Russia’s Descent Toward Authoritarianism: An Examination of the Khodorkovsky Case

The Russia Studies Centre at The Henry Jackson Society

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1. Introduction

The arrest and imprisonment of Mikhail Khodorkovsky, President of the Yukos oil company, in October 2003 marked a watershed in modern Russia. Until then, the international community had been willing to believe in President Vladimir Putin’s seemingly democratic and market-oriented intentions, in which he would restore the viability of the Russian state and set Russia on a course of partnership with the West. Since the so-called ‘Yukos affair’, however, Putin’s regime has assumed an increasingly authoritarian appearance.

After a long period of pre-trial detention, Khodorkovsky – who, in 2004, was the wealthiest person in Russia and, according to Forbes, the 16th wealthiest person in the world – was sentenced in May 2005 to nine years in jail for fraud and tax evasion. After an appeal reduced his sentence to eight years, and having served half of his initial sentence, Khodorkovsky would have become eligible for parole in May 2007. In February 2007, however, state prosecutors brought new charges. This led to a second trial that started in March 2009 in which Khodorkovsky was found guilty of embezzlement and money laundering and sentenced to seven years in jail, subsequently reduced to six years. After a review of the second trial in March 2012, Khodorkovsky’s sentence was further reduced. He is now due to be released in August 2014.

If there had been domestic and international suspicions that Khodorkovsky’s first trial was politically motivated, the conduct of the second trial, in which Khodorkovsky faced charges that contradicted those he faced in the first trial, served to confirm them. Accordingly, amid widespread international condemnation of the second trial, Amnesty International recognised Khodorkovsky as a ‘Prisoner of Conscience’ in 2011, stating he was “trapped in a juridical vortex that answers to political not legal considerations” 1.

It is now apparent that Khodorkovsky’s arrest in 2003 was a sign of things to come. As Putin has consolidated his power, a process that began in 2000 but which has intensified since his return as President in 2012, a system has developed in Russia in which: economic and political power is centralised; media freedoms are heavily curtailed; the judiciary lacks independence; civil liberties and freedoms are heavily restricted; the security services and military are prominent; state corruption is entrenched; and, there is a blatant disregard for human rights.

This report marks the passing of a decade since the arrest and imprisonment of Mikhail Khodorkovsky by examining the state of human rights, rule of law, political freedom, and corruption in Russia since 2003. In doing so, it uses the Khodorkovsky case as a point of convergence to reflect on these issues.

2. Khodorkovsky’s Decade of Injustice

**Background**

Vladimir Putin’s concentration of power in Russia has been based, in part, on his relationship with the so-called ‘oligarchs’. During his 2000 presidential election campaign, Putin spoke of his desire to “liquidate the oligarchs as a class”\(^2\). Within months of his election in March 2000, Putin’s attack on the oligarchs began. Vladimir Gusinsky’s Media-Most empire was first to be targeted in the summer of 2000. In his July 2000 State of the Nation Address, Putin spoke about the need to break the close relationship between business and state. This continued throughout 2001 and 2002 and was re-invigorated in the run-up to the December 2003 parliamentary elections and the March 2004 presidential election. This time the target was Mikhail Khodorkovsky.

Ahead of a televised meeting on 19 February 2003 with the ‘Russian Union of Industrialists and Entrepreneurs’, Putin asked Khodorkovsky to prepare a report on corruption in Russia. Citing four separate studies to argue that “Corruption Costs the Russian Economy over [US]$30 Billion a Year”\(^3\), Khodorkovsky challenged Putin on government corruption and implied that top state officials were receiving millions of rubles in bribes. The two also clashed over the disparity in oil reserves held by the poorly-managed state-owned company Rosneft and Khodorkovsky’s Yukos, with Putin suggesting those of Yukos – vastly larger than those of Rosneft – had been acquired under dubious circumstances rather than through Khodorkovsky’s expanding and modernising of the company.

Later the same year, in June, Putin told a press conference with domestic and international media that:

> “... an oligarch is a person with stolen money, who continues to plunder the national wealth, using his special access to bodies of power and administration. I am doing everything to make sure this situation never repeats in Russia.” \(^4\)

On 2 July, Platon Lebedev, deputy chair of the Yukos executive committee, was arrested. Months of pressure culminated on 25 October, when Khodorkovsky was arrested following a dawn raid on his plane on a runway in Novosibirsk.

