

Marcus Kolga

## Justice for Sergei in Canada

*Marcus Kolga is the co-founder of the Central and Eastern European Council of Canada, representing the interests of nearly four million Canadians of Eastern and Central European heritage. Marcus is an award-winning documentary film-maker, a strategic and online communications expert and advocate for issues of global human rights and democracy.*

**I**n April 2013, I was giving a presentation at the Joint Baltic American National Committee Conference about a new exhibit my company and I had developed about Stalin's Gulag for the Victims of Communism Memorial Foundation. Nearly two years of work had gone into the technologically groundbreaking exhibit: I should have been satisfied that the project had been successfully launched as I made my way back to Toronto. Instead, - I left Washington emotionally shaken and more committed to the cause of democracy and human rights than ever before, simply by a momentary meeting where not a single word was exchanged. A young boy, who appeared the same age as my own son, nodded a greeting. The child was the spitting image of the father he would never see again, Sergei Magnitsky.

As an advocate for democracy and human rights in Russia, I have had the privilege of meeting and becoming friends with a number of Russian pro-democracy activists. While protests in Moscow go on, I wonder which of these courageous activists will next be hauled off by authorities. I fear for their personal safety and wonder how long they will last under the Putin regime. I think of Russians who are currently living in a surreal nightmare where a defendant in a Russian court today is 20 times less likely to be acquitted than those who were persecuted during Stalin's great purges. I think of Sergei Magnitsky and I think of his son.

## Canadian human rights and Magnitsky

Canadians traditionally see their country as a leader on issues of international human rights and justice. It's easy to see why: Canada took a leading role in drafting the Universal Declaration on Human Rights in 1948 and they have actively advocated for human rights and the peaceful resolution to conflicts in international bodies for the past 60 years. And while Canada's current government continues to work in some areas of human rights, it has remained silent and virtually invisible on the deteriorating human rights situation in Russia, despite the accelerated pace of blatant human rights violations by the Putin regime.

High-profile figures on Russian human rights, like Boris Nemtsov, Bill Browder and Vladimir Kara-Murza, have traveled through the halls of the Canadian Parliament over the past 24 months asking members to support human rights and democracy in Russia. Privately, the government's ministers and MPs have condemned the Putin regime's actions; publicly, only opposition MP Irwin Cotler has taken an active position, introducing a private member's bill in the House of Commons in late 2011 that would impose visa sanctions on those responsible for the death of Sergei Magnitsky.

Canada and the European Union are faced with an historic opportunity to help stop the backwards slide of democracy and rights in Russia by following the United States' lead and adopting Magnitsky legislation. For Canada and Europe, the risk of remaining silent greatly outweighs the risk of balanced and measured action that can help bring positive change for millions of Russians and encourage the development of an international partner state that finally respects the rule of law and its international obligations.

The blatantly absurd Kremlin response to US Magnitsky legislation should not discourage Western nations, but rather embolden their resolve to help the Russian people. Instead of working to curb endemic corruption and enhance democratic freedoms, the Kremlin reaction to US Magnitsky legislation was to ban adoptions of Russian orphans by US families, and threatened to do the same in Ireland recently when Magnistky legislation came up for debate. The Kremlin's bizarre, asymmetric response and threat, holding Russia's orphans up as a shield to protect corrupt officials and oligarchs, resembles the behavior

of a despotic third world banana republic rather than a member of the G8.

If Russia was a serious international partner, it would be working to strengthen civil society, democracy and transparency rather than working against those principles. At the very least, Canadian and European Magnitsky legislation will serve to save Russian lives. At best it can bring positive transformation for the people of Russia.

As demonstrated by the recent experience in the US, the threat of a Russian reaction to Magnitsky legislation that imposes negative changes to bilateral trade and relations can be characterized more as badly scripted theatre targeted towards a domestic Russian audience, rather than a true threat to bilateral relations.

In the case of Canada, trade with Russia remains low and there exist few other active bilateral initiatives. Occasionally, Russia threatens to violate Canadian airspace with nuclear bombers, and Arctic sovereignty remains a highly contentious issue. Regardless, where there is bilateral trade between the two countries, it is highly unlikely that Russian businesses would support any retaliatory measures against potential Canadian or European Magnitsky legislation, impacting their own revenues or profits.

Without any credible threat, why is the Canadian government remaining silent on these issues and what do they perceive to be the risks of adopting Magnitsky legislation?

