



Testimony of David J. Kramer

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before the

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“Russia 2012: Increased Repression, Rampant Corruption,
Assisting Rogue Regimes”

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Madame Chairwoman, Members of the Committee, it is an honor to appear before you once again, this time discussing Russia. I'm also pleased to appear with my colleagues, William Browder, Steve Pifer, and Leon Aron.

"Russia 2012: Increased Repression, Rampant Corruption, Assisting Rogue Regimes," the title of today's hearing, succinctly sums up the kind of leadership – distinct from the country as a whole – we face in Moscow. It is a leadership that is thoroughly corrupt, rotten and rotting. Russian officials from the very highest levels to the lowest ranks have become unbelievably greedy over the years, viewing the state's coffers and assets as their own personal trough. Personal enrichment – "get it while you can" – has become the reason to serve in government for many officials. The INDEM think tank in Russia estimates that corruption costs the country some \$300-\$500 billion out of a GDP of roughly \$1.5 trillion – in other words, between a quarter and a third of the economy is lost to corruption. Plugged-in political analyst Stanislav Belkovsky estimated back in 2005 that then-President Vladimir Putin himself was worth \$35-\$40 billion.

Against that backdrop, it should not be surprising that Putin oversees a regime that shows utter disregard for the human rights of its own people or for those in other countries, as evidenced most recently by its continued arms sales to the murderous Assad regime in Syria. For more than a decade, starting with the late Yeltsin period and then picking up speed when Putin came to power, Freedom House has been documenting Russia's steep and steady decline in democracy and human rights. Freedom House findings chronicle a grim record of across-the-board decline during the Putin era, including in the areas of judicial independence, media freedom, anticorruption, and the election process. In our *Freedom in the World* and *Freedom of the Press* surveys, Russia is ranked Not Free.

Nonetheless, it has been heartening to see so many Russians turn out to protest against the status quo last December and into this year. Russian civil society has been stimulated in the past few months like nothing we have seen since the break-up of the USSR and is now trying to find its rightful place under extremely difficult conditions. This doesn't mean that democratic accountability for Russia is imminent. It does suggest, however, that American policy makers need to rethink some of the basic assumptions about the future direction of Russia. This should entail a renewed commitment to defending the rights of the NGO community in Russia and a determination to target gross human rights abusers through sanctions. Without these steps, any sort of meaningful democratic reform in Russia is hard to envision.

A Dangerous Mix of Arrogance and Paranoia

At the outset of his presidency, Putin seized control over two nationwide television stations from oligarchs who had fallen out of favor, and these stations still provide the main means of information for most Russians. In October 2003, Putin had Russia's richest oligarch, Mikhail Khodorkovsky, arrested for defying him and did away with gubernatorial elections in 2004 after the Beslan tragedy, ensuring that governors became beholden to the Kremlin for staying in power, not to their constituents. And he created an environment in which certain critics, opposition figures, journalists, and human rights activists -- Alexander Litvinenko, Anna Politkovskaya, Paul Klebnikov, Natalya Estemirova, and Sergei Magnitsky, to name just a few -- were murdered and their cases remain unsolved. Others, like journalist Oleg Kashin and political activist and blogger Alexei Navalny, are beaten and/or investigated for critical analysis and probing reporting. And the North Caucasus, while generally less violent than ten years ago, remains a human rights mess, with a climate of impunity fostered and criminality symbolized by, but not limited to, Chechen leader Ramzan Kadyrov (a Putin favorite).

The lack of accountability for human rights abuses and the grossly politicized legal system create an environment wherein such abuses are not only condoned but expected, almost as a demonstration of loyalty to the regime. Essentially, Russian leaders for more than a decade have shown no respect for human rights, accountability, or independent institutions, and refuse to allow a viable opposition to take root.

