

# Twenty Years Later, Russians' Rights Are Still Imperiled

SIMON COSGROVE

On May 12 of this year, Russia's oldest human rights organization, the Moscow Helsinki Group, celebrated its 35th anniversary (it was founded by a group of 11 dissidents in the Moscow apartment of the nuclear physicist Andrei Sakharov). On June 18 of this year, Elena Bonner—Sakharov's widow and also a founding member of the group—died in Boston at the age of 88. It was Bonner who in Oslo in 1975 read Sakharov's Nobel Peace Prize acceptance speech, which discussed the "original and decisive significance of civic and political rights."

Now, 20 years after the collapse of the Soviet Union, is an appropriate moment to consider how far Russia has come in achieving protection of these rights. What we find, unfortunately, is a great many remaining problems, among them a continuing lack of political will.

Over the past decade in particular the gulf between the state and civil society that characterized the Soviet period has persisted, albeit in a modified form. As a result of this divide, violations of human rights are endemic in contacts between the state and civil society at every level, while state power-holders enjoy considerable autonomy and are able to manipulate judicial and democratic institutions.

## HOPEFUL VISION

This is not how it was supposed to be. The late 1980s and early 1990s saw a blossoming of civil society activism and reformist political leadership that jointly promised to "tame" the Soviet state and narrow, if not eradicate, the state-society divide. The reforms of the late 1980s and 1990s were, for many, built on an optimism inspired by the vision of an empowered civil society embedded in a liberal, market-oriented economy with strong institutions of democratic governance.

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This broad, hopeful vision has continued to motivate Russia's human rights community. Yet the reforms of the 1990s also impoverished and effectively disenfranchised a large proportion of the population, while political elites used state power to corruptly garner the benefits of privatization and entrench themselves beyond the reach of civil society. After 2000, then-President Vladimir Putin, under the slogans of "consolidation" and "dictatorship of the law," moved to reestablish the supremacy of the state.

In the current context, demands to observe human rights are perceived, as before, as a direct challenge to those in power. Today's rights situation in Russia is characterized by four grave problems: the dangerous vulnerability of human rights defenders, who are exposed to physical attack that law enforcement agencies and the courts seem powerless to protect against, and who are often denigrated as "politicized" by those in power; the lack of independence of a subservient judicial system; resolute action by authorities to control civil society, curtailing in particular the rights of assembly, association, and speech; and the failure of Russia's leadership to meet its international obligations to uphold the rule of law and protect human rights.

Lyudmila Alekseeva, a founding member and current chair of the Moscow Helsinki Group, in opening a conference that celebrated the group's 35th anniversary drew a comparison between Soviet times and contemporary Russia, focusing on the great personal risks run by human rights defenders today. While rights defenders are less often imprisoned nowadays than in Soviet times, she noted that "in former times they never used to kill people for human rights work."

## VOICES SILENCED

Alekseeva cited the recent cases of three murdered human rights defenders, and one who at the time she spoke was in prison: Anna Politkov-

skaya, the outspoken journalist renowned for her fearless reporting on Chechnya, shot dead in the entrance to her apartment building in 2006; Stanislav Markelov, a human rights lawyer who acted for Politkovskaya among others, gunned down on a Moscow street along with journalist Anastasia Baburova in 2009; Natalya Estemirova, an award-winning human rights defender and staff member of the Memorial Human Rights Center based in Grozny, abducted and murdered in 2009; and Aleksei Sokolov, a campaigner against torture and other abuses in Russia's prisons, imprisoned from May 2009 to July 2011 on charges widely believed to be fabricated.

While two people were convicted of the murder of Markelov and Baburova this year, the killers of Politkovskaya and Estemirova have yet to be brought to justice. These cases demonstrate Russia's failure to live up to its domestic and international obligations to effectively investigate and prosecute the perpetrators of such crimes. Worse, the cases bring to the fore concerns that political authorities may themselves be complicit in the crimes.

In Politkovskaya's case, the Supreme Court of the Russian Federation ordered a renewed investigation after three suspects were acquitted for lack of evidence in a jury trial in February 2009. In May this year Amnesty International welcomed the arrest of Rustam Makhmudov, a suspect in Politkovskaya's killing, in Chechnya as "a major step toward justice." But a second trial has yet to take place, and fears remain that the organizers of what many believe was a contract killing may never be prosecuted or punished.

In July 2011, on the eve of the second anniversary of the Estemirova killing, the Memorial Human Rights Center, jointly with the International Federation of Human Rights and the liberal newspaper *Novaya Gazeta*, published a report that castigated the official investigation for following a false track in seeking to blame insurgents for the killing when the circumstances of Estemirova's death and the threats made against her indicated possible official complicity in her murder. Amnesty International, Civil Rights Defenders, Front Line Defenders, Human Rights Watch, and the Norwegian Helsinki Committee separately issued a joint statement calling on Russian authorities to conduct a thorough, im-

partial, and transparent investigation and prosecute those responsible "regardless of rank or position."

Sokolov, the human rights defender in detention from May 2009 until July of this year, was convicted in May 2010 at an unfair trial on theft and robbery charges that observers believe were fabricated in order to punish him for his work in exposing torture in prisons. Sentenced to five years (later reduced to three years), Sokolov served his sentence 2,000 kilometers from his home. Reports say that he was beaten and that he went on hunger strike while in detention.

## COURTS MANIPULATED

Russian courts' lack of independence, along with widespread manipulation of the justice system by individuals in authority, has been exemplified for a global audience by the case of Sergei Magnitsky, a lawyer who worked for the Hermitage Capital investment fund. Russian officials accused Hermitage Capital of tax evasion, but its CEO William Browder believed government officials had used his company to carry out a large-scale tax fraud.

