RIGHTS IN RUSSIA

Navalny and the Opposition

Michael Weiss

Since Vladimir Putin returned to the presidency he never really left, Russia's descent into neo-Soviet authoritarianism has become daily more brazen. Dissidents are once again being put on show trials that call up the ghosts of Joseph Brodsky, Andrei Sinyavsky, and Yuli Daniel. Laws are being jammed through the Duma with the express purpose of making Western-minded Russians fear that they will be arrested for spying for foreign powers. Putin has adroitly dusted off a Cold War narrative in which the United States is trying to foment a "color revolution" in Russia using agents and hirelings, both foreign and domestic, and the people learn once again to fear enemies of the motherland in the employ of the "imperialist" United States.

In September 2012, the Kremlin booted the US Agency for International Development out of Russia. The organization had spent around $2.6 billion since the end of the Cold War in funding civil society groups and nongovernmental organizations involved in everything from monitoring elections to fighting tuberculosis. Two months later, the Duma passed a bill redefining treason to encompass "giving financial, technical, consulting, or other help" to foreign governments (the previous definition had been lim-

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ited to stealing state secrets or abetting foreign governments in harming Russian security). A new law was recently passed forcing nongovernmental organizations that receive funds from abroad or engage in nebulously defined "political" activity to register themselves as "foreign agents."

Paranoid accusations that America "interferes" with Russia's domestic politics abound on Kremlin-controlled airwaves and provide a pretext for the continuing legal inquisition against the Russian opposition. The trial and conviction of the feminist punk band Pussy Riot last year, for staging a "punk protest" in Moscow's main Orthodox cathedral, was a prelim for the main events—the cases of Aleksei Navalny, charismatic voice of the opposition, and of the protesters of Bolotnaya Square. These cases stand as symbols of the price of opposition in Russia today.

In 2009, the thirty-three-year-old Navalny took a job as an adviser to the regional governor of Kirov, a city nearly six hundred miles away from Moscow. He was put in charge of overseeing the city's state-owned forestry company, Kirovles. Soon after taking the job, Navalny was contacted by Petr Ofitserov, an old friend from his days in the liberal Yabloko party who now had a consultancy and was interested in getting involved in the timber industry.

Over the next year, Navalny established a reputation as Russia's brightest anticorruption crusader who became a problem for Putin by his online exposés of the crony capitalist deals made by members of the ruling United Russia party and top-heavy state companies. In December 2010, a month after Navalny documented in his customary fearless fashion how Transneft, a state-owned oil giant, had pilfered $4 billion, Russia's Investigative Committee, which is similar to the FBI, instructed its Kirov division to embark on a full-scale investigation of his activities at Kirovles and the forestry company's business arrangements with Ofitserov.

Although it found no evidence of any wrongdoing, in May 2011, the Investigative Committee opened a criminal case against Navalny and Ofitserov, charging them with embezzlement. In April 2012, the Kirov division terminated the criminal case, citing "no information evidencing a deception or abuse of trust by Navalny and Ofitserov." Two weeks later, the Investigative Committee's Central Staff reopened the case anyway and by July 2012 Navalny was served a summons notifying him of a forthcoming indictment.

The timing of the harassment of dissidents under Putin is never coincidental. Navalny's indictment arrived just as he exposed yet another high-profile member of the new Putinist order—the eminent Alexander Bastrykin, head of the Investigative Committee itself, who had already earned an infamous reputation for threatening to behead a muckraking journalist in a Moscow forest. Despite his official declarations to the contrary, Bastrykin was now shown to have owned a business in the Czech Republic and at least one apartment there.

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Navalny's exposure of Bastrykin as just another government profiteer playing a game of asset hide-and-seek sealed his fate. At a meeting with subordinates in St. Petersburg, Bastrykin made clear that a lack of evidence against Navalny was no reason not to throw the book at him. As the Associated Press reported, Bastrykin told his subordinates: "You had a criminal case against this man, and you've quietly stopped. For such things, there will be no mercy."

