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To cite this article: Freek van der Vet & Laura Lyytikäinen (2015) Violence and human rights in Russia: how human rights defenders develop their tactics in the face of danger, 2005–2013, *The International Journal of Human Rights*, 19:7, 979–998, DOI: [10.1080/13642987.2015.1075306](https://doi.org/10.1080/13642987.2015.1075306)

To link to this article: <http://dx.doi.org/10.1080/13642987.2015.1075306>



Published online: 25 Sep 2015.



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Violence and human rights in Russia: how human rights defenders develop their tactics in the face of danger, 2005–2013

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Between 2005 and 2013, the Russian State Duma passed legislation restricting the activity of human rights defenders (HRDs). Although these measures complicate their work, this study contends that Russian HRDs creatively manage constraints. Through an interview study, this article contributes to the literature on human rights defence in dangerous circumstances by identifying the coping practices of two groups of HRDs: opposition youth activists in Moscow and human rights lawyers in the Northern Caucasus. Here, we argue that those activists at high risk often reinvent their tactics to counter curtailing legislation, experiment with the boundaries of police violence and manage the fear of fellow activists.

Keywords: Russia; rule of law; civil society; non-governmental organisations; Chechnya; human rights defenders

Introduction

Defending human rights in Russia can be perilous. One only needs to recall the killings of human rights defenders (HRDs, *pravozashchitniki*), investigative journalists and lawyers like Anna Politkovskaya, Stanislav Markelov, Anastasia Baburova or Memorial activist Natalia Estemirova. Opposition activists also face physical danger. In February 2015 Boris Nemtsov, an opposition leader and former first deputy prime minister during Yeltsin's second presidency, was shot dead near the Kremlin in Moscow. Moreover, some organisers and participants of demonstrations have faced prosecution and imprisonment.

Not all HRDs in Russia face these physical threats, yet most HRDs have to confront legal constraints to their work. Since 2005, the Russian authorities have implemented legislation isolating the political opposition and curtailing the funding of HRDs. The State Duma passed the 'foreign agent law', or law No. 121-FZ, in 2012 in an attempt to restrict the activity of non-governmental organisations (NGOs) that receive foreign funding and engage in 'political activities'. These laws affect the whole spectrum of civil, cultural and human rights associations, yet, Tatiana Lokshina, a Human Rights Watch (HRW) representative in Moscow, is concerned that 'those behind the [2012 NGO legislation] most likely meant it to be used selectively, against particularly bold critics of the government'.¹ In March 2013 local prosecutors launched inspections into the offices of organisations and began preparing administrative and civil lawsuits against those who refused registration.²

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In this article we argue that an analysis of state restraints and violence contributes to our understanding of how HRDs choose to reinvent their human rights practices in response to dangerous circumstances and legal restraints. While they certainly limit the activity of HRDs, constraints to human rights work can also be an opportunity for the innovation of new tactics. Research repeatedly shows that HRDs (along with intergovernmental human rights institutions) are key actors who define how rights are practiced at the local level.³ HRDs choose to develop their tactics during their interaction with the government authorities and the police. International reports often ascertain that new political constraints directly impact the conduct of HRDs in Russia.⁴ Nevertheless, this study argues that the effects of such measures are slower and that repression facilitates how HRDs strategically calculate the development of new activities.

In this article, we analyse the tactics of two groups of activists in two separate areas of contention: young protest leaders in Moscow who defend the right to freedom of assembly and an international network of human rights lawyers that provides free legal aid to victims of grave atrocities in the Northern Caucasus. The recent legislation, as explained in the next section, affects all NGOs and social movement organisations, including those HRD groups and protest activists that openly criticise the government.⁵ However, the two groups in this study face different degrees of risk, with the physical risk of HRDs in the Northern Caucasus being many times higher than the dangers faced by youth activists.⁶ Another difference is the arena in which these HRDs operate: while protest activists make claims in the public space and media, lawyers prefer more ‘quiet’ strategies such as litigation and often shun the public space because of a fear of coming across as ‘partisan’. A final difference between these cases is that, while the protest movement activists challenge the authorities in the public sphere and wish to remain anti-institutional, the lawyers working in Chechnya work ‘behind the scenes’ and rely on legal institutions to achieve justice. In addition, while activist groups rarely represent individual cases of human rights violations, lawyers work to promote human rights protection through legal aid to individuals.

Despite their apparent differences, we chose these case studies because they illustrate the wide spectrum of challenges faced by HRDs and opposition activists in contemporary Russia. This article aims to dissolve the division between analyses of legal and public protest in Russia by examining the repertoires of youth protesters and HRDs and how they choose to interact with government actors and the police and how they strategically calculate their responses to new legislation. This article aims to categorise the challenges to HRDs in Russia from 2005 to 2013 and map out the HRDs’ responses to it. By comparing these two apparently separate groups of HRDs, this article highlights how HRDs working under the same restrictive legal conditions have come to employ comparable tactics to challenge and change the legal and political system in their country. Human rights work is a practice that involves a great amount of strategic planning. In particular, it defines the HRDs’ common responses to three challenges of high-risk activism: (a) how to organise advocacy and protest in risky situations, (b) how to manage risk and fear, and (c) how to use domestic and international legal mechanisms in a repressive state?

Accordingly, the article consists of five sections. The first section theorises the constraints of human rights activism under Russia’s contemporary political regime. The subsequent three sections present how these two groups of HRDs respond to the three challenges mentioned above. The conclusion discusses the implications of these findings for the protection of HRDs across the world.