Amid those hoping that Vladimir Putin's return to the presidency would mark a change from the previous 12 years in which he ran the country, we are already seeing a renewed crackdown on opposition figures and government critics. This began with a massive police presence at protests the day after the election and continued this past weekend with the detention of more than 100 protestors including opposition figures Boris Nemtsov and Sergei Udaltsov by riot police outside the Kremlin-friendly television station NTV. Putin's return to the Kremlin is designed to preserve the status quo and the system he has overseen for a dozen years, not to launch reforms. He has not and will not tolerate anything that resembles a threat to his hold on power, and recent legislative initiatives do not address the core demand for honest elections. Accordingly, many Russians these days despair over the prospect of at least six more years of Putin; they use the Brezhnev-era word *zastoi* or stagnation to describe Russia's current situation and outlook.

Putin heads a leadership that is arrogant, assertive, and aggressive on the one hand but also paranoid, insecure and hypersensitive on the other. This is a dangerous and volatile combination. It explains why Putin cannot leave power. In a sense, Putin is hostage to his own system, the glue that holds it together. Were he to step down, he and those around him who have benefitted so handsomely from their positions of power would possibly be subject to investigations and arrest. They have too much at stake to allow some new person to be elected president.

The combination of arrogance and paranoia explains the decision last September 24 when Putin and lame-duck President Dmitri Medvedev announced that they would change jobs after this month's presidential election. Confident that he could make such decisions on his own and simply have Russians go to the polls and affirm this arrangement, Putin also wanted to nip in the bud speculation that Medvedev and he were feuding. I have never bought into the theory that there was much daylight between Medvedev and Putin, but I do believe that Putin was paranoid about the growing chatter in favor of Medvedev's staying on as president.

It explains why the regime engages in all sorts of actions to predetermine the outcomes of elections. Thus, we saw Golos, the respected and independent domestic election observer organization, kicked out of its office in mid-February to try to disrupt its operations. Ekho Moskvyy, the Moscow-based radio station known for its hard-hitting journalism and commentary, found itself under increasing pressure in a board of directors shake-up right before the election; the station's majority shareholder is state-controlled Gazprom Media. On February 16, Russian prosecutors opened an investigation into the independent online television station, Dozhd TV, for its coverage of two major opposition rallies in Moscow late last year.

The combination of arrogance and paranoia is why a serious liberal opposition party, PARNAS, wasn't allowed to run in the Duma election, and why Grigory Yavlinsky was denied registration for the most recent presidential election. The most viable liberal alternative to Putin, Yavlinsky would have been hard-pressed to win the election, but Putin never wanted to take that chance. Russia's regime thinks it can get away with such abuses, and it dares not leave things to chance. This explains why state-dominated broadcast television, whose news and information reaches the largest segment of the Russian public, broadcast slavish, glowing coverage of Putin ahead of the election and largely smeared any dissenters.

Against this backdrop, it is no surprise that neither the parliamentary nor the presidential elections was free or fair. As the election monitoring arm of the Organization for Security and Cooperation in Europe (OSCE) determined on the presidential election of March 4, “conditions were clearly skewed in favor of one of the contestants [Putin]... [T]he Prime Minister was given a clear advantage over his competitors in terms of media presence. In addition, state resources were mobilized at the regional level in his support. Also, overly restrictive candidate registration requirements limited genuine competition.”

“There were serious problems from the very start of this election,” said Tonino Picula, the Special Coordinator for the short-term OSCE observer mission and Head of the delegation of the OSCE Parliamentary Assembly. “The point of elections is that the outcome should be uncertain. This was not the case in Russia. There was no real competition and abuse of government resources ensured that the ultimate winner of the election was never in doubt.”

Added Ambassador Heidi Tagliavini, the Head of the Election Observation Mission of the OSCE Office for Democratic Institutions and Human Rights (ODIHR), “In this election, candidates could not compete on an equal footing. Although the authorities made some effort to improve transparency, there remained widespread mistrust in the integrity of the election process.”