The Investigative Committee claims that Navalny and Ofitserov conspired to hawk forestry goods for between three and twenty-four percent below market prices and pocketed the difference—16 million rubles ($500,000). Yet no actual market prices at the time of the alleged offense were disclosed when the trial began in mid-April, nor was there any proof of how this embezzled fortune left Kirovles's coffers, much less of where it eventually wound up. The Chicago-based law firm Loeb & Loeb, having carefully investigated the Kirovles case, discusses the facts of what I've summarized above in a white paper that states: "Given these facts and the primary investigators' well-supported conclusion of no criminal conduct, the only explanation for Moscow's reversal of that decision [and] the

ensuing indictment against Mr. Navalny, is political motivation."

In all, thirty-five witnesses were called by the prosecution, of which thirty-three testified on behalf of the defendants. The defense was not allowed to call a single witness, but this hardly mattered anyway as presiding judge Sergei Blinov had never acquitted a single person who ever came before his court. Olga Kuzmenkova, a reporter with the online newspaper *Gazeta*, wrote in a May 15th article that one witness for the prosecution, Sergei Shcherchkov, the deputy chairman of the regional government in Kirov, testified that by the time Navalny and Ofitserov went to work for Kirovles, the government-owned lumber business was already operating at a severe loss. Other witnesses included directors of various lumberyards. Kuzmenkova wrote, "They were mainly middle-aged people who had once headed branches of Kirovles, and could not recall what exactly they had said to investigators, and sometimes did not recall whether they had spoken to the prosecutors at all."

Contrasting Navalny's trial with those of Mikhail Khodorkovsky, the billionaire oligarch who is now nearing ten years in prison as a political prisoner, and Sergei Magnitsky, the accountant-whistleblower who died under suspicious circumstances in state custody in 2009, Russian commentator Vladimir Pastukhov wrote in the *Novaya Gazeta* last spring, "What distinguishes the 'Navalny case' from the 'Khodorkovsky case,' or the 'Magnitsky case,' is that nobody even tries to camouflage the political nature of this judicial lynching."[1] Indeed, Vladimir Markin, head of media relations at the Investigative Committee, suggested in an interview in the pro-Kremlin newspaper *Izvestia* that Navalny was an American spy who had been recruited while traveling in the United States.

"I think that no one of us has the right to neutrality," Navalny said in his much-cited closing statement at trial. "Every time someone thinks, 'Why don't I step aside and wait?' he only helps this disgusting feudal regime that, like a spider, is sitting in the Kremlin. He helps these hundred families, which are sucking from all of Russia. He helps them to put the Russian people on the path of degradation and drinking to death, and to take away all of the national wealth from the country."

On July 18th, Navalny was sentenced to five years in prison, Ofitserov

1. In the interest of full disclosure, I should state that the *Interpreter*, the online Russian translation journal I founded and edit, is co-sponsored by the Institute of Modern Russia, a New York–based think tank whose president is Khodorkovsky's son, Pavel.

to four years plus a $15,400 fine. The reading of the sentence lasted three hours, during which Navalny live-tweeted about the farcical nature of the whole proceeding and encouraged his supporters not to lose faith. As he was taken to prison, protests broke out all over Moscow, with thousands marching to the Kremlin's doorstep to demand his release.

For reasons that probably owe more to faction fights within Putin's upper echelons of government than to any acknowledgment of popular will, Navalny and Ofitserov were released the following day pending the exhaustion of appeals that are mere formalities. Navalny was therefore also allowed to continue the campaign he had begun for mayor of Moscow as the Republican Party of Russia–People's Freedom Party candidate against "acting mayor" and United Russia member Sergei Sobyanin. Appointed to his position in October 2010, Sobyanin had resigned in June so he could be directly elected by Muscovites.