Legislation, danger and activism

The regulation of activism in Russia, 2005–2013

Russia's political system is a hybrid – located between an authoritarian and a democratic system. Vladimir Gel'man specifies that this political system of 'electoral authoritarianism' combines aspects of a democratic system (elections with meaningful competition) with features of authoritarianism (manipulating ballots and curtailing the activity of political opposition).⁷ Richard Sakwa brands Russia a 'dual state': a normative state defined by constitutional order and law, combined with an administrative regime defined by informal relations, such as exchanging favours (*blat*) for administrative benefits or material goods.⁸

This hybrid political system has had its effect on the development of a civil society sector. Some have argued that the Putin administration had a plan to design civil society from the 'top down'⁹ or redefine state–society relations.¹⁰ Yet, recent endeavours by the authorities to limit foreign funding and curtail civic activity are certainly not a novel trend in Russia. It is part and parcel of a political system's technique of safeguarding the status quo.¹¹ Daucé argues that these measures intend to make a clearer divide between political party activities and civil society activities as well as cut the financial links between foreign funding agencies and NGOs.¹²

The most recent legal reforms of civil society fall into two periods. The first period, from 2005 to 2006, starts with the introduction of an anti-extremism law in 2005. This legislation raised concern with the international community because its vague language invites broad interpretation.¹³ In 2006, the State Duma passed another round of legislation regulating the national registration of NGOs and cultural associations with the Ministry of Justice.¹⁴ It limited the foreign funding of political parties and NGOs and increased the powers of authorities to inspect and intervene in the activities of NGOs. These laws created the Federal Registration Service, which has the mandate to investigate the accounts of any organisation and can ultimately close down associations.¹⁵ Carothers famously labelled these measures part of the global 'backlash against democracy promotion'.¹⁶ Some argue that limiting the foreign funding to activist groups was to avert a possible 'colour revolution' of the sort that had spread across Eastern Europe during the 2000s.¹⁷

The law also had a much wider impact on civil society with criminal charges against organisations or their leaders, police inspections and the arbitrary use of extremism legislation.¹⁸ For instance, the Nizhny Novgorod Province Court ordered the dissolution of the Russian-Chechen Friendship Society under the extremism law in 2007. Moreover, the lawyers of the Centre for International Protection, an organisation that provides legal aid to prisoners, were prevented from representing victims before the European Court.¹⁹ According to state representatives, some of these lawyers were allegedly involved in fraud and fabrication of their powers of attorney.²⁰

The second period of legal reform followed the mass protests after the 2011–2012 parliamentary and presidential elections. For the first time since the political reforms and protest in the 1990s, a large number of citizens had protested against election results (this time, the re-election of Vladimir Putin).²¹ To counter the growing public demonstrations, the Kremlin adopted a harsher stance towards the renewed collaboration of opposition movements after Putin's inauguration as president in 2012.²² The new laws increased the fines for participation in unauthorised public demonstrations, modified existing laws on treason and recriminalised libel. In July 2012, the Duma adopted law No. 121-FZ – or, foreign agent law – which stipulates that NGOs that engage in 'political activities' and receive financial funding from abroad are required to register as a 'foreign agent' (*inostran-nyi agent*) with the Ministry of Justice. NGOs which register as foreign agents are subject to

further reporting restrictions. The law defines political activity as participating ‘in organizing and implementing political actions aimed at influencing the decision-making by state bodies intended for the change of state policy pursued by them, as well as in the shaping of public opinion for the above mentioned purposes’.²³ While many NGOs resist registration as foreign agents, the laws have subjected NGOs to public vilification.²⁴ For instance, in November 2012, ‘Foreign Agent’ and a heart with ‘USA’ were sprayed on the walls of Memorial’s office.²⁵

Human rights monitors and academics are divided over the impact of these legal measures during these two periods. HRW predicted that the laws would curtail the development of a healthy civil society and threaten freedom of assembly.²⁶ Sean Roberts states that ‘the Putin administration is trying to intimidate with laws intended to shock opponents with their potential for use’.²⁷ In contrast, Javeline and Lindemann-Komarova argued that the existing interpretations on the relation between the legislation and the ‘crackdown’ of Russian civil society in the period 2005–2006 fail to assess the impact of these laws, as they focus on the accounts of a handful of high-profile defenders working in Moscow.²⁸ Moreover, Richter reveals that few NGOs receiving funding from abroad were banned after 2006.²⁹ Quoting Javeline and Lindemann-Komarova, Richter underlines that the legislation was still more supportive of civil society than that under the Yeltsin regime.³⁰

Richter argues that the reforms did not intend to suppress NGOs, but ‘sought to redefine the relation between state and society [...] to coordinate Russian social organizations in the interests of the whole’.³¹ Especially in the regions, NGOs often nurture a fruitful cooperation with local authorities to provide welfare benefits and services to citizens, such as distributing medication.³² Before 2012, opportunities and risks for civic activism in Russia depended heavily on whether the NGOs would oppose the state or cooperate with it to provide social services.³³ Reflecting on the period after 2012, Daucé argues that the foreign agent law has had an ambiguous effect. On the one hand, the law intends to cut financial links with foreign funders and brands human rights organisations as ‘foreign agents’. On the other hand, the state is providing its own funding for these groups.³⁴ This duality and the vagueness of the laws creates confusion amongst organisations as, first, they have to choose to submit or oppose the law, and second, it limits cooperation between NGOs as they are forced to respond to the new legislation on their own.³⁵

