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Instrumentalizing Justice: Forms and Impacts of Criminal Justice Abuse in Russia

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Abstract

The abuse of criminal justice as a tool for repression is a hallmark of authoritarian regimes, with Russia serving as a compelling case study. This paper explores the evolution of criminal justice abuse in Russia, focusing on key mechanisms such as selective law enforcement, the erosion of judicial independence, and the strategic use of ambiguous legal provisions. High-profile cases, including those of Sergei Magnitsky and Alexei Navalny, highlight the regime's deliberate use of the judiciary to silence dissent, instill fear, and consolidate state power. The discussion extends to broader societal impacts, such as the fragmentation of civil society, suppression of independent media, and marginalization of minority groups. By leveraging criminal justice systems as instruments of control, the Kremlin has institutionalized authoritarian governance, leaving profound consequences for societal cohesion and human rights.

Keywords: Russia, Dissent Suppression, Criminal Justice Abuse, Russian authoritarianism.

Introduction

The abuse of criminal justice systems is a central strategy of authoritarian regimes, enabling them to consolidate power, suppress dissent, and maintain an illusion of legality. In Russia, this phenomenon has evolved into a sophisticated and multi-faceted framework that reflects the Kremlin's broader ambitions to control public narratives, marginalize opposition, and dominate the societal landscape. From the early 2000s, under Vladimir Putin's leadership, Russia transitioned from the democratic aspirations of the post-Soviet era to a deeply entrenched authoritarian system. The criminal justice system has played a pivotal role in this transformation, serving as a primary tool for legitimizing repression and neutralizing dissent.

The Kremlin's methods are diverse, ranging from selective law enforcement and publicized trials to the use of ambiguous legal provisions that enable arbitrary and

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politically motivated prosecutions. High-profile cases, such as those of Sergei Magnitsky and Alexei Navalny, illustrate the personal and societal costs of this strategy. Magnitsky, who uncovered large-scale corruption involving state officials, suffered inhumane treatment and ultimately died in custody. Navalny, Russia's most prominent opposition leader, endured years of harassment, including a near-fatal poisoning, before his death in prison in 2024 following mistreatment. These cases, alongside broader systemic repression, highlight how the Kremlin exploits legal mechanisms to eliminate political threats, reinforce societal control, and undermine democratic principles.

This paper examines the theoretical basis for the abuse of criminal justice in authoritarian regimes and its practical application in Russia. By analyzing both historical trends and contemporary practices, it explores how the weaponization of the judiciary impacts civil society, erodes trust in institutions, and perpetuates an environment of fear and compliance. Additionally, the study situates Russia's practices within a broader framework of authoritarian governance, offering critical insights into the dynamics of repression and its long-term societal consequences.

Theoretical Framework: Abuse of Criminal Justice in Authoritarian Regimes

The manipulation of criminal justice systems is a defining trait of authoritarian governance, enabling regimes to consolidate power while maintaining a façade of legality. This tactic is rooted in several key practices, including selective enforcement of laws, undermining judicial independence, employing ambiguous legal provisions, and utilizing publicized legal actions to instill fear and maintain control. These elements collectively create a framework through which authoritarian governments suppress dissent, marginalize opposition, and ensure their dominance.

One of the most significant tools of authoritarian regimes is selective law enforcement, where legal measures are applied unevenly to silence critics while shielding regime loyalists. This calculated use of the law ensures compliance from potential dissidents while creating an illusion of rule of law. As Schedler (2013) notes, this selective approach discourages political participation and consolidates the state's

grip on power. O'Donnell (1994) further highlights that such practices render legal institutions mere extensions of executive authority, reducing their legitimacy in the eyes of the public.

Judicial independence, a cornerstone of democratic governance, is systematically undermined in authoritarian systems. As Linz and Stepan (1996) argue, the judiciary in authoritarian contexts often becomes an instrument of state control rather than a check on executive power. By appointing loyalists to key judicial positions and controlling court processes, these regimes transform the judiciary into a mechanism for validating state actions. Levitsky and Way (2010) observe that this erosion of judicial impartiality fosters public skepticism and diminishes trust in legal institutions.

