freeform/2010/06/sergey-kuryokhin-lenin-was-a-mushroom-1.html [https://web.archive.org/web/20150731211033/http://blog.wfmu.org/freeform/2010/06/sergey-kuryokhin-lenin-was-a-mushroom-1.html].

28. Dmitry Tul'chinskiy, *Sergey Sholokhov; Lenin i Griby* [*Sergey Sholokhov: Lenin and Mushrooms*], INTERVIEW MAG., http://interviewmg.ru/869/ [https://perma.cc/W3FG-7H5B].

Tul'chinskiy asked, "[h]ow could censure allow something like this interview to happen" back in 1991?[29] Sholokhov responded:

> It is quite possible that they could not oppose us. It is impossible to oppose what is truth itself. This argument created by us—with killer comments by specialists, with supportive factual evidence—were very strong. Those with power to decide [whether the segment could be aired on national TV] just let it be. And mysterious representatives of censure decided simply to not do business with us; they simply stepped aside.[30]

Tul'chinskiy found it difficult to believe that the censoring decision-makers of the time did not attempt to prevent such an interview from airing on the national TV: "It is shocking that it was still the Soviet Union back then. And what you were saying was 'глумление над вождём пролетариата.'"[31] He further inquired of Sholokhov: "Weren't you in trouble after the segment ended?" Sholokhov's response was:

> Not really. Barinova, who was in charge of Department of Ideology Supervised by the Party was the one who was bothered by the older generation Bolsheviks the most. They visited her the following day after the program was aired inquiring: is it really true that Lenin is a mushroom? She responded: "No, it is not true." To which offended Bolsheviks retorted: "How can it be?! They said on national TV yesterday that he is!" Ms. Barinova responded with a monumental claim: "He is not a mushroom because a mammal cannot be a plant."[32]

Such audience reaction after the interview aired likely was anticipated by Kurekhin, his colleagues and program co-creators. Uncertain was permission to use 5th Channel air time for the seventy-minute segment. The famous media event incorporated moods prevalent amongst Russian audiences, and transformations taking place within the landscape of Russian media. These coincided to form what some experts identify as the most liberal moment in Russia's media history. However, it appears that the event itself was possible not because legal order allowed it as much as because there was no order established, or rather, because of the transitional phase in Russian political history symbolized by liberal moods in intelligentsia circles and amongst Russian citizenry as a whole. Arguably, the latter had been gradually "prepared" to receive novel messages of liberation due to the adaptation of Gorbatchev's openness policies.[33]

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29. *Id.*

30. *Id.* (author's translation from Russian).

31. *Id.* ("making fun of the leader of proletariat [Lenin].") (author's translation from Russian).

32. *Id.* (author's translation from Russian).

33. Gorbatchev's policy of openness meant not only opening up of Soviet archives, but also being open to receive media produced in the West, which was unprecedented before the fall of the Soviet Union in late 1980s to early 1990s. *See generally* T. Venclova, *USSR: Stages of Censorship*, 77 INDEX ON CENSORSHIP 61 (1978).

C. Historical, Social and Legal Context in 1991 Russia: The Style of Kurekhin's Interview[34] and How It Was Shaped by Preceding Communist Party Ideology and Contemporary Perestroika Reforms

It is important to note that Sergei Kurekhin's interview was broadcast on a widely-watched national TV program, not on an underground one. The program was available to the entire Eastern region of the country and had a viewing rating of ninety-nine percent.[35] The direct message of the interview, dismissing its immediate context,[36] in real time of TV broadcast, was ludicrous and nonsensical, as common sense suggests that humans cannot be mushrooms. Crucial in audience perception were several elements: the repressive ideological background of mass media, exploited by Kurekhin in his authoritative, overly-confident tone (reminiscent of the speeches by Party officials in the recent past), the interview setting filled with bookshelves, footage of Kurekhin's interviews of mycology experts, artist's reference to scholarly books, and, familiar to most Russians, photos of Lenin as visual illustrations of Kurekhin's message.