HRW reports that some of these observers ‘sorely underestimate the effect that these combined measures have had on civil society’.³⁶ HRW reports that the political environment for HRDs has deteriorated even further since 2012.³⁷ After Putin returned to the presidency in May 2012, the Russian government tightened its grip over political and human rights activism. According to a HRW report: ‘[t]he authorities have introduced a series of restrictive laws, [they have] harassed, intimidated, and in several cases imprisoned political activists, interfered in the work of nongovernmental organizations (NGOs), and sought to cast government critics as clandestine enemies, thereby threatening the viability of Russia’s civil society’.³⁸ The Bolotnaya 6 case illustrates the restrictive legal environment that anti-government protesters operate in. Several demonstrators were arrested and prosecuted for mass rioting and violence against police after a demonstration at the Bolotnaya Square on 6 May 2012, which was organised to protest Putin’s inauguration as president. Hundreds of protesters were arrested, 26 people were placed under investigation, and 12 were put on trial. Ten accused were sentenced to 2.5–4.5 years in prison in February 2014.³⁹

In the Bolotnaya 6 case, observers reported numerous violations of Russian law and the rights of the defendants.⁴⁰ In November 2013, when detention of the accused was extended to February 2014, the defendants’ lawyers claimed that the extension violated the principles established by the European Convention on Human Rights.⁴¹ The European Court of

Human Rights (ECtHR) requested information from the Russian state about the conditions of the detained.⁴²

The following section discusses the impact of the legislation on the work of HRDs and activists in Russia. In particular, it reassesses the connection between repressive measures and the high costs of participation in civic activism.

Reassessing risk in activism

HRDs frequently work under violent, life-threatening circumstances. They challenge the state by revealing hidden or denied violations. As a result, HRDs often become targets of persecution themselves.⁴³ They are often arbitrarily arrested, detained, threatened, killed and targeted by judicial investigations.⁴⁴ Charles Tilly defines repression as an action ‘... which raises the contender’s cost of collective action’.⁴⁵ These repressive ‘actions’ can include: legislation to increase the reporting duties of human rights organisations to the state, rules that enable authorities to inspect organisations, or the criminalisation of participation in public demonstrations. Due to these repressive measures, human rights and protest activism are often classified as high-risk activism.⁴⁶ The potential cost of involvement in high-risk activism for the activist – and one’s household or family – is potentially higher than the benefits of openly opposing power-holders.⁴⁷

The social movement literature on high-risk activism suggests that participation in activism entails an assessment of the costs and likely risk of participation – the ‘anticipated dangers of engaging in a particular type of activity’.⁴⁸ Yet, high-risk activism involves more than a rational choice on behalf of the individual activist; participation often involves a deep emotional engagement and, in dangerous environments, a management of fear despite the high costs.⁴⁹ Participation in high-risk social movements results from the personal biography of the activist and his pre-existing networks.⁵⁰

HRDs creatively choose to respond to the constraints on their work and actively manage fear, build legal literacy and mental resilience to counter the high costs of activism. The behaviour of activists is therefore only indirectly influenced by repressive measures. Instead HRDs, at times, use their own vulnerability towards state violence as a technique to draw public attention to their causes or try to find alternative ways of developing their organisation’s strategies.

These strategies remain hidden as they are invented by practitioners and protest leaders ‘off stage’.⁵¹ Erving Goffman introduced the terms ‘off stage’ and ‘on stage’ to describe how humans present themselves depending on the public audience they face. The off stage is where people prepare for their performance or where they can abandon the roles they play in everyday life.⁵² This distinction between on and off stage remains useful as it shows that activism is not as spontaneous as it first appears: it needs careful planning, networking and management to keep participants safe. For HRDs, the ‘off stage work’ creates a safe environment where fear and risk are managed and where activists are educated on legislation and interactions with the police. Similarly, Goodwin and Pfaff found that movement leaders often engage in behind-the-scenes ‘emotion work’ to manage the fears that participants have to cope with before they attend a public demonstration.⁵³ Other examples of behind-the-scenes work include the preparation of satire and humour in protest against the state.⁵⁴ Therefore, while the claims of human rights organisations may appear coherent and adamant from the outside, in fact HRDs have to overcome internal dilemmas: which rights to protect over others, which victims to represent, and whether to cooperate with or confront state authorities.⁵⁵ Their work involves a great amount of

strategic deliberation on how to solve these dilemmas. These dilemmas and the strategic choices leading to their resolution often remain invisible as they are managed off stage.

This article aims to analyse some of these behind-the-scenes choices and dilemmas through examining the strategies of Russian youth activists and human rights lawyers and how they respond to three challenges: (1) how to do advocacy under risky circumstances; (2) how to manage fear and assess risk; and (3) how to use the domestic legal mechanisms in a repressive state? Before answering these questions, we will first introduce both case studies.

Case studies: Moscow's youth leaders and HRDs in Chechnya

Youth activists and opposition demonstrations in Moscow

In late 2009, Eduard Limonov, a popular author and leader of the National Bolshevik Party and the Other Russia Coalition, initiated the Strategy-31 protests in Moscow's Triumfalnaia Square. On the 31st day of every month, protesters rallied to remind the authorities to respect their right to freedom of assembly, guaranteed under Article 31 of the Constitution of the Russian Federation. Throughout 2010, various oppositional groups and public figures joined the Strategy-31 movement, for instance Boris Nemtsov of the Solidarity movement and Liudmila Alekseeva, leader of the Moscow Helsinki Group. Subsequently, the rallies spread to other cities, such as St Petersburg and Yekaterinburg. The city authorities never authorised Strategy-31 demonstrations and frequently arrested dozens of participants.