Speculation concerning Khodorkovsky’s arrest centred on political rather than legal grounds. Many in the international community viewed Khodorkovsky’s arrest as punishment for violating an apocryphal pact agreed by Putin and the oligarchs in 2000; the oligarchs could keep the wealth they amassed in the 1990s if they paid their taxes and stayed out of politics\(^5\). Lauded internationally for transforming Yukos into a well-governed, transparent and profitable company, Khodorkovsky was a vocal critic of Putin and had openly supported two of Russia’s liberal political parties – the Union of Right Forces and Yabloko – since 1993. By 2003, his support for these parties was viewed as a threat by the Kremlin; in the December 2003 parliamentary elections, for example, Yabloko’s list of 142 candidates included three top Yukos representatives\(^6\). Putin also believed that Khodorkovsky was supporting the Communist Party, and former Russian Prime Minister Mikhail Kasyanov has stated that Putin personally told him this was the reason for Khodorkovsky’s arrest\(^7\). Khodorkovsky was also a long-time supporter of non-governmental organisations?

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\(^3\) http://www.vanityfair.com/politics/2012/04/vladimir-putin-mikhail-khodorkovsky-russia


\(^5\) http://www.economist.com/node/3983898

\(^6\) http://www.eng.yabloko.ru/Publ/2003/PAPERS/12/031203_2_mt.html

\(^7\) http://www.themoscowtimes.com/business/article/kasyanov-testifies-yukos-case-is-political/406697.html
(NGOs) in Russia. According to estimates, by 2003 he supported between half and 80 per cent of all NGOs. In addition, he was a benefactor of many social welfare programs.

Following Khodorkovsky’s arrest, Yukos – one of Russia’s biggest and most successful companies – was systematically destroyed. After being issued with tax claims worth over US$27 billion in July 2004, rigged liquidation auctions were held in December 2004 in which the majority of Yukos assets were ultimately appropriated by Rosneft. Yukos was declared bankrupt in 2006, and was subsequently liquidated in 2007.

**First Trial**

After a pre-trial detention that lasted for eleven months, Khodorkovsky’s trial began in June 2004. He was charged with violating numerous articles of the Russian Criminal Code, including alleged fraud and tax evasion. These charges targeted Khodorkovsky’s work as Chairman of Bank Menatep, and in particular its acquisition of a 20 per cent stake in Russia’s largest fertiliser company, Apatit, in 1994. Platon Lebedev, who was President of Bank Menatep, faced the same allegations.

The verdict of the trial was delivered between 16 and 31 May 2005. It included the prosecutors’ indictments almost verbatim and was 662-pages long. Khodorkovsky was given a nine-year sentence, which was subsequently reduced to eight years in an otherwise unsuccessful appeal.

**Second Trial**

Having served half of their initial sentences, Khodorkovsky and Lebedev were due to become eligible for parole in the spring of 2007. From February 2007 onwards, however, state prosecutors began to prepare new charges, leading to a second trial in March 2009.

In this trial, Khodorkovsky was accused of embezzling 350 million metric tonnes of oil (worth over US$25.4 billion) and laundering over US$21.4 billion, and embezzling shares worth US$102 million held by Eastern Oil Company, a Yukos subsidiary. The prosecution’s presentation of its case lasted for almost one year, from 21 April 2009 to 29 March 2010.

The verdict of the trial was scheduled for 15 December 2010 but a note posted on the courtroom door announced a delay until 27 December. The 689-page decision subsequently found Khodorkovsky guilty of embezzling and laundering the proceeds of all oil produced by Yukos subsidiary companies between 1998 and 2003. With less than a year remaining on their initial sentences, Khodorkovsky and Lebedev were sentenced to a further seven years in jail. Their release from prison was put back from 2011 to 2017.

The defence promptly initiated appeal procedures. On 24 May 2011, the court’s decision was upheld but the sentence was reduced to six years.

