

“[W]e have had enough revolutions”: International Advocacy Strategies through the Lens of Russian Political Prisoners¹

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Authoritarian states are not known for promoting freedom of expression. In order to maintain power, successful authoritarian governments must restrict oppositional voices to survive. However, as a matter of institutional legitimacy in the eyes of their people, many regimes still superficially hold elections, request opinions from their constitutional courts, and even incorporate human rights protections into national laws. Such is the case in the Russian Federation, where the government strives to appear democratic despite its widespread repression.

Behind the arguably feeble appearance of a legitimately elected government with constitutional safeguards, the Russian legal system systemically punishes and incarcerates political dissidents. Russian authorities target conduct ranging from social media posts critical of President Vladimir Putin to public speeches condemning the Russian government.² The right to freedom of expression in Russia is increasingly restricted every year, in large part due to the rise of the internet.³ Two years after opposition leader Alexei Navalny was poisoned and imprisoned, Amnesty International’s Russia Director, Natalia Zviagina, proclaimed that “not one critic, human rights defender or independent journalist is safe from the threat of

1. Vladimir Putin, President of the Russian Fed’n, *Speech at State Duma Plenary Session* (Mar. 10, 2020, 3:45 PM), <http://en.kremlin.ru/events/president/news/62964> [hereinafter *Speech at State Duma*].

2. See e.g., *В Москве оппозиционеру Владимиру Кара-Мурзе продлили арест до 12 февраля* [In Moscow, the Oppositionist Vladimir Kara-Murza Extended his Arrest Until February 12], RFI (Dec. 8, 2022, 9:49 PM), <https://tinyurl.com/mv33922h> (Ru.) [hereinafter RFI]. See generally HUM. RTS. WATCH, ONLINE AND ON ALL FRONTS (2017) [hereinafter HUM. RTS. WATCH, ON ALL FRONTS].

3. See *Freedom on the Net 2022: Russia*, FREEDOM HOUSE, <https://freedomhouse.org/country/russia/freedom-net/2022> (last visited Jan. 12, 2024) [hereinafter FREEDOM HOUSE 2022]; see also *Freedom on the Net 2023: Russia*, FREEDOM HOUSE, <https://freedomhouse.org/country/russia/freedom-net/2023> (last visited Jan. 12, 2024) [hereinafter FREEDOM HOUSE 2023].

persecution, reprisals and repression” in Russia.⁴ In this political environment, the founder of the Institute for Modern Russia, Pavel Khodorkovsky, asserted that “[I]t’s [not] an over-dramatization to say that Putin is longing for a return to Soviet Union times . . . not only in geopolitical power but in terms of total control inside the state.”⁵

This Note analyzes the legal contradictions between international law and Russian law in the context of political prisoners and the violation of their legal right to freedom of expression. With this backdrop, the Note proceeds to examine human rights advocacy strategies to determine potential paths of action that outsiders can use to promote human rights abroad.

Part I provides context of the recent Russian political system, international and national laws that protect and limit freedom of expression, and the inseparable link between Russian law and politics. It also introduces the four advocacy strategies that will be explored in the Note: economic sanctions, corporate pressure, moral condemnation raised by non-governmental organizations (“NGOs”), and Universal Periodic Review (“UPR”) at the United Nations. Part II analyzes two methods used by the Russian government to detain political prisoners: consistently targeting and detaining outspoken opposition leaders like Alexei Navalny under the guise of countering extremism and terrorism and bringing a quick succession of charges against dissidents to supposedly counter foreign influence, as befell activist and author Vladimir Kara-Murza. Part II subsequently examines the strengths and weaknesses of advocacy strategies in relation to Russian political prisoners.

The Note concludes that, to successfully raise issues of human rights violations under authoritarian regimes in the twenty-first century, a combination of condemnation and engagement-based strategies is critical. The Note also emphasizes that it is necessary for the U.S. and other countries to continue to diplomatically engage with states like Russia in order to avoid isolationism and encourage international cooperation on global issues such as climate change or the proliferation of nuclear weapons. While human rights advocacy strategies are imperfect, it must be emphasized that human rights advocacy is not a zero-sum game and that it is still worth advocating

4. *Russia: Two Years After Aleksei Navalny’s Arrest, Russian Opposition Figures Suppressed, Jailed or Exiled*, AMNESTY INT’L (Jan. 23, 2023), <https://www.amnesty.org/en/latest/news/2023/01/russia-two-years-after-aleksei-navalnys-arrest-russian-opposition-figures-suppressed-jailed-or-exiled/>.

5. Greg Miller & Joseph Menn, *Putin’s Prewar Moves Against U.S. Tech Giants Laid Groundwork for Crackdown on Free Expression*, WASH. POST (Mar. 12, 2022, 7:00 AM), <https://www.washingtonpost.com/world/2022/03/12/russia-putin-google-apple-navalny/>.

for fundamental rights even if states do not alter their damaging behavior.

I. BACKGROUND

Section I of this Note provides context for the detention of political prisoners and the suppression of freedom of expression. As President Vladimir Putin maintains an iron grip on the Russian government, the country's laws and politics are intentionally inextricably linked. Despite international and national legal protections for human rights, the 'real' laws of the country facilitate the government's justification for legally silencing political dissidence.

A. PUTIN'S GRIP ON THE RUSSIAN GOVERNMENT

For all intents and purposes, President Vladimir Putin is Russian politics.⁶ Putin is an extremely efficient autocrat, and his constitutional alterations to stay in power have been given an air of legal legitimacy by the Russian Legislature, the Federal Assembly, and the Russian people via referendums.⁷ Putin has effectively led the country since 2000 and unsurprisingly won the country's March 2024 "election" to secure his fifth term as President.⁸ Given recent constitutional reforms, he could legally hold onto power as President until 2036.⁹ Putin could become the longest serving leader of Russia since Peter the Great of the seventeenth and eighteenth centuries.¹⁰

6. JAN MATTI DOLLBAUM ET AL., *NAVALNY: PUTIN'S NEMESIS, RUSSIA'S FUTURE?* 145 (2021) (noting that the Kremlin's political strategy can be distilled into the sentiment "Putin is Russia and Russia is Putin").

7. Matthew S. Schwartz & Scott Neuman, *Russian Parliament Allows Putin 2 More Terms as President*, NPR (Mar. 10, 2020, 2:15 PM), <https://www.npr.org/2020/03/10/814090121/putin-could-stay-president-until-2036-under-new-proposal>; Andrew Roth, *Vladimir Putin Passes Law that May Keep Him in Office Until 2036*, GUARDIAN (Apr. 5, 2021, 11:20 AM), <https://www.theguardian.com/world/2021/apr/05/vladimir-putin-passes-law-that-may-keep-him-in-office-until-2036>.

8. Roth, *supra* note 7; Guy Faulconbridge & Andrew Osborn, *Putin Wins Russia Election in Landslide With No Serious Competition*, REUTERS (Mar. 18, 2024, 4:35 AM), <https://www.reuters.com/world/europe/russias-presidential-vote-starts-final-day-with-accusations-kyiv-sabotage-2024-03-17/>.

9. Olga Chyzh, *Putin Won't Lose Russia's Election, But His Grip on Power Could be Weakened*, GUARDIAN (Jan. 10, 2024, 8:24 AM), <https://www.theguardian.com/commentisfree/2024/jan/10/putin-lose-russia-election-power-weakened>; Schwartz & Neuman, *supra* note 7; Roth, *supra* note 7.

10. See *Peter the Great, Tsar of Russia (1672-1725)*, ROYAL COLLECTION TR., <https://www.rct.uk/collection/405645/peter-the-great-tsar-of-russia-1672-1725> (last visited Jan. 12, 2024).

The Russian Federation has become increasingly authoritarian since President Putin's third term began in 2012.¹¹ Putin's third term was not well-received, sparking mass protests across the political spectrum the likes of which had not been seen since the fall of the Soviet Union.¹² His third term also prompted increased restrictions on freedom of expression compared to his first eight years as President.¹³ Despite this public resistance, Putin continues to be seen by much of the Russian public as the only viable political option, despite vocal opposition to the Kremlin from figures like Alexei Navalny.¹⁴

With the backdrop of the global rise of authoritarianism over the past decade, Putin enjoys some genuine popularity as a strong nationalist, even though he is vehemently condemned by other international leaders. Domestically, he is seen as the individual responsible for reviving economic growth after the 1990s downturn and putting 'Russian' territory back together again by annexing Crimea in 2014.¹⁵ By appealing to notions of restoring Russia's former greatness and flaring concerns over a Ukrainian alliance with the West, Putin has centered himself as the sole force capable of protecting the Russian people and its borders.¹⁶ He became the "prime defender of national interests", and many sincerely view him as this defender despite constitutional alterations to stay in power or the suppression of dissidents.¹⁷ Indeed, the legitimacy of the Russian government is "determined not by the Constitution, not by laws, but by the popularity of the first person."¹⁸ Putin is certainly Russia's 'first person', and the strongman ensures no one comes close to being the second.

When nationalist sentiments periodically fade, the Kremlin has carefully orchestrated a system of governmental domination to fall back on. Putin has established a "vertical of power", enabling him to

11. See Oreste Pollicino & Oleg Soldatov, *Striking the Balance Between Human Rights Online and State Security Concerns: The Russian Way in a Comparative Context*, 19 GERMAN L. J. 85, 98 (2018); see also Paul F. Robinson, *Russia's Emergence as an International Conservative Power*, 18 RUSS. GLOB. AFFS. 10, 11 (2020).

12. Tatyana Beschastna, *Freedom of Expression in Russia as It Relates to Criticism of the Government*, 27 EMORY INT'L L. REV. 1105, 1131-32 (2013); DOLLBAUM ET AL., *supra* note 6, at 141; Roth, *supra* note 7.

13. See Maria Lipman, *How Putin Silences Dissent: Inside the Kremlin's Crackdown*, 95 FOREIGN AFFS. 38, 39 (2016); Beschastna, *supra* note 12, at 1131-32.; DOLLBAUM ET AL., *supra* note 6, at 141.

14. *Id.*; Lipman, *supra* note 13, at 44.

15. DOLLBAUM ET AL., *supra* note 6, at 144.

16. *Id.*

17. *Id.* at 146.

18. REGINA SMYTH, ELECTIONS, PROTEST, AND AUTHORITARIAN REGIME STABILITY: RUSSIA 2008-2020, at 205-06 (2020).

maintain direct lines of control over multiple levels of government throughout the entire country without parliamentary involvement.¹⁹ The government surreptitiously cancels local elections and appoints Putin's handpicked candidates in their place.²⁰ Additionally, with a robust methodology for discrediting, arresting, and poisoning opposition figures, almost all Russians are deterred or silenced from publicly challenging Putin.²¹ He is unlikely to step aside or relinquish his power, particularly to opposition leaders, any time soon. In his own words, "we have had enough revolutions"—even if all three of them occurred over a century ago.²²

B. THE INSEPARABILITY OF RUSSIAN LAW AND POLITICS

Like all societies, law and politics are inextricably linked. However, in countries governed by authoritarian regimes, this connection is even stronger than in democracies, given the inherent power of a leader to systematically impose their wishes through legal, security, and administrative mechanisms. Consequently, it is easier to develop and implement policies that restrict human rights in authoritarian regimes than democratic ones. Authoritarians like Putin use the contours of their political and legal systems to silence and imprison threatening opposition figures—regardless of the human rights protections afforded by international and domestic laws.