And writing in Monday’s *Moscow Times*, Tiny Kox, who headed the observation mission for the Parliamentary Assembly of the Council of Europe, said, “More important, the electoral process did not meet the standards of a fair and transparent competition. The choice for the voters was limited, some candidates had been excluded because of overly rigid rules, and the playing field for the candidates was by no means level. Putin received a much larger share of the media attention, and administrative resources were used to his electoral benefit. Not to mention an impartial election referee was sorely missed. The way in which chairman Central Elections Commission chief Vladimir Churov operates is part of the problem, not part of the solution. Without a trusted impartial elections commission, every election's result will be disputed.”

The paranoid side of Putin leads him to blame the United States and Secretary of State Hillary Clinton for instigating last December’s protests. This is not just a function of Putin’s paranoia but of a likely perception of an emerging threat that he then tries to tarnish by charging that those who demonstrated were paid by the U.S. Like many authoritarians, Putin plays the foreign interference card in the hope of manipulating a citizenry into assigning blame elsewhere

for the failures of the regime at home. The latest gambit by Putin is a sign of weakness as much as it is of paranoia.

Since his early years as president, Putin has always blamed the West for threatening Russia rather than face the shortcomings of his own leadership. Whether after the Beslan tragedy in 2004 or in his famous Munich speech in 2007 or his comments in December, Putin sees threats to Russia from beyond the country's borders, especially coming from the West. This, of course, is patented nonsense. The greatest threats to Russia come from the Kremlin's ineffective and destabilizing policies in the North Caucasus, the lack of a sound ethnic and religious policy, lawlessness among the security services and law enforcement sector, an economy dependent on oil prices without the accompanying modernization of infrastructure, and a rotting ruling clique with an insatiably corrupt appetite. To find the real threat to Russia, Putin and those around him would have to buy mirrors. Instead, in citing the West as a threat, they seek to justify their means of ruling the country.

Enough Is Enough!

Before giving in to despair, there have been a number of positive developments worth noting. Let's start with the recent parliamentary and presidential elections. Despite massive voter fraud, tampering, and abuse by the government in support of Putin's United Russia party in last December 4's Duma elections, millions of Russian voted against the party in power and hundreds of thousands turned out across the country in frigid temperatures to register their frustration with the status quo, Putin, and Putinism. The people came alive and came together to demonstrate that they were against the party of "crooks and thieves," a phrase coined by Alexei Navalny. As a result, despite the regime's best efforts, United Russia was unable to muster a majority of the vote, and its official number of 49 percent is thought to be inflated significantly.

The protests last December and again in February were the loudest and clearest manifestations of ordinary Russians' increasing frustration with the lack of dignity and violations of their rights, which have become routine under Putin. They were stirred from their sense of resignation and apathy and moved to make clear that they have had enough of lies and corruption. Many Russians have also come to realize the degree to which their country's wealth has been plundered and that with Putin's return to the presidency for at least six more years, this gross misuse of public wealth will continue unabated. As Navalny, arrested immediately after

the Duma election and sentenced to 15 days in jail, wrote from his jail cell, “We all have the only weapon we need, and the most powerful: that is the sense of self-respect.”

A growing number of Russians talk about emigrating from the country, fed up with the political stagnation and the never-ending corruption. It is true that during Putin’s reign, many average Russians experienced an improvement in their own standard of living, but the corrupt nature of the regime meant that their enhanced personal situation was never safe from thieving officials, especially if a Russian decided to open up his or her own business. Money that could have been invested in necessary infrastructural improvements, in health care or education instead went to line official pockets. Capital flight last year soared to \$84 billion, more than twice the amount from 2010; and already this year, capital flight totaled \$13.5 billion in January alone, according to the Russian Central Bank.

But on December 4, many voters decided that it is the authorities who should leave, not they. And this leads to an important outcome from the March 4 election: while Putin may claim victory in the election, he lost in three important respects:

- He has lost his unquestioned sense of legitimacy as more and more Russians suspect he remains in power by illegitimate means;
- He has seen his all-important aura of invincibility badly damaged; and
- He has seen his use of fear to stay in power less intimidating based on the hundreds of thousands of Russians who braved the frigid elements and threat of arrests and beatings to protest against six more years of his leadership.