One of the most important elements giving Kurekhin's claim an air of authenticity and truthfulness was his being interviewed by a well-known journalist, Sergei Sholokhov, on a popular St. Petersburg TV program, as well as being introduced by Sholokhov as an expert figure.[37] The "mushroom" statement, normally perceived as "nonsensical," gained its credibility due to its having been aired on the national TV. Instead of being dismissed as a comic performance and a joke, it became a matter of serious public debate. Confused members of the audience, including cultural elites and members of pop culture circles,[38] contacted the television program's office after the broadcast attempting to determine if the interview was, in fact, a hoax.

Kurekhin and his colleagues knew they were confronting the mass perception and the unquestionable Communist ideology permeating national channels before the early 1990s. The politics of late-socialism, specifically the new policies introduced by Gorbachev during the period of glasnost and

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34. *See* Charles Goodwin, *Professional Vision*, 96 AM. ANTHROPOLOGIST 606, 606 (1994). According to Prof. Goodwin of UCLA, whose research focuses on many aspects of language and interaction, "Discursive practices are used by members of a profession [journalists and entertainers in case at hand] to shape events in the domains subject to their professional scrutiny." *Id.* The ways Sholokhov and Kurekhin designed their interview-presentation (official-looking environment where interview took place, multitude of scholarly books, consultation with scholars) were crucial in making their audience believe the truthfulness of their message, no matter how preposterous.

35. Tul'chinskiy, *supra* note 28.

36. Namely, that this was a part of a nationally broadcast popular program whose host was leading a typical interview of a "famous political figure," as Sholokhov introduced Kurekhin.

37. Boyer & Yurchak, *supra* note 12, at 189 (*The Fifth Wheel* journalist, Sergei Sholokhov, introduced "his guest as a famous political figure, historian and movie actor.").

38. Yurchak, *supra* note 26, at 309. For instance, Konstantin Raikin, a well-known comedian and a theatrical director, "was absolutely sold" and believed that what was taking place in the program was, in fact, true. Or he could not instantly recognize that what was taking place was actually a hoax. *Id.*

perestroika[39] played an important role in making the remarkable phenomenon of May 1991 *Fifth Wheel* possible. As Downing states: "The key dimension of the glasnost explosion was conceived to be—emerging for the first time in many decades—honest news media."[40]

Though a media hoax, Kurekhin and Sholokhov collaborated to expose a closed, party-dominated system that was unquestioned for over seventy years. Presenting Lenin, long revered by Russians as the undisputed, iconic symbol of the October Revolution, from a different vantage point can be viewed as an "honest" media event, one with an opportunity for Russians to critique their own perceptions, to possibly relate to the famous Socratic paradox of "all I know is that I know nothing."[41] Kurekhin's interview not only used the familiar authoritarian and ideology-infused tone of the former Communist regime programming,[42] but it also dared to satirize the historically idealized leader of the seven-decade long Soviet regime. Kurekhin's televised performance so deftly played upon Russian audience's mass psychology and viewing habits that even people's skepticism could not prevent their gullibility in believing that Lenin could have been a mushroom after all, as evidenced by their contacting the program's administration.

As to the interview's historical and social context, in a 2010 talk show hosted by Svetlana Sorokina,[43] once again on *The Fifth Wheel*, Sergei Sholokhov spoke about Bella A. Kurkova, who was the head of 5th Channel at the time of the "Lenin-Mushroom" interview. He stated that Kurkova[44] approved his program proposals by signing them as long as they did not address Yeltsin or Sobchak.[45] In his interview with Sorokina, Sholokhov pointed out:

> [May 17th] was a special day in history of national television, since everybody expected that Bush, Sr. would attack Iraq, and everyone

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39. Boyer & Yurchak, *supra* note 13, at 188. Some of the main features of Gorbachev's political rule were: "restructuring" of old political systems and democratizing mass communication agencies (for example, unearthing secret government information that was not accessible to the public during seventy years of the Soviet regime). In addition, "discourse of perestroika, which, while still maintaining that its goal was to improve Soviet socialism, now began questioning the very foundations of the Soviet system." *Id.*

40. John Downing, *Perestroika, Glasnost, and Soviet Media*, 42 J. COMM. 153, 159 (1992).

41. *See* PLATO, APOLOGY OF SOCRATES (c. 399 BCE).

