Legitimated State Repression in Authoritarian Regimes: Russia, 2010-2017

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Abstract

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This research aims to reveal and to account for the moderate levels of state repression under contemporary authoritarian regimes, focusing on the case of Russia. I show in this research that, contrary to the previous research and the conventional image of an omnipresent and a strong authoritarian state, the state's deployment of coercion in Russia has been relatively mild in its severity. I argue that such moderate repression is a by-product of the regime's pursuit of legitimacy, which leads the state to follow legally established procedures of coercion. Despite the formality of authoritarian institutions, the original design of repression made at the top is reshaped by the judicial institutions, as different actors of the repressive apparatus whose incentives do not necessarily align with those of the central state inevitably involve in constituting and enacting the state's repressive policies. To prove this thesis, I analyzed the legislation that specifically targets the newly growing civil society and the processes by which such laws are applied, using data on the final verdicts from Russian federal and district courts, reports on judicial persecution by monitoring organizations, and interviews. The case of Russia reveals that the preexisting incentive structure of the repressive apparatus as a whole prefers quantity over quality in the direction of avoiding bureaucratic liability. This, in turn, dictates the terms of the investigation, prosecution, and, finally, courts' rulings. The newly adopted repressive laws targeting dissent movements aid the tendency as the laws point to widening discretion in general due to dubiously defined jurisdiction, the vague contents of provisions, and expanding regulations that punish minor misconducts than felonies. The confluence of the repressive laws and the incentive structure results in a proliferating rate of convictions with light punishment, accounting for the relatively mild level of coercion.

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Chapter 1. Introduction

1.1 The Puzzle of Moderate State Repression

Should freedom shed blood? Countless social movements in their effort to topple down the oppressive governments appear to attest to the inevitability of violent clashes between people and the forces of state sacrificing human lives. Unfortunately, most of the attempts fails, despite the blood, merely sowing the seeds for unknown futures, ingraining the tragic memories in history. In 1989 China, the protesters in Tiananmen Square calling for democratization met with troops with assault rifles and tanks resulting in deaths of several thousands. The Chinese government declared martial law, completely quelling the movements to maintain its power until today. Kwangju uprising in Korea in 1980, also demonstrated what a military dictatorship is capable of in responding to anti-regime protests massacring and seriously wounding hundreds of civilians by military force. The military regime reigned for another seven years until the restoration of civil government took place by negotiated democratization in 1987 against the backdrop of the rising waves of protests across the country. In more recent past, many countries in political morass of Arab Spring between 2010 and 2014 experienced brutal conflicts among different factions, the governments, and people. In Egypt, now called "Egyptian revolution of 2011" in ousting president Mubarak, left at least 840 people killed and thousands seriously injured, soon to be followed by another mass-killing in 2013.

While the abovementioned events may seem to suggest that the ruthless political violence as a response to popular dissent to be a core character of authoritarian regimes, it does not necessarily constitute the constant feature of autocratic rule across all time and space. With regard

to the threats to the rulers' power stemming from people within, the contrasting state responses other than forceful crackdowns exist in diverse forms: moderate level of repression, accommodating policies, concessions or cooptation, all for successfully bypassing fierce conflicts. How the Soviet Union collapsed is a representative example where the state did not resort to high level of state violence in the face of the mass mobilizations. Singapore, known for its version of "soft-authoritarianism," maintained its stable rule for more than four decades containing effectively any potential outbreak of political grievance without having to use outright coercion. China, while violently persecuting Muslim minority groups in Xinjiang on the one hand, responded to Hong Kong's Umbrella Movement with mixed strategies of repressive tactics and concessions (Yuen & Cheng, 2017), avoiding to repeat its history in Tiananmen Square. As with these cases, many authoritarian regimes embody moderate level of repression, somewhere between mass-killings and utter tolerance toward civil resistance.

The moderate repression unaccompanied by massive human casualties by authoritarian rulers presents a puzzle. Given that autocrats, by definition, should be able to utilize state's monopoly of coercion in their favor at their discretion, what determines the level and the forms of policies in protecting one's regime from the threats posed by people? In theory, coercion, as means of ensuring the compliance of a population, is the most inexpensive tool over patronage, and legitimacy. Then, why would any autocrats resort less to coercion?

The most immediate and obvious answer would be that the leaders in the hybrid regimes do not have to use brutal violence as the magnitude of dissent movements are not commensurate with such a severity. The use of force, in this case, would be a waste of resources that could have been spent elsewhere. The related literature, which views state repression essentially as a dependent variable of dissent movements explains how in most cases the deployment of repression

is proportional to the magnitude of threats posed by street politics, demonstrations, and other activities of dissents. Autocrats, even though the coercive means are at their disposal, deliberately estimate the effective level of repression corresponding to the seriousness of threats. In line with this view, regime type is the crucial factor that conditions the level of repression. While rulers decide the appropriate levels of input in quelling/dissolving people's resistance against state, the overall level of coercion is observed to be relatively higher under hybrid regimes than full dictatorships or democracies, when other conditions remain the same. "The more murder in the middle (Fein, 1995)" is a product of two conjoined factors which are attributable to the hybrid regime – the middle, not the two extremes: the higher level of dissents, and the less executive constraints than democratic states.

Although the two conditions determining the level of state repression - the magnitude of threats, and the regime type – provide an answer on a macro scale as to why hybrid regimes sometimes use less violence, still with higher level of oppression in general than other regime types, they do not provide the detailed account as to how in each different case, the rulers of authoritarian regimes reach decisions to deploy proportional repression. As it were, it fails to account for the variation within similar authoritarian states, or the variation across different space and time within an authoritarian state. If autocrats decide to repress only mildly, what concretely constitutes the "mild repression?" Why do they use violence at one time at one place, but not others?