1. Political and Legal Justification for Blocking Dissent

With practically uncontestable political dominance on its side, the current Russian state has developed multiple methods to squash and contain dissent. Authoritarian governments must be strategic, and a large state like Russia cannot afford to imprison all dissidents, lest wasting resources and jeopardizing substantial public support.²³ To justify restricting legally protected rights and punishing individuals for taking advantage of those rights, the Russian

19. Kim Lane Scheppele, *Autocratic Legalism*, 85 U. CHI. L. REV. 545, 551 (2018); DOLLBAUM ET AL., *supra* note 6, at 141.

20. Lane Scheppele, *supra* note 19, at 551.

21. See DOLLBAUM ET AL., *supra* note 6, at 141.

22. *Speech at State Duma*, *supra* note 1; *Russian Revolution*, HIST. CHANNEL, <https://www.history.com/topics/european-history/russian-revolution> (last visited Jan. 12, 2024).

23. See generally Peter Dizikes, *How Authoritarian Leaders Maintain Support*, MIT NEWS (Aug. 5, 2021), <https://news.mit.edu/2021/authoritarians-anticorruption-support-0805>.

government targets key dissidents it deems threatening and relies on national security arguments—namely, protecting the country from extremism and terrorism.²⁴ For the past few years, the government has relied on broad terrorist and extremist provisions of the country's Criminal Code to prosecute political opposition.²⁵ Former United Nations Special Rapporteur on freedom of expression, David Kaye, explains that attempts to combat extremism serve as the “perfect excuse” for governments to limit freedom of expression and control the national narrative.²⁶ Through both political rhetoric and subsequent legal measures, invoking language of protecting the homeland provides leaders with a sense of legitimacy and respect from the national populace.²⁷ Many citizens may not recognize that democratic backsliding is occurring when a national figure proudly and frequently claims to be defending the nation.²⁸

In Russia, measures to curtail freedom of expression range from the milder imposition of fines and administrative protocols to more severe punishments such as temporary detention or long-term imprisonment.²⁹ Social media posts critiquing the Russian state, such as videos posted to YouTube expressing support for the antiwar movement after the invasion of Ukraine, may just render a fine.³⁰ Individuals who pose louder and more enduring threats to the state, like the fierce Putin critic Alexei Navalny, are sentenced to penal colonies for years.³¹

Putin's iron grip on power is also reinforced by the tradition of legal positivism in Russia.³² Legal positivists view law as a practical matter and an entity separated from conceptions of morality.³³ This

24. U.S. DEPT. STATE, RUSSIA 2021 HUMAN RIGHTS REPORT 20, 28 (2022) [hereinafter 2021 HUM. RTS. REP.].

25. *Id.*; MEMORIAL HUMAN RIGHTS CENTRE, POLITICAL REPRESSION AND POLITICAL PRISONERS IN RUSSIA 2018–2019, at 52, 106 (2020) [hereinafter POL. REPRESSION AND POL. PRISONERS]; see *infra* Section I.C. It should be noted that countering terrorism or extremism may serve as legitimate derogations from international human rights law in some circumstances and under specific conditions, but governments often use these justifications to restrict speech when they are not actually applicable. See *generally* International Covenant on Civil and Political Rights art. 4, Dec. 16, 1966, S. Exec. Doc. E, 95-2 (1978), 999 U.N.T.S. 171 [hereinafter ICCPR].

26. See Pollicino & Soldatov, *supra* note 11, at 98.

27. *Id.*

28. See Lane Scheppele, *supra* note 19, at 547–48.

29. Beschastna, *supra* note 12, at 1130.

30. See FREEDOM HOUSE 2022, *supra* note 3.

31. See *id.*; *Navalny Sentenced to 9 Years in Prison by Russian Court*, PUB. BROAD. SERV. (Mar. 22, 2022, 10:32 AM), <https://www.pbs.org/newshour/world/navalny-sentenced-to-9-years-in-prison-by-russian-court>.

32. Yelena Luk'ianova, *Law Sidelined*, 53 RUSS. POL. & L. 66, 67 (2015).

33. See, e.g., Daniel Weinstock, *Legal Positivism*, 66 MCGILL L.J. 115 (2020).

perspective reduces law to a practice preoccupied with upholding state-sanctioned rules and punishing those who fail to comply.³⁴ The Russian government intentionally selects lawyers and judges who will uphold positivist traditions, disregard procedural rules, and produce legal outcomes the state desires—enabling the executive to exert substantial control over the judiciary.³⁵ Even if a judge decided a case in a manner that challenged the government’s agenda, the decision would be subjected to other checks and appeals before being decided in the state’s favor.³⁶ The combination of tepid acquiescence by citizens, and occasional outright approval, with positivist traditions creates an environment that makes it more palatable to restrict freedom of expression for the average Russian.

2. Silencing the Opposition: ‘Legally’ Censoring Dissent

Over the past decade, the Russian legal system has evolved to more efficiently silence oppositional remarks, platforms, and figures in the digital age. While Russian leaders historically developed systematic ways to hold on to power in the twentieth century, authoritarianism in the new millennium requires a robust legal and administrative system to ban websites and track online comments. Authoritarians must also work to maintain a sense of legitimacy despite their repression: laws restricting freedom of expression may indeed violate the Russian Constitution, but they nevertheless formally pass through legislative and judicial structures.³⁷ President Putin can therefore legitimately “hijack [the] constitution” via laws passed by the national parliament or cases litigated in the Constitutional Court.³⁸

Consequently, with the appearance of being legislatively created, judicially endorsed, and thus constitutionally sound, bloggers can be imprisoned for posting “extremist” content despite constitutional protections to the contrary.³⁹ In 2013, after the Federal Assembly passed a series of restrictive laws and Putin began his third presidential term, Russian lawyers released an open letter asserting

34. Luk’ianova, *supra* note 32, at 32, 69–70.

35. *Id.* at 67, 70–71.

36. *Id.* at 71.

37. 2021 HUM. RTS. REP, *supra* note 24, at 27.

38. Lane Scheppele, *supra* note 19, at 547–48; 2021 HUM. RTS. REP, *supra* note 24, at 27; *see also* FREEDOM HOUSE 2022, *supra* note 3 (noting that authorities passed legislation that expanded the powers of state bodies tasked with regulation of the internet, as well as the grounds for what content could be deemed illegal).

39. Lipman, *supra* note 13, at 44 (discussing how bloggers have recently been imprisoned for “extremist” posts criticizing Russia’s policies in Ukraine).

that the Russian Constitution was under threat, and that the basic provisions of the Constitution had become “meaningless declarations.”⁴⁰

The Memorial Human Rights Centre, a Russian NGO shut down in 2021 by the government for acting as a “foreign agent,” regularly maintained lists of known political prisoners in Russia.⁴¹ Its final list from November 2021 contained 83 named political prisoners, but Memorial estimated there could be anywhere from three to four times more prisoners not included on the list.⁴² The NGO also found that the total number of political prisoners in Russia increased by more than a factor of six between 2015 and 2019, and that the average sentence for political prisoners increased from 6.8 years in 2016 to 9.1 years in 2021.⁴³ In this landscape, Russian opposition leaders like Alexei Navalny receive more public support outside of Russia than within its borders. Oppositional forces in Russia do not represent a formidable political challenge, in terms of winning elections, as many Russians would rather accept the familiarity and consistency that Putin brings—even if it means sacrificing their rights and a chance at democracy.⁴⁴

C. INTERNATIONAL LAW

International law possesses four main sources: treaty law, customary international law, general principles of law recognized by civilized nations, and judicial decisions.⁴⁵ This Note will focus on

40. Michael Weiss, *Rights in Russia: Navalny and the Opposition*, 176 WORLD AFFS. 72, 79 (2013); see *infra* Section D.

41. *Publications*, MEM'L HUM. RTS. CTR., https://memohrc.org/en/content/publications?program=All&field_publication_type_tid=488

(last visited Jan. 12, 2024); 2021 HUM. RTS. REP, *supra* note 24, at 71. In late November 2021, the Moscow Prosecutor's Office and the Prosecutor General's Office brought parallel lawsuits against Memorial arguing that the center was a foreign agent, and that their list of political prisoners “justif[ied] extremism and terrorism.” 2021 HUM. RTS. REP, *supra*, at 70. The Centre closed shortly after the lawsuits' initiation, which were seen by other international human rights organizations as politically motivated. 2021 HUM. RTS. REP, *supra*, at 70–71.

42. See generally MEM'L HUM. RTS. CTR., LIST OF INDIVIDUALS RECOGNISED AS POLITICAL PRISONERS BY MEMORIAL HUMAN RIGHTS CENTRE (2021); 2021 HUM. RTS. REP, *supra* note 24, at 20.

43. POL. REPRESSION AND POL. PRISONERS, *supra* note 25, at 21; 2021 HUM. RTS. REP, *supra* note 24, at 21.

44. See Lipman, *supra* note 13, at 45–46 (discussing how a vast majority of Russians cling to stability, rally around Putin, and adapt to lower living standards).

45. Statute of the International Court of Justice art. 38, ¶ 2, June 26, 1945, 33 U.N.T.S. 993; Jack L. Goldsmith & Eric A. Posner, *A Theory of Customary International Law*, 66 U. CHI. L. REV. 1113 (1999). The author does not endorse the use of the 1945

treaty law and customary international law as the source of Russian legal obligations. Treaty obligations are more visibly binding on a state that decides to ratify a particular agreement, but states are also required to respect customary principles of international law despite not being a party to a formal legal document.⁴⁶

1. International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights ("ICCPR") was adopted in 1966 and is one of the core human rights treaties in the U.N. system.⁴⁷ Article 19(2) states that "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."⁴⁸ The U.S.S.R ratified the ICCPR in 1968 and the treaty is still binding on the Russian Federation.⁴⁹ By ratifying the ICCPR, the government consented to the international legal obligation that it will protect freedom of expression within their jurisdiction.⁵⁰ Thus, barring legitimate derogations, the Russian government is required to respect the right to freedom of expression as part of its international treaty obligations.⁵¹

phrase "civilized nations."

46. Draft Conclusions on Identification of Customary International Law, Int'l L. Comm'n, Rep. on the Work of Its Seventieth Session, U.N. Doc. A/73/10 ¶ 65 (2018) [hereinafter Int'l L. Comm'n]. Under the International Law Commission's Draft Conclusion, persistent objectors can decide not to adhere to principles of customary international law, as long as they do not violate peremptory norms. *Id.*

47. *See generally* ICCPR, *supra* note 25.

48. *Id.* art. 19, ¶ 2; Notably, this right can be restricted under paragraph 3 of Article 19, if the restriction is provided by law, necessary, and is intended "respect the rights or reputations of others" or "for the protection of national security or of public order (ordre public), or of public health or morals." *Id.* art. 19, ¶¶ 3–4.

49. It should be noted that the European Convention on Human Rights is no longer binding for the Russian Federation. *See Russia Ceases to Be Party to the European Convention on Human Rights*, COUNCIL EUR. (Sept. 16, 2022), <https://www.coe.int/en/web/portal/-/russia-ceases-to-be-party-to-the-european-convention-on-human-rights>.

50. *See* Shudipta Sharma, *Instrument to Rule? Examining the Impact of Bangladesh's Counter-terrorism Laws on Freedom of Expression*, in COUNTER-TERRORISM LAWS AND FREEDOM OF EXPRESSION: GLOBAL PERSPECTIVES 351, 355–56 (Téwodros Workneh & Paul Haridakis eds., 2021).

51. *Id.* at 356; *see also* ICCPR, *supra* note 25, art. 19, ¶ 3(a)–(b).