42. The tone of Soviet-controlled programming was always highly propagandistic, and, at times, simplistic. For instance, a televised event would represent the West in a negative light, while, at the same time, drawing viewers' attention to the accomplishments of Soviet agriculture or those of energetic builders of communism such as komsomol or pioneer youth.

43. Svetlana Sorokina, *"TV Program": "Lenin-mushroom" (2010)*, VK VIDEO (Aug. 14, 2014), https://vk.com/video196845336_169456287 [https://perma.cc/NT26-F4B5]. A televised retrospective, led by Svetlana Sorokina, on Sergei Kurekhin's May 1991 interview "Lenin-Mushroom."

44. Maria Mayofis & Il'ya Kukulin, *Freedom as Unconscious Precedent: Commentary on Transformation of Media Space in 1990*, 83 NEW LITERARY OBSERVER 599 (2007) (describing *The Fifth Wheel* as one of the first liberal media managers that assisted in promoting new, more liberal, structures in post-Soviet media space.). *See also* Sorokina, *supra* note 43.

45. Both were still ousted members of the Politburo at the time.

> was waiting for this war to begin. [A]nd this very day Vilnius omon[46] was taking Vilnius TV Tower. That's why, Gosteleradio[47] was absolutely silent about both events, and that's why everybody was by their TV's waiting for the subsequent edition of *The Fifth Wheel* because [this program] had a reputation of being liberal.[48] . . . We told about the mystery of the October Revolution, and it was a kind of apogee of the broadcast that evening. The public who was watching happened to be very involved with what was being aired. May 17 interview was one of the most highly rated programs in history of *The Fifth Wheel* to date.[49]

Also of note, some people watching the interview did not know that Kurekhin was a well-known musician and composer in St. Petersburg artistic avant-garde circles. Hence, some of the audience members later on perceived him as a satirist and would invite him to participate in various satirical contests and juries.[50] Those who did know who Kurekhin was, for instance Konstantin Raikin,[51] when expressing their views in regards to this cult interview, stated that the fact that such a phenomenon could take place was undisputed proof that "the new epoch began, that we could laugh at something that was considered to be sacred before."[52] Raikin marked this media event as symbolizing a grasp of "air of liberty that came from the screen"[53] and as the advent of more democratic mores and times in Russian history and society.

Furthermore, experts posit that 1990, a year preceding "Lenin-Mushroom" episode, was a transformational year in the history of Russian television and media as a whole. In 1990, "Echo of Moscow" ("Эхо Москвы") and "Radio of Russia" ("Радио России") were founded, as well as print publications "Independent Newspaper" ("Независимая газета"), "Capital-City" ("Столица"), and "Kuranty" ("Куранты").[54] 1990 also saw formation of

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46. Acronym for Russian Отряд Мобильный Особого Назначения, ОМОН. In English, Special Purpose Police Units (author's translation). *The End of Soviet Communism*, BRITTANICA.COM, https://www.britannica.com/event/the-collapse-of-the-Soviet-Union/The-end-of-Soviet-communism [https://perma.cc/E4LN-C83J].

47. The Russian abbreviation for the State Television and Radio.

48. Sholokhov uses this metaphor when describing the reputation of *The Fifth Wheel*: "У этой программы была репутация глотка свободы." Sorokina, *supra* note 42, at 35:48 (author's translation from Russian: "[*The Fifth Wheel*] program had a reputation of a grasp of fresh air.").

49. Sorokina, *supra* note 43.

50. Sorokina*, supra* note 43.

51. At the time, Raikin was a renowned film and theatrical actor and Head of the Moscow Theater "Satiricon." Anna Konakova, *Константин Райкин [Konstantin Raikin]*, 24СМИ https://24smi.org/celebrity/2168-konstantin-raikin.html [https://perma.cc/Y3VX-X9L7].

52. Sorokina, *supra* note 43. Sorokina incorporated excerpts of Raikin's interview on the subject of "Lenin-mushroom" reactions in her program-retrospective. *See id.* at 35:48.

53. "Ощущение воздуха свободы который вошел с экрана." ["The feeling of the air of freedom that came through the screen."] Sorokina, *supra* note 42, at 35:48 (author's translation from Russian).

