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Russia Amidst the War: Implications for Human Rights and Political Freedoms

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Abstract

This paper explores the state of human rights and political freedoms in Russia amid the Russian invasion of Ukraine. The ongoing Russian-Ukrainian war has devastatingly affected the state of human rights and political freedoms across Russia. The vague and ill-defined laws introduced in Russia amid the war severely restrict the citizens' fundamental rights and freedoms, leading to a massive crackdown on government critics. This has significantly undermined Russia's international standing, while leading to the Kremlin's further rejection of democratic norms. More worryingly, Russia's restrictive policy has been further combined with its decision to withdraw from the Council of Europe which raises a series unanswered question regarding the future of its human rights commitments. This paper concludes that Russia is isolating itself from the greater international community and resembling a North Korean-style form a tyranny.

Keywords: human rights, political freedoms, 'special military operation', the Council of Europe

Introduction

The war environments are generally marked by serious limitations of human rights and political liberties. This has its most severe manifestations in authoritarian regimes, with intimidation, harassment, and attacks rising to a new level. It is in those situations that freedom of opinion and expression are most constrained by the parties to the conflict with an aim to manipulate or restrict information for political, military and strategic objectives. Due to this, a particular group of people, among whom journalists, human rights defenders, activists, civil society members, become especially vulnerable to human rights abuses. The isolation of society from the outside world through digital repression becomes part of the government's repressive politics.

The Russian-Ukrainian war started on February 24 had disastrous effects on the enjoyment of almost all human rights in Russia. Since the beginning of the war, the Russian authorities intensified restrictions on the citizens' freedom of expression, freedom of association and peaceful assembly. Almost all independent media have been either banned or blocked. To censor public dissent, a series of vague, restrictive and ill-defined laws have been adopted and several more repressive bills are already on the legislative agenda.

The Russia's restrictive policy was further combined with the country's withdrawal from the Council of Europe and the closing of a number of human rights organizations operating in the country. This significantly undermined the interaction of the Russian human

rights defenders, activists, and civil society organizations with the international community and left a little space for international scrutiny over Russia's human rights actions.

This paper examines the following questions:

1. What is the human rights situation in Russia during the wartime?
2. What consequences to human rights could Russia's disengagement with international community entail?

The State of Human Rights and Political Freedoms in Russia

Human rights in Russia have been long criticized by both international organizations and domestic media outlets. Over the past decade, the criticism has been related to the persecution of government critics, crackdown on independent media, discrimination against ethnic minorities, etc. Of particular concern were the vague, restrictive, and ill-defined laws that significantly narrowed the space for Russia's international human rights commitments. It has been even contended that "the Russian government has unleashed a crackdown on civil society in the year since Vladimir Putin's return to the presidency that is unprecedented in the country's post-Soviet history" (HRW, 2013).

Russia's military actions in Ukraine has further lowered Russia's already dissatisfying scores on human rights. It has led to a grave deterioration of the human rights situation in the country with thousands of civilians killed and injured, massive destruction to civilian infrastructure, arbitrary detentions, torture, and ill-treatment (UN Human Rights report, 2022). In addition, the legislative amendments initiated in the wartime have also severely limited a number of fundamental rights and freedoms targeting a particular group of people.

Although the Russian constitution provides for **freedom of expression and information**, a series of vague laws on extremism grant the authorities a broad discretion in suppressing any action that runs contrary to the official position. Since the start of the war, repression on independent media has steadily worsened through the expansion of country's censorship legislation.

On March 4, Russia has enacted two laws criminalizing independent war reporting, with penalties of up to 15 years in prison. The laws make it illegal to spread "fake news" about the Russian armed forces, to call for an end to their deployment and to support sanctions against Russian targets (HRW, 2022). Commenting on the legislation, Kremlin spokesperson Dmitry Peskov told reporters that "unprecedented conditions require unprecedented solutions." He explained that the current situation can be described as unprecedented "in