2. Customary International Law

Beyond formal treaties, Russia is also required to respect freedom of expression within its borders under customary international law.⁵² This source of international law is defined as a “general and consistent practice of states followed by them from a sense of legal obligation.”⁵³ Although it is often in a state’s own self-interest to adhere to precedent and behave in a predictable, cooperative manner, not all states follow customary international law all the time.⁵⁴ A state like the U.S. or Russia often derives greater personal benefits from violating international law and suffering the requisite reputational damage.⁵⁵

Since its inclusion in the Universal Declaration of Human Rights in 1948, and subsequent codification in international treaties, regional instruments, and national legislation, respecting the freedom of expression has likely become an established norm of customary international law.⁵⁶ However, it should be noted that the limits of this norm are disputed, most notably in regard to whether it encompasses hate speech.⁵⁷ However, while the outer boundaries of this principle may not be completely delineated, freedom of expression is inferably established in customary international law and the Russian government is subsequently required to uphold it.⁵⁸ As will be explored in Section II, however, the punishment for violating this obligation is less definitive.

D. RUSSIAN LAW

In regard to domestic human rights protections, there are stark contradictions between the Russian Federation’s Constitution,

52. See RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 102(2) (AM. L. INST. 1987); see also Int’l L. Comm’n, *supra* note 46, at ¶ 65.

53. Goldsmith & Posner, *supra* note 45, at 1113.

54. *Id.* at 1135.

55. *Id.*

56. See Emily Howie, *Protecting the Human Right to Freedom of Expression in International Law*, 20 INT’L J. SPEECH-LANGUAGE PATHOLOGY 12, 12 (2018); see e.g., G.A. Res. 217 (III) A, Universal Declaration of Human Rights, (Dec. 10, 1948); Convention for the Protection of Human Rights and Fundamental Freedoms, art. 10, Nov. 4, 1950, 213 U.N.T.S. 221; American Convention on Human Rights “Pact of San Jose, Costa Rica,” art. 13, Nov. 22, 1969, S. Treaty Doc. No. 95-21, 1144 U.N.T.S.123; African Charter on Human and Peoples’ Rights, art. 9, June 27, 1981 1520 U.N.T.S. 217.

57. See John Samples, *International Law and “Hate Speech” Online*, CATO INST. (July 23, 2020, 2:40 P.M.), <https://www.cato.org/blog/international-law-hate-speech-online>.

58. See Howie, *supra* note 56, at 12.

Criminal Code, and laws pertaining to the internet. While the country's Constitution explicitly protects the freedom of expression, this right has largely been relegated to a symbolic function.⁵⁹ Over the past decade, the Russian government has modified existing legislation and created new laws designed to limit, and in some circumstances prevent, freedom of expression in online spaces.

1. The Russian Constitution

Essential human and civil rights under international law are protected in Article 17 of the 1993 Russian Constitution, and the document explicitly incorporates international human rights law into its own national legal system.⁶⁰ Freedom of thought and speech are protected in Article 29 of the Constitution.⁶¹ Paragraph 1 of this Article specifies that "everyone shall be guaranteed freedom of thought and speech," paragraph 4 stipulates that "everyone shall have the right freely to seek, receive, transmit, produce and disseminate information by any legal means," and paragraph 5 proclaims that "the freedom of the mass media shall be guaranteed. Censorship shall be prohibited."⁶² However, these provisions legally protecting the right to freedom of expression are largely symbolic and not actionable in practice, as will be discussed in Section II in the cases of Alexei Navalny and Vladimir Kara-Murza.⁶³ It is also worth noting that these rights can be legally limited, or derogated from, under both international law and Russian law during public emergencies and if certain conditions are met.⁶⁴ Consequently, between international and national law, Russian officials have multiple legal justifications to derogate from their human rights obligations.

59. KONSTITUTSIJA ROSSIJSKOJ FEDERATSII [KONST. RF] [CONSTITUTION] art. 29 (Russ.); *Russian Federation 1993 (rev. 2014)*, CONSTITUTE PROJECT, https://www.constituteproject.org/constitution/Russia_2014?lang=en (last visited Jan. 12, 2024).

60. KONSTITUTSIJA ROSSIJSKOJ FEDERATSII [KONST. RF] [CONSTITUTION] art. 17, ¶¶ 1–2 (Russ.); *see also* Pollicino & Soldatov, note 11, at 96–97.

61. KONSTITUTSIJA ROSSIJSKOJ FEDERATSII [KONST. RF] [CONSTITUTION] art. 29 (Russ.); *see also* Pollicino & Soldatov, *supra* note 11, at 85, 96–97.

62. KONSTITUTSIJA ROSSIJSKOJ FEDERATSII [KONST. RF] [CONSTITUTION] art. 29, ¶ 5 (Russ.).

63. *See* Luk'ianova, *supra* note 32, at 72.

64. *See* ICCPR, *supra* note 25, art. 4 ¶ 1; KONSTITUTSIJA ROSSIJSKOJ FEDERATSII [KONST. RF] [CONSTITUTION] art. 55–56 (Russ.).

2. The Russian Criminal Code

The Russian Criminal Code is an amorphous, malleable entity that the government currently uses as its primary vehicle to detain political opponents.⁶⁵ First released in 1996, the Criminal Code contains several hundred articles and includes over ten provisions used to prosecute public speech and statements.⁶⁶ After the proliferation of the internet, the government heavily relies on the Code's extremism and terrorism provisions to target political dissidence. Three of the provisions commonly brought against political prisoners are Article 205.2 (Incitement of terrorist activities, public justification of terrorism or advocacy of terrorism), Article 280 (Incitement of extremist activities), and Article 282 (Incitement of hatred or enmity, as well as abasement of dignity).⁶⁷ Thus, the Criminal Code offers the state many methods to prosecute those who exercise their right to freedom of expression.

3. Recent Internet Restriction Laws

Authoritarian regimes have not welcomed the global proliferation of the internet. The 2012 Bolotnaya Square Protests in Moscow, dubbed the 'March of Millions,' are seen by many as the catalyst for the modern Russian government's crackdown on the right to freedom of expression.⁶⁸ After election observers published online reports of systemic electoral fraud, thousands of people gathered for the largest public demonstrations in years to protest Putin's election

65. Activist Vladimir Kara-Murza, discussed further in Section II, claimed that one of the provisions he was charged under was not present in his 2021 copy of the Criminal Code. Unsurprisingly, this article of the Criminal Code was modified in March 2022, just before he was arrested. See Vladimir Kara-Murza (@vkaramurza), TWITTER, (July 29, 2022), <https://twitter.com/vkaramurza/status/1553062424575631363?s=20&t=9LhQDtG5qMXZDrrDhrjqWA>; Суд продлил арест Владимира Кара-Мурзы до 12 августа [The Court Extended the Arrest of Vladimir Kara-Murza until August 12], ОБД-NEWS (Ru.) (June 8, 2022, 5:43 PM) [hereinafter ОБД-NEWS].

66. See *Database of Legislation*, U.N. OFF. DRUGS & CRIME, [https://sherloc.unodc.org/cld/en/v3/sherloc/legdb/legislationCollection.html?lng=en&tmpl=%22sherloc%22&country=%22RUS%22&title=%22The%20Criminal%20Code%20of%20the%20Russian%20Federation%20\(Russian/English\)%22](https://sherloc.unodc.org/cld/en/v3/sherloc/legdb/legislationCollection.html?lng=en&tmpl=%22sherloc%22&country=%22RUS%22&title=%22The%20Criminal%20Code%20of%20the%20Russian%20Federation%20(Russian/English)%22) (last visited Jan. 12, 2024); POL. REPRESSION AND POL. PRISONERS, *supra* note 25, at 52.

67. POL. REPRESSION AND POL. PRISONERS, *supra* note 25, at 52.

68. See Beschastna, *supra* note 12, at 1129–32; ARTICLE 19, DIGITAL RIGHTS: AN ANALYSIS OF THE DETERIORATION TO FREEDOM OF EXPRESSION ONLINE 4 (2017) [hereinafter ARTICLE 19, DIGITAL RIGHTS].

to a third term.⁶⁹ The accessible online reports sparked concern among authorities over their ability to maintain power.⁷⁰ Consequently, the state began constructing an internet "legal and regulatory framework" to limit access to platforms for opposition and dissent.⁷¹

The Federal Assembly subsequently introduced a series of laws from 2013 to 2016 targeting freedom of expression online under the guise of protecting state security and public stability—a concern heavily reflected in the Russian Criminal Code.⁷² In 2014, the Federal Assembly enacted Federal Law No. 97-FZ, mandating that all bloggers who receive more than 3,000 daily visits to their page register with the Roskomnadzor, the state media watchdog.⁷³ 2016 Federal Laws Nos. 374-FZ and 375-FZ expanded the government's ability to legally engage in digital surveillance and access digital communications data without judicial oversight.⁷⁴ Since these laws were passed, dozens of Russians have been criminally prosecuted over social media posts and online articles.⁷⁵

4. Restrictions on Freedom of Expression since 2020

Current Russian authorities recognized that political opposition increasingly unfolds online before it unfolds on the streets.⁷⁶ After nationwide protests in early 2021 in support of opposition figure Alexei Navalny after his poisoning and detention, thousands of people were arrested and detained—many for their online activities.⁷⁷ The government was similarly swift to punish those who criticized the invasion of Ukraine.⁷⁸ In March 2022, Putin authorized an amendment

69. See Beschastna, *supra* note 12, at 1130; ARTICLE 19, DIGITAL RIGHTS, *supra* note 68, at 4.

70. ARTICLE 19, DIGITAL RIGHTS, *supra* note 68, at 4.

71. *Id.*

72. POL. REPRESSION AND POL. PRISONERS, *supra* note 25, at 52. See Sharma, *supra* note 50; Pollicino & Soldatov, *supra* note 11, at 98.

73. Pollicino & Soldatov, *supra* note 11, at 98.

74. *Id.* at 98; HUM. RTS. WATCH, ON ALL FRONTS, *supra* note 2, at 24–25.

75. See generally HUM. RTS. WATCH, ON ALL FRONTS, *supra* note 2.

76. See generally *id.*

77. See *Biden Administration Imposes Sanctions and Seeks to Cement Alliances to Counter China and Russia*, 115 AM. J. INT'L L. 536, 537 (2021) [hereinafter *Biden Administration*]; CONG. RSCH. SERV., RUSSIA: THE NAVALNY POISONING, CHEMICAL WEAPONS USE, AND U.S. SANCTIONS (2021) [hereinafter CONG. RSCH. SERV.] (noting that many Western governments, including the Biden Administration, view the nearly lethal attack on Navalny as an "attempted assassination"); FREEDOM HOUSE 2022, *supra* note 3.

78. See FREEDOM HOUSE 2022, *supra* note 3.

to the Criminal Code banning the dissemination of “knowingly false information about the activities of the armed forces of the Russian Federation.”⁷⁹ The Roskomnadzor and other state institutions were granted more expansive powers, and the state subsequently blocked Facebook, Twitter, Instagram, as well as 5,000 other websites.⁸⁰ In October 2022, the U.N. Human Rights Committee publicly expressed their concern over increasing reports of “extrajudicial and prolonged arrests” of peaceful protestors.⁸¹

E. INTERNATIONAL ADVOCACY STRATEGIES

In the face of systemic and seemingly insurmountable human rights abuses by a major world power, one may wonder what avenues exist to meaningfully advocate for the release of political prisoners and produce meaningful change. This Note examines four strategies that advocates can use to promote respect for human rights abroad: economic sanctions, corporate pressure, moral condemnation via NGOs, and the UPR at the United Nations. Each method presents strengths and weaknesses in its ability to cause real damage to a government, disseminate information, and spark engagement with offending states. Ultimately, a carefully crafted combination of these strategies will yield the most tangible results—even if the absolute goal of coercing a state to cease its human rights violations is not fully realized.