54. All these were newly-established liberal programs and print publications.

largest All-Russian State TV-Radio Company (ВГТРК) – today, the largest State-owned media-corporation in the Russian Federation.[55] All of these new agencies were possible because of the perceptions and desires of audiences and media circles, invigorated by the liberal winds of perestroika and glasnost.

Even though new laws regulating mass media were issued in June 1990, Majofis and Kukulin, who studied media systems of early 1990's, stated that it was rather difficult to locate any archival documentation of these seminal transformations, especially those affecting television.[56] As a result, alternate, less authoritative sources were often used. It is also possible that the government chose not to preserve records due to the state of rapid, chaotic transition.[57] However, after interviewing approximately ten media leaders who participated directly in the transformations of "медийного поля"[58] Majofis and Kukulin concluded:

> Our interviewees, who worked in the state-sponsored media organizations, agree absolutely on one point: rules, according to which media censure of 1990 functioned, were despicable, but they were also known and understood by those who were regulated by them. Hence, the latter could always manipulate these rules, and could save themselves this way from repressive sanctions.[59]

Another major change occurring in early 1990s was the broadening of potential interviewees on national TV and an expansion of permissible topics. It was now possible to create televised programs about subjects that had been previously prohibited: dissidents, people suffering from political repressions and ecological disasters, artists condemned prior to perestroika, representatives of unorthodox religious beliefs, entrepreneurs, bards, and rock-musicians.[60] Journalists and media leaders, inspired by an abruptly-changing atmosphere, enjoyed unprecedented freedoms. "This combination of adrenaline rush, fear of repressions and feeling of limitless possibilities was the basis of mood prevailing in media and amongst influential journalists of the time."[61]

Just as importantly, "the foundation of this vehement energy, and realization of one's power was enormous demand" for information coming from Russian audiences.[62] Vartanov suggests that this "drastic change in public taste can be explained by the rapid politization of Soviet society, which led to unprecedented interest in mass media."[63] Moreover, for the first time in Russian media history, "the triad of information, education, and entertainment became

55. Mayofis & Kukulin, *supra* note 44 (author's translations).

56. *Id.*

57. *Id.*

58. Russian for "media space." (author's translation).

59. Mayofis & Kukulin, *supra* note 44 (author's translation from Russian).

60. *Id.*

61. *Id.*

62. *Id.*

63. Anri Vartanov, *Television as Spectacle and Myth*, 41 J. COMM. 162, 163 (1991) (emphasis omitted).

obviously unbalanced, with the first part overwhelming the second and third."[64] Media emerged as one of the most powerful instruments of diffusion and exposure to the western culture, and, with it, to the free market economy. This caused a drastic change in how the West was represented to Russian audiences (for the latter were now exposed to western lifestyles, and not in negative ways as before, but in quite positive ones), and how Russian audiences were to conceive of Russia's place in the world. All of a sudden, Russia was no longer the nation aspiring to direct itself towards "the bright future of Communism."[65] On the contrary, the country was beginning to open its doors to the western world and its views. In these initial stages of what was to be later labeled as "westernization," institutions of media played a crucial role. The Russian political and cultural elites eventually started witnessing to what a great extent.

The demand for programs produced by *The Fifth Wheel* was no exception. Kurkova, a supervisor of Sergei Sholokhov when he interviewed Kurekhin, observed that the audience of *The Fifth Wheel* turned out to be much larger than the organizers of the program had initially expected. They envisioned that *The Fifth Wheel* would be a more narrowly elite program, targeting St. Petersburg intelligentsia, for whom no previous programs had been designed. They soon were surprised to find that representatives of "all social groups" were watching their program.[66] Also noteworthy is that Kurkova first envisioned her program when created in 1988, as "the program that would first of all bear cultural and socially-psychological character," and she did not expect that *The Fifth Wheel* would eventually develop a political persona.[67] Describing her journalist team, amongst them Sergei Sholokhov, Kurkova noted: "We have 58 members of creative personnel. All of them are quite nonconformist – those who did not want to leave us, even considering how politically unstable our position has been. All of our people are survivors, with rather eccentric personalities. My own personality is far from saccharine."[68]

After having interviewed major population of television elites whose decisions have shaped Russian media development in the early 1990s, Majofis and Kukulin concluded that the unforeseen highly democratic character of journalism influenced political transformations in Russia. Barriers between journalism and politics dissolved, just as they did between the social and political lives of perestroika and glasnost. Media professionals perceived their newly-gained liberties not as ones they fought for, but as those that "were given to them due to political transformations" taking place in a rapidly changing

64. *Id.*

65. An well-known propagandistic expression from the Soviet era.

66. Mayofis & Kukulin, *supra* note 44.

67. *Id.* ("программу в первую очередь культурного и общественно-психологического, но не политического содержания." ["a program primarily of cultural and socio-psychological, but not political content"]) (author's translation from Russian).