terms of imposing absolute hatred on everything Russian, whether it is Russian missions, Russian citizens, or foreign citizens who are of Russian origin” (Russia Today, 2022). Nevertheless, the laws are not limited to the war in Ukraine but apply to any deployment involving Russian armed forces, such as those under the regional military alliance, the Collective Security Treaty Organization. These new laws have been regarded internationally as “part of Russia’s ruthless effort to suppress all dissent and make sure the population does not have access to any information that contradicts the Kremlin’s narrative about the invasion of Ukraine” (HRW, 2022). Under the new laws, the word ‘war’ has also been banned from use when describing Russia’s actions in Ukraine. Instead, one should speak of a ‘special military operation’. Beyond the legalistic explanations on this move, the bypassing of the word ‘war’ is also well placed within the logic of imperialism. It is argued that since Russia considers it is using force within its own domain, it reserves a ‘special military operation’ for its southern neighbor rather than a war. After all, the concept of a war assumes equality of status, which contradicts the Russia’s perception of Ukraine as an integral part of Moscow’s sphere of influence (Global Risk Insights, 2022). This idea has also been reflected in Putin’s assumption that Ukraine was “entirely and fully created by Russia” (The New York Times, 2022). Likewise, the two Chechen wars, and the Russo-Georgian war, were portrayed by Moscow as either “counter-terrorist operations” or a “peace enforcement operation,” respectively. In the meantime, human rights advocates argue that the existence of war is established based on facts, irrespective of its internal qualification or the declaration of war by one of the parties (International Federation for Human Rights, 2022).

Since the adoption of the March censorship legislation, authorities blocked access to a number of independent media outlets and opened criminal cases against those speaking out against the war. Some human rights NGOs, like Memorial and Civil Assistance Committee, “Pskovskaya Gubernia” newspaper and a number of human rights defenders have been subjected to persecution and punishment for their opposing views. This has a disastrous effect on the human rights situation in the country, prompting hundreds of journalists, human rights defenders and civil society activists to seek refuge abroad (Council of Europe news, 2022). It is estimated that at least 150 journalists including both foreign and Russian reporters fled Russia within two weeks of the start of the war (Amnesty International, 2022).

Overall, during the past decade, Russia vigorously strives for the ‘internet sovereignty’. In May 2019, Putin signed new legislation banning fake news and showing ‘blatant disrespect’ for the state online. Critics were concerned that the legislation could

create a mechanism for state censorship, whereas lawmakers argued that the new measures would be used to combat false news reports and abusive comments (Reuters, 2019). This is a common pattern to authoritarian regimes, where the internet is viewed by the authorities both as a threat to regime survival and as a tool to be used against state enemies. Thus, in an attempt to control the political narrative and suppress all the dissent, the authoritarian rulers are severely tightening the national legislation on network.

Concerns about a fractured internet ecosystem have only grown since the war. Through its media regulator Roskomnadzor, which is included on RSF's list of digital press freedom predators (RSF, 2020), the government has been controlling independent mass media outlets since the start of the war (Amnesty International, 2022). Roskomnadzor launched an investigation against the Novaya Gazeta, Echo of Moscow, inoSMI, MediaZona, New Times, Dozhd (TV Rain), and other Russian media outlets for publishing inaccurate information about the shelling of Ukrainian cities and civilian casualties in Ukraine as a result of the actions of the Russian Army (Radio Free Europe, 2022).

After the US-based software firms and internet carriers started to pull out of Russia, civil society organizations in Russia expressed their concern that it could isolate the Russian people and journalists (HRW, 2022). In response to their call, the U.S. government issued an order (Department of the Treasury, 2022) allowing telecom companies to operate in Russia despite sanctions. Russia is currently seeking to export its state-controlled version of the internet on the global stage, promoting its own candidate to lead the United Nations International Telecommunications Union (ITU), the agency responsible for information and communication technology (Committee to Protect Journalists, 2022). Overall, internet freedom in Russia declined by seven points in the period surrounding the government's actions in Ukraine, reaching an all-time low and representing the year's largest national decline in *Freedom on the Net*. Within weeks of the military operation, the Kremlin blocked Facebook, Instagram, and Twitter, depriving Russians of access to reliable information about the war and limiting their ability to connect with users in other countries (Freedom House, 2022).