This case analyses the practices in Strategy-31 from the point of view of the activists of the liberal oppositional youth group *Oborona* ('Defence') which organised and participated in the Strategy-31 rallies.⁵⁶ The Strategy-31 organisers responsible for the earlier protest cycles transferred their protest tactics to the more recent post-electoral protests.⁵⁷

*HRDs in Chechnya*⁵⁸

Russian human rights practitioners seeking redress for victims in the Northern Caucasus face exceptional challenges and threats to their work.⁵⁹ Several HRDs and investigative journalists – Anna Politkovskaya, Stanislav Markelov and Natalia Estemirova – were killed allegedly owing to their involvement in investigating grave atrocities in the Northern Caucasus or representing victims before domestic courts. Gilligan argues that the two conflicts in Chechnya (1994–1996 and 1999–2009) are among the most violent conflicts in contemporary world history.⁶⁰ Human rights monitors found both the federal military forces and the Chechen armed forces responsible for committing grave abuses, primarily enforced disappearances, abductions, extrajudicial killings, indiscriminate bombings and torture.⁶¹ For this article, we focus on lawyers who give legal aid in post-conflict Chechnya and lawyers who assist their clients to lodge applications with the ECtHR.

A handful of human rights practitioners provide legal aid to victims and pursue state accountability through filing cases before the ECtHR. The majority of these lawyers work for renowned NGOs, for instance the Memorial Society in Moscow, which has monitored human rights violations in the Northern Caucasus since the first Chechen conflict.⁶² The British European Human Rights Advocacy Centre in cooperation with Memorial (EHRAC-Memorial) and the Dutch-Russian Stichting Russian Justice Initiative (SRJI) continue to assist victims in the Northern Caucasus with their claims before the ECtHR.⁶³ Both NGOs have offices in Moscow and representatives in the Northern Caucasus. In addition, the Committee against Torture in Nizhny Novgorod also gives domestic legal aid to victims

of recent abuses in Chechnya, but mainly represents victims of torture and ill-treatment during police detention.

The following sections examine how HRDs manage constraints and how they interact with the police and state authorities. It categorises the HRDs' responses to three challenges in human rights work.

Tactics for advocacy in dangerous situations

In this section, we examine the first challenge: how both groups of activists do advocacy under risky circumstances. The Moscow protesters adapted to and routinised the arrests during public demonstrations, while a group of HRDs adopted a mobile working group to give legal aid in post-conflict Chechnya.

Routinising demonstrations and arrests by Moscow's youth activists

While the Moscow city government rarely authorises demonstrations of the opposition, protest leaders continue to participate and organise these protests. Demonstrations remain important as they are the movement's only 'facade' through which it is seen by others.⁶⁴ By persistently organising protests to protect the freedom of assembly, the activists have established a routine and accumulated experience in organising unsanctioned protest events. Youth activists perceive unsanctioned demonstrations to be a necessity:

[Participating in unsanctioned meetings] is not always a pleasant experience, because there are actions where arrests are almost guaranteed. But we must understand that it is absolutely necessary, anyway, once in a while to participate.⁶⁵

Other activists perceive that 'hooligan activities' and provocation are a means to promote their goals and to draw media attention.⁶⁶ One of Oborona's leaders and a member of the organising committee of Strategy-31 claims that getting arrested can be a goal in itself:

Sometimes, among your tactical goals is that you get arrested. It's normal; already Gandhi used this tactic a lot. But then you have to be arrested in a way that you expected.⁶⁷

However, he argues that if the goal is to be arrested, it has to happen within control of the activists. When a demonstration's goal is to march from one location to another, then unwanted arrests are a failure. However, he states that getting arrested is sometimes more beneficial for publicity than a small peaceful march, which would not draw attention from the media.⁶⁸

Some of the interviewed activists speak about arrests with either enthusiasm or anxiety. Though, after a while, the excitement of getting arrested wears off and they start to see the experience as a nuisance: 'it's usually boring. We are detained for several hours, and then released'.⁶⁹ Experienced activists anticipate their arrests and carry some additional clothing or even sleeping bags with them to make the night in jail more comfortable. Following a demonstration, activists who are not detained gather outside the police stations to wait for the release of the detained or bring them food and water. The procedure of getting arrested becomes a routine to many. In fact, some participants become so familiar with the police that they even discuss and joke with them in the detention centre. One of the activists noted this in his Facebook profile: 'interestingly, the same policemen who beat and drag people in the street, completely support us in private conversations'.⁷⁰ Routinising

the arrests and getting familiar with the police lowers the threshold of participation in an unsanctioned demonstration and, thus, is a tactic aimed at helping people to join and stay in high-risk activism.