To answer the questions, some scholars went further to explore more nuanced cases of state repression. According to them, while repression is triggered by threatening popular dissent and is more frequently observed under hybrid regimes, the repertoires and the severity of repression are not static (Ritter, 2014; Conrad & DeMeritt, 2014; Fariss & Schnakenberg, 2014). State repression

under today's authoritarian states seems to be trending toward a softer form of control, often with accommodating measures alongside repression (Moore, 2000; Earl, 2006, 2011; Robertson, 2009). The literature points to the autocrats' calculating faculty and the resultant choices as to which distinctive repertoires of repression create the optimal outcome with the least cost incurring to themselves. In this light, the moderate level of repression is the product of the rulers' choices aiming at an optimal equilibrium weighing the cost and benefits of the selected strategies.

This line of research approximates the reality of state repression under hybrid regimes, theorizing the mechanism by which the rulers estimates the pros and cons of deploying certain types of coercive strategies to reach their goals. I call this "choice-centric model" in that they share two assumptions in their approach to explaining the state's use of coercion by focusing on the central elites' choices. The two assumptions are: First, the rulers, as utility-maximizers, undertake certain cost-benefit analysis to decide whether and how to use state's violence. Second, the final contortion of repression reflects such a decision. What this approach dismisses is that each different rulers' goals and the corresponding cost-benefit analysis can be drastically different from one another. The goals and the contents of "costs" should not be a universal one depending on the context of the political environment within which the rulers are positioned. Without considering the conditions which define the nature of the cost of using repressive means, it can be misleading to assume the coherent goals and costs/benefits by retrospectively examining the result of repression.

According to the choice-centric model, the state repression epitomizes such a decision based on the calculated estimation for maximized utility. While the decision may not perfectly achieve goals initially aimed by the policymakers, repression is seen as a result of such a decision. This view assumes the decision to coerce is the proximate cause of the final effect of repression.

Put another way, the decisions are translated on the ground to become a certain level of severity and forms of oppression. Yet, the distance between the decision to use coercion, and the impact of such a decision can be considerably far depending on how decision is processed and manifested. Given that the state repression under contemporary hybrid regimes usually encompasses wider space and time, involving convoluted combination of different tactics, the rulers' capacity to control the process by which the coercion is deployed is rarely perfect. In this light, equating the resultant repression to the rulers' decision is merely fictitious.

1.2 State Repression as a Side-Effect of Legitimacy

This research is an attempt to remedy the shortcomings of the choice-centric view on state repression and to complement the theory of state repression under hybrid regimes, particularly with the moderate level of repression turning more to soft control than resorting to outright violence. I argue that the concerns for legitimacy of rule in deploying coercive means of power play an equally crucial, if not more influential role in bringing down the level of severity of state coercion. It is the pursuit of legitimacy, apart from the concerns of the cost-effectiveness in allocating given resources, that makes the rulers strive to plow the legitimized paths to repression through officially established institutions of judicial process, for whichever concrete tactics of their choosing. This presupposes the operation of diverse institutional incentives, and actors whose interests go beyond those of the central elites. The initial decision at the top, calculating proportional level and tactics of repression is reshaped by the legitimation process, which in its turn, creates the ultimate effect of repression on the ground.

Elites under authoritarian regimes are not in their power in absolute terms. They face regular challenges from semi-competitive elections and care for approval ratings as it potentially signals the weakness of incumbents which subsequently trigger challenges from competing elites or people at large (Schedler 2006, 2013; Levitsky & Way, 2010). In this context, using coercive means to contain popular dissents so massively to a degree that backfire them is not in their interest. They need to cut a middle path between wielding state violence and maintaining their legitimate standing. One effective way to achieve it is to utilize judicial measures. Although judicial measures take longer time to materialize what the state intends to do, it sends the signal that the state's policy in containing popular dissents is the product of legitimate process of collective decision makings, rather than a personalist's regime's whim to save itself. Undertaking judicial measures to finally produce the effect of repression entails largely two phases. First, lawmaking and second, law enforcement. In other words, by molding the repression in the frame of rule of law, the ruling elites aim to hedge the risk of losing their moral position in the face of repressing people who protest against the regime.

The question is whether the legitimate procedures of judicial measures, which entails the following activities - lawmaking, pronouncement of laws, monitoring, investigating, prosecuting and finally convicting, successfully achieve the intention of the authoritarian elites, i.e. quiescence of dissents without losing legitimate grounds. I argue that the outcome of such a process reflect the initial design of decision makers to a degree, but deflected by the mechanism through which it is delivered. It is the line of activities of making and enforcing laws involving institutional and individual actors' incentives that are not necessarily in line with those of the central elites that essentially shape the final body of state repression. In this vein, the state repression, however it

might seem in the end, is not the direct product of the central elites' decision to coerce, but a by-product of their pursuit of legitimacy in deploying state violence.

The role of the institutions of judicial measures is an ambivalent one. The authoritarian institutions are often seen as democratic façade, not necessarily corresponding to its nominal functionalities that are originated from democratic states (Diamond, 2002; Wilson, 2005; Ritter, 2015). In this view, the authoritarian institutions are only for formality, while in reality they are completely subordinated to the executive branch of government. Autocrats can wield their authority even through these institutions as their independence is non-existent. Yet, despite the formality of such institutions, the central state does not exert complete control over them not only because of the limited capacity of oversight, conventionally referred to as principal-agent problem, but also because each institution generates their own bureaucratic incentives according to the assigned tasks and purpose, that are not always aligned with the interests of the elites. Autocratic institutions are known for their informal practice as the formal rules of game do not always govern the way they function (Petrov et al., 2010; Sakwa 2011). It is the informal practice of judicial measures which the institutions develop to survive the formality of their existence that creates departing interest in enacting state repression from the autocratic rulers.