Another common characteristic of authoritarian legal systems is the strategic use of ambiguous laws. Vague or broadly defined legal provisions allow regimes to prosecute critics and dissenters while maintaining plausible deniability. Scheppele (2004) underscores that such laws create a sense of unpredictability, forcing individuals to self-censor to avoid potential legal repercussions. This ambiguity not only silences dissent but also amplifies the regime's capacity to control public discourse.

The concept of performative justice further illustrates the role of criminal justice in authoritarian systems. Public trials, dramatic arrests, and highly visible punishments are orchestrated to reinforce state authority and deter dissent. Foucault (1977) described these actions as displays of power designed to intimidate both the accused and the broader public. Cheeseman and Klaas (2018) similarly highlight how such spectacles legitimize repression by portraying the regime as actively combating threats, whether real or fabricated.

Fear serves as a foundational principle of governance in authoritarian systems, with the criminal justice system playing a pivotal role in its propagation. Arendt (1973) emphasizes that fear becomes a pervasive tool for ensuring compliance and isolating opposition. Politically motivated prosecutions and harsh punishments create an environment where individuals are reluctant to challenge the status quo. This fear

erodes social cohesion and discourages collective action, leaving individuals isolated and less likely to resist the regime's authority.

Finally, authoritarian governments frequently exploit anti-corruption narratives to justify their actions against political adversaries. Holmes (2006) explains that regimes often present themselves as moral guardians, targeting opposition figures under the pretext of combating corruption. This strategy not only delegitimizes political rivals but also reinforces the regime's image as a protector of public interests, masking its broader authoritarian objectives.

In sum, the abuse of criminal justice systems in authoritarian regimes is a calculated and multi-dimensional strategy to maintain control and suppress opposition. By undermining judicial independence, leveraging legal ambiguity, and fostering fear, these regimes create an environment where dissent is stifled, and public trust in legal and civic institutions is systematically eroded. This framework not only illuminates the mechanisms of authoritarian control but also highlights the profound societal consequences of such practices.

Historical Development of Repression and Criminal Justice Abuse in Russia

Russia's progression toward systemic repression has been deeply intertwined with the abuse of its criminal justice system as a tool of political control. After the collapse of the Soviet Union, the initial strides toward democratic ideals in the 1990s gave way to a centralized governance model under Vladimir Putin, particularly during his ascent to power in the early 2000s. Key milestones in this regression include high-profile cases of selective prosecution and the weaponization of the judiciary to silence dissent and consolidate authority.

The arrest of Mikhail Khodorkovsky in 2003 epitomized the Kremlin's strategy of exploiting legal mechanisms for political gain. As the founder of Yukos Oil Company, Khodorkovsky was accused of fraud and tax evasion, leading to his imprisonment and the dismantling of Yukos, with its assets absorbed by state-controlled entities. While officially framed as an anti-corruption campaign, the case was widely regarded as politically motivated due to Khodorkovsky's financial support

for opposition parties and his public criticism of the Kremlin (Radio Free Europe/Radio Liberty, 2013). This selective application of justice became a hallmark of the regime's approach, creating a chilling effect across political, economic, and civil sectors (McCarthy, 2023).

The legal persecution of Khodorkovsky and others highlighted the abuse of judicial independence. Courts under Putin's administration became tools to legitimize state objectives, applying legal ambiguity to selectively target adversaries while shielding allies. This erosion of judicial impartiality not only consolidated power but also undermined public trust in the rule of law (Justice Initiative, 2024).

After Vladimir Putin's return to the presidency in 2012, the Kremlin's repressive tactics expanded beyond targeting dissidents and activists to include elite power structures. Protests against electoral fraud that year marked a pivotal moment in the regime's use of criminal justice. High-ranking officials, such as regional governors and members of the Federal Security Service (FSB), became targets of staged public arrests, often lacking substantial legal justification. These orchestrated events, including televised cash seizures and allegations of bureaucratic misconduct, served to project an image of accountability while deflecting scrutiny from the presidency itself (Chatham House, 2019).