New bills also criminalized "confidential cooperation" with foreign states and individuals. This is regarded as a reminiscent of the Soviet era ban on contacts with foreigners and public calls that can be deemed contrary to the notions of national security and national interests (HRW, 2022). In June, members of the State Duma adopted in the third reading

the law “On control over the activities of persons being under foreign influence”, which entered force on December 1, 2022 (The State Duma, 2022). The law further tightens legislation on foreign agents by expanding the interpretation of the term "foreign agent" to extremely vague notion of "being under foreign influence" or receiving any kind of support from abroad. When the first foreign agent law was adopted in 2012, only registered organizations could be designated “foreign agents.” Successive amendments gradually expanded the application from registered organizations, to media, to other categories of individuals, and to associations without legal entities (HRW, 2022).

In 2021, the authorities closed Russia’s top human right group Memorial, one of the 2022 Nobel Peace Prize laureates, for allegedly violating “foreign agent” legislation and “justifying terrorism and extremism” (HRW, 2021). As of 19 September, 116 individuals and organizations have been added to the foreign agents registries in 2022 alone. Today, more than 500 individuals and organizations are designated as ‘foreign agents’ (Russian CSOS, 2022).

Thus, the new laws have been primarily designed to suppress government critics and to back up Kremlin’s narrative of ‘special military actions’ by imposing strict censorship on all discussions of Russia’s war with Ukraine.

Despite the March harsh laws strictly limiting the freedom of assembly, anti-war demonstrations started in cities across the country. Nearly 1,200 Russians were arrested in cities including Moscow and St. Petersburg, according to the independent Russian human rights group OVD-Info (Euronews, 2022). Particularly in the Russian region of Dagestan, protests continued for several days with hundreds of people taking to the streets of the capital, Makhachkala, where clashes erupted between demonstrators and the police. Dozens of people were reported to have been arrested (UN Office of the High Commissioner for Human Rights, 2022).

Interestingly, one of Russia’s justifications for starting military operations in Ukraine is based on its claimed right to protect ethnic Russians from discrimination in foreign countries. The attempts have been made to base this assertion on the language of fighting genocide and the United Nations’ principle of “Responsibility to Protect” (Ashby, 2022). Nevertheless, the Advisory Committee on the Framework Convention for the Protection of National Minorities, condemning the Russian Federation’s aggression against Ukraine, “deplores that the Russian authorities used issues of **minority rights** as a pretext for the invasion” (Council of Europe, 2022). Moreover, the war itself intensified tensions between

minority group and the Russian state, with a potential to undermine the Kremlin's legitimacy among those groups for a longer time. Although there is no exact number of casualties, independent Russian media outlets have estimated that Dagestan and Buryatia have the highest death tolls, even though their populations are several times smaller than those of Russia's predominantly Slav regions transport (The Organization for World Peace, 2022).

The degree of unrest in areas with high ethnic minority populations has significantly grown after the call for Russia's first military mobilization since World War II. Large numbers of fighting aged men sought to exit Russia to avoid being sent to the frontline. Russia saw a wave of demonstrations in areas with high ethnic minorities. Reports of men being rounded up highlighted the disproportionate impact the war has had on Russians from impoverished regions and ethnic minorities (Aljazeera, 2022). The 'ethnic republics' of Dagestan, Buryatia, and Yakutia have been most affected by the war. "When it comes to Buryatia, this is not a partial mobilization, this is a total mobilization," the head of the Free Buryatia Foundation said in a television interview (Washington Post, 2022). To somehow address the crisis, the Free Buryatia Foundation has been set up which encourages primarily Buryats to withdraw from the Ukrainian conflict by offering free legal support (The Organization for World Peace, 2022).

Russia's Human Rights Council has also advised that Central Asian migrants who received Russian citizenship in the last ten years undergo mandatory military service so that they can all be mobilized (CNN, 2022). The authorities have also drafted a bill, that once approved as law, would reverse the naturalization of immigrants (including their entire families) if they refuse to be drafted for military service. Last year, more than 200,000 Central Asians were naturalized as Russian citizens.