Thus, a weakened Putin will return to the presidency May 7. This is not to say that Putin will not resort to repressive measures to exact revenge against those who opposed him. Indeed, he is wasting no time in doing so. Dozens of protestors in Moscow were arrested and roughed up over the weekend. The recent prosecution against businessman Alexei Kozxlov, husband of Olga Romanova, a leading civil society activist, is seen by many as payback for her outspokenness and her collection of funds to sponsor the demonstrations. Several members of a punk rock band are in jail for singing an anti-Putin song in a cathedral. Navalny has been summoned in for questioning and another opposition figure, Sergei Uldatsov has been sentenced to 10 days in jail for defying police, but was subsequently let go with a fine. None of this should come as a surprise. This is the only way Putin knows how to rule and reflects his paranoia and

insecurity. The key question is how long he can get away with it before the Russian people will say enough is enough for good.

To placate the population and buy votes ahead of the election, Putin made lots of campaign promises involving increased pensions, wages, and bonuses to, for example, families who have more than two children; he also promised to increase military spending by \$700 billion over the next decade. As the *New York Times* reported on Saturday, Russia cannot afford such massive spending increases unless the price of oil, on which the country's economic future is so dependent, rises to \$150 per barrel (it currently is at \$120). Should he try to follow through on his campaign promises, Putin threatens to put Russia in debt; should he fail to implement his pledges, he might incur growing resentment toward his leadership. Either way, absent a serious reform program that reduces Russia's dependency on natural resources, something Putin promised more than a decade ago, Russia's economy is headed for big trouble. None of his promises addresses the root causes of the country's problems: namely, the plundering of the country's wealth and the absence of accountable governing structures. Combined with a bleak demographic outlook, unrestrained corruption, and a roiling North Caucasus, Russia's future does not look promising.

Compared to the impressive turnouts for the protests after the December Duma elections and on February 4, the demonstrations that occurred after the presidential election were smaller in number and in need of a clearer sense of purpose. While many Russians voted against United Russia in December and against Putin in March, missing for many Russians is what or whom to vote *for*. It is true that the Kremlin has actively worked over the years to ensure that a viable opposition never materialized, just as it has stunted the growth of independent media, civil society and other institutions of accountability and transparency. But the opposition needs to do a better job of offering a serious and united alternative to the status quo for Russia's outlook to improve in a sustainable way. And civil society needs support so that it can translate the momentum that brought many ordinary Russians out to the street to express their desire for a more democratic system into a longer term movement for change.

What Should The United States Do?

Russia's future, it goes without saying, will be decided by Russians themselves, but the deteriorating situation inside Russia will force issues of democracy and human rights higher onto the agenda of the U.S.-Russian relationship, especially with fewer issues on which Russian and

American leaders will see eye-to-eye. Abandoning the Obama Administration's previous reticence at the highest levels to criticize Russian authorities for their human rights abuses, corruption, and electoral fraud, Secretary of State Hillary Clinton took the right approach last December in her clear and repeated condemnation of the Kremlin's efforts to rig the Duma elections. "We have serious concerns about the conduct of those elections," Clinton said in her speech before the Ministerial meeting of the Organization for Security and Cooperation (OSCE) in Europe in Vilnius. "Independent political parties, such as PARNAS, were denied the right to register. And the preliminary report by the OSCE cites election-day attempts to stuff ballot boxes, manipulate voter lists, and other troubling practices. We're also concerned by reports that independent Russian election observers, including the nationwide Golos network, were harassed and had cyber-attacks on their websites, which is completely contrary to what should be the protected rights of people to observe elections, participate in them, and disseminate information. We commend those Russian citizens who participated constructively in the electoral process. And Russian voters deserve a full investigation of electoral fraud and manipulation.... The Russian people, like people everywhere, deserve the right to have their voices heard and their votes counted. And that means they deserve fair, free, transparent elections and leaders who are accountable to them."