68. *Id. See also* Vartanov, *supra* note 63, at 162. It is important to note that *The Fifth Wheel*, alongside *Vzglyad*, differed from most of the programs in that it had a more liberal content, and became rather popular amongst broad audiences.

Russian society.[69] Such an observation seems modest when considering how proactive and fearless they had been during those transformations. Majofis and Kukulin conclude that it was due to their courage and confidence that, "precedents and scenarios were created that are proving today what the possibilities of free press are, even if not realized because of difference in current mind sets."[70]

II. TRANSFORMATIONS IN RUSSIAN MEDIA LAW IN EARLY 1990S

Examination of emerging transformations would be incomplete without recognizing the various institutions of legal and economic reforms promoted by Mikhail Gorbachev. Many of these reforms led to major changes in the legal system, including those affecting mass media policies. "Prior to 1990, radio-television broadcasting in the Soviet Union was a state monopoly—the exclusive domain of central government agencies and their administrative subdivisions operating under the direction of the Communist Party of the Soviet Union ("CPSU")."[71] One of the fundamental changes during perestroika was that the 1990 legal reforms prohibited censorship and monopoly in all mass media, including radio and television. New laws also required a restructuring of Gosteleradio, the central government agency primarily responsible for "programming production and distribution throughout the Soviet Union."[72] This restructuring was significant because supervising agencies, such as Gosteleradio, were responsible for hiring and firing employees and for allocation of resources. Media was thus wholly subject to the authority of these regulating bodies. These agencies controlled not only the artistic content of works produced, but also the fiscal side of all operations.[73] Lastly, communist party and ideology cannot be overlooked in analysis of media systems preceding perestroika. For instance, according to Loeber, Statute of 1971, Note 5, art. 2, still in force right before Gorbachev's reforms, charged Gosteleradio, with the duty "to educate the Soviet people in the spirit of communist ideological integrity (*ideinost'*)" and to "unmask bourgeois ideology."[74] Indisputably, the media laws, being powerful plans in Scott Shapiro's terminology, were a good example of how media institutions were a potent tool in hands of the Soviet regime, and continued to be so in post-Soviet Russia of 1991.

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69. Majofis & Kukulin, *supra* note 44.

70. *Id.* (author's translation).

71. Peter Krug, *The Abandonment of the State Radio-Television Monopoly in the Soviet Union: A First Step Toward Broadcasting Pluralism?*, 9 WIS. INT'L L.J. 377, 377 (1991).

72. *Id.* at 378-79.

73. Additionally, strict regulation of the press was enforced, to the extent that having a computer connected to a printer was regarded by regulatory agencies as a potential printing press. In reality, this meant that individual citizens were limited in operating their own microcomputers. *See* Dietrich A. Loeber, *Glasnost' as an Issue of Law: on the Future of USSR Law on Press and Information*, *in* 41 L. IN EASTERN EUROPE, THE IMPACT OF PERESTROIKA ON SOVIET LAW 91, 99 (Feldbrugge ed., 1990), https://doi.org/10.1163/9789004632325_015.

74. *Id.* at 93.