1. Economic Sanctions

The most familiar and direct form of condemning a foreign government is through sanctions. Sanctions are coercive measures implemented by other states to produce economic harm in the hope that the offending state will change its behavior.⁸² In Russia, oligarchs

79. *Id.*

80. *Id.*

81. Human Rights Committee, Human Rights Committee Considers Report of the Russian Federation in the Absence of a Delegation, Experts Raise Issues on the Persecution of Journalists and the Arrests of Protesters, (Oct. 20, 2022), <https://www.ohchr.org/en/news/2022/10/human-rights-committee-considers-report-russian-federation-absence-delegation-experts>.

82. See Elvira Dominguez-Redondo, *The Universal Periodic Review - Is There Life beyond Naming and Shaming in Human Rights Implementation*, 2012 N.Z. L. REV. 673, 691 (2012); David Siegel, *FROM OLIGARCHS TO OLIGARCHY: The Failure of U.S. Sanctions on Russia and its Implications for Theories of Informal Politics*, 185 WORLD AFFS. 249, 264 (2022).

dominate the economy and are intimately connected to the Kremlin.⁸³ By damaging the economic prosperity of Putin's allies, sanctions theoretically push the affected oligarchs to pressure their government to alter its course of action in order to have sanctions removed. Unlike wider sectoral sanctions that affect broader swaths of a country's economy, and thereby average citizens, most sanctions against Russia target specific individuals or state-owned companies close to Putin.⁸⁴

Over the past decade, the United States government imposed numerous sanctions against Russian actors. President Obama authorized sanctions against select individuals and entities in 2014 after Russia invaded Crimea.⁸⁵ Another round of sanctions was issued by the Trump Administration in 2018 in order to target oligarchs and elites.⁸⁶ After President Biden took office in 2021, the United States pursued sanctions after Alexei Navalny's near fatal 2020 poisoning.⁸⁷ Most recently, the U.S. introduced "the most severe and comprehensive sanctions ever imposed on a major economic power" after Russia's full-scale invasion of Ukraine in February 2022.⁸⁸ The effectiveness of sanctions, particularly in the context of sanctions imposed for imprisoning political dissidents, will be explored in Section II. Compared to the other strategies discussed in this Note, the imposition of economic sanctions certainly has the most direct effect on the Kremlin.

2. Corporate Pressure

The second advocacy tactic explained here is the infliction of corporate pressure on governments in the hope that withdrawing a company's presence or operations from a country will induce the government to alter its behavior. Like states, corporations are self-interested actors dependent on financial growth and prosperity.

83. See Siegel, *supra* note 82, at 257.

84. *Id.* at 262; see also *Ukraine and Russia Related Sanctions*, U.S. DEP'T TREASURY, <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions> (last visited Jan. 27, 2023).

85. *Ukraine and Russia Sanctions*, U.S. DEP'T. STATE, <https://2009-2017.state.gov/e/eb/tfs/spi/ukrainerrussia/index.htm#:~:text=Russia%20and%20Ukraine%20Sanctions%2C%20Department,assets%20of%20the%20Ukrainian%20people> (last visited Jan. 12, 2024).

86. Siegel, *supra* note 82, at 262.

87. See *Biden Administration*, *supra* note 77, at 537.

88. *Sanctions on Russia Over Ukraine*, BROOKINGS INST., <https://www.brookings.edu/research/sanctions-on-russia-over-ukraine/> (last visited Jan. 12, 2024).

Conducting business in countries with prolific corruption and weak governance leads to destabilized operations and heightened operating costs.⁸⁹ Specifically, businesses often face the risks of intellectual property theft, rent seeking from state officials issuing licenses, and confiscation of property.⁹⁰ Therefore, businesses can face direct economic losses from operating in a country engaging in human rights abuses if the business fails to engage in sufficient due diligence.⁹¹

Apart from direct economic harm, there are other benefits for responsible corporate conduct. Although it is initially expensive to implement procedures to respect human rights, companies save money in the long term and protect their generational longevity when states require mandatory due diligence in supply chains.⁹² Moreover, transparency, accountability, and predictability protect a company's reputation and thereby contribute to sustainable growth and profitability.⁹³

Given the risks of both action and inaction for businesses operating in countries violating human rights, companies can use the threat or action of corporate withdrawal to try to alter governmental behavior.⁹⁴ Several large corporations taking a public stance against the actions of a government can have a profound political, economic, and social impact—such as the divestment campaign against the South African apartheid government.⁹⁵ If enough major companies loudly and consistently condemn a state and cease its operations in that state, it will not only encourage other businesses to follow suit, but will eventually force a government to question if its repression of human rights is worth years of economic harm.⁹⁶

3. Moral Condemnation and Outrage by NGOs

The third advocacy strategy explored here is moral

89. BENNETT FREEMAN ET AL., *SHARED SPACE UNDER PRESSURE: BUSINESS SUPPORT FOR CIVIC FREEDOMS AND HUMAN RIGHTS DEFENDERS* 5, 19, (2018); CHRISTOPHER WICKERT & DAVID RISI, *CORPORATE SOCIAL RESPONSIBILITY* 62 (2019).

90. FREEMAN ET AL., *supra* note 89, at 9, 19.

91. *Id.* at 9; *see also* BEATRICE ORLANDO, *CORPORATE SOCIAL RESPONSIBILITY* 7 (2022).

92. *See* FREEMAN ET AL., *supra* note 89, at 9, 21, 53; *see generally* WICKERT & RISI, *supra* note 89.

93. *See* FREEMAN ET AL., *supra* note 89, at 6, 9, 19, 26; *see* ORLANDO, *supra* note 91, at 70; *see also* WICKERT & RISI, *supra* note 89, at 28.

94. *See* FREEMAN ET AL., *supra* note 89, at 9.

95. *See generally* Jessica Levy, *Black Power in the Boardroom: Corporate America, the Sullivan Principles, and the Anti-Apartheid Struggle*, 21 *ENTER. & SOC'Y* 170 (2020).

96. *See* FREEMAN ET AL., *supra* note 89, at 19.

condemnation and outrage via press releases and reports from NGOs. NGOs operating globally often write, compile, and disseminate their own documents to raise awareness about a particular human rights violation or systemic issues. Press releases and documents can simplify the complexity of international conflicts, making the subject matter more digestible to a wider audience who may otherwise remain isolated from stories of human rights abuses.⁹⁷ Additionally, civil society is often, though not always, more incubated from political pressure and deadlines, unlike elected representatives or bureaucrats.⁹⁸ NGOs can thus more openly engage in “naming and shaming” strategies to call out a state’s problematic behavior than other entities.⁹⁹ NGOs’ allegiances are also typically to those whose rights are being violated, as opposed to a particular government.¹⁰⁰

4. Universal Periodic Review

The final advocacy strategy examined in this Note is the UPR at the United Nations. The UPR is a state-driven process involving reflection and recommendations to ameliorate a state’s human rights performance based on standards established in U.N. Human Rights Treaties.¹⁰¹ The strategy of “naming and shaming” is so commonly used to pressure states that cooperative mechanisms like the UPR are often overlooked.¹⁰² However, studies have found that condemnation as a primary method for promoting human rights can backfire if states view this “shaming” as a punishment and can cause the offending state to withdraw from international engagement entirely.¹⁰³

States have embraced the UPR process since its inception in 2008. All U.N. member states consistently participate, 40% of initial recommendations were either partially or fully implemented by states by 2011, and there was a 111% increase in recommendations

97. See Dennis Dijkzeul & Markus Moke, *Public Communication Strategies of International Humanitarian Organizations*, 87 INT’L REV. RED CROSS. 673, 673 (2005); see also *id.* at 679–686 (discussing several large humanitarian organizations and their public communication strategies).

98. See *id.* at 691.

99. Dominguez-Redondo, *supra* note 82, at 690.

100. See *id.*

101. *Universal Periodic Review*, U.N. HUM. RTS. COUNCIL, <https://www.ohchr.org/en/hr-bodies/upr/upr-main> (last visited Jan. 12, 2024) [hereinafter U.N. HUM. RTS. COUNCIL]; see Dominguez-Redondo, *supra* note 82, at 695; VALERIA REYES MENÉNDEZ, UPR INFO, BEYOND REPORTING: TRANSFORMATIONAL CHANGES ON THE GROUND 11 (2022) [hereinafter BEYOND REPORTING].

102. Dominguez-Redondo, *supra* note 82, at 673–75.

103. See *id.* at 687–90.

between 2008–2022, totaling over 45,000 recommendations.¹⁰⁴ The UPR process has demonstrably created positive human rights outcomes, as seen in legislation protecting migrant workers in Côte d'Ivoire and transgender individuals in Pakistan.¹⁰⁵ Scholars have even posited that, over time, contributions made during the UPR could provide evidence of *opinio juris* and thereby contribute to customary international law.¹⁰⁶

However, the UPR process includes notable shortcomings. The process is accompanied by a fair amount of politicization, particularly compared to other reporting mechanisms at the U.N.¹⁰⁷ Additionally, research of the UPR process shows that critical remarks between friendly states is less common, although more likely to be taken seriously, than shaming remarks from antagonistic states.¹⁰⁸ This also calls into question the effectiveness of the UPR as a strategy for fostering global engagement and subsequently respect for human rights because the UPR model may heighten polarization between already tense nations.¹⁰⁹ Finally, states are also the authors of their own reports, which include inherently biased information. Fortunately, the UPR also allows civil society organizations, NHRIs, and diplomats to participate and challenge states' human rights narratives by contributing their own supplemental reports.¹¹⁰

II. ANALYSIS

In an authoritarian state, a leader's political rhetoric and desires subjugate human rights, like freedom of expression, regardless of existing laws. Nowhere is this tension more apparent than for political prisoners. Over the past decade, Russian protesters and political leaders like Alexei Navalny and Vladimir Kara-Murza have been consistently imprisoned for taking advantage of their right to freedom

104. U.N. HUM. RTS. COUNCIL, *supra* note 101; Dominguez-Redondo, *supra* note 82, at 694, 701; BEYOND REPORTING, *supra* note 101, at 6.

105. See BEYOND REPORTING, *supra* note 101, at 6, 25, 47–48.

106. See Dominguez-Redondo, *supra* note 82, at 703–04 (stating that if nearly all states continue to participate in UPR, the recommendations made by states will demonstrate consistent state practice and understandings of international human rights law); see generally BEYOND REPORTING, *supra* note 101.

107. Valentina Carraro, *The United Nations Treaty Bodies and Universal Periodic Review: Advancing Human Rights by Preventing Politicization?*, 39 HUM. RTS. Q. 943, 968 (2017).

108. See Rochelle Terman & Erik Voeten, *The relational politics of shame: Evidence from the universal periodic review*, 13 REV. INT'L ORGS. 1, 20 (2018).

109. *Id.* at 20.

110. BEYOND REPORTING, *supra* note 101, at 6, 11.

of expression. In conjunction with the rise of the internet, the Russian government has turned to broad provisions of its Criminal Code to restrict freedom of expression in the name of national security. As explained in Section I(E) multiple strategies exist to condemn such practices outside of Russian borders. However, the most promising strategy for the twenty-first century is to encourage maximal engagement by using a combination of every available advocacy tool and thereby avoid the global consequences of isolationism.

A. THE DISCONNECT BETWEEN INTERNATIONAL AND RUSSIAN LAW IN
POLITICAL PRISONER CASES

As described in Section I, both international and national laws guarantee freedom of expression in Russia. However, when it comes to public or digital criticisms of the Russian government, these legal protections often fall to the wayside. Through laws, rhetoric, and criminal charges, the Russian government and judiciary have engineered multiple strategies to limit Russians' freedom of expression despite formal legal protections.

