

Working Paper

Russian corruption and human rights: The links

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The landscape of Russian corruption: Causes

Both corruption and human rights are widely acknowledged to be key problems for the Russian Federation, and the political causes of both phenomena are closely interlinked.

According to the Transparency International Corruption Perceptions Index, Russia ranks among the most corrupt developed countries in the world—133^d out of 176 countries surveyed,ⁱ while Russia's political freedom ranking by the NGO Freedom House's annual Freedom in the World survey has steadily declined over the past thirteen years, from a ranking of "partly free" in 2000 to "not free" in 2013.ⁱⁱ

As Russia transitioned from an authoritarian state with a centralised economy to a capitalist democracy, the breakdown of institutions made the country particularly vulnerable to corrupt activities—grand, petty and political— and to the disintegration of the democratic developments necessary to protect human rights. The absence of any meaningful lustration of the state security forces enabled the perpetrators of human rights abuses to obtain positions of power and wealth in the post-Soviet era. Throughout the 1990s, the failure of institution-building and lax international scrutiny severely distorted the process of privatisation in the immediate post-Soviet period, enabling a small group of businessmen—the oligarchs— to gain control of much of the country's wealth and political influence.

The mismanagement of the post-communist transition enabled the re-emergence of authoritarianism under Vladimir Putin, and the marriage of public and private sector corruption under his personal authority. On 28 July 2000, Putin invited Russia's most significant oligarchs to meeting at the Kremlin at which he informed them that they would be permitted to keep their wealth, provided they commit to paying their taxes and to stay out of politics.ⁱⁱⁱ Those who were unwilling to accede to this arrangement—notably, Vladimir Gusinsky, Boris Berezovsky and Mikhail

Khodorkovsky—found themselves the subjects of criminal investigations, and saw their companies seized by the state and purchased by loyal Putin allies.

Putin cemented his power base by installing loyalists from his time in the St Petersburg mayoral office and the KGB at the heart of government, and using the United Russia Party to dominate and transform the parliament into a “rubber stamp” authority. This new elite became known as the siloviki, or “strongmen,” and have been the enforcers and beneficiaries of the fusion of public and private sector corruption.^{iv}

Corruption and the further deterioration of the rule of law have gone hand in hand with the steady erosion of democracy and human rights in Russia. Perhaps the most significant element enabling the proliferation of both phenomena is Russia’ lack of judicial independence: in 2012, the country scored 6 out of 10 in Freedom House’s 2012 Judicial Framework and Independence assessment.^v The widespread electoral fraud displayed during the Duma elections of December 2011 demonstrated once again the endemic political corruption of the Russian system. Even these measures were barely able to deliver a parliamentary majority to United Russia, whose unpopularity is largely due to its association with corruption. Putin’s re-election in March 2012 was also marred by fraud and an overall absence of genuine political competition.

Consequences of corruption: Direct and indirect human rights abuses

Corruption and human rights violations are so often linked because they derive from the same basic conditions: the unequal or ineffective application of the rule of law, and the resulting entrenchment of positions of power and diminishment of civil liberties.

Corruption has a general undermining effect on Russian society: robbing its victims of their dignity and agency as well as material assets, entrenching inequality and the concentration of power. It also acts as a double or triple tax on the Russian economy: first through theft, secondly, through depriving the state of tax revenue, and, in most cases, third, by leaving the country to be deposited in foreign bank accounts. Operating in an environment in which much of the state and private sector is linked or fused, corruption also limits competition, driving up prices for consumers, and limiting the incentives and opportunities to forge small businesses. This tends to affect the very poorest in society, who disproportionately suffer from any measures that impinge on economic growth and/or reduce or constrain public spending on education, health and welfare services. Corrupt activities

such as bribery also constrain the ability of ordinary Russians to access basic public services, with bribes commonly demanded for services including school placements and medical care.

Corruption also has more direct consequences for human rights in Russia, restricting, among other freedoms, the exercise of the franchise (restricted by the lack of political competition and fraudulent elections); the right to property; and the right to a fair trial and reasonable expectation of legal remedy (restricted by the lack of judicial independence). The direct effects of corruption on human rights are most starkly displayed when individuals who compromise or challenge corruption come up against the power of the corrupt system or people whom they are challenging. Over the past decade, two cases have achieved almost totemic significance in illustrating the connection between corruption and systemic disrespect for human rights: the imprisonment of former Yukos oil company CEO Mikhail Khodorkovsky, and the imprisonment and murder of the anti-corruption attorney Sergei Magnitsky.

Mikhail Khodorkovsky and the Yukos case

When Vladimir Putin became president, Mikhail Khodorkovsky was the richest man in Russia and one of the most politically powerful forces in the country. Khodorkovsky spearheaded projects promoting democratic reforms while Putin focused his energies on consolidating power on a more statist model, and became an enemy of Putin when he refused to halt his political activities and directly accused the government of corruption.

