

# Freedom of Assembly in Russia: a Permanent Crackdown

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Nobody will doubt that freedom of assembly is a crucial pillar of any democracy. It is, however, even more important in authoritarian countries such as Russia. When you don't have access to an independent court, when elections and their outcomes are completely controlled by the regime, when media face increasing restrictions, public protests often remain the only option to make one's voice heard.

If anything, it must be clear for the Kremlin judging by its longtime policy of curbing freedom of assembly. Several developments—domestic and international—have intensified the fear that Putin and his entourage have of “people power”. Campaigns against street protests took off after the Orange Revolution of 2004 and the Revolution of Dignity of 2013–2014 in Ukraine as well as after the series of mass anti-Putin protests in Russia in 2011–2012. For the last 6 years, we effectively live in a state of a permanent crackdown on freedom of assembly. Not only are new laws against it enacted nearly every month, but implementation and interpretation of existing laws gets worse day by day. I have endeavored to outline some of these trends here.

## Protest Bans

The Russian Constitution and the federal law on public assemblies proclaim that one doesn't require a permission to hold a protest; simply notifying local authorities is enough. In practice, however, these authorities view the situation as the opposite: unless they respond in writing that they approve of the event, the police will try to arrest the organizer(s) and disperse the crowd. Pretexts for government refusal to approve vary, but most frequent ones cite inconveniences for pedestrians or security concerns. In many cases, local authorities even had their allies organize fake events (which took place only on paper) to formally occupy all central squares in a city.

A rally that failed to get approval from the authorities almost always faces violent police response. In violation of national law and rulings of ECHR, riot police (usually OMON units, now a part of National Guard) usually arrest peaceful participants as well as bystanders indiscriminately. Excessive force is often used, although there is barely any resistance. There is almost no remedy against such abuse by the police as investigators and courts refuse to prosecute these cases. For example, when OMON badly beat dozens of protesters in Moscow on 6 May 2012, the Investigative Committee failed to react to numerous complaints about police conduct; instead, they accused the protesters, including the ones who had been injured, of using force against the police.

In fact, there is no real need for such harsh police action. There is no such thing as a violent protest in today's Russia. Over the past years, there have been no instances of protesters smashing windows, turning cars over, attacking citizens or doing other things that might justify violent suppression by the OMON—and this is despite many mass protests being banned. When on several occasions (such as on 7 October 2017, and 28 January 2018) Moscow police was instructed not to intervene, thousands of protesters peacefully marched through the city center and orderly dispersed. It did not prevent the police from cracking down on the next similar protest on 5 May and arresting about 700 people in Moscow alone.

It is noteworthy that such hostile attitude toward protests does not apply to rallies friendly to the authorities. In fact, their organizers often ignore legal requirements and still get away with it. One example is a picket organized by RT editor-in-chief Margarita Simonyan in front of the Ukrainian embassy on 18 May in support of the head of a Russian state-run news agency arrested in Kyiv. She failed to notify the authorities three days in advance—a violation that would undoubtedly lead to dispersal of the protest if it were organized by the opposition. However, police took no action in this case.

## Penalties

Putin's regime, in spite of all its alleged sophistication, mostly uses rather simple and straightforward ways to face what it considers a threat. A constant theme of law-making in Russia since 2012 was penalizing more and more protest-related activities and making these penalties much more serious.

For instance, fines for participating in or organizing banned protests have increased up to 300 times and almost reach the average annual wage in Russia. If you drive a car at 100 km/h in a city, you will be fined 500 RUB (about £6). The minimum fine for participation in a protest is 20 times higher: 10,000 RUB (£120). The maximum fine, applied if you are arrested two times in a year, is 300,000 RUB (£3,600). Alternatively, you can face up to 30 days in jail.

Formally, these violations are considered “administrative misdemeanor”, but such harsh penalties are on par with those for some felonies. For instance, a dangerous violation of safety rules at a nuclear station bears a maximum fine of 200,000 RUB, less than for participation in two protests within a year. No other misdemeanor is punishable with 30 days in jail. These strange disproportions display regime's real priorities. They have all been introduced in the past six years.

The other side of these being formally considered misdemeanors is the simplified legal process. Trials that hand such heavy fines or send people to jail for a month often take as little as 20 minutes. There is no prosecutor (effectively, the judge takes on his role) and no mandatory lawyer. Evidence usually consists of a police report, which claims that the defendant took part in an “unsanctioned” protest, and some formal paperwork. Such reports are usually the same for everyone arrested and in many cases are signed by random officers who were not even present at the scene. Most judges refuse to see witnesses or watch photo or video (when it is available) of the event; even when they do, they use standard formulae, such as “the court has no reason to question truthfulness of police officers” to ignore all inconvenient evidence. Nearly all such sentences are upheld by higher courts in Russia but are rescinded by the European Court for Human Rights, albeit many years later.