Magnitsky was arrested after he accused Russian officials of fraud, and was thereafter charged with helping Hermitage Capital commit tax evasion. He died in 2009 after being held for 11 months in pretrial detention.

While he was in prison, Magnitsky was denied adequate medical care and, according to a recent report, was severely beaten by prison guards shortly before he died. Government prosecutors have since charged two prison doctors with negligence in connection with his death. No other charges have been brought.

But the most notorious case of political manipulation of the Russian justice system remains that of Mikhail Khodorkovsky and Platon Lebedev, two former oil company executives imprisoned since 2003 on charges of embezzlement and money laundering. In May 2011, Amnesty International recognized the two men as prisoners of conscience, pointing to serious procedural violations and political motivations that have marred the criminal proceedings against them. In July, Lebedev's application for parole was turned down. The two men's terms in prison are now set to expire in 2016.

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## TIGHTENING THE NET

Abuses of the justice system such as these take place against a background of systematic curtailment of civil and political rights by the Russian authorities. For example, burdensome regulations and selective application restrict people's right to association. Notable in this regard are a 2006 law covering nongovernmental organizations and loosely worded anti-extremism legislation first passed in 2002.

The right of assembly is circumscribed, with demonstrations banned (as in the case of gay pride parades) or broken up, and with participants regularly detained and beaten by police—despite a campaign by human rights defenders in support of Article 31 of the Russian constitution, which guarantees the right of assembly. A 2001 law on political parties (amended in 2004, 2005, and 2009) is used to close down opposition groupings; the Justice Ministry, for instance, has banned the Republican Party, The Other Russia, and the People's Freedom Party.

The government has restricted media rights, and violence against media workers has burgeoned. The high-profile killings of Politkovskaya and Baburova and the brutal assaults on journalists Mikhail Beketov (2008) and Oleg Kashin (2010) are but the tip of an iceberg. This year the Russian Union of Journalists and the International Federation of Journalists in a joint report judged that in 2010 the practice of murdering journalists seemed to have given way to savage beatings.

The internet has also come under increasingly tight control in Russia—in the year of the Arab Spring it is perhaps natural for an authoritarian regime to view the internet as a challenge. A leading official of the Federal Security Service (FSB) this April called for Skype, Gmail, and Hotmail to be banned as threats to national security; in July Aleksandr Bortnikov, the FSB's director, complained that the internet lured people into extremism.

In any case, commentators point out that "Runet" is already far from free. An April report by the international monitoring organization Freedom House ranked Russia 22nd out of 37 countries in terms of internet freedom. A June report by the Agora Association, a human rights group, identified 23 incidents of restricted internet access

and persecution of internet users in the first five months of 2011. LiveJournal, the main platform for Russia's blogging community, as well as *Novaya Gazeta*, have suffered major denial-of-service attacks that observers believe could not have been staged without government resources.

## A TEST OF WILL

Russia's historic entry into the Council of Europe (1996) and its ratification of the European Convention on Human Rights (1998) gave Russian citizens the right to appeal cases directly to the European Court of Human Rights. This court has rendered definitive judgments pinpointing an array of significant human rights violations in Russia: that banning gay pride parades violates the right of assembly; that dissolution of the Republican Party violated the right of association; that in Chechnya, Russia had been responsible for disappearances, torture, and killing; that the right to a fair trial had been violated in cases such as that of the former arms control researcher Igor Sutyagin (sentenced for spying).

These judgments by the European court provide a simple means of testing the political will of the Russian leadership regarding human rights protection. As emphasized by Thomas Hammarberg, the human rights commissioner of the Council of Europe, member states must ensure a prompt, full, and effective execution of the court's judgments.

Indeed, not to implement the court's judgments in full constitutes a violation of Russia's international obligations under Article 46 of the European Convention on Human Rights, according to which states "undertake to abide by the final judgment of the court in any case to which they are parties." A lack of political will to protect human rights is in itself a breach of Moscow's international obligations.

If Russia's leaders are putting themselves above the law, it could be said they are showing allegiance to an older, Soviet tradition of politics. This tradition, against which the founders of the Moscow Helsinki Group were protesting when they gathered in Sakharov's apartment back in 1976, is founded on a gulf between civil society and the state. Challenged at the end of the 1980s and in the 1990s, this divide survived to take on a new life under the Putin regime.

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For human rights and the rule of law to be firmly established in the Russian Federation there has to be what might best be called a “revolution of the spirit,” based on a new community of understanding among elites and the general public that the old divide must be overcome.

This revolution of the spirit would entail a genuine and shared commitment to observe human rights and to honor and protect human rights defenders. The Russian justice system would have to be firm in its independence. The government would need to take action to protect citizens' rights, not curtail them, especially in key areas such as the rights of assembly, association, and free speech. And the nation's leaders would have to find the political will to abide by their international human rights obligations.

A number of elements could come together to bring about this scenario: a reformist political leadership; responsible civil society movements strong enough to be reckoned with; a democratically oriented nation-building ethos able to overcome social and political divisions; an informed and influential public no longer willing to toler-

ate irrational authoritarianism; growth in the economic importance of a middle class of entrepreneurs not dependent on the oil and gas industries; and the positive influence of free communication with citizens and governments of other countries, not least those in the West.

### PASSING THE TORCH

What is certain is that without an indigenous community of activists dedicated to the defense of human rights, none of this will happen. Indeed, Russian history has shown the world the importance of an activist community able, even in Soviet times, to keep the flame of human rights alive.

For this reason the older generation of Russia's rights defenders and the qualities that they personified—clarity of purpose, fortitude, endurance, and compassion among them—will continue to serve as a model both for the younger generation of activists living and working in Russia today, and for people the world over who are concerned about protecting fundamental rights in the face of governments intent on denying such rights. ■

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