This strategy reinforced a narrative that corruption was concentrated within the elite, rather than implicating Putin directly, echoing the sentiment that "the tsar is good, the boyars are bad" (Mamonova, 2018). At the same time, it tapped into populist resentment toward the elite, positioning Putin as a defender of ordinary citizens. By transforming the criminal justice system into a tool for spectacle, the Kremlin justified its authoritarian practices under the pretext of fighting corruption (Chatham House, 2019; CorpWatch, 2005).

The war in Ukraine, which began in 2014 and escalated dramatically with the full-scale invasion in 2022, further exacerbated this repressive environment. The conflict served as a pretext for introducing draconian laws under the guise of safeguarding national security. Critics of the war faced prosecution under new legislation criminalizing "discrediting the armed forces" or spreading "false information" (Terzyan, 2024). These laws effectively silenced dissenting voices, from

independent journalists to ordinary citizens, through fines, imprisonment, and public shaming. The judiciary, already compromised, became a key instrument in these politically motivated crackdowns (Human Rights Watch, 2023).

The broader impact of this systemic abuse of the criminal justice system was a culture of fear and self-censorship, normalizing authoritarian practices and discouraging civic engagement. By the mid-2000s, the Kremlin had consolidated its control over key institutions, ensuring alignment with its objectives and solidifying its hold on power (McCarthy, 2023; Satter, 2015). This "spiral of repression" continues to evolve, reinforcing the message that loyalty to the regime is paramount, and dissent—whether from opposition figures or within the elite—will not be tolerated.

Criminal Justice as a Weapon: The Kremlin's Systematic Repression of Dissent

The Kremlin's use of criminal justice mechanisms as tools for political repression has intensified significantly in recent years, reflecting a systemic pattern of leveraging judicial and penal systems to suppress dissent, intimidate opposition, and consolidate state power. This trend, evident in the cases of Sergei Magnitsky and Alexei Navalny, underscores the increasing severity of state-driven punitive measures, which have become emblematic of broader repression across Russian society. These cases, alongside a plethora of others, highlight the manipulation of legal frameworks to enforce state narratives and silence critical voices.

The case of Sergei Magnitsky marked a watershed moment in the Kremlin's weaponization of criminal justice for political purposes. As a lawyer for Hermitage Capital Management, Magnitsky uncovered a \$230 million tax fraud scheme implicating senior Russian officials. Arrested in 2008, he was subjected to inhumane detention conditions, including denial of medical treatment and psychological and physical abuse. After nearly a year in custody, he died in November 2009 (Neuman, 2013). In an unprecedented move, he was posthumously convicted of tax fraud in 2013, a case that sparked international condemnation. This led to the enactment of the U.S. Magnitsky Act in 2012, imposing sanctions on Russian officials involved in his

persecution. The legislation later expanded globally, enabling sanctions against human rights violators worldwide (Human Rights Watch, 2017).

Alexei Navalny's persecution signifies a continuation and evolution of these repressive methods. As Russia's most prominent opposition leader, Navalny faced years of harassment and politically motivated arrests. In 2020, he survived a poisoning attempt with a Novichok nerve agent, an attack traced to operatives of the Federal Security Service (FSB). Upon his return to Russia in 2021, Navalny was arrested and imprisoned (The Guardian, 2021). His incarceration was marked by sleep deprivation, denial of medical care, and other abuses, echoing the treatment of Magnitsky. Despite international condemnation, Navalny's health deteriorated while in custody, culminating in his death in February 2024. This tragedy marked another grim chapter in the Kremlin's intensifying efforts to suppress dissent through punitive measures (Amnesty International, 2024; RFE/RL, 2021).

The parallels between Magnitsky and Navalny's cases highlight the Kremlin's systematic reliance on criminal justice to suppress dissent. Magnitsky's death exposed the cruelty embedded in Russia's penal system, while Navalny's demise underscored the lengths to which the state will go to neutralize political opposition. Both cases reflect a broader strategy of using legal and extralegal measures to enforce state control, sending a clear message that dissent carries severe consequences.