The strict, and ideologically motivated, regulations of media channels were challenged by the 1990s reforms advanced by Gorbachev. The first element of media regulation in the post-communist era was the Law on the Mass Media of December 1991[75] which prefigured many of the media laws and the articles of the Constitution relevant to mass media. "Most important, it introduced the concept of freedom of the press, closely following the language of Article 19 of the Universal Declaration of Human Rights, and established the freedom to engage in media business and the right to own mass media."[76] "The transformation of the once-formidable First Channel of the Soviet Union, virtually the official voice of the Soviet Union, provides an example. Secure in its financing, it was secure in its purpose."[77]

However, media law experts examining early perestroika legal transformations, comment that media law of the 1990s was still subject to legislation and policies of an earlier era, for instance, lingering governmental regulation of media, even though the drafters of the newly- formed articles attempted to dilute such control. Such developments support Starr's argument in *The Creation of Media* that once created, developmental path for the telecommunications legislation will greatly affect subsequent historical developments. In the case of the United States, it was the Constitution that played a crucial role in how the very first networks of postal service and railroad industries were regulated, as well as telegraphy and telephone service later on.[78] In case of 1991 Russia, despite the new liberal sentiments engendered by the spirit of perestroika, the content and structure of media laws were still greatly influenced by what had preceded them, mainly, the policies that were to lead Soviet people into "the bright future of Communism."[79]

Monroe E. Price, studying Russian media systems of the time, states:

> The Russian Media Law [of 1991] can only be understood as an evolution from the preceding order, not as a comparison to some distant and culturally ill-fitting parallel. Looking at the media law may be like examining the wrists of a recently-freed prisoner where the marks of the chains are still present. Drafted by a group of journalists and academics as an ideal, almost apolitical, formulation of the relationship between the media and the state, the statute is organized into seven chapters, the first of which, by honored

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75. *Law of the Russian Federation of Dec. 27, 1991, No. 2124-1*, CIS LEGIS., https://cis-legislation.com/document.fwx?rgn=1618 [https://perma.cc/EHY8-N7UF].

76. Rick Simon, *Media, Myth and Reality in Russia's State-Managed Democracy*, 57 PARLIAMENTARY AFF. 169, 171 (2004).

77. Monroe E. Price, *Comparing Broadcast Structures: Transnational Perspectives and Post-Communist Examples*, 11 CARDOZO ARTS & ENT. L.J. 275, 280 (1993).

78. Starr writes: "Constitutive choices emerge in a cumulative, branching pattern: Early choices bias later ones and may lead institutions along a distinctive path of development, affecting a society's role and position in the world." Starr, *supra* note 9, at 2.

79. This propagandistic expression was often used in the discourse, and their public speeches, by Soviet and Communist Party officials.

> position, sets forth a basic guarantee of freedom from censorship for "mass information."[80]

The language of certain statutes may have had the purpose of disguising issues, or may have been designed to placate the international community rather than to guide the conduct of Russian media professionals. Price stresses that when analyzing such statutes, the purpose should not be "to determine what the law 'is' or what conduct is proscribed or permitted; rather, it is to look at statutes in the same way that an archaeologist looks at shards to help decipher, decode, and explain an ancient civilization-as narrative text about the society."[81] Once again, this is in line with Starr's take on telecommunications lawmaking in the U.S. and Europe, and especially in France and Germany, where communications networks were more heavily state-regulated and state-centric.[82] Law, as an institution in whose power it is to assist or, on the contrary, to hinder an advent of democracy, is a powerful tool in hands of political elites, and especially so during political and economic transitions as the one that took place in Russia in the late 1980s.

Thus, early 1990s media leaders, interviewed by Majofis and Kukulin, although having been given new freedoms, still had to strategize and to manipulate the system in order to make the broadcast of certain programs possible. In the early years of perestroika and glasnost, reforms advanced at a much greater speed than social, ideological and legal systems, which were accustomed to familiar rigid controls of the preceding Communist Party regime. Access to the information was still not as open as one would like to believe; for *partiinost*, or Communist party-mindedness, was still present in norms regulating state press agencies.[83]

Gorbachev, commenting on changes brought by perestroika, stressed that "People, so to speak, developed taste for glasnost. This is so not only because one naturally desires to understand what is happening . . . but also because of growing realization that glasnost is a form of people's control over bureaucratic institutions, and a potent engine behind their improvement."[84] This was a quite rosy portrayal of glasnost and openness advent, even though by a political leader promulgating it. In 1991, it was already clear that such societal transformations would not be easily attained, with remaining tensions between media managers, journalists, and what the political system in transition could afford to risk without falling apart.

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80. Price, *supra* note 76, at 286.

81. *Id.* at 284.