Providing frontline legal aid in Chechnya: the Joint Mobile Group

Like the protesting activists in Moscow, HRDs in Chechnya have created routines to minimise the risks and dangers of their work. After the abduction and killing of human rights activist Natalia Estemirova in 2009, the political environment changed dramatically for practitioners working in Chechnya. Estemirova was working on behalf of relatives of the disappeared for Memorial in Grozny. After her death, the President of the Chechen Republic, Ramzan Kadyrov, initiated a defamation case against Memorial's Director, Oleg Orlov, concerning Orlov's public claims about the Chechen authorities' involvement in Estemirova's abduction. The legal procedures against Orlov lasted for two and a half years until his acquittal in June 2011.⁷¹ Owing to Estemirova's death and the heated court procedures against Orlov, Memorial closed down its Grozny office and scaled down its activities in the region.⁷²

After Estemirova's death, it was deemed too dangerous for local HRDs to continue monitoring grave abuses in the region. Consequently, defenders were forced to adopt a flexible method in order to continue working in the region. A small group of HRDs provides legal aid in Chechnya with the Joint Mobile Group (JMG; *Svodnaia Mobil'naya Gruppy*). The JMG is a group of lawyers who travel to Chechnya for short periods to assist victims of recent violations with their claims to local courts. According to one member, 'the reason for setting up [the JMG] is clear: the purpose was to try and carry out civic investigations'.⁷³ The JMG mainly consists of HRDs who work for the Committee against Torture (*Komitet Protiv Pytok*, CAT), an NGO working in five regions.⁷⁴ CAT represents victims of torture and degrading treatment before domestic courts and the ECtHR. One practitioner reflects on his observations of the fear in post-conflict Chechnya:

Last year I went for three weeks on a shift of the Joint Mobile Group. I, of course, was astonished. Probably, such a hopeless situation never existed there before. [...] Behind the facades [of the renovated city of Grozny] a fear exists that I even did not encounter during the worst days of the war when you needed to crawl on all fours to move around.⁷⁵

The JMG employs various tactics: it consists of three to four HRDs who do not stay for more than a few months at a time to decrease the chances of violence against them.⁷⁶ Moreover, practitioners always travel together. In addition, video monitoring is an attempt to guarantee their safety in their apartment in Grozny and during transportation.⁷⁷ *The New York Times* reports that in 'their little car, they can activate a video camera and microphone in case of trouble and push a small red button on their dashboard to transmit sound directly to their main office 900 miles away'.⁷⁸

Most of these practitioners face several challenges to providing assistance inside the Chechen Republic in comparison to giving legal aid in other regions. One lawyer elaborates on this difference:

It's emotionally very hard to be under constant pressure. To be working there for three months is very difficult. When I am working [in Nizhny Novgorod] I only work on the European Court. There, I give legal aid. [...] How does it work in Chechnya? There, the investigation department is a concrete fortress, surrounded by a high fence. You will not be able to enter if the investigator does not come for you at a checkpoint where passes are issued. You need to

call the investigator to get through. If he knows that you are there to complain about him, he will not pick up the phone. You say 'through my power of attorney I want to get acquainted with the materials'. He replies, 'we do everything according to law, we do not let you get access to the material, you can go to complain before the court'. This process takes a great deal of time.⁷⁹

Throughout 2012, the pressure on both the CAT and JMG increased. In June 2012, members of the JMG were invited to a meeting with Chechen President Ramzan Kadyrov, where he expressed his anger about the activities of the JMG in the Chechen Republic.⁸⁰ Internationally, the group received praise for its work in the Northern Caucasus. In May 2011 Frontline Defenders, the international foundation for the protection of human rights defenders, gave JMG the Front Line Defenders Award.⁸¹ In 2013 the JMG received the Martin Ennals Award for Human Rights Defenders.

Other practitioners who conducted research on human rights violations committed during the conflict in Chechnya were prosecuted due to their involvement in 'extremist' activities and publications. For instance, in December 2012, the Nizhny Novgorod's prosecutor filed a petition to ban the monograph 'International Tribunal for Chechnya' claiming that its authors were involved in 'extremist' activities.⁸² The book promotes the establishment of an ad hoc international criminal tribunal for Chechnya.⁸³ One HRD involved in this project notes that: 'in case of harassment or pressure, there is no need to be afraid [...], instead we need to make sure that the club hitting us will hit them too'.⁸⁴ In July 2013, however, the Dzerzhinsk City Court in Nizhny Novgorod rejected the petition by the prosecutor's office which argued that the book had 'extremist' content. Instead the court accepted an expert report offered by the activists that argued that the book was a judicial and academic publication.⁸⁵

Thus, the lawyers have enacted a strategy that uses the institutional legal framework for their own benefit: De Certeau refers to this as 'the weak' manipulating the framework created by 'the strong'.⁸⁶ The HRD states that the criminal charges brought public attention to the book:

[...] The struggle against all these attacks takes time. It is emotionally exhausting. If they do initiate a criminal case, it is also good for us, because it is the best advertisement. [A colleague] already jokes about this to me: 'are you paying them for advertising you?' [...] Because, if there is a criminal case a lot of reporters come here [...].⁸⁷

This is not to downplay the daily dangers for HRDs working in Chechnya. The JMG creatively adopts its way of working as a method for managing the risks and fear involved in providing legal aid in Chechnya. As with the youth organisation *Oborona*, the lawyers engage beyond their professional legal activities in 'emotional work' and routinise their visits to the Chechen Republic. Mobility is of vital importance to minimise constant pressure. The rotation of members, on the other hand, deflects target attacks to individuals within the group, which has a vertical, hierarchical structure. Despite these precautions, the JMG's office was burned down in December 2014. According to the activists it was set on fire by attackers, but the Chechen police reported it as an accident.⁸⁸

Managing fear and risk

This section discusses the local tactics of HRDs in managing the fear in activism by building legal literacy and managing the dangers of applying to the ECtHR.