The moderate level of state repression is the side-effect of the pursuit of legitimacy in deploying the state's force in an attempt to contain popular dissents. The level of severity of repression becomes moderate because the process of making laws and enforcing them involves the actors whose interests are more in saving their own bureaucratic survival than joining the purpose of containing popular uprisings against the incumbent regime. The convoluted process of lawmaking produces dubiously defined laws that render the practice of law enforcement largely discretionary. The discretionary law enforcement leads the convictions to be biased to a distinctive

direction for milder level of severity in general, as informed by their own incentive structure. The incentive structure preferring quantity of convictions given the limited resources leads the law enforcement officials to use the provisions of the repressive laws in their advantage. In this vein, the conviction bias tends to produce more quantity but mostly concentrated in minor misconduct, rather than serious charges of felonies. This accounts for moderate level of state repression as a side-effect of elites' pursuit of legitimacy in containing civil society.

In this research I take up the case of Russia to reveal and to account for the moderate state repression under authoritarian state. Russia is a so-called competitive authoritarian state, where core leadership positions, such as president, governors, and regional and federal legislators face regularly held elections. Repressive regime in Russia is known for its particular character inherited from the Soviet era, policing the everyday activities of citizens by the state's powerful intelligence agency, FSB. The conventional image of Russian way of coercion over its own citizens is an oppressive one, effectively preventing the grassroots organizations of voluntary citizens expressing their demands to the government. This seemed to be the case only until 2012, when the Bolotnaya protest broke out, a series of mass protests across entire regions of Russia contesting the results of both parliamentary and presidential elections. Since then, the mass protests with confrontations with riot police became part of everyday political life.

The observers and participants of the growing civil activism are in agreement that the repression against civil society is getting severer and on the rise. They report different forms of increasing pressure from the state, often accompanied by an abuse of power, such as, the mass arrests of protesters, wrongly accusing innocent passer-by civilians for extremists or terrorists, manipulating evidence to prosecute civil activists for narcotic trafficking or sexual harassments, and threatening with discriminatory dismissal at work or from school, to name a few. The State

Duma, Russian legislative body, continuously launched and passed repressive bills to tighten the regulations for conducting public meetings, organizing non-government communities, and to put strengthened measures on censorship on media and online outlets, essentially circumscribing more narrowly the constitutionally guaranteed civil rights, namely, freedom of assembly, freedom of consciousness, and freedom of speech. To execute the newly adopted repressive laws, new government agencies were created such as Roskomnadzor, an online and media monitoring and licensing agency, or Rosgvargiya, a para-military security force which absorbed the function of riot police. The new gigantic gears for the Rosgvargiya squad which makes them look like cosmonauts turned out to be a signature symbol of newly growing oppression against popular movements in Russia since 2012.

Despite the seemingly alarming repression on the rise, civil society is thriving. After the Bolotnaya protest, it is no longer an eye-opener scene in major cities in Russia to witness mass-scale public meetings having drawn tens of thousands of people in a place. This was concomitant with the growth of grassroots civil society, which took its own momentum organizing numerous forms of voluntary social movements for diverse causes ranging from environmental protection to LGBT rights. Quite often these diverse social movement communities find common grounds in many issues and collaborate one another for a greater cause. Non-systemic opposition politicians such as Navalny or Nemtsov have taken this opportunity to garner up mass support to launching more aggressive political campaigns for official elections.

The irony of witnessing both increase in state repression and popular movements is an interesting phenomenon that could be attributable in part to the fact that the environment in which these social movements exist is a relatively benign one. Although it is not a unitary cause for burgeoning civil society, it surely is a contributing factor in that a large number of people feel less

constraint in voicing their political grievance. Many civil activists acknowledge that the state response to press civil society is getting severer but only to a degree that leaves a room for them to survive. Overall, the level of severity of oppression from the government seems to have hit a glass ceiling converging to a tolerable coexistence with widening civil society.

The process by which the state repression is deployed in Russia, inevitably making space for growing civil society, vindicates how the pursuit of legitimacy yields the deflected contortion of state repression – the moderate level of severity and specific repertoires of repression. The president Vladimir Putin, the de-facto head of state since Yeltsin bequeathed his position, emphasizes the governing by law, and its legitimate claim to power. When faced with the challenge from people in 2012, the immediate response was to revise and to adopt the relevant laws to make the legal basis of blocking the street politics. They obsessively and constantly resort back and forth to judicial measures of repression, even when it delays the process and produce unintended consequences at times. This research explores the different phases of judicial measures which Putin's government thoroughly followed to regulate and manage wider civil society as a response to popular dissents. The findings eventually indicate that the resultant state's repression in Russia was moderate in its severity and focuses on a particular set of repertoires reflecting the properties of lawmaking and law enforcement constituted by the actors whose interests are not always compatible with those of the central state.

1.3 Implications

The moderate state repression, explained as a side-effect of pursuing legitimacy by a contemporary authoritarian state yields significant theoretical and empirical implications on the literature of

politics of authoritarian states/hybrid regimes, state repression, and legitimacy under autocracies. In what follows, I discuss each thematic implication of this research to the related bodies of literature in turn.

Politics of Authoritarian & Hybrid Regimes

This research sheds new light on the role of regime type determining the overall level of state repression. The literature on state repression, by and large, predicts higher level of coercion under autocratic regimes vis-à-vis democracies (Fein, 1995; Regan & Henderson, 2002; Pierskalla, 2010). In democracies where people have the institutionally established channels to direct their concerns to the powerful, the popular dissent is essentially low. Also, the executive constraints on the central elites who can wield the means of coercion fundamentally limit the level of severity of state violence. According to the literature, autocracies, especially hybrid regimes, lacking both, have higher level of dissents, which trigger higher level of repression (Fein, 1995). However, the findings in this research suggest that authoritarian regimes may also have a functional equivalent of executive constraints that bring down the levels of political violence as in democracies. An autocrat situated in a vulnerable position due to the rivalries of competing elites and popular challenges, tend to utilize legitimate apparatus of state coercion rather than extra-judicial measures. The judicial measures yield milder level of repression as it has the state actors involved who are not under the absolute influence of the central state. By unveiling how in Russia the top elite's resort to lawfully established procedures of implementing different tactics of repression inadvertently brought down the severity of repression, this research challenges the notion of regime type being the significant factor which predicts the level of state violence in general. In

revealing the fact that the functional equivalent of executive constraints operates under the regimes other than democracies, this research disaggregates the regime type variable and suggests that the rigid barriers between regime types can be blurred.