Clinton's comments were the clearest, strongest language uttered by a Cabinet-level Obama Administration official to date and should have been reinforced by the White House and President Obama in particular. Since a laudable speech in July 2009 in Moscow in which he spoke about Russia's shortcomings in the area of human rights, Obama has been virtually silent on Russia's deteriorating political situation. In Michael McFaul, he did send an outspoken ambassador to Moscow well-known for his concern about Russia's human rights problems. Nonetheless, given how much time he has invested in developing U.S.-Russian relations and given that he has spoken with Medvedev more times than with any other world leader, Obama's own silence when it comes to Russia's human rights abuses and anti-democratic behavior is deafening. Instead of raising questions about the March 4 presidential election, Obama called Putin to "congratulate" him on his victory (in fairness, so did many other Western leaders). The statement from the State Department after the March 4 election was wishy-washy and equivocal compared to Clinton's clear and critical comments after the Duma elections. We need to think

how dispiriting it can be for pro-democracy activists on the ground when the U.S. congratulates an authoritarian leader following a flawed election.

The chemistry that developed between Obama and Medvedev will not be replicated with Putin, and with Obama focused on his own reelection, The U.S-Russian relationship is unlikely to deliver much this year. With disagreements over missile defense and Syria, and possibly Iran, it would be a mistake to downplay our differences over human rights out of a false sense of hope that doing so might win Russia over on Syria, for example. Instead, the United States should stand unequivocally for democratic processes, rule of law, and respect for human rights. A U.S. policy – publicly and privately – that is consistent with American values is one that simultaneously supports democratic accountability in Russia. When Russian officials behave in blatantly undemocratic ways, as they did on December 4 and March 4 and in the lead-ups to both elections, they should not get a pass from the White House because of fear that criticism of their actions might upset the reset.

Pass Magnitsky Legislation

Above I have focused on what the Obama Administration should do. Let me now turn to a very important step the U.S. Congress should take: pass the Sergei Magnitsky Rule of Law Accountability Act of 2011.

The Magnitsky case has become a cause célèbre in the U.S. Congress and among many European parliamentarians because it exemplifies what is rotten in Russia. Jailed unjustly after alleging officers of Russia's Interior Ministry took part in a \$230 million tax fraud against his client, Hermitage Capital, Magnitsky was murdered in jail after being beaten and denied medical treatment despite repeated pleas for help. House and Senate versions of the “Justice for Sergei Magnitsky” bill would impose a visa ban and asset freeze against Russian officials suspected of involvement in Magnitsky’s murder; the Senate version, which enjoys strong bipartisan support, looks to extend such measures to other human rights abuse cases in Russia as well.

Like no other initiative in memory, this legislative push in both the U.S. Congress and in Europe (the Dutch parliament in late June unanimously endorsed a Magnitsky-like effort, as have the European and Canadian parliaments) struck a chord in Moscow over the summer and forced Russian authorities to reopen the Magnitsky case to further investigation. The lack of recent momentum on the legislation, however, has eased the pressure on Russian officials, who once again announced that Magnitsky himself was guilty of embezzlement and have limited the

investigation to doctors in the prison, not those guilty of putting Magnitsky in jail in the first place or those involved covering up his murder.

In the absence of outside pressure, Russian officials not only show zero interest in providing accountability in this case, but they manifest outright defiance, such as when several Ministry of Interior officials accused of fraud by Magnitsky were not only given awards but promoted last year. More recently, in a disgusting display of a politicized judicial system, prosecutors have reopened the investigation to go after Magnitsky posthumously.