Building legal literacy and mental resilience before protests

HRDs further manage these hazardous circumstances through using law as a source of protection. The young activists participating in unsanctioned demonstrations in Moscow recognise the threat of violence and harm, for example getting fired from their jobs or suspended from university. They are familiar with the harassment of independent journalists and recognise that oppositional activists can face attacks as well:

Being a journalist is very dangerous. In general, engaging in public activities is also fairly dangerous. At least, you should always keep in mind is that this [violent attacks] can happen.⁸⁹

Besides facing violence from the police, participants in demonstrations face violence from unidentified hooligans, who they suspect of being paid by pro-Kremlin groups:

[...] a week ago, three or five mobsters attacked a picket. They looked like skinheads or hooligans. They were armed with chains and the strange thing was that there were no police around. [...] They always bring the riot police even to our smallest actions.

However, he continues:

Of course it [violence] won't prevent us from holding our actions but it may prevent many people from participating. Because not everybody is ready to be attacked physically by some skinheads armed with chains for just coming to a picket or a meeting.⁹⁰

Despite the threat of violence against them, activists claim that they are not afraid and will not cease their activities. Goodwin and Pfaff argue that social movement leaders actively mitigate the fears of participants to generate courage and risk-taking behaviour.⁹¹ Moreover, Russian youth activists have created tactics to manage their fear through their repetitive, and frequently violent, encounters with the authorities. Another activist reflects on this:

One of the biggest benefits [of activism] is that I stopped being afraid of the police. I was really scared before. [...] My knees used to shake [when meeting with the police]. Now I know how to communicate with them. I know what I need to say to them, [and] where to remain silent, and that gives me confidence. I'm not afraid of them.⁹²

These encounters with the authorities have also created a feeling of confidence and 'legal literacy' for some of the activists:

It's such a great experience. At least, I am not completely defenseless in the legal sense, if a police officer tries to inspect me.⁹³

In special seminars, leaders and guest speakers train activists to be aware of their rights and how to defend them. These seminars are also open to the public and the activists hope to convey this 'legal literacy' to all Russians so that they would not be afraid and 'would understand their rights and learn how to defend them'.⁹⁴ Activists often claim that fear and vulnerability vis-à-vis the authorities and the state 'system' are the roots of the apolitical mentality of Russians.

Furthermore, humour and irony are efficient ways to manage fear and to challenge apathy.⁹⁵ Russian youth groups often use humour, ridicule and irony in smaller-scale actions or flash mobs, in their self-made placards in demonstrations and on their websites.⁹⁶ According to one of the youth movement leaders, using humour is like judo, Putin's favourite sport, in regard to using the opponent's power against him.⁹⁷ Sharp defines this practice

as ‘political jiu-jitsu’.⁹⁸ Activists build their mental resilience by becoming literate about their legal rights and how to use humour in protest as a way of deflecting violence. They train in how to counter the police and can therefore routinise the experience of being arrested, which helps them to overcome part of the fear of violence. Humour, in addition, gives the police a human (and often ridiculous) face.

Managing the fear of litigating before the ECtHR

The activists involved in public protests build legal literacy and resilience to manage fear in protest events. Lawyers in Chechnya also aim to create strategies to manage their clients’ fears and to prepare them to face threats from the authorities.⁹⁹ One significant opportunity spurred organisations to seek justice across Russia’s borders: Russia’s ratification of the European Convention of Human Rights in 1998. This watershed event allows for HRDs to litigate before the ECtHR on behalf of victims from the second conflict in the Chechen Republic. Two organisations are their main representatives: EHRAC-Memorial and SRJI. They aim to seek state accountability and individual remedies related to indiscriminate bombings, enforced disappearances, torture and extrajudicial executions.¹⁰⁰ Between 2005 and 2014, the court found violations of the convention in over 250 of their applications. By applying to the ECtHR, the practitioners evade the non-cooperation of the Russian state in domestic investigations, and force the authorities to comply with the convention and provide remedies to victims. While the Russian state follows through on paying financial compensation, both organisations continue to advocate for further implementation of the ECtHR’s judgments, such as the re-opening of investigations.¹⁰¹ Consequently, the ECtHR’s mounting judgments become leverage to pressure the state to comply with the convention or to initiate truth-seeking processes on the violent conflict.¹⁰²

Applications to the court can be dangerous for lawyers and their clients.¹⁰³ SRJI describes the various perils that lawyers encounter:

Any travel requires crossing numerous military checkpoints where soldiers routinely solicit bribes. Private persons do not have telephones, email or other modern means of communication. Material evidence of human rights violations often does not exist or is almost impossible to obtain. Witnesses often feel vulnerable and intimidated, and are reluctant to step forward.¹⁰⁴

For instance, relatives of victims of enforced disappearances were unlawfully detained after they had lodged a claim before the ECtHR.¹⁰⁵ A lawyer explains that when they select a new case, the client’s awareness of the danger has an impact on their choice:

It happens that some applicants just drop their cases. Then, everything we did on the domestic level [...] was in vain. To avoid this, we try from the start to agree with the applicant that he will not abandon his appeal [...] Now, only a part of our applicants abandon their cases. But mostly the applicants waive their cases due to threats from the authorities.¹⁰⁶

In this sense, the lawyers have to manage the expectations of their clients and inform them about the procedures of the court.¹⁰⁷ As with the youth group *Oborona*, the lawyers engage in building their clients’ legal literacy of their human rights.

Consequently, an application before the court entails a strategic selection by the lawyers of those applicants who are willing to pursue their claim until the end, even when they are in danger of receiving threats or are made offers to abandon their claims against the Russian

authorities.¹⁰⁸ Therefore, making applications to the court includes a risk that is managed by the practitioner.¹⁰⁹ The lawyers explain from the very beginning that an application can be dangerous.

