

Vladimir V. Kara-Murza

Ending impunity for crooks and abusers

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When it comes to style of governing, officials in Vladimir Putin's regime - from top functionaries in the Kremlin to low-level enablers in law enforcement agencies - like to follow the repressive model adopted by Robert Mugabe in Zimbabwe and Alexander Lukashenko in Belarus. The Russian government's official obligations with regard to civic and political freedoms - codified by its membership of the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe - have long been a dead letter. No Russian election since 2000 has been considered "free and fair" by European observers. Violations go beyond mere ballot-stuffing or unequal media coverage; OSCE and Council of Europe monitors have noted that the 2007 campaign for the State Duma was characterised by the "harassment of opposition candidates, detentions, confiscation of election material, [and] threats against voters". During the latest round of elections in 2011–2012, which returned Putin to the Kremlin and his United Russia Party to a parliamentary majority, both domestic and international observers reported large-scale violations and organised fraud, with the vote count

at one-third of all polling stations assessed by the OSCE as “bad or very bad”. “There was no real competition, and abuse of government resources ensured that the ultimate winner of the election was never in doubt,” concluded Tonino Picula, the OSCE’s mission coordinator.

The Russian authorities’ reaction to the peaceful protests that were staged after the election fraud was equally far from European standards. On 6 May, 2012, armed riot police - flown to Moscow from as far away as the Mari El and Yakutia - forcefully dispersed a mass pro-democracy demonstration in Bolotnaya Square. “They were beating people brutally, into blood, smashing their faces on the pavement, dragging them by the hair and by the clothes, regardless of gender or age,” Gazeta.ru reported at the time. Forty-seven people were injured. Commenting on the news, Putin’s press secretary, Dmitri Peksov, suggested that the authorities had acted too leniently, and that the protesters should have had “their livers spread across the pavement”. Some 600 people were arrested at the demonstration. Despite the fact that the Kremlin’s own Human Rights Council has concluded that no “riots” took place in Bolotnaya, more than two dozen activists have been charged, and more than a dozen have been placed in detention. In a throwback to Stalin’s time, one of the accused, Leonid Razvozzhayev, was kidnapped while in the sovereign territory of Ukraine, forcibly brought back to Russia, and tortured for two days into signing a “confession”. In June 2013, a show trial of the Bolotnaya Square protesters opened in Moscow. An independent commission established by Russian human rights groups concluded that the May 6 “riots” were deliberately staged by the authorities to create a pretext for the subsequent crackdown on the opposition.

Alongside the arrests and the trials, the crackdown included a slate of repressive laws rubberstamped by the Federal Assembly and signed by Putin in 2012. Among these was a law raising the maximum fine for “violations” at public rallies to US\$10,000 (ten times the average Russian’s monthly salary), a law labelling Russian NGOs that receive funding from abroad as “foreign agents” (which, in Russian political discourse, is synonymous with “foreign spies”), and a law expanding the definition of “treason” - punishable by up to 20 years in jail - to effectively include any contact with foreign or international organisations. Prosecutors have conducted disruptive raids on the offices of some of Russia’s most respected human rights groups, including Memorial, alleging “violations” of the “foreign agent” law. These groups are

now threatened with forced dissolution. Meanwhile, prominent Kremlin opponents - including anti-corruption campaigner Alexei Navalny and protest leader Sergei Udaltsov—have been put on trial and may face lengthy prison terms.

Those who refused to toe the Kremlin's line were pushed out of Parliament, out of politics, out of public view - and, in some cases, into jail. Mikhail Khodorkovsky, once Russia's richest man and now its most prominent political prisoner, discovered this state of affairs in October 2003. Khodorkovsky, recognised by Amnesty International as a prisoner of conscience, remains behind bars to this day.

For some, the Yukos case effectively imposed a death sentence. Vasily Aleksanyan, a former Vice President and legal counsel of Khodorkovsky's oil company, died at the age of 39 after being held in pre-trial detention and denied medical treatment needed to save his life; he was suffering from AIDS, tuberculosis, liver cancer, and lymphoma. Despite three injunctions from the European Court of Human Rights, Alexanyan was continuously refused bail. Prosecutors promised that he would receive medical treatment in return for false testimony against Khodorkovsky and his former business partner, Platon Lebedev. Alexanyan refused. He was eventually released - to die at home - on a US\$1.6 million bail. Not one of the officials responsible for his arrest or the conditions of his detention has been punished.

Nor, of course, have any of those implicated in the case of Sergei Magnitsky, which is emblematic of the lawlessness and abuses of Putin's Russia. A lawyer for Hermitage Capital Management, a British investment fund, Magnitsky discovered a US\$230 million (€175 million) tax fraud scheme - the largest known in Russia's history - involving law enforcement and tax officials. The money was stolen from Russian taxpayers. It was, however, Magnitsky - not the perpetrators of the fraud - who was arrested and placed in pre-trial detention, where he died almost a year later after being repeatedly denied medical care for a life-threatening illness. According to Valery Borshchev, a member of the Russian President's Human Rights Council, Magnitsky died after being beaten with rubber truncheons by eight prison guards. A year later, several Interior Ministry officials involved in Magnitsky's case received awards and promotions. The investigation into the circumstances

of his death has been closed, and top Russian officials, including Vladimir Putin, have publicly stated that it will not be reopened. Astonishingly, the only judicial case involving Sergei Magnitsky has been the posthumous trial against him, on the charges of tax fraud - the first-ever trial of a dead man in Russia's history.