State Repression via Soft Control

My research builds on a group of literature that pays more attention to the tactics of repression, rather than the occurrence. The literature acknowledges that the state repression is accomplished by juxtaposing a series of repertoires, choosing from a variety of options to strategically engage with dissent movements (Ritter, 2014; Conrad & DeMeritt, 2014; Earl, 2006, 2011; Robertson, 2009). The leaders make choices, based on the optimal estimation for attaining the goals, among the available tools such as repression, persuasion, or cooptation with accommodating policies. To introduce a few such researches, Moore in his substitution theory, suggests that autocratic rulers substitute repression with accommodation, or vice versa, to spend less resources for achieving the quiescence of dissents (Moore, 2000). Roberts, in accounting for porous censorship in China, argues that with regard to managing discourse in online space, air-tight measures of repression is not possible nor necessary (Roberts, 2018). By suggesting how porous censorship effectively achieves the goal of state, she introduces it as a reasonable tactic given the context of today's online environment. Some argue that electoral cycles, or other competitive elements under contemporary hybrid regimes testing the incumbent regime's popularity forces the elites to lessen/strengthen repression (Davenport, 1997; Schedler, 2006; Bhasin & Gandhi, 2013).

In sum, according to these researches, the moderate state repression under authoritarian state can be attributed in part to the rulers' strategic choice of more subtle means of coercion, often

accompanying preventive and accommodating measures. As discussed above, addressing the problem of the rulers' choice being directly reflected in practice of coercion or means of control, my research provides an alternative explanation of the softer tactics, resulting in the mild level of oppression. I argue that the final contours of repressive repertoires and the corresponding levels of severity reflect less the rulers' decisions than the process by which such decisions are implemented. I disaggregate the actors of state violence and show how they construct the reality of repression, based on their distinctive interests and conditions, not coordinated by the top. By shifting the focus from what informs the decision makers, to what incentivizes the executioners of state coercion, I suggest that the result of the initial decisions to repress is a collective product of repressive agents, not necessarily upholding the spirit of the original design of the rulers. Depending on how much control does the central state has over the repressive apparatus, the repertoires and the levels of oppression can be determined to a greater extent by the enactments of repression, not the decision to repress.

Legitimacy of Rule under Autocracies

This research speaks to the literature of legitimacy of rule by autocratic regimes (Burnell, 2006; Gilley, 2006; Kailitz, 2013; Pepinsky, 2014; Haldenwang, 2017). According to this relatively new field of inquiry, authoritarian rulers are in need of legitimate claims, alongside repression as one of the tools to sustain their power. While repression might be more frequently used tactic by autocrats, and the core characteristic of rule which defines authoritarian regimes compared to democratic states, no rulers can base their dominion solely on the coercive means. The ways in

which autocratic rulers achieve this goal is diverse[1]. This research adds to the literature by providing in-depth case-based account for the mechanism by which the legitimacy of rule is pursued in a contemporary authoritarian state. My findings suggest a new dimension of legitimacy that is underexplored by the previous literature, namely, legally established procedures of policymaking and its enactment. Although the procedural legitimacy via the electoral process by competitive authoritarian regime has been suggested by previous literature (Schedler, 2006; Soest & Grauvogel, 2017), my research finds that resorting to the procedural legitimacy is not limited to holding elections but can be extended to other politically critical spheres such as deploying coercive means.

Second, my research contributes to the related literature with the novel approach that reveals the interdependent and intertwined characteristic of the two tools of rule – legitimacy and repression – which conventionally considered to be opposed strategies by rulers. This research is in line with a group of recent researches probing official discursive narratives put forward by state justifying the repressive actions to secure legitimacy (Omelicheva, 2016; Jusua, 2017; Edel & Josua, 2018). Furthering the literature, the Russian case demonstrates, such legitimacy claims can go beyond the arena of discursive justification that is usually carried out as post-repression remedy, by being embedded in the policies of repression itself. By invoking judicial procedures of deploying political violence, not only does it render the post-repression discursive justification less needed, but more significantly, it creates additional layer of repressive effect by marginalizing

[1] Burnell (2006) differentiates the sources of legitimacy according to different types of authoritarian rules. Personalist, military dictatorship, one- or multi--party authoritarian regimes should yield different options of claims for legitimate rules. Soest & Grauvogel (2017) introduce six dimensions of legitimacy claims that can be invoked by autocratic regimes: Foundational myth, ideology, personalism, procedures, performance, and international engagement.

anti-regime movements whose scope of available rallying agendas to challenge the incumbents is being limited.

Third, my research pays attention to the impact of pursuing procedural legitimacy. While the majority of the relevant scholarly works focus on theorizations of legitimation process, and/or on empirical accounts of claiming legitimacy by authoritarian leaders (Holmes, 2015, 2010,1993; Sil and Chen, 2004; Huskey, 2013, 2010; Chen 2011;Feklyunina and White, 2011), I present how the Russian state's reference to a procedural legal framework to repress social movements eventually results in the specific contour of repression, "the mid-low severity concentration." I reveal that the pursuit of procedural legitimacy, though seemingly successful in maintaining the power by effectually securing legitimacy of rule, is followed by an unintended baggage that reshape the state coercion in both intensity and repertoires.