Using legal mechanisms against the state

This section examines the tactics that involve obedience or disobedience to law and the use of alternative registration of NGOs. Some HRDs use legal mechanisms as a means of protection, while others consciously challenge the boundaries by using their own vulnerability.¹¹⁰

Demonstrating police violence during protests

HRDs aim to challenge the state by seeking protection in domestic legal mechanisms. The objective of the Strategy-31 demonstrations was to draw attention to the Russian constitution that guarantees the right to peaceful assembly, but which the state does not respect. Despite the small size of the gatherings, protesters managed to attract the attention of journalists, bloggers and foreign media.

The liberal oppositional groups employ Gandhian non-violent resistance tactics that dif-fused from the American Civil Rights movement to activists in Eastern Europe's 'colour revolutions'.¹¹¹ One inspiration for them is Gene Sharp's *From Dictatorship to Democracy*, a popular non-violent resistance handbook first published in Burma in 1993.¹¹² To perform their own non-violence and to demonstrate police violence against peaceful protesters, the activists consciously put themselves into a situation in which violence is anticipated. The protesters play different roles during a protest event; some push through to the heart of the demonstration, shout and fight the police. Familiar faces to the police are regularly arrested. Behind this front line of participants are other protesters and bystanders that observe and shout slogans but try to stay out of contact with the police. According to one of the author's observations, the protesters in Strategy-31 demonstrations test the boundaries and tolerance of the authorities by pushing through areas closed to the public or by challenging police orders. Frequently, this disobedience leads to arrests. Some protesters fiercely resist arrest while others lay immobile on the ground forcing several policemen to carry them to the police vans. The protester who resists arrest usually faces police violence.¹¹³

Following the protest event the activists claim that these arrests and police violence was illegal and disproportionate. After a demonstration, protest participants and activist-journalists publish a selection of pictures on blogs and on social media sites about the violent treatment by the police, especially against young people, women and the elderly. For example, the arrest of the elderly Liudmila Alekseeva received worldwide condemnation after pictures of the arrest spread through the internet.¹¹⁴ In subsequent demonstrations, the police did not interfere when Alekseeva walked into areas closed to other protesters. Some activists note that the police do not arrest women because they are afraid of a 'scandal':

Police arrest mostly young men, they tend to not touch young women. It would be a big scandal if something happens to them [women]. Therefore, usually the girls stay, and young men are taken away somewhere.¹¹⁵

Even if most of the protesters are men, women and other groups represented as 'weak' play an important symbolic role in demonstrating police violence. Kuzio argues that young

women played an important role in Serbian protests in 2000, breaking down the distrust between law enforcement and the revolutionaries.¹¹⁶ Women protesters were usually marching in front of a demonstration because the police were less likely to attack women. And if women were beaten, pictures with blood-stained young women in newspapers and on the internet worked in favour of the opposition.¹¹⁷ The gendered practices of Russian protesters draw on a patriarchal understanding of gender differences that remains influential in contemporary Russia and shapes the roles men and women play in political activism.¹¹⁸

In addition, the lodging of lawsuits by arrested demonstrators is a related practice. While the chance of winning a case is small, filing several claims after a demonstration is a way to burden the authorities and use their own legal framework against them. Frequently these cases are not opened for investigation, but the activists consider that they 'should do everything [they] can to make their [the authorities] lives more miserable'.¹¹⁹

Exploring legal alternatives: NGO registration and protection by the ECtHR

HRDs in Chechnya and elsewhere in Russia use legal mechanisms to find alternatives to the burdensome registration procedures enacted by the state between 2006 and 2012. The annual reporting is an increasing bureaucratic burden to NGOs.¹²⁰ Especially since the adoption of the 'foreign agent law' in 2012, NGOs and individual HRDs have been the target of administrative and civil lawsuits for their failure to register as a foreign agent. In some cases, NGOs were able to win these lawsuits.¹²¹ Some organisations chose to shut down, for instance, the Anti-Discrimination Center Memorial in Saint-Petersburg and JURIX Lawyers for Constitutional Rights and Freedoms.¹²²

Before the adoption of the 'foreign agent' law, it appeared to be easier for NGOs to work around their problems with registration within the boundaries of the law. The Ministry of Justice has the power to strike out a foreign NGO from its registry; it cannot strike out a Russian NGO without a court hearing. One HRD indicated that the establishment of their NGO in 2001 was initially risky, but with the aid of HRW's experts, they could register as a foreign NGO working in Russia:

We are a fund. The organization is Dutch. In other words, in the beginning when the organization was founded, the idea was to investigate crimes in the Northern Caucasus and the lodging of cases with the [European] Court. It was difficult back then to establish such an organization in Russia, because of the ongoing conflict and military operations in the Caucasus. [...] Through the support of Human Rights Watch the decision was made to set up a fund in The Netherlands in Utrecht. To have all the registrations there, so that they would not shut us down.¹²³

Another HRD adds that 'there has never been a permanent office in Utrecht. So it is just a matter of the configurations that will allow you to work most efficiently and get around the restrictions'.¹²⁴

The NGOs are careful to conform to the restrictive NGO laws and stay within the law. Despite these precautions, in 2012, due to a mistake in its registration report, SRJI was struck off the registry by the Ministry of Justice¹²⁵:

The NGO law that came into force in 2006 has much more restrictive or draconian provisions for regulating the activities of foreign NGOs. One of those provisions has to do with the actual registration of the office. What happened to us was that we made a mistake in our reporting requirements. We acknowledged this mistake: it was not intentional, but a human error. But

still, they struck us out of the registry, just like that. They have the power to do that under Russian law [...] It was quite a shock when we received the letter that stated that 'you don't exist anymore'.¹²⁶