The official responsible for shutting down the investigation into Magnitsky's death and continuing his posthumous prosecution deserves a mention. In many ways, General Alexander Bastrykin, Putin's university classmate and head of the powerful Investigative Committee, epitomises the wanton use of law enforcement as a tool for political repression in today's Russia. There has hardly been a high-profile case involving Kremlin critics in the past decade in which General Bastrykin has not been involved, from the cases of Khodorkovsky, Lebedev, and Aleksanyan, to prosecutions of the Bolotnaya Square protesters and of Alexei Navalny. Indeed, the investigation into Navalny's alleged "embezzlement" of 10,000m³ of timber in the Kirov region (somewhat reminiscent of Khodorkovsky's "theft" of his own company's oil) had been closed by local prosecutors for lack of evidence and was only reopened on Bastrykin's personal orders.

With state-sanctioned theft and extortion, politically motivated prosecutions, wrongful imprisonment, police abuse, media censorship, suppression of peaceful assembly, and election fraud having long become the norm in Vladimir Putin's Russia, Russian citizens have no recourse to effective domestic mechanisms for protecting their rights. Human rights abusers — and those who give them their orders — brazenly continue to enjoy impunity.

Fortunately, there is a way to end this impunity - for now, at least, outside of Russia. For all their similarities, both in style and in substance, to their Soviet predecessors, today's Kremlin rulers differ from them in one important respect. While they harassed and jailed dissenters and angrily repelled international criticism of their policies, members of the Politburo did not have bank accounts in Britain, buy real estate in France, or send their children to study in Switzerland. The Communist nomenklatura's sweetest dreams were limited to living on comfortable state dachas, vacationing in elite Crimean and Abkhaz sanatoria, and having access to special stores with luxury goods and delicatessen unavailable to most Soviet citizens. To members of the

current regime, such perks would appear humiliating. It is no secret that a significant share of the ill-gotten gains from Russia's state corruption - estimated by the World Bank at 48 percent of the country's GDP - ends up in the Western banking system. While denying their own citizens the basic rights and protections afforded by Russian and international law, many state officials prefer the comfort and security of the Western world for themselves and their families. Their domestic practices may be similar to those of Lukashenko and Mugabe, but when it comes to vacationing, banking, investing, and educating their children, they choose Europe and North America.

This double standard must end. It is time for personal accountability for those who continue to violate the rights - and plunder the resources - of Russian citizens. Government officials who abuse internationally protected human rights in their own country should not have the privilege of being able to travel and conduct financial interactions in the democratic West. Indeed, this notion is hardly groundbreaking. For years, EU visa and financial sanctions have targeted senior operatives from Lukashenko's and Mugabe's regimes, including those responsible for election fraud, political repression, and disregard for the rule of law. There is no reason why Putin's officials should deserve special treatment, be they Central Electoral Commission Chairman Vladimir Churov, who is a regular visitor to Poland; Alexander Bastrykin, who has held a residence permit in the Czech Republic; Mikhail Lesin, who, according to Helsingin Sanomat, owns a €2 million estate on Finland's Turku archipelago; or countless other functionaries and oligarchs with close Kremlin ties who have property, business interests, and "rainy day" funds stashed away in European Union countries.

At the end of 2012, a crucial milestone was reached when the US Congress passed and President Barack Obama signed the Sergei Magnitsky Rule of Law Accountability Act. In an age when bipartisanship in Washington often seems like a utopia, the measure was supported by 84 percent of House members and 92 percent of senators. The act imposed a US visa ban and asset freeze on individuals "responsible for the detention, abuse, or death of Sergei Magnitsky," as well as on officials implicated in "extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals seeking . . . to obtain, exercise, defend, or promote internationally recognized human rights and freedoms, such as the freedoms

of religion, expression, association, and assembly, and the rights to a fair trial and democratic elections, in Russia.” With the publication in April 2013 of the first (but not the last) public list of Russian officials sanctioned in accordance with the act, the US government has set a key precedent for its partners in the Euro-Atlantic community.

If anyone still had doubts about the true nature of the Putin regime, it was shown in full by the Kremlin’s reaction to the Magnitsky Act. The Russian government has “avenged” the crooks and human rights abusers targeted by the US law by punishing the most vulnerable and defenceless of its own citizens - children in Russian orphanages. Over the past 20 years, some 60,000 Russian children left without parental care have found new families in the US. With the rates of adoption by Russian families insufficient to handle the population of orphanages, foreign adoption was the only way for many children - including gravely ill and disabled children - out of the country’s notoriously rundown, violent, underfunded, and overcrowded orphanage system. But someone had to pay for humiliating the Kremlin’s officials, and Putin has deemed - in his very own words - that a full ban on adoptions of Russian orphans by American citizens is an “appropriate response” to the Magnitsky Act. The Kremlin’s principal spokesman on this issue has been Pavel Astakhov, a graduate of the Higher School of the KGB and the presidential children’s rights ombudsman, who has called for banning not only American but all foreign adoptions. In yet another glaring display of Kremlin hypocrisy, Astakhov’s own family resides in France, where he reportedly owns a luxurious villa on the Côte d’Azur.

