

Matteo Mecacci

## The Magnitsky case has become a rallying cry for opponents of corruption

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No, the death of Sergei Magnitsky in a Russian prison was not the result of a general failure of a penitentiary system to protect its inmates - the kind of story one sadly hears happening in countries around the world. It was the direct consequence of a larger series of crimes that had already been committed, which Magnitsky had investigated and exposed.

The conspiracy to defraud a foreign investment company, the Hermitage Fund, and the Russian state of hundreds of millions of dollars has stood up to independent scrutiny, and paints a damning picture of the state officials involved in this scheme.

As a consequence of his legal efforts to hold the perpetrators of these crimes to account, Magnitsky was incarcerated and subjected to constant physical and psychological abuse by the prison authorities. Luckily, he was able to meticulously document his mistreatment by the authorities. The evidence of the intentional nature of this abuse is so overwhelming that the initial reaction by the Russian authorities was to promise a serious investigation, however, it became clear that a serious investigation of Magnitsky's death could not ignore the complicity of the Russian state in the initial economic crime and the subsequent abuses leading to Magnitsky's death. The

Russian state now has the distinction of holding the first posthumous trial in a European country since the Middle Ages, with the late Magnitsky having been prosecuted for alleged tax fraud.

It's clear that the Magnitsky case is about far more than one miscarriage of justice; it has become a rallying cry for the opponents of corruption and human rights abuses, both in Russia and on a global level. Corruption flourishes in countries where the division between the governing party and the state are blurred or non-existent. The same can be said for human rights violations, which go unpunished in countries where law enforcement is controlled either indirectly or directly by officials of executive branches.

All independent analyses made in the Russian Federation confirm a worrying situation regarding both widespread corruption, and the weakening of the rule of law and democratic practices. The criticism expressed by the OSCE election observation missions of the most recent parliamentary and presidential elections, and the fact that political repression has increased since Vladimir Putin's return to the presidency, confirms the increasing deterioration of the functioning of legal institutions in the country. For example, a new law requiring independent non-governmental organisations that receive funding from abroad to register as "foreign agents" is a good example of this disturbing trend.

Despite these failings, as a member of the UN Security Council the Russian Federation has a powerful role on key international issues, including the Syrian civil war, the Middle East peace process, the standoff over the North Korean and Iranian nuclear programmes, and now Russia has joined the World Trade Organization. Such power should at least entail a respect for Russia's international human rights obligations - yet the country appears to ignore these responsibilities with impunity.

Clearly, Russia should no longer be able to hide under the umbrella of the "national sovereignty" when it comes to the violation of international human rights standards and corruption - both domestically and abroad.

Clearly, democratic countries have both a legal and moral duty to stop these practices. It is an illusion to think that strategic interests of our countries

can be served by states where the rule of law is routinely ignored or used selectively at the pleasure of the security services.

The adoption of the Magnitsky Act by the United States Congress is an example of how democratic countries can fight human rights abusers and corruption in a more robust way. By denying individual violators of human rights the privileges of visas and financial access to the United States, the Magnitsky Act does not punish Russia as a whole, but the people who in fact persecute the Russian people with impunity. Moreover, the law has clearly been propagated in the absence of any steps by the Russian government to uphold their commitments under international law.

An initiative along these lines by the European Union would be extremely valuable. Not only would this provide a vital source of moral encouragement to the democrats living under authoritarian governments, it would incentivise improved behaviour by the honest individuals within these state systems by making clear that corruption and abuses will be punished on an international level. The creation of a European version of the Magnitsky Act would also complement European-level tools such as the European Endowment for Democracy, an organisation dedicated to the promotion of democracy and of human rights as a systemic goal of European foreign policy, but which has often been unable to translate this principle into policy.

With the European political project in crisis, and nationalist policies re-emerging across the continent, a European version of the Magnitsky Act has the potential to unite governments and citizens under an initiative which embodies the purest values to emerge from Europe.

By honouring the example of this courageous man, Europe can demonstrate its own conviction in the value and necessity of democratic institutions, and in the principle of universal justice.