1.4 Scope and Methodology

Case Selection and Scope

To answer the puzzle of moderate state repression under authoritarian regimes, I present an in-depth qualitative single-case study, based on the evidence from Russia for the period between 2010 and 2017. Russia fits the characteristics of contemporary hybrid regimes responding to increasing social movements against the incumbent regimes with relatively moderate level of state coercion. Russia is one of the representative contemporary authoritarian states, so-called hybrid regimes[2], having the competitive element in selecting the high-profile office positions by regular elections,

[2] I use the terms authoritarian, hybrid, autocratic, and non-democratic interchangeably throughout this research.

though the process of elections, and the subsequent outcomes, to a greater extent, are managed by the central state. Since its independence from the Soviet Union in 1991, on the whole, Russia has consolidated its hegemonic-one-party rule, headed by one person, Vladimir Putin, with nominally democratic institutions set up front, such as the legislative bodies (the State Duma, and the Federal Council), and the judicial bodies. The 89 regions of Russia are governed by governors elected by gubernatorial elections, which was until recently appointed by the Kremlin through 2011. With Putin being the president of the RF, since 2000, Russia experienced only one-time turnover of power in 2008, from Putin to Medvedev, for Putin to avoid the violation of the Constitution which then allowed only two terms of service in a row each for 4 years. It was only 2012 that Putin came back officially as the president by being elected to the Kremlin.

In the very year of 2012, when Putin seemed to have successfully manufactured a legitimate turnover of power in a nationally held election, Russia experienced a sudden outburst of popular protest across the entire regions. The hundreds of thousands of people filled up streets contesting the fraudulent results of parliamentary and presidential elections. Named as the Bolotnaya protests, after one of the central squares in Moscow, where a mass protest took place right before the Kremlin, it was an unexpected, and unprecedented event in the country's history. It was especially astonishing, given that the repression on civil society at large began to intensify as early as the mid of 2000s, tightening the rules for organizing NGOs, aggravating the control over public media by nationalizing the core broadcasting companies, and making more restrictive regime of censorship over the contents in media, schools and online social networks. The Bolotnaya protest was significant, not only because of its scale, but also because of its spontaneous character, not orchestrated by any systemic/non-systemic opposition political leaders, or the central organization of civil society. It was a mass-scale, wild-cat social movement, whose

potential extent of influence could not be easily determined by any reference. The Bolotnaya protest gave rise to the subsequent organization of voluntary communities of diverse social movements, human rights advocate groups, and non-systemic opposition parties.

It is against this background, the Russian state launched different tactics of repression, as both immediate response to the protest, and preventive countermeasure to oppress potential dissent movements. This research focuses on the 8-year period between 2010 and 2017 to examine the Russian government's strategies of repression, responding to the turn of the events surrounding the Bolotnaya protest. Considering the fact that state repression in Russia, on the whole, occurs within an officially established legal system rather than resorting to extra-judicial measures[3], I analyzed the repressive laws that target the newly growing civil activism in Russian since 2010, and the results of application of the laws. In other words, this research, in a narrow sense, concerns how the particular laws that aim to repress both current and potential dissent movements in Russia, are made and create the effect of repression on the ground.

Data and Method

The concrete subject of this research is a set of laws that are made and applied to respond to the increasing civil activism in the period of interest. I identify three categories of legislation: on public

[3] Extra-judicial measures are still reportedly used by state coercive appratus, such as the military, the Federal Security Service (FSS), or the Ministry of Internal Affairs (MVD). Many civil activists, journalists, and political opponents have reported experiencing illegal abuse of authority, such as attempted kidnappings, death threats, and threats of violence. Monitoring organizations such as OVD-Info (http://ovdinfo.org) and Glasnost Defense Foundation (http://www.gdf.ru/monitoring) have reported cases of such crimes. While extra-judicial repression is a significant part of state repression and a way to wield the state's power to suppress, above all, key players in civil society, it no longer happens on a mass scale and no longer constitutes one of the main strategies of state repression. In this regard, this research focuses exclusively on repression occurring within the judicial boundary.

meeting, on counteracting extremism, on counteracting terrorism[4]. These laws preexisted before the Bolotnaya protest, but gradually evolved into a coherent genre of laws to particularly control and repress both current and potential dissent movements. The three categories of laws entail convoluted sets of laws updating and revising the original laws, which reveals the trajectories of how the laws progressed from their first introduction.

For conviction results, I collected data on convictions[5] made under the repressive laws between 2010 and 2017 as available, and measured with the two separate parameters: frequency and severity. Frequency measures the volume of the convicted cases per a year. Severity measures a relative level of punishment against different penal codes under the repressive laws. More detailed discussion is provided in Chapter 3 and Appendix.

For lawmaking process, I used diverse primary documents of the records of lawmaking process available on the State Duma website[6]. To systematically grasp the lawmaking process, I coded the diverse elements of each updating bills, such as initiators (writers) of the bill, the gap time between initiation and final signing date, voting pattern, and the number and the types of codes that each bill is revising/updating. To analyze whose voice mattered in the final product, I thoroughly examined the transcripts of floor debates before each phase' voting in conjunction with the comparison among the bills that were prepared by the committee, reflecting the changes in each phase of readings. On the actors of lawmaking process, Presidential Administration, parties

[4] The official names of the laws are as follows: (1) The law on public meeting - Federal Law No.54 (Jun 09, 2004) "On gatherings, meetings demonstrations, marches, and picketing", (2) The law on counteracting extremism – Federal Law No.114 (07.30 2002) "On counteracting extremist activities", and (3) The law on counteracting terrorism – Federal Law No.35 (03.06 2006) "On counteracting terrorism." For more detailed discussion, see Chapter 3 and Appendix.