At the core of Russia's repressive legal system are Articles 207.3 and 280.3 of the Criminal Code, introduced after the 2022 invasion of Ukraine (Amnesty International, 2024). These provisions criminalize the dissemination of "false information" or "discreditation" of the Russian armed forces, with penalties including substantial fines, property confiscation, and prison sentences of up to 15 years. Figures such as Vladimir Kara-Murza and Ilya Yashin have faced lengthy sentences for their critical statements about Russian military actions, illustrating the Kremlin's broad interpretation and application of these laws to suppress dissent (Human Rights Watch, 2023).

These high-profile cases are part of a broader trend of criminal justice abuse in Russia. Independent journalists and activists have also been targeted under laws criminalizing extremism, treason, and disinformation. Maria Ponomarenko, for

instance, was sentenced to six years for a social media post criticizing Russian military actions in Ukraine. Ivan Safronov, a journalist, received a 22-year sentence for alleged treason related to his reporting on military and arms deals (Ebel, 2023). Such cases demonstrate how legal frameworks are consistently manipulated to eliminate critical voices and control public narratives (AP News, 2023; OVD-Info, 2023).

Through these measures, the Kremlin not only removes opponents but also reinforces its dominance by cultivating a pervasive climate of fear. The manipulation of legal mechanisms to stifle dissent and suppress accountability has eroded civil liberties and human rights in Russia, marking a profound regression in the rule of law. The use of criminal justice as an instrument of political repression continues to shape the dynamics of Russian society, underscoring the regime's determination to consolidate power at all costs.

Russia's Repression: Strategic Dimensions and Societal Implications

The Kremlin's repression operates with strategic precision, varying in intensity across regions and demographic groups to consolidate power and suppress dissent. These measures target urban centers, minority regions, annexed territories, and the broader societal fabric of Russia, while also influencing authoritarian governance within its sphere of influence. Domestically, this multifaceted repression has fragmented social trust, curtailed civic freedoms, and entrenched state control, with implications extending beyond Russia's borders.

In urban centers like Moscow and St. Petersburg, where organized opposition and independent civil society have historically been concentrated, repression is especially acute. High-profile events, such as Alexei Navalny's imprisonment, have been met with mass arrests and politically motivated prosecutions. These cities account for a significant share of dissent-related criminal cases, underscoring the Kremlin's efforts to neutralize opposition in politically influential regions (Human Rights Watch, 2023). The resulting fear and disillusionment discourage civic participation, eroding the potential for collective action and political mobilization.

In annexed territories such as Crimea, the state's tactics are even more severe, particularly against vulnerable groups like the Crimean Tatars. Accusations of ties to

banned organizations, such as Hizb ut-Tahrir, often unsupported by credible evidence, result in harsh sentences aimed at silencing dissent and consolidating control over contested regions (Amnesty International, 2024). Similarly, in the North Caucasus, counterterrorism operations disproportionately target Muslim minorities. Reports of arbitrary arrests, torture, and extrajudicial killings illustrate how repression in these regions is not merely punitive but a tool of systemic marginalization. Data from OVD-Info (2023) reveals the overrepresentation of minorities in politically motivated prosecutions, highlighting the instrumentalization of legal frameworks to subjugate specific populations.

The societal implications of these repressive measures are profound. By targeting specific regions and demographic groups, the Kremlin deepens societal divisions and undermines social cohesion. The marginalization of minorities and dissidents exacerbates inequalities, while the suppression of independent media and civil organizations diminishes public discourse and limits the capacity for accountability. This fragmentation leaves Russia's civil society weak and polarized, further entrenching authoritarian control.

Beyond its domestic context, the Kremlin's authoritarian strategies have influenced its broader sphere of influence. By normalizing state-driven repression, Russia has diffused authoritarian practices across neighboring states, particularly within the post-Soviet space. For example, Belarus has mirrored Russian tactics by enacting repressive legislation and using state institutions to suppress dissent following the 2020 presidential election (Kolarzik and Terzyan, 2020).

The Kremlin's imposition of its governance model also extends into occupied territories in Ukraine, where it seeks to replicate authoritarian practices through administrative control and the suppression of local resistance. Reports from occupied areas indicate the use of intimidation, forced conscription, and the targeting of activists, illustrating how repression is not confined within Russia's borders but is an exportable tool of dominance (Amnesty International, 2024).