The outcome of the September election was almost certainly decided by the Kremlin a month earlier. In early August, the official website of the president of Russia accidentally published a letter of congratulations to Sobyanin for the latter's election victory, even though the polls weren't set to open for another month. The letter stated that Sobyanin won handily with 76.4 percent of the vote; Navalny was a distant second with nine percent. Nevertheless, Navalny's campaign marked a return to the kind of grassroots political activism not seen since the end of the Soviet Union. In August, Navalny even published one of his trademark exposés on the undeclared wealth of his opponent.

Sobyanin "won" the election, with an official tally of 51.37 percent of the vote, which was just over the bar (fifty percent plus one vote) to avoid a second round. Navalny, however, performed far better than the polls had expected him to: the state accorded him 27.24 percent. Both Navalny's camp and an election monitor, which conducted a parallel vote count, estimated that Sobyanin actually fell short of fifty percent, and an article in the newspaper *Vedomosti* found that, based on a breakdown of Moscow voting districts, Navalny actually trumped Sobyanin in Gagarinsky, where the least number of "irregularities" were recorded.

Navalny held a massive rally at Bolotnaya on the night of September 9th, once the election had been called for his opponent. He declared his campaign and performance a moral victory and said, "Politics has finally been born in Russia in these elections! An opposition has been born!"

Bolotnaya Square in central Moscow was a fitting venue for arguably the end of Navalny's transformation from opposition leader to mainstream politician. A year earlier, in May 2012, thousands of Russians, led by Navalny and others, took to the streets in Moscow to protest Putin's upcoming inauguration as Russia's president. The day ended with around four hundred people under arrest and dozens injured. What occurred has been the source of intense media interest, particularly in light of the twenty-seven protesters who have subsequently been brought up on formal charges by the Investigative Committee, primarily related to their supposed planning and orchestration of a "riot" and their assault of law enforcement officers.

The problem for the Putin government is that many law enforcement officers do not agree with the Investigative Committee's findings. On April 8th, the Russian *Daily Journal* published a document produced by the Interior Ministry and signed by the deputy chief of the ministry's Directorate for Protection of Public Order for the City of Moscow. It concluded that, quite apart from the state's case against the protesters, any violence that occurred was the fault of state police provocateurs who interrupted a peaceful demonstration. Three groups, the December 12th Round Table, the Republican Party of Russia–People's Freedom Party, and the May 6th Committee, also conducted their own investigation into what happened, using the expertise of human rights specialists, political activists, and academics.

Both the state and independent observers agree that close to thirteen thousand Interior Ministry personnel were on the heavily cordoned streets of Bolotnaya Square that day, including regular police, OMON (riot police), and even the Interior Ministry's own paramilitary forces. There were also regular army troops called up from the Moscow suburbs and other cities, as well as suspicious plainclothes individuals. As one eyewitness put it in the independent report, excerpts of which appeared in the *Novaya Gazeta*: "At the moment I was passing through, a group of young people came up to me, college-age, wearing black balaclava masks, black T-shirts, and black jeans. The policeman who forced me to pass through a fence told the other policemen that these young people were not to be searched and were allowed through outside the fence all at once. That surprised me." Another eyewitness said when he saw between twenty and thirty of these black-clad thugs go into action, some of whom

had brass knuckles, he tried to get the officers' attention but was ignored.

At the Maly Kamenny Bridge, Internal Forces emergency soldiers stopped the first columns of marchers in their tracks. Truncheon-wielding OMON soldiers blocked them from behind. Trapped, the marchers staged a "sit-in" on the bridge. Opposition leaders, such as father-and-son Duma deputies Gennady and Dmitry Gudkov and human rights ombudsman Vladimir Lukin, were trying to negotiate with state forces to resolve the situation when the provocateurs breached the barriers, followed in the confusion by the crush of other protesters. Mass arrests soon followed. Video footage also shows the black-clad kids in masks throwing pieces of pavement at the cops. They were not detained; instead, demonstrators were grabbed at random and hauled off to OMON paddy wagons, then to jail.