[5] The conviction records of the RF are available on the website of the Supreme Court of the Russia Federation. (https://www.cdep.ru).

[6] The data on procedures for adopting legislation in Russia is publicly accessible through the website "Legislative Support System (Sistema Obespecheniya Zakonodatelnoi Deyatelnost')." (https://sozd.duma.gov.ru/)

and factions within the State Duma, deputies and committees in the legislature, I referred to secondary sources.

For the repression laws, I first gathered background information with reference to the interviews with legal experts, civil activists, and media reports to identify essential set of laws that specifically target wider civil society as a response to the Bolotnaya protest. After identifying the relevant three categories of standalone laws that are mainly used to repress social movements, I reversely tracked the process of updating and revising them during the 8-year period. The records of revisions and updates were tracked down both qualitatively and quantitatively. Quantitatively, I measured the frequency of updates, recorded the timing of updates, the increase or decrease of severity of penal codes, and tracked down intertwining phenomenon as updates are made across the three categories. Qualitatively, I examined the contents of the updates/revisions which I present mainly in Chapter 5. On the whole, I labeled the related legislation, as the "repression laws", dividing them into three analytically different types of laws.

Lastly, for law enforcement part, I present the theory of law enforcement followed by two in-depth stylized case discussions: on public meeting cases, and reposting cases. To unveil the process by which the repression laws are applied on the ground and result in only moderate severity, but with the emphasis on particular types of repertoires, I referred to different media reports, especially from the monitoring organizations whose purpose is to record the political violence and abuse of power by state authorities such as OVD-Info, the Sova Center, and Politpressing. The records and first-person anecdotes available through these organizations and the media outlets are juxtaposed with the contents of field-interviews, which I conducted in two major cities in Russia: Moscow and St.Petersburg. I carried out semi-structured interviews with approximately 35 interviewees, comprised of ordinary participants of protests, civil activists,

opposition party members, human rights advocates, and monitoring organizations, who shared their first-hand experience, and/or expert knowledge of political oppression. The stories and information I gained from the interviews were what initially inspired me to pose the questions contained within this project. I used the content of the interviews to corroborate my arguments throughout the entire research, especially to illustrate the detailed processes of law enforcement.

1.5 The Plan of the Book

This research proceeds as follows: First, I present an original theory of the legitimated process of state coercion that consequently yields moderate levels of political violence (Chapter 2). In the immediately following chapter, I establish the puzzle of moderate levels of state repression in Russia, by presenting the empirical evidence of the relatively mild severity measured by the conviction results under repressive laws between 2010 and 2017 (Chapter 3). In the rest of the subsequent chapters, the three judicial measures that brought out the results, the mild level of state repression, are examined in a sequential manner: (1) lawmaking (Chapter 4), (2) the repression laws (Chapter 5), (3) law enforcement (Chapter 6). These chapters are followed by a concluding chapter (Chapter 7) discussing the implications of the findings presented in this research in the politics of Russia and authoritarian & hybrid regimes at large.

To summarize each chapters' findings and main arguments:

The chapter 2 suggests an original theory accounting for the moderate state repression under hybrid regimes as a result of autocrats' pursuit of legitimacy in deploying coercion. Autocrats faced with

legitimacy crisis under the pressure of popular dissent movements combine reinforcement of legitimacy and deployment of state coercion, in the hope for maintaining their rule.

The chapter 3 introduces a concrete puzzle of this research, the relatively mild levels of state's coercion targeting rising civil activism in Russia. I label the moderate state repression as "the mid-low severity concentration" to indicate the conviction results under the penal codes in the repressive laws converging to the relative middle to low level of severity while increasing its overall volume as time moves forward. In this chapter, I analyze how the mid-low severity concentration is constructed, and explain why it is puzzling given the conventional wisdom and the previous account for levels of repression from the related literature, and against the backdrop of general pattern of criminal convictions in Russia.

The chapter 4 on "lawmaking" reveals how the repressive laws are made through the officially established procedures of lawmaking in the State Duma, securing claims of legitimacy. The publicly endowed lawmaking procedure is a statement that the laws are not the product of one ruler's whim but a collective decision of people's deputies. With detailed analysis of the lawmaking process, I find that, despite support for the bills from the ruling party, the United Russia, which makes up the majority in the legislature, the UR deputies, the writers of the repressive bills, try their best to avoid public blame and the opposition's open criticism. I follow such endeavors in passing the laws in a hurried manner, in posing formal gestures of accepting and reflecting revision requests of the bills from the other factions, and in circumventing filibustering from the opposition deputies to avoid the public's attention as possible. I argue, the repressive laws, though made under the direction of the central State to contain civil society in diverse ways, inevitably carry the elements that reflect the properties of such a lawmaking procedure.

The chapter 5 “the Repression Laws” examines the products of such lawmaking procedures, the contents of the repressive laws. It focuses on three categories of laws that explicitly target wider civil society in Russia: laws on public meetings, on counteracting extremism, and on counteracting terrorism. Labeling these sets of laws as “the repression laws,” I identify the specific characteristics that make them effective tools of state repression: (1) they offer dubious definitions of core concepts, (2) their contents intertwine across different categories of laws, and (3) they increasingly incorporate laws that are preventive rather than punitive. These features influence how law enforcement’s use of the provisions under the repression laws plays out on the ground.

The chapter 6 “Law Enforcement” analyzes the most direct impact of judicial measures - the enforcement of the repression laws. I argue that the cause of moderate levels of judicial punishment, coupled with a high quantity of repression, lies in the distinctive confluence of law enforcement practice and the provisions of the repression laws. Law enforcement bodies, such as the police, FSB, prosecutors, and courts, operate under the inter-organizationally shared incentive structure, which produces certain degree of conviction bias. It is thus the structural choices on the part of the law enforcement bodies, given the characteristics of the repression laws that account for the mild severity of convictions. In other words, the mid-low severity concentration is an ultimate effect of repression followed by sequential judicial measures, lawmaking, pronouncement of the repression laws and their enforcement. The actors involved in these judicial measures collectively but in an uncoordinated way construct the conviction bias by being informed by bureaucratic incentives rather than upholding the original spirit of state’s intent to contain popular dissents. To illustrate the detailed mechanism how such conviction bias occurs on the ground, I present two case studies – public meeting cases, and reposting cases.