The diffusion of these practices has broader implications for global governance and democratic norms. Within its sphere of influence, the Kremlin provides political and logistical support to authoritarian regimes, bolstering their capacity to resist

international pressure for democratization. This dynamic undermines efforts to promote human rights and democracy in the region, creating a feedback loop of repression that perpetuates instability and authoritarian resilience.

Domestically, these repressive measures have fragmented the societal fabric of Russia, leaving citizens increasingly disconnected from principles of justice and equality. Regionally, the Kremlin's export of authoritarianism perpetuates a cycle of repression, with consequences for governance and human rights across the post-Soviet space. This strategy underscores the Kremlin's broader ambition to consolidate its influence by suppressing dissent, not only within Russia but also in the territories it seeks to control or dominate.

Conclusion

The abuse of criminal justice systems in Russia represents a deliberate and calculated strategy to consolidate power, suppress dissent, and institutionalize authoritarian governance. By employing selective law enforcement, ambiguous legal provisions, and publicized judicial proceedings, the Kremlin has systematically dismantled democratic freedoms and silenced opposition voices. High-profile cases, such as those of Sergei Magnitsky and Alexei Navalny, serve as emblematic examples of the regime's willingness to exploit legal mechanisms to neutralize perceived threats. These cases not only highlight the human cost of repression but also underscore the broader societal impacts of such practices.

The ramifications of this systemic abuse extend beyond individual prosecutions. The Kremlin's actions have eroded trust in legal institutions, fragmented civil society, and created a pervasive climate of fear and self-censorship. The suppression of independent media, the targeting of minority groups, and the enactment of draconian legislation further exemplify the regime's comprehensive approach to authoritarian control. By undermining the rule of law and promoting state narratives, Russia has entrenched a culture of impunity that weakens the foundations of accountability and civic engagement.

This study highlights the systematic abuse of criminal justice in consolidating power and suppressing dissent under authoritarian regimes. Russia's practices

illustrate how legal frameworks can be weaponized to marginalize opposition and control narratives, resulting in the erosion of civil liberties and trust in public institutions. The continued use of these tactics reflects the entrenchment of state repression as a central tool of governance.

References

Amnesty International. (2024). *Russia's War Censorship Laws Must Go*. Retrieved from <https://www.amnesty.org/en/petition/russias-war-censorship-laws-must-go>.

Amnesty International. (2024). *Russia: Surge in abuse of anti-terrorism laws to suppress dissent*. Retrieved from <https://www.amnesty.org/en/latest/news/2024/02/russia-surge-in-abuse-of-anti-terrorism-laws-to-suppress-dissent/>.

AP News. (2023). *Russia's Crackdown on Treason and Espionage Surges Amid War*. Retrieved from <https://apnews.com/article/russia-putin-crackdown-treason-espionage-gershkovich-ee99b15588fc0c3b20ed0e381afe3de3>.

Arendt, H. (1973). *The Origins of Totalitarianism*. Harcourt Brace Jovanovich.

Cheeseman, N., & Klaas, B. (2018). *How to Rig an Election*. Yale University Press.

Chatham House. (2019). *Understanding the Methods of Elite Repression in Russia*. Retrieved from <https://www.chathamhouse.org/2019/06/understanding-methods-elite-repression-russia>.

CorpWatch. (2005). *Russia: Oil Tycoon Convicted and Sentenced to 9 Years in Jail*. Retrieved from <https://www.corpwatch.org/article/russia-oil-tycoon-convicted-and-sentenced-9-years-jail>.

Ebel, F. (2023). "Meet the People Caught Up in Russia's Crackdown on Dissent." *The Washington Post*. Retrieved from <https://www.washingtonpost.com/world/2023/05/13/russia-political-prisoners/>.

Foucault, M. (1977). *Discipline and Punish: The Birth of the Prison*. Pantheon Books.

Holmes, L. (2006). *Rotten States? Corruption, Post-Communism, and Neoliberalism*. Duke University Press.

Human Rights Watch. (2013). *Laws of Attrition: Crackdown on Russia's Civil Society After Putin's Return to the Presidency*. Retrieved from <https://www.hrw.org/report/2013/04/24/laws-attrition/crackdown-russias-civil-society-after-putins-return-presidency>.