In July 2003, Platon Lebedev, CEO of the Yukos holding company Group Menatep, was arrested on charges of embezzlement, followed by Khodorkovsky on 25 October 2003 on charges of tax evasion, fraud and embezzlement. The state successively increased its charges against Khodorkovsky and Lebedev to multiple counts of fraud and theft through corporate tax accounting schemes which Yukos—in common with almost every other large-scale Russian company—had employed to minimise its tax liability. The well-established animosity between the Putin and Khodorkovsky, and the fact that Yukos was the first large-scale Russian company to adopt Western models of corporate governance and transparency, made it clear that the case against the two men was initiated selectively, and was politically motivated.

Khodorkovsky and Lebedev's trial began in June 2004, and the pair were convicted and sentenced to nine years imprisonment in a Siberian labour camp in 2005. Shortly before Khodorkovsky and

Lebedev were to become eligible for parole, new charges were lodged and a second trial was held in 2009, and following a failed appeal in 2011 both men's sentences were extended to 2016. Lebedev and Khodorkovsky have been designated prisoners of conscience by Amnesty International, and their trials have consistently failed to meet international standards of justice. Yukos' assets were stripped by the government and much of its holdings essentially re-nationalised via fixed sales to the state. Former Yukos Vice President Vasily Aleksanyan was imprisoned from 2006 to 2009, and his death in 2011 from an AIDS-related illness is widely believed to have been worsened by the poor conditions of his incarceration. Multiple claims by the defendants, stockholders and other relevant parties have been brought against the Russian government in international courts, including the European Court of Human Rights.

The case became a turning point in illustrating Putin's commitment to securing a monopoly on power, the fusion of political and economic corruption, and its interconnectedness with human rights abuses. In the process, two men have remained in prison for almost ten years, and become living symbols of the extent to which the imperatives of corruption trump the rights of the individual in Putin's Russia.

The Sergei Magnitsky Case

Sergei Magnitsky was an attorney at Firestone Duncan, working for the hedge fund Hermitage Capital Management. In 2007, he was tasked with investigating the seizure of documents by state officials, and uncovered evidence that documents seized from Hermitage and Firestone's offices were used to execute a convoluted scheme to claim a \$230 million tax refund by state officials, who then presumably stole the money and had it laundered through international banks. In July 2008, Magnitsky and Hermitage filed criminal complaints based on this information, and a few months later, Magnitsky was arrested on the charge of acting as the director of two Hermitage companies that had allegedly failed to pay taxes in 2001. Magnitsky was subjected to physical and psychological torture in pre-trial detention, pressured to confess to stealing the \$230 million and to blame Hermitage CEO Bill Browder for the tax fraud, but refused. He was repeatedly denied medical care during his 358 days in jail, and his numerous petitions for his legal rights and for medical treatment were ignored. Magnitsky died in prison on 16 November 2009 at the age of 37.

Russia's *New Times* uncovered evidence that officials within state security services and the Interior Ministry had collaborated to frame Magnitsky, receiving a \$6 million payoff.^{vi} To date, none of the

officials implicated in the tax fraud have been punished. In fact, several have been promoted, while Magnitsky is being charged posthumously for tax evasion—an unprecedented and grotesque development in the case. Magnitsky’s death and the apparent cover-up provoked widespread outrage in Russia, with demands from domestic and international human rights groups and Russian opposition leaders for a full and transparent investigation ignored. He has become a symbol of the power and danger of acting as a whistleblower in Russia, and of the confluence of corruption and human rights abuses in contemporary Russia.

Anti-corruption activities in Russia: Civil society

Civil society actors have struggled to engage ordinary Russians on the issues of democratic reform and human rights abuses, partly due to an entrenched apathy about the ability to effect change in Russia’s political system, and partly due to widespread suspicion about the motivations of these actors. However, corruption has emerged as an issue with the most potential to galvanise public opinion in Russia, as it is a phenomena that negatively affects a range of citizens. Anti-corruption activist Alexey Navalny has emerged as a key leader of the civil society movement for reform, as well as a political opposition leader in his own right. His anti-corruption website, RosPil has been instrumental in uncovering cases of corruption implicating members of Russia’s political and business elite, using investigative tactics including the purchase of minority shares in state-run companies in order to draw attention to corrupt practices, and soliciting tip-offs from whistleblowers. High-profile cases revealed by Navalny include allegations of corruption against Deputy Prime Minister Igor Shuvalov,^{vii} and of \$4 billion fraud by the Transneft oil transport company.^{viii}

Following Navalny’s strategy, Russia’s protest movement has increasingly focused on anti-corruption efforts. For example, Eduard Mochalov, a farmer-turned-muckraking journalist based in the province of Chuvashia, publishes a monthly free newspaper called *The Bribe* detailing the activities of the corrupt officials in the region.^{ix} Other opposition leaders including Boris Nemtsov and Vladimir Milov have also campaigned to reform of the corrupt nexus between the state and private sectors in Putin’s Russia. Although NGOs have come under increasing pressure as a result of new laws requiring recipients of foreign funding to register as “foreign agents,” organisations such as the Moscow branch of Transparency International continue to play a vital role in monitoring corruption within the country, while human rights organisations such as the Moscow Helsinki Group remain vigilant in revealing the connections between corrupt actions and human rights abuses.