Sexual discrimination is also commonplace in Russia, with new tightening laws introduced during the wartime. Although Russia decriminalized homosexuality in 1993, it currently ranks 46 out of 49 for LGBTQ inclusion in European countries by the watchdog, ILGA-Europe (CNN, 2022). Even amid the war, the Russian authorities continue the policy of defending 'traditional values' from 'Western influence'. The parliament has recently passed the third and final reading of a law banning "LGBT propaganda" among all adults. The bill criminalizes any act regarded as an attempt to promote what Russia calls "non-traditional sexual relations" – in film, online, advertising or in public. Under the new law, individuals and organizations can be fined for "propagandizing nontraditional sexual relations", while foreigners could face up to 15 days' arrest and expulsion from Russia (The

Guardian, 2022). This move represents a toughening of the original 2013 law, purported to protect children from “gay propaganda” (HRW, 2022). Legal experts say the vagueness of the language of this new law gives room for law enforcers to interpret them as broadly as they wish, leaving members of the LGBT community in a state of even greater uncertainty. In the meantime, lawmakers say they are defending traditional values of the “Russian world” against a liberal West they say is determined to destroy them - an argument also increasingly being used by officials as one of the justifications for Russia's military campaign in Ukraine. One of the bill's architects, Alexander Khinsein also argues that “LGBT today is an element of hybrid warfare and in this hybrid warfare we must protect our values, our society and our children” (Reuters, 2022).

The Kremlin’s disengagement with international community has further deteriorated human rights situation across the country and beyond. After 26 years of membership, on March 16, 2022, Russia ceased to be a member state of the Council of Europe. Until now, no state had ever been expelled from the organization, and the only instance of state withdrawal was carried out by a military junta in Greece in 1969 (Amnesty International, 2022).

This decision was a serious blow to human rights in Russia not least because of country’s disengagement from a range of international mechanisms, such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and the European Committee for Social Rights.

This have been widely criticized both by the those living in Russia and the wider international community. Russia’s preemptive decision was described as a “tragedy for the victims of the Kremlin’s human rights abuses”, as a step away by the Russian authorities from any scrutiny over its human rights obligations. (Amnesty International, 2022). As the Secretary-General of the Strasbourg-based Council Marija Pejcinovic Buric has argued, with its departure from the convention, Russia “will further isolate itself from the democratic world and deprive more than 140 million Russian citizens of the protection offered by the Convention (Council of Europe news, 2022)”. The withdrawal from the Council primarily affects those whose cases against the Kremlin remain held up at the court and for those who wish to file new claims. In 2021, there were 17,000 pending applications against the Russian Federation, accounting for nearly a quarter of all pending applications before the Court (European Court of Human Rights, 2022). Even foreigners whose rights have been violated by the Kremlin, cannot submit a case against Russia; they can apply to the UN bodies, but the process will be different. Due to this, the European Court of Human Rights also appeared

in an extremely challenging situation: “In the face of Russia’s withdrawal, the Court must decide how to balance its responsibility to provide recourse to victims with its obligations to uphold due process and protect its own legitimacy as an institution committed to safeguarding basic human rights” (Open Global Rights, 2022). On March 22, 2022, the Court passed a resolution (2022), reaffirming its jurisdiction over any applications against the Russian Federation, provided they are filed prior to Russia’s official withdrawal date of September 16, 2022, and re-starting the Court’s consideration of current and pending cases against Russia (Resolution of the European Court of Human Rights, 2022).

In addition, according to Article 58(3) of the European Convention on Human Rights, a State leaving the Council of Europe also loses its party status under the Convention. This could particularly affect the prisoners of war from Ukraine, those considered political dissidents or foreign agents. More worryingly, after the withdrawal from the Council, former President Dmitry Medvedev has even spoken of a ‘good opportunity’ to reinstate the death penalty. Commenting on pro-Ukrainian acts of sabotage Medvedev said that “the moratorium on the death penalty can be overridden, if necessary, with a change in the legal positions of the Constitutional Court of Russia” (TASS, 2022).

Shortly afterwards, on April 8, Russia’s Justice Ministry canceled the registration of Human Rights Watch, along with Amnesty International and 13 other offices of foreign nongovernmental organizations and foundations. The executive director of Human Rights Watch Kenneth Roth labeled this move as a ‘new iron curtain’ arguing that it will not stop their ongoing efforts to defend the rights of all Russians and to protect civilians in Ukraine (HRW, 2022).