**Prolific Media Presence**

Although he began doing so in the late 1990s, since being jailed Khodorkovsky has espoused his vision of Russia’s modernisation; of a socially progressive, market-oriented, democratic Russia that respects human rights and the rule of law. Through publishing six books and authoring numerous articles, many of which have been published throughout western Europe and North America, Khodorkovsky has become a prominent commentator on economic, political and social issues in Russia, including the trial and imprisonment of members of the punk-rock collective ‘Pussy Riot’ in 2012, and the treatment of so-called...
‘Bolotnikis’ (individuals who were arrested after participating in the anti-government protests in Bolotnaya Square, Moscow in 2012).

This has not been without danger or personal sacrifice, however. Khodorkovsky has been subjected to arbitrary disciplinary measures as punishment for his media engagement, including being placed in solitary confinement following the publication of each article 11. In one particular case, in October 2008, he was placed in solitary confinement for 12 days for giving a written interview to the Russian edition of *Esquire* magazine, despite the fact that the interview had been approved by authorities.

**Potential Release**

Given public criticism of the conduct of the second trial, in January 2011 the ‘Presidential Council of the Russian Federation for Civil Society and Human Rights’ announced plans to conduct an independent review of the case. These plans were approved by then President Dmitri Medvedev the following month. The resulting 400-page report, released in December 2011, identified serious and widespread legal violations in the trial and called for a prompt annulment of the “illegal” guilty verdict and the release of Khodorkovsky and Lebedev 12. It also called for systemic reforms to restore public confidence in the Russian judiciary.

In response, in March 2012 Medvedev ordered a review of the case, which was rapidly dispensed with by prosecutors. Meanwhile, on appeal, in December 2012 the Moscow City Court reduced Khodorkovsky’s sentence by two years, and this was further reduced by two months by the Russian Supreme Court in August 2013 – but the guilty verdict remains.

**Political Interference**

In addition to a multitude of legal violations relating to due process, including the retrospective and selective application of laws, both of Khodorkovsky’s trials have been characterised by political interference. During the initial investigation in September 2003, Putin stated: “The case is about Yukos and the possible links of individuals to murders in the course of the merging and expansion of this company … the privatizations are the least of the reasons for it … in such a case, how can I interfere with prosecutors’ work?” 13. The day following Khodorkovsky’s arrest in October 2003, Putin released a statement that said:

> “Everyone must be equal in the eyes of the law. A modest clerk … a big businessman, no matter how many billions of dollars he has on his private or corporate accounts... If this rule does not hold ... we will not be able to make anyone pay taxes and we will never contain organised crime and corruption.”

Putin repeated this theme in his Address to the Federal Assembly on 10 May 2006, when he was unrepentant about having “trodden on some toes” [referring to Khodorkovsky] in his efforts to break the close relationship between business and government. Putin stated:

> “And we will continue to tread on them. But these are the toes of comparative few who seek to retain or gain position or riches or both by some short cut that is harmful to the greater good.”

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15 http://archive.kremlin.ru/eng/speeches/2006/05/10/1823_type70029type82912_105566.shtml
On 16 December 2010, one day after the verdict on Khodorkovsky’s second trial was delayed, Putin stated live on national television during his annual question-and-answer session that, “a thief should sit in jail” 16, clearly reflecting his opinion of Khodorkovsky’s guilt. Given that Khodorkovsky’s case was still under active consideration by the court, Putin’s comments violated Khodorkovsky’s right to be presumed innocent and thus were in violation of the Russian Constitution (adopted in 1993).

In February 2011 Nataliya Vasilyeva, an assistant to Judge Viktor Danilkin (who convicted Khodorkovsky in the second trial) and press secretary at the Khamovnichesky Court, claimed the “guilty” verdict in the second trial was “brought from the Moscow City Court” and that “everyone one in the judicial community understands perfectly that this is a rigged case, a fixed trial.” 17 Months later, in April 2011, Igor Kravchenko, a former administrator at the same court, stated in an interview with Novaya Gazeta newspaper that Judge Danilkin, referring to outside interference in the Khodorkovsky-Lebedev case, had admitted “I don’t decide this. Whatever they say, that’s what will be” 18.

**International Criticism**

There has been wide-ranging and widespread international criticism of both of Khodorkovsky’s trials. This criticism has focussed not only on the political nature of the trials and the legal violations committed in their course, but also the far-reaching economic and political consequences of them.