Human Rights Watch. (2017). *The US Global Magnitsky Act: Questions and Answers*. Retrieved from <https://www.hrw.org/news/2017/09/13/us-global-magnitsky-act>.

Human Rights Watch. (2022). *Russia: New Restrictions on Foreign Agents*. Retrieved from <https://www.hrw.org/news/2022/12/01/russia-new-restrictions-foreign-agents>.

Human Rights Watch. (2023). *Russia Criminalizes Independent War Reporting, Anti-War Protests*. Human Rights Watch. Retrieved from <https://www.hrw.org/news/2023/04/24/russia-criminalizes-independent-war-reporting-anti-war-protests>.

- Justice Initiative. (2024). *Global Human Rights Litigation Report*. Retrieved from <https://www.justiceinitiative.org/publications/2024-global-human-rights-litigation-report>.
- Kolarzik, N., & Terzyan, A. (2020). *The State of Human Rights and Political Freedoms in Belarus: Was the Crisis Inevitable?*. Eurasia Institutes. <https://doi.org/10.47669/PSPRP-4-2020>.
- Lefebvre, M., & Jurasz, O. (2023). *Political Repression in Authoritarian Regimes: The Role of Judiciary in Russia*. *Journal of International Law and Politics*, 55(2), 321–345..
- Levitsky, S., & Way, L. A. (2010). *Competitive Authoritarianism: Hybrid Regimes After the Cold War*. Cambridge University Press.
- Linz, J. J., & Stepan, A. (1996). *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe*. Johns Hopkins University Press.
- Mamonova, N. (2018). "Vladimir Putin – A Tsar Without Loyal Subjects?" *Utrikesmagasinet*. Retrieved from <https://www.ui.se/utrikesmagasinet/analyser/2018/april/vladimir-putin--a-tsar-without-loyal-subjects/>.
- McCarthy, J. (2023). *Russia's Legal Repression: Historical Contexts and Contemporary Implications*. *Journal of Political Law*.
- Neuman, S. (2013). "Death and Tax Evasion: The Strange Case of Sergei Magnitsky." *NPR*. Retrieved from <https://www.npr.org/sections/thetwo-way/2013/07/11/201120083/death-and-tax-evasion-the-strange-case-of-sergei-magnitsky>.
- O'Donnell, G. (1994). *Delegative Democracy*. *Journal of Democracy*, 5(1), 55–69.
- OVD-Info. (2023). *Annual Report on Repression in Russia*. Retrieved from <https://ovdinfo.org>.
- Radio Free Europe/Radio Liberty. (2013). *Khodorkovsky: From Young Tycoon to Graying Inmate*. Retrieved from <https://www.rferl.org/a/russia-khodorkovsky-prison-ordeal/31171498.html>.
- Radio Free Europe/Radio Liberty. (2021). *Navalny's Prison Ordeal Revives Grim Memories of Magnitsky's Death*. Retrieved from <https://www.rferl.org/a/russia-navalny-prison-ordeal-memories-magnitsky-death/31171498.html>.
- Reporters Without Borders. (2023). *World Press Freedom Index: Russia*. Retrieved from <https://rsf.org/en/russia>.
- Satter, D. (2015). *The Decline of Democracy in Russia: A Study of Legal Repression*. Freedom Press.
- Scheppele, K. L. (2004). *Law in a Time of Emergency: States of Exception and the Temptations of 9/11*. *University of Pennsylvania Journal of Constitutional Law*, 6(5), 1001–1083.
- Terzyan, A. (2024). "Russia's Cyber Crackdown: Sovereignty, Surveillance, and Wartime Control." *Modern Diplomacy*. Retrieved from <https://moderndiplomacy.eu/2024/09/20/russias-cyber-crackdown-sovereignty-surveillance-and-wartime-control/>.
- The Guardian (2021). "Alexei Navalny Detained at Airport on Return to Russia." <https://www.theguardian.com/world/2021/jan/17/alexei-navalny-detained-at-airport-on-return-to-russia>.