The link between corruption and human rights abuses is evident in the treatment Navalny has received as a consequence of his activities: he is currently the subject of three separate criminal investigations accusing him of corruption, one of which also implicates his brother, Oleg. The obvious political motives for these cases; the lack of convincing evidence or procedural due process accorded to Navalny; and the persecution of his brother and colleagues is a clear indication of the state's willingness to concoct charges in an attempt to silence whistleblowers. Suren Gazaryan, who heads an environmental watchdog group critical of state corruption and its impact on the environment, fled Russia last year in reaction to spurious charges of hooliganism and damage to private property. This is consistent with the treatment which has been meted out to many of the leading members of Russia's non-systemic political opposition since the beginning of the popular protest movement in December 2011.

Official anti-corruption initiatives

While corruption is consistently shown to be the issue most capable of arousing public anger in Russia, widespread political passivity and the weakness of civil society has made it difficult for anti-corruption activists to translate these sentiments into a sustained campaign for reform. However, corruption has clearly been identified as a threat to the stability of the current regime—both in the popular anger it provokes and in deterring foreign investment. As a result, the government is currently attempting to neutralise the political potency of this issue.

Legislative initiatives have formed a significant part of this campaign, and is at least partially motivated by the need to present an image of compliance with OECD recommendations in support of Russia's bid for OECD membership.^x This was the motivation behind Russia's decision to sign on to the Organisation for Economic Cooperation and Development's Anti-Bribery Convention in 2012.^{xi}

The most high profile of the recent legislative initiatives introduced by the government has been a bill banning federal and regional officials, senior prosecutors, board members of the Central Bank and employees of state corporations from holding foreign bank accounts, bonds and shares, and from using family members as the registered owners.^{xii} Similar measures were passed during Medvedev's presidency, but were not effective, as officials routinely put their assets in the names of family members or other proxies. In the case of the most recent bill, there is good reason to be

sceptical about whether the provisions will or can be enforced, as there is little incentive to keep wealth in Russia given the lack of protection for private property.

It seems more likely that this issue will be used as a cover for the purge of high-level officials, to settle scores and instil fear in the country's political elite. The dismissal of former Defence Minister Anatoly Serdyukov is perhaps the clearest example of this practice, who was fired in November 2012 following the opening of a criminal investigation into his alleged theft of between \$100-200 million through the sale of undervalued assets.^{xiii} Serdyukov was already an unpopular figure within the military, and it has even been suggested that his dismissal may also have been a result of a personal dispute over Serdyukov's alleged infidelities.^{xiv}

The lack of any attempt to undertake the types of systemic reforms needed to challenge Russia's culture of corruption—namely, the meaningful application of the rule of law, judicial independence, government transparency and the introduction of genuine political competition—indicates that such anti-corruption efforts will be insufficient. The marked increase in authoritarian measures rushed through the state Duma since the return of Vladimir Putin to the presidency in May 2012—including increased fines against unauthorised protest, an expanded treason law with enhanced prison sentences, and increased restrictions on internet content—have demonstrated that the political reforms necessary to tackle corruption are lacking.

Policy options for the EU

Perhaps the most significant way in which the institutions of the European Union and its constituent member states can positively influence Russia on these issues is by engaging with Russia's embattled, but burgeoning, civil society movement. Improved engagement with civil society actors at all levels would provide vital opportunities for mutual education, and would help Russia's opposition movement to develop political and diplomatic skills and increase their viability as sources of political competition in Russia. Independent organisations such as the EU-Russia Civil Society Forum provide a helpful platform for facilitating engagement, and bodies such as the European Instrument for Democracy and Human Rights can provide vital assistance to Russian civil society. This is particularly important given the increased difficulties faced by politically independent NGOs operating within Russia, and the increased risk to those bodies receiving funds from abroad following the passage of a new law requiring foreign-funded NGOs to register as "foreign agents."