In September 2004, the Organisation for Economic Cooperation and Development (OECD) stated in its annual economic survey that:

> “The courts are often subservient to the executive, while the security services, the prosecutors and the police remain highly politicised ... The so-called ‘Yukos case’ reflects these problems.” 19

In November 2004, the Parliamentary Assembly of the Council of Europe (PACE) Committee on Legal Affairs and Human Rights published a report that concluded:

> “the circumstances of the arrest and prosecution of leading Yukos executives suggest that the interest of the State’s action in these cases goes beyond the mere pursuit of criminal justice, to include such elements as to weaken an outspoken political opponent, to intimidate other wealthy individuals and to regain control of strategic economic assets.” 20

In June 2009, the PACE Committee on Economic Affairs and Development criticized the Russian government’s handling of the Yukos case, concluding that:

> “The Yukos affair epitomises this authoritarian abuse of the system.” 21

In September 2011, the International Bar Association – the only organisation to act as a full-time observer in court for the duration of the second trial – found that the second trial “was not fair” and was based on “long, chaotic, mistake-ridden and self-contradictory” evidence 22.

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18 http://impunitywatch.com/?p=17295
19 http://news.bbc.co.uk/1/hi/business/3872311.stm
22 http://www.ibanet.org/Article/Detail.aspx?ArticleUid=61cf8166-7cdf-4159-b52a-9d8ac162d677
In addition, Khodorkovsky has brought four applications to the European Court of Human Rights (ECtHR). The judgement of the first, lodged on 9 February 2004, was announced in May 2011. It found that Khodorkovsky’s fundamental human rights – as guaranteed under the European Convention on Human Rights – had been violated in his arrest and detention between 2003 and 2005.\(^{23}\) The second application, lodged on 16 March 2006 and which related to his first trial and subsequent imprisonment in Krasnoyarsk prison camp in Eastern Siberia, was ruled partly admissible in November 2011. In July 2013, the ECtHR ruled that, while the trial “had a healthy core”, “some government officials had their own reasons to push for the applicants’ prosecution”\(^{24}\). The judgements on the third\(^{25}\) and fourth\(^{26}\) applications, which have been merged, are outstanding.

\(^{23}\) Enter 5829/04 in the ‘Search’ box.
http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{%22documentcollectionid2%22:[%22GRANDCHAMBER%22,%22CHAMBER%22]}

\(^{24}\) http://hudoc.echr.coe.int/webservices/content/pdf/003-4445686-5349935

\(^{25}\) The third application concerns Khodorkovsky’s treatment in the Chita detention facility in Eastern Siberia beginning in 2005, the charges brought against him in 2007, and human rights violations during his second trial between 2009 and 2010.

\(^{26}\) The fourth application concerns comments made by Putin in his televised question-and-answer session in December 2010.
3. Developments in Russia over the Last Decade, 2003-2013

Russia has undergone a number of significant changes over the last decade. From the arrest of Khodorkovsky in 2003 and Putin’s re-election as President in 2004, to the ending of its counter-terrorist operations in Chechnya in 2009 and accession to the World Trade Organisation in 2012, the Russia of 2013 is, in many respects, an entirely different country to that of 2003. According to data from the International Monetary Fund, Russia’s Gross Domestic Product (GDP) increased almost five-fold over the decade, from US$430.30 billion to US$2,109.02 billion 27 This growth is primarily due to an almost four-fold increase in the global price of crude oil 28 and a trebling in the price of Russian gas 29 between 2003 and 2013, and has led to Russia’s economic dependence on hydrocarbons. In 2012, oil and gas accounted for nearly 70 per cent of Russia’s total exports, compared with less than 50 per cent in the early 2000s 30. Reflecting Putin’s consolidation of political power, these developments have been accompanied by an increasingly authoritarian political system. While in 2003 Freedom House described Russia as “Partly Free”, by 2013 its description was “Not Free”.