1. Extremism and Terrorism Charges: Alexei Navalny

One strategy used by the Kremlin to restrict freedom of expression is to consistently bring charges against vocal opposition leaders. This method is best seen with arguably the most famous modern political prisoner in Russia, Alexei Navalny. First appearing on the Kremlin's radar in 2010, Navalny consistently criticized Putin and his authoritarian state by exposing corruption and loudly pushing for democracy by mobilizing voting for opposition candidates.¹¹¹ A lawyer and blogger turned political activist, Navalny was involved with multiple opposition parties in Russia and was even a candidate in the 2013 election for Moscow's mayor.¹¹² In total, the Memorial

111. See Alexei Navalny, *Alexei Navalny: This is what a post-Putin Russia should look like*, WASH. POST (Sept. 30, 2022, 8:00 AM), <https://www.washingtonpost.com/opinions/2022/09/30/alexei-navalny-parliamentary-republic-russia-ukraine/>; see also CONG. RSCH. SERV., *supra* note 77; Lipman, *supra* note 13, at 38; see generally DOLLBAUM ET AL., *supra* note 6; *Russia: Government Must End Its Crackdown on Independent Voices Ahead of the Parliamentary Election*, ARTICLE 19 (Sept. 16, 2021), <https://www.article19.org/resources/russia-must-end-is-crackdown-on-independent-voices-ahead-of-election/>.

112. *Kremlin Foe Navalny Launches New Political Party*, RADIOFREEEUR. RADIO LIBERTY (May 19, 2018, 11:49 AM), <https://www.rferl.org/a/russia-navalny-new-political-party/29237240.html>; *Russia Faces to Watch: Alexei Navalny*, BBC (Feb. 29, 2012), <https://www.bbc.com/news/world-europe-17130832>; Weiss, *supra* note 40,

Human Rights Centre documented 11 politically motivated charges brought against Navalny—and more have occurred since this organization was shut down by the government in late 2021.¹¹³

Navalny was first introduced to the Russian justice system in 2011 after being charged with embezzlement in connection with advising a regional governor in the Kirov Oblast.¹¹⁴ Although “no information evidencing a deception or abuse of trust” was ultimately uncovered by the Investigative Committee of the Russian Federation, Navalny was formally charged with embezzlement in 2013 and sentenced to five years in prison.¹¹⁵ The primary explanation for Navalny’s conviction despite sufficient evidence is that it was politically motivated.¹¹⁶ As part of his conviction, Navalny was barred from running in Russian elections.¹¹⁷ Navalny’s activism nevertheless continued to grow both as a political organizer and Putin critic. He launched an app to coordinate oppositional voting in Russian elections, called Smart Voting, and developed his own nonprofit organization, the Anti-Corruption Foundation (“FBK”), to investigate high level corruption.¹¹⁸ An FBK exposé on President Putin’s \$1.3 billion oceanside palace posted to YouTube received over 100 million views.¹¹⁹

Navalny’s legal troubles took a devastating turn since the start of the decade. After he was poisoned in 2020 via a chemical agent and received medical treatment abroad, Navalny boldly returned to Russia in 2021 only to be imprisoned for missing check-ins in connection with his 2013 sentence.¹²⁰ In February 2021, the European Court of Human Rights released a ruling ordering Navalny be released from pretrial detention.¹²¹ Russian authorities

at 76.

113. 2021 HUM. RTS. REP, *supra* note 24, at 22.

114. *See Weiss, supra* note 40, at 73.

115. *Id.* at 73, 76 (noting that Navalny served this sentence under house arrest).

116. *Id.* at 74–75.

117. *See CONG. RSCH. SERV., supra* note 77.

118. *See FREEDOM HOUSE 2022, supra* note 3; *Russia Blacklists Navalny’s Political and Activist Movements as ‘Extremist’*, MOSCOW TIMES (June 9, 2021), <https://www.themoscowtimes.com/2021/06/09/russia-blacklists-navalnys-political-and-activist-movements-as-extremist-a74159> [hereinafter MOSCOW TIMES, *Russia Blacklists*].

119. MOSCOW TIMES, *Russia Blacklists, supra* note 118.

120. *See Biden Administration, supra* note 77, at 537; CONG. RSCH. SERV., *supra* note 77 (noting that many Western governments, including the Biden Administration, view the nearly lethal attack on Navalny as an “attempted assassination”).

121. *European Court of Human Rights Asks Russia to Release Aleksey Navalny*, COUNCIL EUR. (Feb. 17, 2021), <https://www.coe.int/en/web/portal/-/european-court-of-human-rights-asks-russia-to-release-aleksey-navalny>; 2021 HUM. RTS. REP, *supra*

disregarded it, saying the Court was interfering with the country's domestic law.¹²² Authorities also posited that the Court's ruling was irrelevant after a 2020 constitutional amendment establishing the primacy of Russian law over international law.¹²³

In March 2022, Navalny was charged with fraud and contempt of court and sentenced to nine years in a penal colony.¹²⁴ Prosecutors argued that Navalny stole \$4.7 million from donations made to FBK.¹²⁵ In January 2022, Navalny was officially labeled a terrorist and extremist and was added to the Rosfinmonitoring, an official list of people "inclined to commit crimes of a terrorist or extremist nature."¹²⁶ In June 2022, he lost his appeal challenging these designations.¹²⁷ In October 2022, Navalny received additional charges of "promoting terrorism and extremism."¹²⁸ Human rights organizations and advocates heavily criticized the 2022 proceedings as a politically motivated sham, as the closed-door trial not only raised due process issues, but one of the state's witnesses testified during the trial that he was coerced into incriminating Navalny.¹²⁹ He subsequently renounced his earlier statement to authorities, and fled Russia.¹³⁰ These issues were not addressed in the judge's verdict.¹³¹

Most recently, in August 2023, Navalny was sentenced to an

note 24, at 22; ARTICLE 19, DIGITAL RIGHTS, *supra* note 68.

122. 2021 HUM. RTS. REP, *supra* note 24, at 22.

123. *Id.*

124. *Russia Navalny: Putin Critic Given Nine-Year Jail Sentence in Trial Branded 'Sham'*, BBC (Mar. 22, 2022), <https://www.bbc.com/news/world-europe-60832310> [hereinafter BBC, *Nine-Year Jail Sentence*]; FREEDOM HOUSE 2022, *supra* note 3.

125. BBC, *Nine-Year Jail Sentence*, *supra* note 124; FREEDOM HOUSE 2022, *supra* note 3.

126. *See Russia Adds Navalny To 'Terrorists' List As Civil-Society Crackdown Continues*, RADIOFREEEUR. RADIOLIBERTY (Jan. 25, 2022, 20:57 GMT), <https://www.rferl.org/a/russia-navalny-terrorists-extremists/31670205.html>.

127. *See Russia's Navalny Loses Appeal on Terrorist, Extremist Label*, ASSOCIATED PRESS (June 7, 2022, 9:54 AM GMT), <https://apnews.com/article/russia-ukraine-alexei-navalny-moscow-crime-8cd2acbf9f33de9534bbd4bb14be6be>.

128. *See Russia: Alexey Navalny Faces 'Terrorism' Charges; 30 Years' Jail*, AL JAZEERA (Oct. 20, 2022), <https://www.aljazeera.com/news/2022/10/20/russian-opposition-figure-alexei-navalny-says-faces-new-charges> [hereinafter AL JAZEERA].

129. *See Russia: Navalny Facing Possible 15-Year Jail Term in 'Sham' Trial Set to Take Place in Prison*, AMNESTY INT'L U.K. (Feb. 14, 2022, 5:30 PM), <https://www.amnesty.org.uk/press-releases/russia-navalny-facing-possible-15-year-jail-term-sham-trial-set-take-place-prison> [hereinafter AMNESTY INT'L U.K., *'Sham' Trial*]; *Russia: Kremlin Targets Critics Amid Ukraine War*, HUM. RTS. WATCH (Mar. 23, 2022, 7:56 AM), <https://www.hrw.org/news/2022/03/23/russia-kremlin-targets-critics-amid-ukraine-war> [hereinafter HUM. RTS. WATCH, *Kremlin Targets Critics*]; BBC, *Nine-Year Jail Sentence*, *supra* note 124.

130. AMNESTY INT'L U.K., *'Sham' Trial*, *supra* note 129.

131. HUM. RTS. WATCH, *Kremlin Targets Critics*, *supra* note 130.

additional 19 years in prison on extremism charges, including for “rehabilitating Nazi ideology.”¹³² Navalny disappeared from prison for several weeks in December 2023, and was later found in a maximum-security penal colony in the Arctic.¹³³ The 47 year-old suddenly died in February 2024 after going for a walk in his prison yard, with Western leaders quickly blaming Putin for his death.¹³⁴ In total, Navalny faced 49 years in prison for all of his charges.¹³⁵

Navalny’s political opposition networks have also been a target of the Russian legal system.¹³⁶ In June 2021, the Moscow City Court classified the FBK as ‘extremist’ and ordered it closed.¹³⁷ FBK members are prohibited from crowdfunding and face up to six years in prison for failing to comply with the order.¹³⁸ In July 2021, the Roskomnadzor blocked almost 50 ‘extremist’ websites linked to Navalny.¹³⁹

Navalny’s case is a prime example of how the Russian state has increasingly relied on charges of terrorism and extremism to silence and incarcerate political dissidents. By isolating the persistent opposition leader from the rest of Russian society, and potentially killing him, the government is able to not only silence Navalny but

132. Charles Maynes, *Russian Opposition Activist Navalny is Sentenced to 19 More Years in Prison*, NPR, (Aug. 4, 2023, 10:22 AM ET), <https://www.npr.org/2023/08/04/1191809199/navalny-prison-sentence-russia-putin-kremlin#:~:text=MOSCOW%20%E2%80%94%20A%20Russian%20court%20has,a%20its%20war%20in%20Ukraine>.

133. Alexandra Astakhova, *Navalny Makes First Court Appearance After Arctic Prison Transfer*, MOSCOW TIMES (Jan. 10, 2024), <https://www.themoscowtimes.com/2024/01/10/navalny-makes-first-court-appearance-after-arctic-prison-transfer-a83684>; Associated Press, *Missing Russian Opposition Leader Alexei Navalny is Located in an Arctic Penal Colony*, NPR (Dec. 25, 2023, 10:04 AM ET), <https://www.npr.org/2023/12/25/1221511047/alexei-navalny-russia-penal-colony-located>.

134. Jon Henley, *‘Let Us Be Clear, Russia Is Responsible’: World Leaders React to Navalny’s Death*, GUARDIAN (Feb. 16, 2024, 12:38 PM EST), <https://www.theguardian.com/world/2024/feb/16/world-leaders-praise-alexei-navalyns-courage-and-blame-putin-for-his-death>; Lucy Papachristou, *What We Know About Alexei Navalny’s Death in Arctic Prison*, REUTERS (Feb. 19, 2024, 6:12 AM CST), <https://www.reuters.com/world/europe/alexei-navalyns-death-what-do-we-know-2024-02-18/>.

135. See AL JAZEERA, *supra* note 128; Maynes, *supra* note 132.

136. MOSCOW TIMES, *Russia Blacklists*, *supra* note 118.

137. See *Russia: Ban Sought on Groups Linked to Navalny: End Unfounded Persecution, Lawsuit Against Kremlin’s Critics*, HUM. RTS. WATCH (Apr. 19, 2021, 1:53 PM EDT), <https://www.hrw.org/news/2021/04/19/russia-ban-sought-groups-linked-navalny> [hereinafter HUM. RTS. WATCH, *Ban Sought*]; CONG. RSCH. SERV., *supra* note 77.