As a precaution, the organisation created a partner organisation as a back-up if the organisation were to face problems with its annual registration: '[they] can only strike out a Russian NGO through court. So you have a little bit more protection'.¹²⁷ One lawyer explains that:

Well, the shell of it already did exist, which was fortunate. Basically it was the foresight of some former staff members. The organization already had registration problems in 2006–2007 when the NGO law came into force and all the foreign NGOs were obliged to reregister. We failed to reregister twice as a branch office. So, after the second rejection they set up this [organization] as a backup, but then we were registered on the third attempt.¹²⁸

Resource centres for civil society organisations in Russia have proposed alternative tactics. A representative of the St Petersburg Human Rights Resource Center (HRRC) explored several possible tactics to get around the foreign agent law, for instance by registering an NGO as a commercial entity.¹²⁹ The HRRC also continues to report on the effects of the law in St Petersburg and give legal aid to NGOs affected by it.¹³⁰

Besides using the domestic legal system, the ECtHR mechanisms provide a vital international protection mechanism for HRDs. On 6 February 2013, 11 NGOs (including Memorial and the Moscow Helsinki Group) lodged an application with the ECtHR alleging that the 'foreign agent' law violates their freedom to expression and assembly guaranteed under Articles 10 and 11 of the European Convention on Human Rights.¹³¹ Although it is too early to tell the potential impact of this case, it highlighted to an international audience the law's potential debilitating effect on Russian civil society. In the immediate wake of their complaint, prosecutors started inspections into the activities of Russian organisations and began to prepare administrative and civil lawsuits against a selection of those who refused to register in March 2013. From May 2014 onwards, the Ministry of Justice was given the authority to register NGOs as foreign agents on its own initiative.

Conclusion

This article explored how HRDs behave in a hybrid political regime and how they choose to interact with police, courts and government officials. In particular, the article categorised the various responses of two groups of Russian HRDs to three challenges of high-risk activism in the period 2005–2013: (a) how to organise advocacy and protest in risky situations, (b) how to manage risk and fear, and (c) how to use domestic and international legal mechanisms in a repressive state. By comparing two separate areas of contention – public protest and litigation before courts – this article goes beyond studies on institutional politics in hybrid authoritarian regimes and highlights how HRDs working under the same restrictive legal conditions have come to employ comparable strategies. We have argued that despite international concern on new restrictive legislation, Russian HRDs use the remaining legal opportunities and develop tactics to manage fear, assess risk and voice grievances on behalf of marginalised communities.

These findings do not underestimate the dangers to their work. While this article covers the period 2005–2013, the pressure on NGOs and HRDs has increased over 2014 and the beginning of 2015 when domestic prosecutors decided to launch a series of lawsuits against

NGOs refusing to register as ‘foreign agents’. Since then the legal and political environment in which the HRDs work has changed. These changes diminished NGO cooperation and further complicated cooperation with government institutions.¹³² How the opposition activists and HRDs have adapted to these changes falls beyond the scope of this article but demands further research. We emphasise that those HRDs who are at risk have no choice but to respond to the political curbs by routinising the experience of danger and fear during protest through legal education, by confronting new laws, by testing boundaries of police violence, or by seeking legal alternatives to registration.

This discussion suggests two broader implications to the study of human rights defenders across the world. First, this article reshapes the way we commonly perceive HRDs as being ‘heroic’ and coherent in their actions. Instead, human rights work is a practice that involves behind-the-scenes strategic calculation: HRDs have to overcome dilemmas and fear in their daily work through craftiness and creativity.¹³³ Second, in a legal system where laws are ambiguous, they can be interpreted selectively, not only by government authorities, but also by the HRDs themselves. This duality is a cause for confusion as each HRD has to negotiate its position vis-à-vis the local government.¹³⁴ Russian HRDs therefore balance between a constant pressure to reinvent their tactics to challenge the state within the boundaries of the domestic legal mechanisms and the hazards of using tactics that might further jeopardise the activist and his or her cause. The Russian NGO legislation has changed often and rapidly within the last decade; this has forced NGOs to find the legal resources to adapt to an ever-changing environment. In this changeable environment, HRDs need to continuously evaluate and develop their tactics to maintain their activities and avoid criminal prosecution or violence. Consequently, human rights protection programs could better aid HRDs to stay informed of their legal and practical opportunities and support their already existing ability to creatively reinvent their local tactics.

Acknowledgements

The authors wish to thank the editors Alice Nah, Karen Bennett, James Savage and Danna Ingleton for hosting the workshop on the protection of human rights defenders at the University of York (UK), for their support, and for their critical comments. We also wish to express our gratitude to the external reviewer (Lutz Oette) and the Associate Editor (Lars Waldorf) for their supportive comments on previous versions of this manuscript. Finally, we would like to thank Markku Lonkila, Lisa McIntosh Sundstrom, and the members of the Helsinki Political Sociology seminar for their suggestions to improve the article.

Disclosure statement

No potential conflict of interest was reported by the author.

Funding statement

This work was completed under the Finnish Distinguished Professorship (FiDiPro) project ‘Regimes, Institutions and Change: Politics and Governance in Russia in a Comparative Perspective’ at the Aleksanteri Institute, University of Helsinki. A part of this research was completed under the Finnish Graduate School for Social Sciences (SOVAKO), the Finnish Graduate School for Russian and East European Studies, and with the support of Academy of Finland mobility grants.

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