Although Putin’s attempts to reassert the authority of the Russian state – through creating a strict ‘vertical of power’ – began following his election as President in March 2000, they increased throughout 2003 and intensified after the hostage siege in Beslan, North Ossetia-Alania in 2004 in which at least 385 people, mostly children, were killed. In addition to a host of security measures, in late 2004 Putin announced the centralised appointment of Russia’s regional governors and overhaul of the Russian electoral system, which gave additional strength to the party in power. It was no coincidence that this was Putin’s own ‘United Russia’ party. He also oversaw a crackdown on media freedoms and increased state control over the economy. Between 2008 and 2012, Medvedev sought to modernise Russia through a series of high-profile campaigns and reforms. In reality, however, these achieved very little. Since his return as President in 2012, Putin has further centralised power. In the aftermath of high-profile anti-government protests in the winter of 2011 / 2012, he cracked down on civil society, introduced a series of repressive laws restricting freedom of expression, and targeted political opposition. In the summer of 2013, meanwhile, Putin approved a series of draconian laws designed to suppress any form of dissent, one of which criminalised blasphemy and another that banned “propaganda of non-traditional sexual relations”.

**Human Rights**

The rights and liberties of Russian citizens are enshrined in Chapter 2 of the Russian Constitution, and Russia is a signatory to the Universal Declaration of Human Rights. In addition, Russia is a signatory to a number of other international agreements, all of which, according to Chapter 1 Article 15 of the Russian Constitution, take precedence over national laws. Despite this, abuses of human rights are widespread, and are often rationalised with appeals to ‘preserve public order and political stability’.

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29 As per the International Monetary Fund, the figures given are those for the price of Russian gas at the German border. The cost increased from US$3.15 per Million Metric British Thermal Unit in January 2003 to US$10.97 in August 2013. http://www.imf.org/external/np/res/commod/External_Data.csv
This has particularly been the case in Chechnya, where Russian authorities have actively restricted research into human rights abuses committed during the second Chechen war (1999-2002) and during Russia’s anti-terrorist operation in the republic (1999-2009). Individuals and organisations have been targeted by the state with a view to silencing them and hindering public discussion of the situation there; in September 2003, for example, Russian authorities took control of the independent polling firm VTsIOM (‘All Union Institute on Public Opinion’) after it published research showing falling public support for the second Chechen war.

Even before he became President of Chechnya in 2007, Putin has staunchly supported former-rebel Ramzan Kadyrov’s efforts to ‘pacify’ the republic through implementing Sharia law and using a private militia, the so-called ‘Kadyrovtsy’. Numerous human rights groups accuse Kadyrov of persecuting critics and committing abuses in his fight with Islamic extremism. In 2006, for example, the well-respected German human rights group ‘Society for Threatened Peoples’ called Kadyrov a “war criminal” and alleged that he was responsible for up to 75 per cent of murders, instances of torture, rape and kidnapping in Chechnya. While the situation in Chechnya has improved since then – largely due to Kadyrov’s alleged use of extrajudicial killings and collective punishment – insurgency has re-located to surrounding republics, particularly Dagestan and Ingushetia. Although the cycle of arbitrary detention, torture and forced disappearance that characterised Chechnya in the mid to late 2000s no longer exists, large numbers of people are still dying each year as a result of continued instability in the North Caucasus; at least 700 people were killed in 2012 owing to armed conflict in the region.

Outside of the North Caucasus republics, Russia has been slowly cracking down on human rights since 2003. While Putin has portrayed himself as an upholder of human rights, in practice he has done exactly the opposite, frequently overlooking, for example, widespread torture and ill-treatment of criminal suspects by police, violent ‘initiation’ (or ‘hazing’) ceremonies for new recruits in the armed forces (as part of the so-called ‘Dedovshchina’ system), and inhuman treatment of orphans and persons in psychiatric care. This has been accompanied by increasing restrictions on international monitors: in 2008, the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe cancelled its planned observation mission of the presidential election citing “severe restrictions” that Russia had placed on its observers. These negative developments were compounded in 2009 when at least five human rights activists were killed and harassment and violence toward others increased markedly. This deterioration in the human rights situation climaxed in 2012 when the Kremlin “unleashed the worst political crackdown in Russia’s post-Soviet history”, according to Human Rights Watch.

The worsening human rights situation in Russia is reflected in the growing number of Russians seeking asylum in Europe. According to statistics published by the European Commission, the number of Russians seeking asylum increased by over 20 per cent between 2005 (the first year for which statistics are available) and 2012, from 19,310 to 24,280.