138. MOSCOW TIMES, *Russia Blacklists*, *supra* note 118.

139. See HUM. RTS. WATCH, *Ban Sought*, *supra* note 137; AMNESTY INT’L U.K., *‘Sham’ Trial*, *supra* note 130; HUM. RTS. WATCH, *Kremlin Targets Critics*, *supra* note 130.

send a warning to those who support him.¹⁴⁰ Indeed, the Russian government has detained individuals simply for posting content online in support of Navalny and oppositional politics.¹⁴¹ Navalny and the Kremlin repeatedly went toe-to-toe over the past 11 years, with neither side willing to back down until Navalny's sudden death.¹⁴² Attacking oppositional figures for taking advantage of their right to freedom of expression forces both parties to play the long game via Russia's carefully crafted legal system.

2. Foreign Agent and Treason Charges: Vladimir Kara-Murza

Another method used to silence political opponents is to bring a substantial number of charges against an individual over a short period of time. This strategy is clearly exemplified in the case of Vladimir Kara-Murza, another notable opposition leader imprisoned for criticizing the Russian government.¹⁴³ Kara-Murza is a long-standing, outspoken critic of Putin and the government, and was poisoned on two separate occasions.¹⁴⁴ However, unlike Alexei Navalny, Kara-Murza was not subjected to substantial legal troubles until 2022.

Over the course of six months, Kara-Murza was charged under five different sections of the Russian Criminal Code. He was initially arrested in April 2022 for being disobedient to police and was charged 15 days later for the "public dissemination of knowingly false information about the use of the Armed Forces of the Russian Federation," which carries a penalty of up to 10 years in prison.¹⁴⁵ Interestingly, this provision of the Criminal Code was modified to include language regarding the armed forces in March 2022.¹⁴⁶ The basis for Kara-Murza's second charge was a speech he gave at the

140. See HUM. RTS. WATCH, *Kremlin Targets Critics*, *supra* note 130.

141. FREEDOM HOUSE 2022, *supra* note 3.

142. The opposition figure is still creating a headache for Putin even after his death, as over 300 people were arrested in just two days for publicly mourning Navalny's death. See, e.g., Dasha Litvinova, *Over 300 Detained in Russia as Country Mourns the Death of Alexei Navalny, Putin's Fiercest Foe*, ASSOCIATED PRESS (Feb. 18, 2024, 2:44 PM), <https://apnews.com/article/russia-alexei-navalny-death-prison-putin-d0121f49840ee1cd6bf94f6d7249e1b>.

143. See, e.g., OBD-NEWS, *supra* note 65 (noting that Kara-Murza was initially detained under 19.3 of the Code of Administrative Offenses, and later under paragraph e, Art. 207.3 of the Criminal Code).

144. Elliott Abrams, *The Heroism of Vladimir Kara-Murza*, COUNCIL FOREIGN RELS. (Apr. 23, 2022, 2:48 PM), <https://www.cfr.org/blog/heroism-vladimir-kara-murza>.

145. OBD-NEWS, *supra* note 65.

146. *Id.*

Arizona House of Representatives in March 2022 condemning the war in Ukraine.¹⁴⁷ He was also listed as a foreign agent by the Russian government.¹⁴⁸

In July 2022, Kara-Murza was charged with carrying out the activities of an “undesirable organization” for working with a foreign nonprofit, Free Russia.¹⁴⁹ A Moscow Court extended his detention in August 2022, for spreading ‘fakes’ about the Russian army.¹⁵⁰ In October 2022, Kara-Murza was charged with treason for giving speeches critical of the Russian government around the world prior to being arrested.¹⁵¹ In April 2023, he was formally sentenced to 25 years in prison for treason in connection with the charges brought against him and was transferred to a small punishment cell in a Siberian prison.¹⁵² Kara-Murza’s sentence is likely the longest single sentence issued by a court since the collapse of the Soviet Union.¹⁵³ In response to the verdict, Kara-Murza told his lawyer, “My self-esteem has risen: I realized that I have done everything right. Twenty-five years is the highest appraisal that I could get for doing what I did and what I believed in, as a citizen, a patriot and a politician.”¹⁵⁴

By charging one individual with multiple, related crimes in rapid succession and extending their detention, it is more arduous to defend

147. *Id.*; Dasha Litvinova, *A Kremlin Critic Was Transferred to a Siberian Prison and Placed in a ‘Punishment Cell’, Lawyer Says*, ASSOCIATED PRESS (Sept. 24, 2023, 1:03 PM), <https://apnews.com/article/russia-opposition-crackdown-prison-kara-murza-76a4e94f6f2211850da5a0b7ed43bf8e> [hereinafter Litvinova, *A Kremlin Critic*].

148. RFI, *supra* note 2. The so-called ‘foreign agent’ law was expanded between 2022–2023 to allow the government to censor anyone seen as having “undue foreign influence.” FREEDOM HOUSE 2023, *supra* note 3.

149. RFI, *supra* note 2. The Russian government began adding news outlets and civil society organizations to its ‘undesirable organizations list’ during the 2022–2023 period and criminalized support for or participation in such entities. FREEDOM HOUSE 2023, *supra* note 3.

150. OBD-NEWS, *supra* note 65 (noting that Kara-Murza was also detained under paragraph d, Art. 207.3 of the Criminal Code).

151. *Jailed Kremlin Critic Kara-Murza Charged with Treason*, MOSCOW TIMES (Oct. 7, 2022), <https://www.themoscowtimes.com/2022/10/06/jailed-kremlin-critic-kara-murza-charged-with-treason-a79008>.

152. *Opposition Figure’s Sentence Underlines Russian Intolerance*, ASSOCIATED PRESS (Apr. 17, 2023, 8:41 PM), <https://apnews.com/article/russia-opposition-crackdown-prison-kara-murza-76a4e94f6f2211850da5a0b7ed43bf8e>; Litvinova, *A Kremlin Critic*, *supra* note 147.

153. Leon Aron, *Putin’s Regime Is Descending into Stalinism*, POLITICO (Apr. 18, 2023, 10:35 AM), <https://www.politico.com/news/magazine/2023/04/18/vladimir-kara-murza-death-struggle-vladimir-putin-00092499> (stating that the maximum sentence for rape and murder in Russia is 15 years).

154. *Top Kremlin Critic Convicted of Treason, Gets 25 Years*, ASSOCIATED PRESS (Apr. 17, 2023, 10:39 PM), <https://apnews.com/article/russia-kara-murza-sentence-b9d389feeb468ca3d19171d0440faa7d>.

one charge after the other. State media disseminating news regarding the numerous charges brought against an individual also cements the idea that the individual charged is a danger to national security and is against the Russian people. The original critiques Kara-Murza made are muddled and lost in the swarm of legal charges that surround him. Additionally, the charges brought against Kara-Murza demonstrate that it is not safe to return to Russia even if the critiques were made abroad. Thus, opposition figures Vladimir, like Kara-Murza, cannot fully exercise their freedom of speech outside of Russia without legal repercussions at home.

The two tactics of repressing freedom of expression used by the government show how the Russian state has developed multiple strategies to silence those who challenge the state: labeling a dissident as a terrorist or extremist, or a treasonous foreign agent. This increase in formal punishment since 2013 indicates that Russian criticism of the Russian government is essentially prohibited in practice, even if it is legally allowed under international and national law.¹⁵⁵ Consequently, innovative advocacy strategies are needed now more than ever to support the right to freedom of expression in authoritarian regimes like Russia.

B. APPLYING INTERNATIONAL ADVOCACY STRATEGIES IN THE CONTEXT OF RUSSIAN POLITICAL PRISONERS

As mentioned in Section I(E), a multitude of tools exist for outside actors to advocate for victims of human rights violations, and every tool has advantages and disadvantages. A method such as sanctions provides the most direct punishment that can be inflicted, and is the most familiar tool, but comes at the highest political cost. Corporations can attempt to influence state behavior by withdrawing their operations. Raising awareness of violations by nonstate actors like NGOs allows potentially millions of people to learn about a human rights concern that would otherwise remain hidden and less likely to generate change. Methods that promote reflection and discussion, like the UPR at the United Nations, encourage engagement by highlighting the accomplishments and shortcomings of a particular state but exacerbate geopolitical polarization. Ultimately, both traditional and newer innovative strategies should be implemented to account for each other's shortcomings. Additionally, the normative value of these advocacy strategies should not be disregarded given their ability to

155. See Beschastna, *supra* note 12, at 1130; POL. REPRESSION AND POL. PRISONERS, *supra* note 25, at 21.

inflict political, economic, and reputational damage on a state—even if it continues to violate human rights.

1. Economic Sanctions in Response to Navalny's Poisoning and Imprisonment

In response to the poisoning and imprisonment of Alexei Navalny, the Biden Administration introduced economic sanctions against nine senior Russian officials.¹⁵⁶ It also added six Russian entities to the Countering America's Adversaries Through Sanctions Act List, which imposes mandatory sanctions on "any person who knowingly engages in a significant transaction with" these entities.¹⁵⁷ The American government asserted that the sanctions would impair Russia's ability to obtain money in international markets.¹⁵⁸

To strengthen the effect of sanctions, the United States also coordinated with its European allies.¹⁵⁹ Sanctions were also used as a major tool to condemn Russia's invasion of Ukraine. More than 30 countries, representing half of the world's global economy, introduced sanctions against Russian businesses, banks, oligarchs, and even Putin himself.¹⁶⁰ Sanctions en masse can therefore have an extremely powerful effect, as is evidenced by Russia's economic downturn and political isolation since it invaded an independent country.¹⁶¹ However, it should be noted that the effects of sanctions are not always particularly devastating—the seizure of oligarchs' superyachts off the Mediterranean coast, for example, is more of an inconvenience for a select few than a forceful punishment.¹⁶²

156. *Biden Administration*, *supra* note 77, at 537.

157. *Id.*

158. *Id.* at 539.

159. *See id.* at 537.

160. *International Sanctions Are Working: Russia Feels Economic Pressure*, U.S. EMBASSY GEOR. (Aug. 16, 2022), <https://ge.usembassy.gov/international-sanctions-are-working-russia-feels-economic-pressure/> [hereinafter U.S. EMBASSY GEOR., *Sanctions are Working*]; *World Isolates Putin's Regime After Ukraine Invasion*, SHAREAMERICA (Mar. 4, 2022), <https://share.america.gov/world-isolates-putin-regime-after-ukraine-invasion/>; *FACT SHEET: The United States Continues to Impose Costs on Russia and Belarus for Putin's War of Choice*, WHITE HOUSE (Mar. 2, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/02/fact-sheet-the-united-states-continues-to-impose-costs-on-russia-and-belarus-for-putins-war-of-choice/>.

161. Rebecca M. Nelson, CONG. RSCH. SERV., IF12092, *THE ECONOMIC IMPACT OF RUSSIA SANCTIONS* (2022).

162. *See* Dareh Gregorian, *Here Are the Superyachts Seized from Russian Oligarchs*, NBC NEWS (Mar. 16, 2022, 1:44 PM), <https://www.nbcnews.com/politics/politics-news/are-superyachts-seized-russian-oligarchs-rcna20346>.