Engagement with the Russian government over these issues under the aegis of the Partnership and Cooperation also forms an important plank of this effort, and the ongoing negotiations over building a more robust framework should include a commitment to a schedule of benchmarks indicating improvements on human rights and corruption. European representatives should engage in a robust dialogue with the Russian authorities on specific cases such as the ongoing imprisonment of Mikhail Khodorkovsky and the members of Pussy Riot at every level—from working groups to the biannual EU-Russia summit.

Corruption in Russia is a systemic problem, intimately tied to and perpetuating the circumstances which have led to the breakdown of human rights in the country. As a result, policy initiatives which tie the issue of corruption to the need for essential reforms including judicial independence, press freedoms, political competition and transparency should be taken into consideration. MEPs Kristiina Ojuland and Guy Verhofstadt have argued persuasively that the time is right for further engagement on these issues, with the European Parliament and Council of Europe taking a tougher line on Russian human rights abuses and corruption.

To this end, Ojuland and Verhofstadt initiated the recommendation by the Parliament calling on the Council to establish common visa restrictions and sanctions in relation to the Magnitsky case, passed in October 2012. They have also proposed launching a new initiative similar to the Helsinki process involving leaders from Europe and the US to address these issues and hold Russia to account for its behaviour.

The investigations launched by several member states and resolutions passed in relation to the Magnitsky case indicate that political momentum is building for a more robust response to this case and to human rights and corruption in general. This has likely been influenced by the passage of the Sergei Magnitsky Rule of Law Accountability Act by the US Congress in December 2012. Resolutions, recommendations and declarations regarding the Magnitsky case have also been passed by the UK, Holland, Poland, Italy, the OSCE and the Parliamentary Assembly of the Council of Europe.^{xv} If a Magnitsky initiative is put forward on an EU-wide level, it would have the potential to seriously undermine the regime's ability to command loyalty via the patronage obtained through corruption, and demonstrate the unacceptability of both systemic corruption and human rights abuses.

Endnotes

ⁱ Transparency International, “2012 Transparency International Corruption Perceptions Index,” available at <http://cpi.transparency.org/cpi2012/>

ⁱⁱ Annual rankings available at www.freedomhouse.org/report/freedom-world

ⁱⁱⁱ Baker, Peter and Glasser, Susan, *Kremlin Rising*, (Scribner: 2005), p 46

^{iv} Andrei Zaostrovstev, OpenDemocracy, 9 January 2013, “Russia: an oprichnik economy,” available at 9 January 2013, OpenDemocracy <http://www.opendemocracy.net/od-russia/andrei-zaostrovstev/russia-oprichnik-economy>

^v Freedom House, “Russia: Nations in Transit 2012,” available at <http://www.freedomhouse.org/report/nations-transit/2012/russia>

^{vi} “Report of Public Oversight Commission for Human Rights Observance in Moscow Detention Centers on the Inspection of SL Magnitsky Containment Conditions at PTDCs (Pre-Trial Detention Centers) of Moscow,” available at <http://russian-untouchables.com/rus/docs/App1ENG-Public-Oversight-Commission%20report.pdf>

^{vii} For more information, see *The Shuvalov Affair: A Case History of a Putin Aide’s Financial Controversy*, available at: <http://henryjacksonsociety.org/2012/11/07/the-shuvalov-affair-a-case-history-of-a-putin-aides-financial-controversy/>

^{viii} Olga Razumovskaya, The Moscow Times, 8 February 2011, “Navalny’s suit vs. Transneft goes to court,” available at <http://www.themoscowtimes.com/business/article/navalnys-suit-vs-transneft-goes-to-court/430532.html>

^{ix} Max Seddon, The Guardian, 21 November 2012, “Russian farmer takes on corrupt officials,” available at <http://www.guardian.co.uk/world/feedarticle/10539353>

^x Vedomosti, 14 February 2013, “Will agencies, companies use Labor Ministry’s ant-corruption tool?” available at <http://en.ria.ru/papers/20130214/179463451.html>

^{xi} “Russia-OECD Anti-Bribery Convention,” available at <http://www.oecd.org/russia/russia-oecdanti-briberyconvention.htm>

^{xii} Alexander Winning, The Moscow Times, 13 February 2013, “Putin submits bill banning officials from holding foreign assets,” available at <http://www.themoscowtimes.com/news/article/putin-submits-bill-banning-officials-from-holding-foreign-assets/475430.html>

^{xiii} Yahoo News, 6 November 2012, “Putin axes defence minister over military ‘fraud,’” available at <http://uk.news.yahoo.com/putin-axes-defence-minister-over-military-sales-125148888.html>

^{xiv} Masha Lipman, The New Yorker, 24 November 2012. “Putin’s Circle: Corruption, Connections and Adultery?” available at <http://www.newyorker.com/online/blogs/newsdesk/2012/11/putin-inner-circle.html>

^{xv} For more information, see Russian Untouchables, available at <http://russian-untouchables.com/eng/parliaments/>