**Rule of Law**

Despite declaring the “dictatorship of law” in 2000, Putin has utilised Russia’s legal system to achieve political aims and garner public support, primarily under the banner of combating crime and corruption. While this has involved increased cooperation with foreign law enforcement agencies and international bodies on issues such as capital flight, fraud and money laundering, Putin’s reforms have served to

31 [http://www.gfbw.de/pressemit.php?id=688&PHPSESSID=460043a9ad74cade2aa4777e6c4c5248](http://www.gfbw.de/pressemit.php?id=688&PHPSESSID=460043a9ad74cade2aa4777e6c4c5248)
32 [http://eng.kavkaz-uzel.ru/articles/23821/](http://eng.kavkaz-uzel.ru/articles/23821/)
entrench his political position at the expense of the rule of law itself. In 2012, the World Justice Program placed Russia in the bottom third of countries globally in its ‘Rule of Law’ index. Of 97 countries included in the Index, Russia was placed 78 for its criminal justice system and ranked 92 for governmental accountability before the law. As this suggests, abuse of the legal system is widespread in Russia.

While a legal vacuum has existed in Chechnya since at least 1994, developments since 2003 have retarded the development of the rule of law throughout Russia. Notoriously corrupt and inadequately funded, in 2004 Putin eroded the independence of the judiciary by establishing full control over an office in the Supreme Court that supervises the hiring and removal of judges. In 2006, Russia introduced a law on combatting extremism and terrorism that allowed for the banning of any organisations that justify or support terrorism. The law was so vaguely worded that it could be used to silence opposition politicians and the media; in short, anybody critical of Putin. The same year, Putin signed a law that handed bureaucrats the responsibility for registering NGOs and imposed extensive requirements on these organisations; effectively making it easier for authorities to shut down NGOs critical of government. The law placed extensive controls on NGOs that received foreign funding, and in 2008 Putin removed the ‘tax exempt’ status of many Western foundations and NGOs. At the end of 2008, Russia ended the use of jury trials, which had only been introduced in 2003, for crimes of a “terrorist nature”, and in 2009 Putin suggested doing the same for cases involving organised crime.

These developments have been accompanied by a failure on the part of Russian authorities to address longstanding problems in the criminal justice system, including poor prison conditions, high mortality rates for individuals in pre-trial detention, the widespread use of illegal detention and torture by law enforcement officials to extract confessions, and the sending of women thousands of miles to serve their sentences in penal colonies.

In addition, one telling development over the last decade has been the use of criminal law for political purposes. While this practice pre-dates 2003, its use has intensified since then. It has not only been used against a number of individuals connected to Yukos, including Svetlana Bakhmina and Vasily Aleksanyan, but also against others, including ‘Pussy Riot’, leading political opposition figure Alexei Navalny, and ordinary citizens participating in the anti-government protests on Bolotnaya Square in May 2012.

Given such high profile abuses of the rule of law, public distrust in the legal system is growing, and this is reflected in the number of cases involving the Russian state that have been seen at the ECtHR. Between 2003 and June 2013, the number of cases registered at the Court involving the Russian state and pending judgement increased over four-fold, from 4,777 to 22,350.

**Treatment of Dissidents**

In addition to the return of the Soviet-era practice of punitive psychiatry for political opponents, since 2003 there has been a clamp-down on the spaces available for dissidents in Russia as the right to freedom of assembly – guaranteed by Article 31 of the Russian Constitution – has become problematic. In 2004, the law “On Meetings, Rallies, Demonstrations, Marches and Pickets” obliged organisers to notify authorities in advance if planned public assemblies involved more than one participant. Since then, police have frequently dispersed public rallies organised by civil society activists and political opposition, often using excessive force and detaining peaceful protesters. This was the case between 2005 and 2008 with the ‘Dissenters’ March’ street protests demanding the
democratisation of Russia, and continues to be the case with the ‘Strategy-31’ initiative, which, since 31 July 2009, has held rallies in Moscow for the freedom of assembly on every 31st day of the month in which such a day exists. This legislation has also been used, since 2006, by Moscow authorities to ban the ‘Moscow Pride’ gay rights march; in 2012, Moscow authorities banned gay pride parades in the city for one hundred years – until May 2112 39.