In the final chapter, the main arguments are summarily presented with the main features of state repression resulting from the mid-low severity concentration. I discuss the implications of the distinct levels and forms of political violence in Russian politics and the wider context of authoritarian and hybrid regime's strategies for survival.

Chapter 2. State Repression as a Side-Effect of Legitimacy

This chapter investigates the source of moderate levels of state repression under contemporary authoritarian regimes by presenting an original theory accounting for the mechanism by which less severe violence is brought about. I argue that it is the legitimated process of deploying coercion by an autocratic ruler that yields relatively mild levels of oppression, by involving multiple actors of repressive state apparatus whose incentives collectively lean toward lesser severity. To advance this thesis, in what follows three interconnected agendas are explored in turn: (1) The motivation of autocrats pursuing legitimacy in their repressive policies, (2) the contents of procedural legitimacy in deploying repression, and (3) the mechanism by which lesser level of severity is produced.

2.1 The Motivation of Autocrats

Why would an autocratic ruler concern the issue of legitimacy in conjunction with repression? It appears to be a paradox considering that "legitimacy," and "repression" are opposed strategies of rule, by their definitions. As legitimacy makes power possible by means of persuasion, it lessens the need to rely on physical force to secure the compliance of people. In reverse, coercion is necessary when people are not inherently convinced with the righteousness of an incumbent rule, rendering the use of force more effective tool in subduing the population. As such, theoretically, the two are in a trade-off relation; choosing one makes the other relinquished (Gerschewski, 2013). Autocracies, in theory, depend on coercion than legitimacy, as they lack the legitimate claims to power, in contrast to democratic leaders (Croissant & Wurster, 2013). However, this

does not mean they can be dismissive of legitimacy completely. Maintaining power and containing potential competitors is a long-term game, which necessitates mobilization of all available tools to corroborate one's standing (Geddes, 1999; Linz & Linz, 2000; Schedler, 2002).

While it is understandable to pursue legitimacy aside from repression, though for autocrats whose base of their rules is a stronghold over state's coercive power, it is still puzzling why deploying coercion accompanies the legitimization process, because, in theory, a confluence of the two would diminish the effect of one over the other. Previous research point to some conditions that makes sense of the juxtaposition of the pursuit of legitimacy and repression. It has been suggested that autocratic rulers try to legitimize the use of coercion, hoping to reduce the cost of repressive policies and to safeguard the regime from losing legitimate claims to power (Gartner & Regan, 1996; Rudbeck, Mukherjee, & Nelson, 2016). Out of this necessity of legitimizing state repression, primarily in association with the ruled, an autocratic ruler sets forth the official explanation as legitimation discourses (Edel & Josua, 2018). Putting forth an official narrative can take the form of judicial trials using the state's lawful institution such as prosecutor's office and courts, to demonstrate the legality of punishing political challengers, resulting in both effectual containment of dissents and reinforced legitimate claims to power by autocrats (Ginsburg & Moustafa, 2008; Shen-Bayh, 2018).

Both the discursive justification and using the judiciary body of the state is an act of persuading different groups of the population to coopt majority to side with the state, rather than the persecuted. While these strategies of an autocrat to pursue legitimacy while repressing political challenger speak to the measures taken by autocrats to frame the acts of persecution to persuade population, it does not pay attention to the ways in which the processes that are mobilized to increase the legitimacy of rule project independent impact on the final contours of repression. To

differentiate the former – focusing on the propagating predominant narrative of repression through different measures, from the latter – entailing thorough legally established procedures of enactment of repressive policies, I label the former as "legitimization of repression," and the latter as, "legitimated process of repression." An autocrat's pursuit of legitimacy in deploying state's violence can take different forms, among which the most challenging task for a ruler is to utilize judicial measures from the start to the end, targeting the broader population as a whole, not a few elite challengers. In what follows, I theorize the conditions under which an autocratic leader is situated, to motivate the rulers to deploy repression through the legitimated process.

Legitimacy as a capital

An autocratic ruler resorting to the legitimated process of coercion is a vindication that his primary source of legitimacy of rule stems from procedures of governing a state, among others, in the context, his other sources of legitimacy are being eroded. Different types of authoritarian states can invoke varied sources of legitimacy of rule: Charismatic leadership, state's foundational myth, religious authority, or performance of governance such as economic prosperity, foreign relations, and security can be used to corroborate one's claims to power (Burnell, 2006; von Soest & Grauvogel, 2017). In reality, autocrats have multiple dimensions of legitimacy (von Soest & Grauvogel, 2017). Nevertheless, an autocratic ruler can lose the basis of legitimate claims that once seemed to be effectual in sustaining his regime. The claims to legitimacy can be fragile, depending on the dynamic political-economic environment within which a ruler resides.

In other words, legitimacy can be considered as a type of social capital that is necessary to be in power for an incumbent ruler. Attaining such an intangible good as "legitimacy capital"

requires time and invocation of different sources, as indicated above. There are moments of a legitimacy crisis, when the options of claiming legitimacy are being narrowed, or factors that disqualify the initially functioning foundations of legitimacy are on the rise (Burnell, 2006; von Soest & Grauvogel, 2017). During the time of the crisis, repression as a tool to maintain one's rule is subsequently of more use. In other words, the rising need to use coercive means of power is the opposite side of the same coin – the moment of losing the claims to legitimacy, while the goal of recovering legitimate claims to power becomes crucial, the need for repressing the population is simultaneously present. Against this backdrop, one viable option left for an autocratic ruler to pursue the two opposed strategies of power at the same time: (1) repressing popular dissents, (2) recovering the lost claims of legitimacy. The fastest route is to repress via legally established procedures, justifying the state repression by invoking procedural legitimacy of rule.