82. Starr, *supra* note 9, at 14‑16. Starr writes: "Removed from foreign threats, the United States was under less pressure to impose a military or security-minded framework on new communications technologies such as telegraph."

83. *See* Loeber, *supra* note 72, at 93–95.

84. MIKHAIL S. GORBACHEV, PERESTROIKA I NOVOE MYSHLENIE DLIA NASHEI STRANY I DLIA VSEGO MIRA [PERESTROIKA AND THE NEW THINKING FOR OUR COUNTRY AND FOR THE WHOLE WORLD] 73 (1988) (author's translation from Russian).

CONCLUSION

In his seminal work "The Radicalism of the American Revolution," the American historian Gordon Wood observed that the American Revolution was first a rebellion ignited by the radical ideas of its time. In his 1992 interview with Barth Healy, Wood compared the early 1990s social and political atmosphere in Eastern Europe to that of American colonies at the point of breaking from British monarchy:

> The kind of social change that imbued the [American] Revolution with radicalism is also coming to Eastern Europe . . . . 'There will be some wide swings back and forth in Eastern Europe, . . . and such broad transition cannot come easily. But I am optimistic about Eastern Europe not least because the world is a much smaller place. With global communications and the power of television, they have learned a lot from us, and the fact that they are being watched is also important.'[85]

Well known physicist, Michio Kaku, in his New York Times opinion article wrote enthusiastically, under his ninth prediction, labeled "Dictators Will Be Big Losers,"[86] that "[t]he Internet frees people to realize they don't have to live like slaves. Dictators, who fear the Internet, and their own people, will be big losers."[87]

However, even though "global trends have a strong impact on regime change"[88] and contemporary media systems (starting with television, and well into utilization of such relatively novel technology in 1990s as the Internet), the case of the 1991 Russian media reforms teaches us that there is always more than can be perceived at the initial, highly enthusiastic stages of transitions into more democratic times. Media professionals of 1990s Russia, amongst them Kurekhin, Kurkova, and Sholokhov, were vanguards of media transformations born of the newly promulgated reforms of glasnost and perestroika. Yet, despite their robust advocacy and utilization of those freedoms, the political order required more time for the integration of these novel developments into Russia's social and cultural fabric. This was one of the examples referred to by Wood as "wide swings back and forth" in the context of the "broad transition" that Russia of 1990s was undergoing.

The evolution of new media laws and their interpretation and adaptation by the cultural elites exemplifies the fact that it takes time for the preceding legal and social structures to break down before being fully substituted by the well-established, hopefully more democratic, ones. Moreover, according to such scholars as Starr and White, due to media systems possessing network characteristics, which makes them some of the most complex agencies to

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85. Pauline Maier, *It Was Never the Same After Them*, N.Y. TIMES, Mar. 1, 1992, at 1.

86. Michio Kaku, *A Scientist Predicts the Future*, N.Y. TIMES (Nov. 28, 2013), https://www.nytimes.com/2013/11/28/opinion/kaku-a-scientist-predicts-the-future.html.

87. *Id.*

88. Daniel Brinks & Michael Coppedge, *Diffusion Is No Illusion: Neighbor Emulation in the Third Wave of Democracy*, 39 COMPAR. POL. STUD. 463, 464 (2006).

regulate, drastic changes in legal and social mechanisms are highly unlikely. Once established as a state-owned monopoly, by making "constitutive choices"[89] (one of them being that the state will regulate a given industry) it is unlikely that the government will give away such powers. The case of Russian media of 1991 serves as an empirical example of such phenomenon where initially democratically inclined institutions of mass media communication eventually had to bear the weight of regulatory policies born during preceding Soviet era. Moreover, as consequent years of Russian history have shown, the nation's media systems have become, once again, stringently regulated by the state during more than two-decade-long President Vladimir Putin's rule.

The efforts of such avant-garde artists as Sergei Kurekhin created powerful and influential moments in Russia's history of televised media, yet they turned out to be insufficiently potent to immortalize country's media system as free of state control in a long run. The closure and disappearance of independent media channels in the Russian Federation of 2020s is an unequivocal proof of such prevalent tendencies in post-"Lenin-Mushroom" Russia.

89. Starr, *supra* note 9.