Following the anti-government protests of 2011 and 2012, authorities adopted laws cracking down on Russian civil society collaborating with their Western counterparts. In July 2012, a law was passed requiring all organisations receiving foreign funding and involved in loosely-defined “political activities” to be stigmatised as “foreign agents” with the Ministry of Justice; non-compliance with which is punishable by prison. The same month, the law “On Information, Information Technologies and Information Protection” increased internet censorship and curbed the freedom of expression. Three months later, the law “On High Treason” significantly broadened Article 151 of the Criminal Code on espionage and treason in such a way that almost any correspondence between Russian citizens and representatives of foreign organisations could be considered treason.

The few progressive steps made by Russia in its treatment of dissidents since 2003 have been largely rolled back. The de-criminalisation of libel, for example, which was initially suggested in the early 2000s, entered into effect on 1 January 2012 only for it to be re-criminalised in July 2012.

In short, Russian authorities have restored the Soviet-era criminalisation of dissent and are attempting to frighten the Russian people into passivity.

Furthermore, since the early 2000s there been a worrying trend of the murder of dissidents and other individuals critical of the Kremlin, even outside of Russia. Examples include: Zelimkhan Yandarbiyev, murdered in 2004 (in Qatar); Alexander Litvinenko, murdered in 2006 (in England); Anna Politkovskaya, murdered in 2006 (in Russia); Nataliya Estemirova, murdered in 2009 (in Russia); Umar Israilov, murdered in 2009 (in Austria); Sergei Magnitsky, murdered in 2009 (in Russia); and, Stanislav Markelov, murdered in 2009 (in Russia). In addition to Politkovskaya and Estemirova, the Committee for Protection of Journalists, a New York-based independent organisation, has identified 17 other journalists as having been killed in Russia between 2003 and 2013; 8 of whom have been killed by “military” or “government” officials 40.

While the marginalisation of dissident, which began in 2006 with amendments to the 2001 law “On Political Parties” and imposed onerous requirements on organisations to be registered as political parties, was relaxed in 2012, its impact is visible in the declining number of political parties participating in parliamentary elections; 30 in 2003 compared with 7 in 2011.

**Corruption**

While figures from the World Bank show that Foreign Direct Investment increased over six-fold, from US$7.958 billion to US$51.416 billion 41, between 2003 and 2013 and suggest that Russia’s investment climate has improved over the last decade, this is not the whole story. A decade in which one of the country’s biggest and most successful companies (Yukos) was systematically dismantled and appropriated by the state, an international business consortium was placed under legal and political pressure to sell the majority stake in its enterprise (the Sakhalin-II project) to a state-owned company, and a lawyer (Sergei Magnitsky) was tortured, denied medical treatment and died in police custody after alleging that state officials took part in a US$230 million tax fraud against his client, has implications for how a country is

39 [http://www.humanrightsfirst.org/2012/06/07-gay-pride-parade-banned-for-100-years-in-russia/](http://www.humanrightsfirst.org/2012/06/07-gay-pride-parade-banned-for-100-years-in-russia/)

40 [http://www.cpj.org/killed/europe/russia/](http://www.cpj.org/killed/europe/russia/)

viewed by the international business community. According to Transparency International’s “Corruption Perceptions Index", Russia’s rank fell from 86 of 133 in 2003 to 133 of 176 in 2012.

Rife during the 1990s as Russia struggled to adjust to a market economy, corruption has increased markedly since the early 2000s, with enormous cost to the Russian economy. The respected Russian think-tank INDEM, for example, reported that corruption increased from US$36 billion in 2001 to US$319 billion in 2005 42, so that in 2005 it accounted for a quarter of Russia’s GDP. While Russian authorities have taken productive steps toward addressing this issue since Medvedev launched his high-profile anti-corruption campaign in 2008, including introducing a ‘National Anti-Corruption Strategy’ in April 2010 and becoming a party to the OECD Anti-Bribery Convention in April 2012, these have largely failed. Reflective of this, according to official figures released by the Ministry of Internal Affairs, the average bribe in Russia increased 33-fold between 2008 and 2012; from US$300 to US$10,000 43. In 2012 the World Bank suggested that corruption accounted for as much as 48 per cent of Russia’s GDP 44, or roughly US$967 billion.