There are even harsher measures for those who are not to be intimidated by all these penalties. For example, relatively new §212.1 of the Criminal Code penalizes frequent violation of the law on public assemblies. An individual, who has been found guilty of at least three related misdemeanors within 180 days, can face up to 1,000,000 RUB (£12,000) fine or up to 5 years' imprisonment. However, even the Constitutional Court, which usually supports all government proposals, recently ruled that this paragraph should not be used unless there is proof that the defendant is actually dangerous to the public. But other novelties in the Criminal Code, such as criminalization of “teaching or studying” for participation in riots and the ever-growing number of “anti-extremist” provisions, give the authorities a broad range of tools for use against especially annoying activists.

## Becoming an Offender

It doesn't take much to face one of these penalties. Like I mentioned earlier, even if an organizer strictly follows the letter of the law, they often find that their planned protest has been illegally banned or moved to a remote, inconvenient location. If they choose to still hold it, citing their

constitutional rights or violation of law by the authorities, they are certain to face riot police and most likely end up in a police station.

Participants and onlookers risk the same, especially if they carry any placards or flags or try to talk with officers. Bloggers and professional journalists are not immune either; sometimes police deliberately hunt people with cameras, arrest them and occasionally destroy their equipment. Even bystanders and random people can be grabbed too if somebody considers them suspicious. On 5 May in Moscow, riot police arrested a woman who came to the square to find her son, a conscript in the National Guard; apparently, they didn't like that she was talking to soldiers. The woman was promptly found guilty of participating in the anti-Putin protest.

In fact, one doesn't need to even be at the venue of the protest to be prosecuted for it. On 30 January 2018, police arrested two employees of Alexey Navalny's Anti-Corruption Foundation, Ruslan Shaveddinov and Kira Yarmysh, as they arrived in a Moscow airport. Two days earlier they were anchors of a live YouTube show that covered protests from a studio in Vilnius, Lithuania. However, the police accused them of organizing those protests and courts sent them to jail for several days. Another Navalny's associate, the head of his campaign office in Moscow Sergey Boyko, was recently sentenced to 30 days in jail for one tweet announcing the 5 May rally, which had been posted long before the protest was banned.

As mentioned earlier, protesters in Russia are non-violent, almost without exceptions. However, about a dozen of them are prosecuted—and usually sent to prison—every year for “violence against representatives of the authorities”. Even mild resistance or unintentional touch can be interpreted as violence, such as accidentally falling on an officer during arrest. One such example is 17-year old Dmitry Myakshin, who slipped and fell on the ground during a protest in St. Petersburg on 26 March 2017, and accidentally pushed a riot police officer. All “clashes with the police” are one-sided; there have been no cases of serious injuries to riot police officers unlike protesters who may end up with broken bones, concussions and bruises. The government also incentivizes officers to claim they had been assaulted, even presents “victims” with free apartments in Moscow (one such example). As a result, many of them “recall” being attacked by protesters weeks or months after the events. Again, investigators and judges see “no reason to doubt” such testimony.

## Recommendations

It is obvious that the human rights situation as well as the political system in Russia can only be changed by Russians themselves. Western governments have very limited means to affect these and their involvement is not always constructive. However, Russia's legal commitments and fundamental principles of human rights make it more than a domestic issue. Moreover, Kremlin's disregard for rule of law and freedoms of its citizens at home is closely linked to the threat it poses to international security and order.

In my opinion, British government, including legislature and diplomatic corps, could do more to bring attention to abuse of freedom of assembly in Russia. Diplomats can attend trials of political prisoners, see for themselves and comment on violation of international and domestic norms in these trials, ask their Russian counterparts about treatment of peaceful protesters and publicly voice their concerns.

Britain can also use the recently passed “Magnitsky sanctions” to go after those responsible for banning and violent dispersal of protests and for prosecution of peaceful activists. I think that senior members of regional administrations responsible for “approving” (and, consequently, prohibiting) rally notifications may be a good target for such sanctions, because they rather often have property,

family members or other interests in the UK (unlike low-rank police officers, for instance). As with other sanctions, coordinating them with other Western countries in the EU and across the Atlantic helps multiply their effect.

It is just as important to support civic initiatives, both domestic and international, that focus at freedom of assembly. There are many NGOs and independent media outlets that cover protests and aid victims of abuse of freedom of assembly: OVD-Info, Agora, MediaZona, Open Russia, Amnesty International et al. Some of them need financial resources while others can benefit from more publicity and international legitimacy. In some cases, individuals who have to flee political persecution may seek asylum in the UK—they also require support.

Problems of freedom of assembly are inseparable from other humanitarian and political issues in Russia: rule of law, democratic elections, government accountability, freedoms of expression and association etc. Progress in one of these fields can only occur in connection with progress in the others. It means that any measures against those who systematically abuse human rights, misappropriate public money or falsify elections indirectly raise costs of running an authoritarian regime. Any such effective actions are useful and work toward one ultimate goal: a free, democratic and peaceful Russia.