It seems that the Kremlin likes the idea of using children as political leverage - much like terrorists use a “human shield” to protect themselves in the line of fire - and has decided to continue with this tactic. In March 2013, Russia’s ambassador to Dublin, Maxim Peshkov, advised the Irish parliament, which was considering a motion similar to the US Magnitsky Act, that the passage of such a law would have a “negative influence on the negotiations on the Adoption Agreement between Russia and Ireland”. Irish legislators succumbed to pressure, reducing the motion to a mere statement of concern.

The protection of the personal financial interests of a few crooks and human rights violators will undoubtedly be remembered as one of the most

shameful acts in the history of the Russian foreign service. It is astounding that opposition to targeted sanctions on those who have violated the rights of Russian citizens - and who should have been punished in accordance with Russian law for doing so - has been established as one of the main goals of the Kremlin's foreign policy. Just hours after his inauguration for a third (de facto fourth) presidential term in May 2012, Vladimir Putin signed a decree tasking his diplomats with "preventing the introduction of unilateral extraterritorial sanctions by the United States of America against Russian legal entities and individuals" - a thinly veiled reference to the Magnitsky Act. Officials in Moscow condemned the visa sanctions as "interference in Russia's internal affairs" - a somewhat puzzling charge, given not only that any country has the obvious right to decide whom to allow or not allow into its territory, but also that the Moscow Document of the OSCE (of which Russia, all EU countries, the US, and Canada are full members) explicitly states that "issues relating to human rights, fundamental freedoms, democracy and the rule of law . . . are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned."

One after another, following a predetermined cue, high office-holders in the Kremlin, the Foreign Ministry, and the Federal Assembly condemned the Magnitsky Act and the very idea of targeted sanctions on human rights abusers as "anti-Russian". No greater insult to the country could be imagined. Remarkably, given the relentless propaganda in state-controlled media, a strong plurality of Russian citizens - 44 percent, according to a December 2012 opinion poll by the Levada Center - supported the idea of targeted Western sanctions on Russian officials who have violated human rights (21 percent were against the sanctions; 35 percent held no opinion).

In truth, the Magnitsky Act is the most pro-Russian law ever to have been passed by a foreign parliament. It strikes at the very heart of the Kremlin's mafia-like system of mutual protection: nothing can send a chill down the backs of Putin's autocratic enablers like the realisation that not even the Kremlin, with all its patronage and oil money, will be able to guarantee their ill-gotten gains. Indeed, the regime's hysterical reaction to the Magnitsky sanctions is the best proof that the law hits exactly where it hurts. Crucially - and this is what angers the Kremlin the most - the law will have the effect of not only demanding responsibility for past violations, but also preventing

future ones. Next time, faced with the possibility of being declared a *persona non grata* throughout the civilised world, a low- or mid-level operative may think twice before torturing another prisoner, arresting and beating another protester, harassing another journalist, or rigging another election. Few things could be more damaging for Putin's corrupt and autocratic "vertical of power".

In the past two years, tens of thousands of people have come out into the streets of Moscow and other Russian cities to protest the injustice, deception, corruption, and repression of Vladimir Putin's system. This movement, which began with a 100,000-strong rally in Bolotnaya Square in December 2011 - Russia's largest pro-democracy demonstration since the 1991 anti-communist revolution - is backed by the country's growing middle class, the people who constitute the driving force of any modern society, those who have already become consumers and now want to become citizens, with the rights and the respect that this implies. Despite the repressions, the opposition movement is not going away. Russian society is changing. There are millions of people in Russia who are no longer willing to tolerate autocracy and corruption. The regime may still control the airwaves, but with nearly half of the country's population (and 70 percent of the population in Moscow and St. Petersburg) now online, this matters less than before. The authorities may still be able to rig elections, but thanks to an unprecedented mobilisation of civic activists and independent poll monitors, this is becoming more difficult. Putin may still have some public support - 32 percent would vote for him, according to a Levada Center poll conducted in February 2013 - but it is falling by the month. Even according to the official results of the 2012 presidential "election". Putin has lost majority support in Moscow, Kaliningrad, Vladivostok, Omsk, and other large Russian cities. The regime may still be stronger than civil society, but it can no longer ignore it.

Needless to say, the task of fighting corruption and achieving democratic change in Russia is a task for Russian citizens, not for any outside players. But if the world's democracies - and, above all, our neighbours and partners in Europe - want to show solidarity with the Russian people and stand for the universal values of human dignity, the best way would be to tell the crooks and the abusers that they are no longer welcome.