Not just the preserve of the elite, concerns about corruption are pervasive in society. According to the World Bank’s ‘Control of Corruption’ index, Russian citizens believe that corruption has increased significantly over the past decade; while in 2003 Russia scored -0.71 on the index (ranked from -2.5 [weak] to 2.5 [strong] for governance performance) by 2012 it had fallen to -1.01 45. This perception is supported by official data from Russia’s Federal Statistics Service, which shows that the number of registered bribery cases increased from roughly a third between 2003 and 2011, from 7,300 46 to 11,000 47. Meanwhile, Transparency International report that the number of Russians who admitted to paying a bribe in the last year has also increased, from 21 per cent in 2004 (the earliest year for which data are available) to 26 per cent in 2010 (the latest year for which data are available) 48.

Fed up with such rampant corruption, a growing number of Russians are emigrating from the country. According to Russia’s Federal Statistics Service, the level of out-migration increased from 2.12 million in 2003 to 3.09 million in 2011 (the latest year for which data are available) 49. Even more striking is the number of Russians who say they would leave the country if they could. According to a 2012 survey by the Moscow-based independent public opinion foundation Levada Center, one out of every five Russians wants to leave their country 50, compared with one in eight in 2009. The desire to emigrate is highest amongst students and businessmen and businesswomen; precisely the people Russia needs to keep hold of if it is to develop a modern economy. At the same time as this ‘brain drain’, capital flight increased 30-fold between 2003 and 2012, from US$1.9 billion to US$56.8 billion 51, with far-reaching implications for the Russian economy.

42 http://www.indem.ru/en/publicat/Popov/Give&Take.htm
46 http://www.gks.ru/bgd/regl/b06_13/IssWWW.exe/Stg/d01/10-01.htm
48 http://www.transparency.org/country#RUS
49 http://www.gks.ru/bgd/regl/B12_16/IssWWW.exe/Stg/%3Cextid%3E/%3Cstoragepath%3E::|7-01.xls
50 http://www.levada.ru/06-06-2013/mechty-ob-emigratsii
4. Conclusion

While no one event represents the last decade in Russia, the arrest of Mikhail Khodorkovsky and his continued imprisonment is certainly symbolic of it. If in 2003 the international community was willing to believe in Putin’s democratic and liberal potential, in 2013 it is clear that Putin is neither a democrat nor a liberal. Because of this, Khodorkovsky’s arrest and imprisonment continues to have repercussions far beyond the personal price he has paid. Developments in Russia over the last decade, particularly in the sphere of human rights, the rule of law, political freedom and civil liberties, and corruption, provide reasons for grave concern, and there is a growing international consensus that Russia now displays many of the traits of authoritarianism.

A decade on from his arrest, Khodorkovsky remains the subject of polarised and intense debate within Russia. For some Russians, he represents the shortcomings and sharp business practices typical of the 1990s. For others, he is the only public figure to emerge from the 2000s with any degree of credibility. While Putin’s imprisonment of Khodorkovsky may well have appealed to average Russians in 2003, this is far from the case today. No longer seen as an oligarch and a perceived political opponent, Khodorkovsky is seen as a freedom fighter and a potential political opponent. Accordingly, public opinion of him has softened. Data from the Levada Centre 52 show that in 2013 over one-third of Russians supported Khodorkovsky’s early release from jail, compared with less than one-fifth in 2007. In addition, in 2013, nearly half of Russians thought Russia would benefit if Khodorkovsky was out of jail, compared with just over a third in 2009.

While Khodorkovsky is scheduled to be released in August 2014, there are reasons to be sceptical. Ever since Russian state prosecutors refused to rule out the possibility that a third criminal trial may be initiated “If new criminal evidence is discovered” 53 in January 2011, it has looked increasingly like the Kremlin is planning a new trial. In September 2012, independent experts in the ‘Presidential Council of the Russian Federation for Civil Society and Human Rights’ were questioned about Khodorkovsky’s alleged involvement in their review of his second trial. While in June 2013 Sergei Guriev, a prominent economist and expert in the review, fled Russia fearing that he would be imprisoned were a third trial to be brought. Guriev later stated that Russian authorities wanted him “to be a witness for the prosecution in the third ‘Yukos case’” 54. In August 2013, meanwhile, the state-owned RIA Novosti news agency reported that a new investigation was “gathering pace” 55.

Already somebody whose experiences define an era, Khodorkovsky’s fate has ultimately become a symbol of whether Russia will become a free society or continue its downwards spiral toward authoritarianism.

Russia’s Descent Toward Authoritarianism: 
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