Although the intensity of sanctions was much lower than those issued after the invasion of Ukraine, the effects of even potential sanctions in response to Navalny's poisoning and detention were palpable in Russia. After Germany announced that Navalny was poisoned in September 2020, Western countries subsequently publicly considered issuing sanctions.¹⁶³ Such contemplations caused the ruble to fall to its lowest level since the height of the COVID-19 pandemic.¹⁶⁴ The ruble plummeted again in February 2021 due to fears of Western sanctions after thousands of Russians were arrested for protesting Navalny's post-poisoning detention.¹⁶⁵ Both the U.S. and E.U. issued hundreds of new sanctions in February 2024 in response to Navalny's death and the two-year anniversary of Russia's invasion of Ukraine, although it is too soon to know what effect such sanctions will have at the time of this writing.¹⁶⁶

Apart from sanctions targeting economic elites, the infliction of sanctions can also harm ordinary citizens. Sanctions possess the capacity to intensify Russia's already high inflation rate.¹⁶⁷ This is a dangerous game when the number of Russians living below the poverty line continues to rise each year.¹⁶⁸ The average citizen's resentment over declining living standards and increased economic inequality is already bubbling, and overtime, fewer people will tolerate brutal repression if it means the infliction of Western sanctions will exacerbate economic hardships.¹⁶⁹

Apart from economic damage, sanctions also serve a performative function in international politics. U.S. Secretary of State Antony Blinken posited that the sanctions "send a clear signal that Russia's use of chemical weapons and abuse of human rights have

163. AFP, *Russian Economy Under Pressure After Navalny Novichok Poisoning*, MOSCOW TIMES (Sept. 3, 2020), <https://www.themoscowtimes.com/2020/09/03/russian-economy-under-pressure-after-navalny-novichok-poisoning-a71334> [hereinafter AFP, *Novichok Poisoning*].

164. *Id.*

165. See Katya Golubkova & Polina Nikolskaya, *Not Just Navalny: Economic Pain Also Behind Russian Protests*, REUTERS (Feb. 1, 2021, 1:36 PM), <https://www.reuters.com/article/us-russia-politics-economy/not-just-navalny-economic-pain-also-behind-russian-protests-idUSKBN2A13GY>.

166. Fatima Hussein & Lorne Cook, *US and EU Pile New Sanctions on Russia For The Ukraine War's 2nd Anniversary and Navalny's Death*, ASSOCIATED PRESS (Feb. 23, 2024, 8:00 PM), <https://apnews.com/article/european-union-sanctions-russia-ukraine-war-28a5d7faabbcbc5fe3a0de3ec84fd87d>.

167. Golubkova & Nikolskaya, *supra* note 165.

168. *Id.* (noting that in 2020, 18.8 million people—12.8% of Russians—lived below the poverty line and that this number rose by 700,000 from 2019).

169. AFP, *Novichok Poisoning*, *supra* note 163; Nelson, *supra* note 161; *see id.*

severe consequences.”¹⁷⁰ If a state is willing to rather openly attempt to assassinate one of its own citizens, it is likely not troubled by moral qualms or consequences associated with this course of action. In this regard, the sanctions imposed by the United States and its allies offer symbolic value by showing that they condemn the Russian government’s decisions on the world stage.

Unfortunately for advocates, the major benefit of sanctions appears to be this moral, symbolic function as opposed to altering an offending state’s human rights policies. Researchers found that Russian elites were “more united than ever” among each other and behind Putin after Western countries imposed sanctions in response to the 2014 annexation of Crimea, regardless of the financial damage incurred.¹⁷¹ In this example, sanctions produced the opposite effect of what the U.S. government hoped to achieve.

While sanctions are critical for condemning human rights abuses, they possess the potential to further divide countries and reduce potential negotiation or dialogue by increasing animosity.¹⁷² In the case of Navalny, the introduction of sanctions failed to prevent his 2022 conviction and hefty penal colony sentence. One would think that, since states are inherently self-interested, the government would alter its behavior to achieve maximum economic prosperity. However, in the face of almost a decade of sanctions, the Russian government appears to view its survival as dependent on suppressing political dissidence, not access to Western markets.

2. Corporate Pressure

While companies took much swifter action to condemn Russia’s invasion of Ukraine than to condemn the arbitrary arrest and detention of political prisoners, corporate actors, particularly technology companies, can have a powerful impact on promoting human rights in Russia. Since 2013, and particularly over the past few years, Putin’s government limited citizens’ access to sites like Google, Facebook, and Twitter.¹⁷³ Since foreign technology and social media companies promote access to information and freedom of expression, the Russian government has used legal maneuvers to control these companies’ operations inside Russia. Specifically, the government imposed \$120 million in fines on companies accused of defying

170. *Biden Administration*, *supra* note 77, at 537.

171. Siegel, *supra* note 82, at 249.

172. *See id.* at 260.

173. Miller & Menn, *supra* note 5; FREEDOM HOUSE 2022, *supra* note 3.

government censors and threatened Google's top Moscow executive with detention if the company failed to remove an anti-Putin protest app from the Google Play Store.¹⁷⁴

Technology companies in particular are impacted by restrictions on individuals' rights to privacy and freedom of expression.¹⁷⁵ Companies can bend to the will of authoritarian states, or they can publicly take a stand and potentially harm their profitability.¹⁷⁶ Social media and technology companies can be instrumental in shaping outsiders' perceptions and responses to human rights abuses abroad.¹⁷⁷ After Russia invaded Ukraine, pictures and videos showcasing the horrors of war on Facebook, Twitter, and YouTube directly influenced world opinion on the conflict and Putin himself.¹⁷⁸ Facebook and Twitter may have been banned in Russia for enabling freedom of expression, but foreign companies certainly added pressure on the Russian government in the process.¹⁷⁹

It is also worth noting the powerful effect that corporate pressure and withdrawal have had after Russia launched its war of aggression in February 2022. Since Ukraine was invaded, over 1,000 companies announced they were "voluntarily curtailing operations in Russia to some degree beyond the bare minimum legally required by international sanctions," including major companies like Amazon, McDonalds, and Visa.¹⁸⁰ In an economic analysis conducted by the Yale School of Management, researchers found that, since the invasion, Russia experienced a 20% reduction in consumer spending and retail sales, a 50% decline in imports, and a \$75 billion decrease in Putin's foreign exchange reserves.¹⁸¹ Therefore, mass business withdrawals in response to international human rights violations can severely weaken a national economy.¹⁸²

174. Miller & Menn, *supra* note 5; *see also* FREEDOM HOUSE 2022, *supra* note 3 (noting general government pressure on social media executives to censor anti-Russian sentiment).

175. *See* FREEMAN ET AL., *supra* note 89, at 11.

176. Miller & Menn, *supra* note 5; *see id.*

177. Miller & Menn, *supra* note 5.

178. *Id.*

179. *Id.* (noting that the Russian government also sought to label Facebook as an "extremist" organization).

180. *Over 1,000 Companies Have Curtailed Operations in Russia—But Some Remain*, YALE SCH. MGMT., <https://som.yale.edu/story/2022/over-1000-companies-have-curtailed-operations-russia-some-remain> (maintaining a list of companies still working "business as usual" since Russia invaded Ukraine).

181. U.S. EMBASSY GEOR., *Sanctions are Working*, *supra* note 160; JEFFERY SONNENFELD ET AL., *BUSINESS RETREATS AND SANCTIONS ARE CRIPPLING THE RUSSIAN ECONOMY* 62 (2022).

182. *See* U.S. EMBASSY GEOR., *Sanctions are Working*, *supra* note 160.

The longer that companies refuse to conduct business in a major state like Russia—and the longer states impose sanctions—the more pressure a government will be under from its citizens, especially the wealthy, to alter its behavior so that the state can reconnect to the international economy.¹⁸³ While it may be seen by some enterprises as intruding too heavily on domestic politics, companies could invoke substantial economic damage to the Russian government and economy by withdrawing operations as a method of condemning restrictions on freedom of expression. Of course, this would also negatively affect the economic prosperity of ordinary citizens and not just the Russian government or oligarchs.

3. Moral Condemnation and Outrage: Press Releases and Reports by NGOs

One of the main tools of NGOs is the ability to quickly issue press releases. Apart from internationally known figures like Alexei Navalny, most people will not learn of human rights violations if stories are not picked up in international news. Instead, press releases are disseminated online to website readers, other NGOs, news outlets and governments. For example, Amnesty International UK published a press release the same day an opposition politician was sentenced to over eight years in prison for criticizing the invasion of Ukraine.¹⁸⁴ Unlike governments, which have a multitude of responsibilities and obligations, NGOs can monitor on-the ground human rights abuses and report them to large audiences. Thus, press releases can rapidly sound a global alarm for developments that would likely otherwise go unnoticed.

Through reports, NGOs can detail particular human rights concerns over an extended period of time. This is particularly true of well-established and well-funded organizations, who have curated a network of experts and local contacts. Freedom House, for example, monitors freedom of expression issues in dozens of countries around the world and publishes an annual summary of its findings at the end of each year.¹⁸⁵ Individuals can thereby review critical developments

183. See Golubkova & Nikolskaya, *supra* note 165.

184. *Russia: Opposition Politician Ilya Yehsin Sentenced to Nearly a Decade in Prison for Denouncing Ukraine War*, AMNESTY INT'L U.K. (Dec. 9, 2022, 3:45 PM), <https://www.amnesty.org.uk/press-releases/russia-opposition-politician-ilya-yehsin-sentenced-nearly-decade-prison-denouncing>.

185. See FREEDOM HOUSE 2023, *supra* note 3; FREEDOM HOUSE 2022, *supra* note 3; FREEDOM HOUSE, <https://freedomhouse.org/country/russia/freedom-net/2021> (last visited Jan. 12, 2024) [hereinafter FREEDOM HOUSE 2021]; FREEDOM HOUSE, <https://freedomhouse.org/country/russia/freedom-net/2020> (last visited Jan. 12,

impacting the right to freedom of expression in Russia over the course of several years.¹⁸⁶ Reports also allow NGOs to go more in-depth than press releases or most governmental publications and are more accessible to the average person than governmental or U.N. documents. For instance, Freedom House scores how 'free' a country is from one to one hundred, and Russia's score fell from 30 in 2020 to 21 in 2023—an all-time low—after the government imposed additional internet restrictions.¹⁸⁷ The accessibility of these reports and their metrics makes it easy to conceptualize basic human rights developments in a country.

NGOs also use open letters to place pressure on governments and corporations to not enable human rights violations abroad. In March 2022, 52 organizations and NGOs, led by AccessNow, issued a public letter addressed to President Biden urging his administration not to disrupt internet access in Russia after the invasion of Ukraine.¹⁸⁸ The organizations expressed concern that particular U.S. sanctions impacting the internet in Russia would hinder Russian citizens' ability to communicate, report, and organize protests about the war.¹⁸⁹ The #KeepItOn coalition released a similar letter to CEOs of major technology companies, including Apple, Google, Twitter, and Facebook, calling on them to respect Russians' right to freedom of expression in their operations amid growing efforts by the Kremlin to silence opposition.¹⁹⁰ Open letters, particularly when signed by dozens of notable NGOs, not only help to disseminate information around the world, but put states and companies on public notice that their actions can contribute to the deterioration of human rights. On a personal level, letters sent from NGOs or individuals directly to political prisoners can provide rare "moments of joy" behind bars and reaffirm solidarity between prisoners and outsiders.¹⁹¹

2024) [hereinafter FREEDOM HOUSE 2020].

186. See FREEDOM HOUSE 2020, *supra* note 185.

187. FREEDOM HOUSE 2020, *supra* note 185; FREEDOM HOUSE 2023, *supra* note 3.

188. *Letter to U.S. Government: Do Not Disrupt Internet Access in Russia or Belarus*, ACCESSNOW (Mar. 10, 2022, 11:52 AM), <https://www.accessnow.org/letter-us-government-internet-access-russia-belarus-ukraine/>.