Markedly, the war has also put to the test the Russian **civil society** which does not enjoy a good reputation in terms of presenting counterweight to the state. The Soviet state’s monopoly over public life left a legacy of mistrust toward civic activism and autonomous organizational networks (Brechenmacher, 2017). The development of civil society in Russia is often linked to authoritarian government, fear of ‘color revolutions’ and the ‘sovereign democracy’ that legitimizes state control of civil society (Stuvøy, 2020).

In March 2022, the Russian prominent human rights defenders and activists established the Council of Russian Human Rights Defenders and published a Humanitarian Manifesto denouncing the Russian aggression against Ukraine. Dozens of new projects, initiatives and campaigns have also emerged in reaction to the war, offering creative ways of peaceful resistance, countering the official propaganda in Russia, and assisting victims of the

war. For example, many ordinary citizens have volunteered to help Ukrainian citizens who found themselves in various Russian regions escaping the hostilities, thus complementing the work carried out by professional migrants' rights defenders, such as the Civil Assistance Committee (Commissioner for Human Rights, 2022).

On May 23, 2022, Russian human rights defenders and organizations issued a statement addressed to the Human Rights Council on the establishment of the mandate of Special Rapporteur on the situation of human rights in Russia (Russian CSOS, 2022). The signatories to that call cited a “considerably more aggressive” environment for civil society over the last decade and the elimination of fundamental freedoms in Russia. As a response to their call, on October 7 the U.N. Human Rights Council has appointed a special rapporteur to monitor human rights in Russia. The resolution was adopted on a vote of 17 in favor, 6 against, and 24 abstentions. It expressed many concerns, including mass arrests and detentions, and targeted harassment of journalists, politicians, human rights defenders, and other activists. It called on Russian authorities to cooperate fully with the Special Rapporteur who will serve for a period of one year (International Bar Association, 2022).

This can be described as a historical move since for the first time the Council adopted a resolution focused on violations inside the country (The Moscow Times, 2022). It was a strong message to civil society in Russia that their calls for international scrutiny on human rights have been heard. In the meantime, it can also be argued that regardless of the Russian civil society portrayal as weak or even non-existent, its mobilization effect after Russia's departure from the Council, creates some hopes for its viability.

Conclusion

Thus, the war has further entrenched the already restrictive human rights environment in Russia. The adoption of vague, restrictive, and ill-defined laws has granted the authorities a broad discretion in suppressing any action that runs contrary to the official position.

Freedom of expression and information have been severely restricted over the course of the war to control the narrative about the war and to stifle critical voices across the country. Due to this, a particular group of people, among whom civic activists, journalists, human rights advocates appeared in the most vulnerable position with some of them choosing exile over harassment and prosecution.

The war has also demonstrated the collapse of press freedom in Russia. The media censorship has reached to new extremes with almost all independent media being banned, blocked or declared as ‘foreign agents’ by the Russian authorities.

The rights of ethnic minorities, particularly from poor and remote parts of the country, have been hit the most by Russia’s ‘partial mobilization’. Although the wave of anti-mobilization protests has been suppressed in a short while, it could undermine the Kremlin’s legitimacy among those groups for a longer time.

Amid the war, the rights of sexual minorities have also been restricted through the new tightened legislation. Overall, the rights of sexual minorities in Russia are largely viewed by the authorities as an element of hybrid warfare where Russia should protect itself from the ‘Western influence’.

More worryingly, Russia’s withdrawal from the Council of Europe and the denouncing of the European Convention on Human Rights has myriad consequences for human rights situation in Russia. It denies citizens protection and justice under the European court, reduces international scrutiny over Russia’s human rights actions and opens the door for the reintroduction of the death penalty. Although the Council of Europe’s Committee of Ministers will continue to supervise the execution of the judgments prior to Russia’s withdrawal, they are yet to be implemented by the authorities. This requires the establishment of specific mechanisms to strengthen scrutiny over the country’s human rights actions and to prevent its total isolation from the international community.

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