In the absence of accountability and rule of law in Russia, American and European parliamentarians are demonstrating that if Russian officials engage in major human rights abuses, they and their immediate families cannot enjoy the privilege—not right, but privilege—of traveling to or living or studying in the West, or doing their banking in Western financial institutions. This matter demonstrates that the West, including the U.S. Congress, does have leverage over Russia, if we choose to exercise it. After all, corrupt Russian officials place their ill-gotten gains in Western financial institutions; the smart ones don't leave their money in Russia (as reflected in the nearly \$84 billion in capital flight last year). Alas, the failure to move the legislation through the Congress has eased the pressure on Russian officials. The only way to have serious investigations and prosecutions in the Magnitsky cases or similar human rights abuses is to keep the pressure on and pass the bill.

Claims by Obama Administration officials that the legislation is unnecessary because the State Department has already banned certain Russian officials implicated in the Magnitsky case are not sufficient. The administration must also place these officials on an asset freeze list, which would be publicly announced, as would those on the visa ban list under the legislation. The point is to make clear to Russian officials that if you don't murder journalists, lawyers, and opponents or engage in other gross human rights abuses, then you have nothing to fear from the bill. But in the absence of accountability in Russia, this draft bill has already done more for the cause of human rights there than anything done by the Obama Administration (or by the Bush Administration in which I served).

The other concern raised by Russian officials and apparently shared by some in the U.S. is that passage of the Magnitsky legislation would sink the reset policy and end cooperation on issues like Iran, North Korea, and Afghanistan. If that's the case, then the reset is extremely shallow and on its last legs, its successes grossly oversold. Russia presumably is cooperating

with us on these strategic challenges because it's in their interests to do so, not because they're being nice to us and doing us favors. If they stop this cooperation because of the Magnitsky bill, then we really need to reexamine the relationship and the sustainability of the bilateral relationship. Moreover, the U.S. and Europeans should firmly push back against such threats and remind Russian officials that if they ended human rights abuses and held accountable those who committed them, such legislation wouldn't be necessary at all. If Russia wants to be treated like a partner, then it needs to abide by the rules and norms required of a member of the Council of Europe and the Organization for Security and Cooperation in Europe.

Finally, the Magnitsky legislation has been connected with the recent debate and discussion about graduating Russia from the Jackson-Vanik Amendment. I have supported graduating Russia from the 1974 Jackson-Vanik for years, both when I was in the U.S. government and today. It served its purpose very well in promoting the emigration of Soviet Jews at the time, but it is legislation that no longer addresses current-day problems in Russia. I understand and agree with the arguments made by those in the business community who argue that not lifting Jackson-Vanik would hurt our companies. But I am not prepared to support graduating Russia from Jackson-Vanik in the absence of passing the Magnitsky legislation. It would send a terrible signal to lift Jackson-Vanik and have nothing to take its place. It would be perceived by the Kremlin as weakness on our part, a symbolic award to a Russian government undeserving of any such measures, and would undermine the very people in Russia whom we want to support.

In an op-ed in the March 14 *Wall Street Journal*, liberal opposition leaders Gary Kasparov and Boris Nemtsov made this very point. "Jackson-Vanik is a relic and its time has passed," they wrote. "But allowing it to disappear with nothing in its place, and right on the heels of the fantastically corrupt "election" of March 4, turns it into little more than a gift to Mr. Putin." They went on to say, "Replacing Jackson-Vanik with [the Magnitsky legislation] would promote better relations between the people of the U.S. and Russia while refusing to provide aid and comfort to a tyrant and his regime at this critical moment in history. This, too, would be a policy of principle."

Contrary to some views expressed before a hearing of the Senate Finance Committee March 15, neither graduating Russia from Jackson-Vanik nor granting Russia permanent normal trade relations status would improve the human rights situation inside Russia. China, which was

graduated from Jackson-Vanik a decade ago, illustrates the limits of graduating a country; since Congress acted on China, there has been no improvement in the area of human rights in that country. Thus, we should have no illusions about the impact lifting Jackson-Vanik would have in the case of Russia. It may be the right thing to do now but only if it is replaced by the Magnitsky bill.

Thank you for your attention, Madame Chair, and I'm ready to answer any of your questions.