189. *Id.*

190. *#KeepItOn: Open Letter to Keep the Internet Open and Secure During Elections in Russia*, ACCESSNOW (Sept. 14, 2021), https://www.accessnow.org/cms/assets/uploads/2021/09/Russia_Votes_KeepItOn_Letter.pdf; see ARTICLE 19, DIGITAL RIGHTS, *supra* note 68, at 12, 27 (calling on protections for freedom of expression before the 2021 elections by issuing a press release from Article 19, a UK based international human rights organization).

191. See *For Russian Prisoners, Letters Provide Rare 'Moment of Joy'*, FRANCE 24 (July 28, 2021, 9:08 AM), <https://www.france24.com/en/live-news/20210728-for-russian-prisoners-letters-provide-rare-moment-of-joy>; see generally *Write for Rights*,

Of course, moral condemnation and outrage via public documents has drawbacks as an advocacy strategy, as it is unavoidably confrontational and does not result in dialogue with authoritarian regimes.¹⁹² Press releases and reports on their own rarely alter a government's decision making. Even if millions of outsiders learn of Russia's methods for limiting freedom of expression from NGOs, the Russian government is unlikely to release, or even stop imprisoning, dissidents. Consequently, the primary benefit of independent documentation of human rights violations is raising awareness abroad. Additionally, NGOs are not entirely neutral entities, suffering from biases just like governments.

4. The Carrot and the Stick: Universal Periodic Review

The final strategy examined here is the UPR at the United Nations' Human Rights Council. The primary advantage of the UPR as an accountability mechanism is that it is a less confrontational and more cooperative approach from the point of view of the state being examined, since the reports highlight a state's achievements in addition to its shortcomings.¹⁹³ Compared to sanctions or critical reports, the UPR process is less politically isolating in the international arena. For example, in the 2018 UPR of Russia, Thailand and the Congo welcomed Russia's establishment of a Commissioner for Human Rights, while Italy commended Russia's ratification of international human rights instruments.¹⁹⁴

The UPR also facilitates multi-state engagement because states must formally respond to another state's recommendation by characterizing it as either 'supported' or 'noted'. In 2018, Estonia recommended that the Russian government take steps to fully implement its international human rights obligations, as stipulated in the Russian Constitution.¹⁹⁵ Russia supported, or tacitly agreed, with

AMNESTY INT'L, <https://www.amnesty.org/en/get-involved/write-for-rights/#writealetter> (last visited Jan. 12, 2024).

192. Dominguez-Redondo, *supra* note 82, at 690.

193. *Id.* at 673.

194. U.N. Human Rights Council, *Rep. of the Working Group on the Universal Periodic Review: Russian Federation*, ¶ 35, U.N. Doc. A/HRC/39/13 (June 12, 2018) [hereinafter U.N. Hum. Rts. Council, *Rep. of the Working Group*].

195. U.N. Human Rights Council, Thematic List of Recommendations, included in the follow up materials of the UPR of Russian Federation (3rd cycle – 30th session), 147.26 (2018). Note: This document does not have an official U.N. document number. It is accessible in the Third Cycle section of this website: <https://www.ohchr.org/en/hr-bodies/upr/ru-index>.

this statement.¹⁹⁶ While perhaps normative in value, the Russian Federation officially acknowledged that it fell short of fulfilling some of its human rights requirements.¹⁹⁷ Additionally, marking a recommendation as 'noted', meaning the state does not fully acknowledge a shortcoming or commit to an alternative course of action, forces a state to nonetheless address its human rights violations. For instance, in 2018, Norway recommended that the Russian Federation repeal legislation and regulations that limit the right to freedom of expression.¹⁹⁸ Russia 'noted' this statement, as opposed to supporting it.¹⁹⁹ Between condemnation, recommendations, and criticisms, the UPR thus allows for a 'carrot and stick' advocacy strategy.

However, as mentioned in Section I(E), the UPR can contribute to further geopolitical polarization.²⁰⁰ Recommendations proposed by other states can be politically charged, like the United States calling for Russia to release all its political prisoners and expressing concern that the government restricted "the rights of members of the political opposition."²⁰¹ Coming from an antagonistic state, this concern likely had the opposite impact of what was intended on the Russian delegation.²⁰² Additionally, it can be argued that such review and comment proceedings have minimal impact outside of U.N. architecture. While processes like UPR lack the teeth of a strategy like sanctions or the publicity associated with reports issued by NGOs, the consistent review mechanism nevertheless promotes inter-state engagement and interaction, and forces states to directly address their behavior in a public manner.

C. RECOMMENDATIONS

Few states want to be entirely isolated from global politics and the international economy. While Russia's recent human rights violations and political decisions, particularly the invasion of Ukraine, point to the contrary, the Russian Federation cannot exist indefinitely as a rogue state.²⁰³ The Russian government may increasingly care

196. *See id.*

197. *Id.*

198. *Id.* at 147.156.

199. *Id.*

200. *See generally* Terman & Voeten, *supra* note 108.

201. U.N. Hum. Rts. Council, *Rep. of the Working Group*, *supra* note 194, ¶ 35.

202. *See* Terman & Voeten, *supra* note 108, at 1, 20.

203. *See generally* Nick Turse & Noam Chomsky, *Rogue States and Nuclear Dangers*, OPENDEMOCRACY (Aug. 21, 2015), <https://www.opendemocracy.net/en/rogue-states->

less and less about its international reputation, but in an increasingly dismal national economy, its people are dependent on financial ties outside of Russia.²⁰⁴

Therefore, for the sake of the Russian people, the Russian government should not be iced out from discussions on human rights. If Russia is *solely* sanctioned and criticized, its government will be even less willing to partake in dialogues on human rights, voluntarily open itself up to examination by other states, or accede to international human rights law and standards. Engagement with Russia and similarly positioned states also produces important effects for the rest of the globe. In an interconnected world, interaction between states is essential to avoid isolationism and properly combat global issues like climate change and nuclear proliferation.²⁰⁵ Treaties like the Paris Agreement and the Nuclear Non-Proliferation Treaty, while not perfect, are more effective at combating the issues they seek to address when powerful states participate.²⁰⁶ Whether it is the U.S. doubling back on its commitment to fight climate change in the Paris Agreement or Russia withdrawing from its last nuclear pact with the U.S., authoritarian leaders win, and the rest of the world suffers from the lack of a uniform commitment to address problems that span across international borders.²⁰⁷ Therefore, more UPR-type strategies should be developed in regional and international human rights bodies. Even if critiques can produce some animosity between states, avoiding all animosity in international politics is an impossible endeavor.

However, it is equally important that other states and non-state actors formally condemn and punish the Russian government's gross and systemic human rights violations on the international stage. With the ultimate goal of preventing as many human rights abuses as possible, external actors should implement a combination of

and-nuclear-dangers/.

204. See Lucian Kim, *Why Isn't Russia a Democracy?*, FOREIGN POL'Y (Oct. 30, 2022, 6:00 AM), <https://foreignpolicy.com/2022/10/30/russia-democracy-putin-soviet-union-cold-war/>; Golubkova & Nikolskaya, *supra* note 165; Nelson, *supra* note 161.

205. See generally Jennie C. Stephens, *Beyond Climate Isolationism: A Necessary Shift for Climate Justice*, 8 CLIMATE CHANGE REPS. 83 (2022); Steve Weber, *Realism, Detente, and Nuclear Weapons*, 44 INT'L ORG. 55 (1990).

206. See generally Yong-Xiang Zhang et al., *The Withdrawal of the U.S. from the Paris Agreement and Its Impact on Global Climate Change Governance*, 8 ADVANCES CLIMATE CHANGE RSCH. 213 (2017); Nobuyasu Abe, *The NPT at Fifty: Successes and Failures*, 3 J. PEACE & NUCLEAR DISARMAMENT 224 (2020).

207. See Zhang et al., *supra* note 206; Vladimir Isachenkov, *Russia Suspends Only Remaining Major Nuclear Treaty with US*, ASSOCIATED PRESS (Feb. 21, 2023), <https://apnews.com/article/russia-ukraine-putin-politics-government-united-states-23cc21a1f42798177a40d4e53204b054>.

sanctions, corporate pressure, condemnation via awareness raising, and interactive dialogues to address abuses abroad. In this way, the shortcomings associated with other advocacy strategies, primarily the political backlash that sanctions and corporate withdrawal produce, the inability of press releases and reports to produce change on their own, and the insulation associated with U.N. proceedings, are minimized.

In an era where people are more connected than ever before, it is crucial that states, organizations, and advocates utilize both traditional and innovative tools to protect and promote human rights. While sanctions may have been the primary and often only viable method to advocate for human rights in the twentieth century, we must use new strategies at our disposal—corporate pressure, moral condemnation via NGOs' websites and social media channels, and the UPR—to call out human rights violations in a straightforward, yet comprehensive manner.

Conclusion

In massively powerful authoritarian states like Russia, those in power will continue to suppress human rights if it is politically expedient or financially profitable—no matter how many international and domestic laws are written, implemented, and referenced. The legal contradictions surrounding the right to freedom of expression in Russia's treaty ratifications, Constitution, and Criminal Code prove this unfortunate reality. Not only can we expect more Russians to be incarcerated as political prisoners, but American citizens are regularly detained in Russia—the most recent being WSJ reporter Evan Gershkovich in March 2023, whom the Biden Administration stated was wrongfully detained by the Russian government.²⁰⁸ We can reliably expect to have authoritarian critics imprisoned under the guise of protecting national security in the future.

However, even if it is possible to systematically restrict millions of citizens' rights to freedom of expression, this does not mean that a state can get away with it forever or that advocates should give up. Opposition leaders like Alexei Navalny and Vladimir Kara-Murza are willing to fight to the death in order to exercise their fundamental right to freedom of expression by criticizing the Russian political establishment. When these individuals are silenced, either through

208. *U.S. Officially Says Russia "Wrongfully Detained" WSJ's Evan Gershkovich*, AXIOS (Apr. 10, 2023), <https://www.axios.com/2023/04/10/gershkovich-russia-wrongfully-detained-wsj-state>.

detention or by restricting information online, the burden falls on outside advocates to continue to disseminate information about human rights abuses. This Note asserts that the strongest way for outsiders to advocate for human rights is to implicate a multitude of actors, including states, businesses, NGOs, and international organizations, and use a multitude of advocacy strategies. Additionally, while advocates should continue to criticize the suppressive actions of the Kremlin, they must also maintain space for engagement with the Russian state. If the Russian government becomes a rogue state, it will not only be difficult to uncover information about potential abuses, but it will be increasingly challenging to combat global problems without the participation of powerful states.

In many circumstances, the primary effect of advocacy strategies in the human rights space may be normative. Despite the implementation of the four methods discussed in this Note, political prisoners like Alexei Navalny and Vladimir Kara-Murza were still put behind bars for exercising their rights. It is challenging to not turn to pessimism in the face of systemic human rights abuses around the world. However, the normative impacts of advocacy strategies still produced tangible political, economic, and reputational effects on the Russian state.

The Russian government has violated international law and has still been internationally punished, even if it is not to a degree that seems just. While the best advocacy outcome is certainly convincing a state to cease violating human rights, it is still worth vigorously pursuing international advocacy strategies even if our highest aspirations are not realized. As Navalny himself asserted before his untimely death, "My message for the situation when I am killed is very simple -- not give up."²⁰⁹

209. CNN, TIKTOK, <https://www.tiktok.com/t/ZPR3QAjkD/> (containing a clip from NAVALNY (Cottage M, Fishbowl Films, RaeFilm Studios & CNN Films 2022)).