In 2012, at a conference in Toronto, two Members of Parliament met with members of the Canadian Russian Compatriots Council (Rossotrudnisestvo Canada)<sup>1</sup> - a group that is ostensibly funded and supported by the Kremlin<sup>2,3</sup> and characterizes itself as being a grassroots entity<sup>4</sup> that represents the interests of Russian-Canadians. According to its co-ordinating body, the World Congress of Compatriots, the organization is mandated, among other

---

1 <https://www.youtube.com/watch?v=ZA1GTrVmcGQ>; <https://twitter.com/MarkAdlerMP/status/210038015177916417/photo/1>

2 [http://www.mid.ru/brp\\_4.nsf/0/2BFCA9BE5FC7A5E3442579D1004A07EA](http://www.mid.ru/brp_4.nsf/0/2BFCA9BE5FC7A5E3442579D1004A07EA) [http://www.mid.ru/bdomp/brp\\_4.nsf/e78a48070f128a7b43256999005bcb3/abd00fa8b2a28bab4425796e001cda20!OpenDocument](http://www.mid.ru/bdomp/brp_4.nsf/e78a48070f128a7b43256999005bcb3/abd00fa8b2a28bab4425796e001cda20!OpenDocument)

3 [http://translate.googleusercontent.com/translate\\_c?depth=1&hl=en&ic=UTF8&prev=\\_t&url=translate.google.com&sl=ru&ctl=en&u=http://msrs.ru/news/8997.html&usg=ALkJrhgYuUjbxm8tgFsRNPegyeL04UaBfw](http://translate.googleusercontent.com/translate_c?depth=1&hl=en&ic=UTF8&prev=_t&url=translate.google.com&sl=ru&ctl=en&u=http://msrs.ru/news/8997.html&usg=ALkJrhgYuUjbxm8tgFsRNPegyeL04UaBfw)

4 [http://translate.googleusercontent.com/translate\\_c?depth=1&hl=en&ic=UTF8&prev=\\_t&url=translate.google.com&sl=ru&ctl=en&u=http://msrs.ru/organisations/canada/178/&usg=ALkJrhiUIfzB9eiGvEzWD3HZYJUcv7Nb\\_g](http://translate.googleusercontent.com/translate_c?depth=1&hl=en&ic=UTF8&prev=_t&url=translate.google.com&sl=ru&ctl=en&u=http://msrs.ru/organisations/canada/178/&usg=ALkJrhiUIfzB9eiGvEzWD3HZYJUcv7Nb_g)

things, to promote the foreign policy of the Kremlin abroad<sup>5</sup>. The position and message of this group largely reflects that of the Putin government. In Canada, the message is that the Russian Canadian community is not supportive of a Canadian version of the Magnitsky Act, despite the fact that the vast majority of Russian Canadians voted against Vladimir Putin and United Russia during the 2011-12 election season. The local Russian-Canadian ethnic media is, in fact, widely supportive of the pro-democracy movement and has actively supported Canadian Magnitsky legislation through reporting, op-eds and a petition campaign.<sup>6</sup>

With this understanding, Mr Cotler and Canadian human rights activists have approached members of the current Conservative government, offering to hand over Mr Cotler's bill so that Canadian Magnitsky legislation could be reintroduced by the government, increasing its chances of becoming law.

## **Canada's Responsibility to Protect International Human Rights**

“Will Canada finally send a clear message to Russia that its continued membership in the G8 is dependent on its respect for democracy and human rights?”

**Former Liberal MP Borys Wrzesnewskij, House of Commons,  
February 2011**

As a traditional advocate for international human rights, democracy and transparency, Canada cannot assume a passive position on Russia. While our friends in the US have responded to the calls of Russian pro-democracy and human rights activists to adopt Magnitsky legislation, Canada's government has remained utterly silent to the shame of its otherwise excellent international human rights legacy.

As a member of the G8 with a leading global voice on issues of human rights, Canada has a moral responsibility to voice its concern where rights and democracy are being abused in other G8 nations. Canada's leadership on such issues is respected and can affect positive change. The US has already

adopted legislation, and the EU should soon follow. Canada's past leadership

<sup>5</sup> [http://english.ruvr.ru/2012\\_10\\_26/Russian-compatriots-respond-to-appeal/](http://english.ruvr.ru/2012_10_26/Russian-compatriots-respond-to-appeal/)

<sup>6</sup> <http://magnitsky.ca/>

role in areas of human rights will be further damaged by its inaction on the Magnitsky case.

Kremlin officials are, in increasing numbers, using Western countries like Canada, to deposit their assets, educate their children, take vacations and buy homes. The Canadian Government has a duty (as does any other Western government) to protect its citizens from those who abuse human rights and profit from that abuse. In the case of Sergei Magnitsky, Canada must ensure that those who gained from his torture and murder are not allowed to use Canada as a safe haven for their funds and assets, nor enjoy the privilege of travelling to our country.

In a recent Parliamentary hearing, Vladimir Kara-Murza said: “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.”

Some government parliamentarians have questioned whether Canada should be commenting on Russia’s current human rights record at all, as it could cause problems in the bilateral relationship. It is also likely that the perception among many parliamentarians is that the Canadian-Russian diaspora supports the Putin regime, and that criticism of the Kremlin’s human rights record could jeopardize votes in constituencies that feature large Russian minorities.

However, neither could be further from the truth. Canada’s bilateral relationship with Russia would not suffer, since the relationship is merely polite, and trade is insignificant.

As regards the Canadian-Russian diaspora, the 2011-2012 election results show that Putin’s United Russia lost, receiving just 23% of the vote<sup>7</sup>. Local Russian media is constantly critical of the current regime; articles and campaigns in support of Canadian Magnitsky legislation appear frequently in print, television and radio.