A "Stalin-style trial" is how Georgy Satarov, a former aide to Russian President Boris Yeltsin, described the Bolotnaya case. "It's an attempt to use fear to stop the growth of the protest movement." As their trial commenced, all twelve of those arrested as symbols of the movement refused to plead guilty and professed to not even comprehend the charges brought against them. "Your honor, I am being slandered," Denis Lutskevich, one of the suspects, told Zamoskvoretsky Court in Moscow. "The case is fabricated and I cannot understand at all what I am accused of." Sergei Krivov, another suspect, told the court, "I was beaten. And now the policeman who beat me with a club over the head is saying that I caused him pain." A third suspect, Vladimir Akimenkov, who suffered from an eye disease, has nearly gone blind in jail.

Three parties implicated in the Bolotnaya case have been subjected to a persistent campaign of harassment and defamation. Foremost among them is Givi Targamadze, head of the Georgian Parliament's defense and security committee at the time of the incident, who did not take part in the protest but has been singled out as a mastermind of it. Moscow tried to use Interpol to have him arrested and extradited. But the agency's general secretary, Ronald Kenneth Noble, said the request was not in compliance with Interpol's Constitution, which expressly excludes "intervention or activities of a political, military, religious, or racial character." Next, Russia tried unsuccessfully to have Targamadze extradited from Lithuania when he traveled there. The Russian prosecutor general's office alleged in a document to the Vilnius Regional Court that Targamadze conspired with three others to offer "financial support" in excess of $200,000 to rioters,

and that this quartet, working in concert with "other unidentified persons," planned riots in "Moscow, Kaliningrad, Vladivostok, and other cities of the Russian Federation and in prisons, for blocking the railroads and performing unlawful acts there."

Both the Bolotnaya and Navalny cases have taken place amid an increasingly hostile environment for any type of intellectual or political activity at all critical of the Putin regime. In late July, a group of prominent Russian lawyers published an open letter in which they stated that "on the twentieth anniversary of the Russian Constitution, the constitutional system of the country is under threat. The basic provisions of the Constitution and, above all, a constitutional nature of Russia as a state based on the rule of law, have essentially become meaningless declarations."

And it isn't only those on the outside of the state government who are feeling the heat. Vladislav Surkov, once thought of as Putin's ideologist-in-chief and frequently referred to as the Kremlin's "gray cardinal," criticized the Investigative Committee for its probes into Skolkovo corruption before an audience at the London School of Economics in May and soon after was forced to resign. Also in May, Sergei Guriev, a top Russian economist, resigned as dean of the Russian Economic School and emigrated to Paris because, as he claimed, he had been harassed by the Investigative Committee after participating in a public review of the Khodorkovsky case, which found serious flaws and irregularities in the prosecution.

Putin has even declared war on dissidents who have died. In July, Sergei Magnitsky, the Russian lawyer who detailed a $230 million tax fraud, was tried for the very crime he exposed and found guilty—in spite of the fact that he had already been tortured to death in pretrial detention in 2009. The verdict was a blatant response to passage in the US Congress of the Sergei Magnitsky Rule of Law Accountability Act in 2012, which aims to freeze American assets of Russian officials implicated in gross human rights violations. The Kremlin has reacted to the legislation with a "nervous breakdown," as one observer put it, first by banning Americans from adopting Russian orphans, then by implementing its own "counter-Magnitsky" sanctions, aimed primarily at those US officials who helped arrest and prosecute Viktor Bout, an international Russian arms dealer with alleged ties to Russian intelligence.

The offer of asylum to NSA leaker Edward Snowden is the latest proof that the Obama administration's prized "reset" with Moscow has unraveled, primarily because of the Putin regime's full-scale assault on civil society and its continued backing of the murderous regime of Bashar al-Assad in Syria. Because Russia's domestic politics has historically been inextricable from its foreign policy, the Kremlin's brutality at home has been reflected in a more truculent stance abroad. That is why Andrei Sakharov's idea of linking détente with the internal human rights situation makes as much sense in dealing with Moscow today as it did at the height of the Cold War in the 1970s. That is why the new dissidents of Russia look to the West for support in their struggle.

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