Furthermore, the Central and Eastern European Council of Canada

(CEEC), an organization representing the interests of nearly four million

<sup>7</sup> <http://www.rusembassy.ca/ru/node/643>

Canadians of eastern and central European heritage, has taken an active role in advocating for Canadian Magnitsky legislation and has urged governments in their homelands to do the same. The CEEC has backed a number of events and campaigns in support of Canadian Magnitsky legislation, including several press releases and open letters urging parliamentarians to adopt the legislation. According to the CEEC, the majority of people in their homelands also support European Magnitsky legislation.

While on a visit to Canada in February 2012, Russian opposition leader, Boris Nemtsov, spoke to a crowd of over 600 excited Russian-Canadian community members at a centre north of Toronto. The audience varied in age but comprised mostly recent immigrants. Those of us who had organized Mr Nemtsov's visit were nervous about negative public reaction to his message, based on the false perception that the diaspora in Canada supported Putin. We could not have been more wrong.

The primary message from those at the meeting was that the Russian-Canadian community supports the pro-democracy movement (they even had their own recommendations for Mr Nemtsov about how to move forward), and that the vast majority of this community support Canadian Magnitsky legislation.

During that same visit, Mr Nemtsov took his message to Parliament Hill in Ottawa, where he met with government ministers and other members of Parliament. When asked what the Canadian government could help do to support the pro-democracy movement, Mr Nemtsov replied that the most pro-Russian thing that the Canadian government could do would be to adopt Magnitsky legislation. He echoed the same message during a crowded press conference organized by Irwin Cotler.

## **What can be done in Canada?**

Citizenship and Immigration Canada does have legislated provisions that bar anyone known to have committed "human or international rights violations" from Canada.

This includes senior officials "in a government engaged in gross human rights violations or subject to international sanctions".<sup>8</sup> Under the published

<sup>8</sup> <http://www.cic.gc.ca/english/information/inadmissibility/who.asp>

Canadian definition, the 18 officials listed on the US Magnitsky list would, in theory, be automatically barred from Canada. Other reasons to deny admission into Canada include involvement in “organized crime, including membership in an organization that takes part in organized criminal activity, people smuggling or money laundering”; as well as “committing a serious crime that would be punishable by a maximum prison term of at least ten years in Canada”.

In late November 2012, the Canadian government was caught off guard when a Kremlin-appointed international, anti-Magnitsky legislation lobbyist and former Russian Senator, appeared in Toronto and Ottawa after being repeatedly denied entry into Canada for almost 20 years.

Remarkably, a Parliamentary hearing on the case of Sergei Magnitsky was organized by Irwin Cotler to take place two weeks after Malkin’s visit, on December 11, 2012, featuring testimony from Bill Browder and Russian Opposition Coordinating Council member Vladimir Kara-Murza. Was the proximity of Malkin’s visit to the Magnitsky hearing a coincidence, or intentionally planned as an opportunity to lobby parliamentarians?

The hearing was originally scheduled to take place in the main Center Block of Parliament. But just a short time before the hearing was due to begin, it was announced that the hearing had been shifted off Parliament Hill to an obscure location several blocks east. Members of the Human Rights Committee could not recall ever experiencing a similar last-minute change. Media who were due to attend the hearing scrambled to get to the new location. Oddly, no reason for the change of address was given.

At the hour-long hearing, Bill Browder gave testimony about the fate of Sergei Magnitsky, and Vladimir Kara-Murza explained that Canada’s support for Magnitsky legislation would be the best way for parliamentarians to support Russians and Russian democracy.

“A similar bill [to US Magnitsky Legislation], Bill C-339, has been introduced in this House by the honourable member for Mount Royal, Mr Cotler, a member of the subcommittee. In our view, in the view of the Russian

opposition, this is a much needed and long overdue measure that deserves full attention, and it could be strengthened even further by including an asset freeze provision and by covering other human rights violations beyond those in the case of Sergei Magnitsky,” declared Vladimir Kara-Murza.

Despite existing legislation that apparently prevents known human rights abusers and criminals from entering the country, the current Canadian government seems unable to keep those who it has, for decades, deemed to be inadmissible on grounds of criminal activity away of Canada. Although that same legislation would prevent the 18 who are now on the US Magnitsky list from entering Canada, will the current government deny them entry? And what of the assets they stole and managed to hide after they murdered Sergei Magnitsky? Will the Canadian government investigate if any of them - or any other corrupt officials - have used Canada as a haven for their assets? And how will they protect Canadians against human rights abusers who target Canada as a place to launder their criminal profits?

Canada and all other Western nations including the EU have a moral responsibility to protect their own citizens and support human rights in other nations by adopting Magnitsky legislation. As Russia slides back towards totalitarianism, Canadian and European inaction would amount to no less than a tragic historic appeasement of monumental proportions. In such dark times, doing nothing is not an option.





# RUSSIA & BELARUS