Competitive elements in authoritarian politics

In conjunction with the lack of diverse sources of legitimacy, an autocrat facing regular competitions from opposition elites via electoral process is more likely to resort to legitimated procedures of repressive policies. So-called "competitive authoritarian states" incorporate a degree of competition in politics as in democracies via popular elections of the head of state, legislatures, regional governors, and other seats in power (Levitsky & Way, 2010). Though the elections under autocratic states are managed by the incumbent elites, predetermining the outcomes, high approval rating of a ruler is still significant in that not only does it reduce the cost of managing elections, but also it is beneficial in forming winning elite coalition centering on the incumbent leader deterring the rise of opposition elites (Schedler, 2002). This is to say that holding elections, though

as a façade of democracy, is one way of corroborating one's status in the field of "legitimacy capital" in electoral authoritarian states. In this light, an autocrat situated in need of securing capital of legitimacy would not risk eroding his moral reputation, and thus his popularity, for being a ruthless oppressor by deploying any levels of state violence without hedging measures to protect his reign.

In contrast to the autocratic regimes whose competitive elements are not functioning or non-existent, the regimes with the electoral process of determining leadership are under the influence of public opinion (Schedler, 2013; Hale, 2017). It is not affordable for the regime to do anything to chip away their popularity particularly during an electoral cycle (Davenport, 1997; Schedler, 2006; Bhasin & Gandhi, 2013), least of all state repression, being one primary source of declining approval rating of the incumbents (Hale, 2017). To accommodate both the need for deploying state's violence and not to lose popularity for the upcoming elections, they are forced to find a way to legitimize the use of coercive means of power.

Available state institutions

Considering the motivation of an autocratic ruler to pursue legitimacy in state repression due to the deprivation of diverse sources of legitimate claims to rule and the competitive elements of authoritarian politics, what remains to be answered is the reason why an autocratic ruler would go beyond forming discursive justification or referring to the judiciary for the sake of demonstration effect (Ginsburg & Moustafa, 2008; Edel & Josua, 2018; Shen-Bayn, 2018). Why would an autocrat take up the entire legal process of state coercion via the legislative body through courts?

The answer can be found in the available state institutions inherited and built from the past era, and thus embedded in a state's routine function.

The preexisting structure of state institutions pressures an autocrat that is in need of achieving two goals at the same time to go through the formally established legal framework to make and enforce repressive policies for the following reason: The mere existence and readiness of the institutions provide the rulers an option to turn to. With regard to avoiding public blames and attaining legitimacy despite on-going repression of wider civil society, "legitimization of repression" is more costly and less effective than "legitimated process of repression," due to the fact that the former targets different social groups at the same time with unbeknownst result of persuasion, whereas the latter speaks to the rule of law which is systematically agreed upon by the entire population. In other words, to disagree with the discursive form of justification, or show of court trials for state violence is forming different political opinions apart from that presented by state, while to disagree with the legally established procedures of repression is to deviate from the entire system of law and state. The latter projects the utmost legitimacy compared to the former. Going through every phase of collective decision makings and enactment/enforcement of repressive policies by reference to state agencies whose minutiae of operation is defined and governed by laws signal not only the official negation of personalist regime but also avoid defamation of being an arbitrary oppressor. In this vein, if an autocrat believes that the state institutions for state repression – legislative body, security forces, and judiciaries – are themselves not threatening to the incumbent government, and capable of accomplishing the will of the central state, it is highly likely to turn to "legitimated process of repression."

2.2 The Legitimated Process of Repression

Contents of procedural legitimacy in deploying coercion

The legitimated process of repression, as discussed briefly above, refers to an entire process of decision makings, making such decisions into concrete policies, making laws to realize the policies and enforcement of the laws. This is differentiated from discursive justifications for the state's use of violence or formal gestures of using part of judiciaries to legitimize the repressive acts of state. The process of interest in this research is repression as policy-making via the process of enactment and enforcement within the legal framework. More concretely, state repression as an outcome of the legitimated process is a set of judicial measures mobilized to make policies and materialize such policies in practice. In this light, the process can be divided into two categorically separate dimensions: lawmaking and law enforcement. Lawmaking refers to the process of enacting laws that reflect a ruler's decision to repress and contain wider civil society as a response to popular uprisings. Lawmaking involves the state's legislative body within which different parties and individual lawmakers debate and negotiate to pass laws. It is also an outlet where external political groups such as executive branches of government, security forces, opposition politicians, and civil society engage indirectly to exert each of their influence.

Law enforcement subsequently follows the lawmaking phase to enforce the laws. Law enforcement entails multiple state actors with varied roles: security forces such as police, military, and intelligence agency, prosecutor's office, courts, and executive authorities under government administration. The actors take up different functions in enforcing repressive laws on the ground. Security forces monitor, investigate, and forcefully block, stop, or punishes the misconducts

defined by the laws. Prosecutor's office indicts the wrongdoings to court on behalf state. Court finally determines the validity of the contents of violations and resultant proportional punishment based on laws. Administrative authorities in central and local governments also enforce the laws within their jurisdictions.

On authoritarian institutions

The legislative body and law enforcement agencies, as state actors constituting the legitimated process of coercion, are institutions operating under authoritarian context. To what extent are they functional in their nominally proclaimed purpose? There is the notion of the "façade of democracy," pointing to the decorative characteristics of authoritarian institutions, empty of meaningful significance in practice (Diamond, 2002; Wilson, 2005; Ritter, 2015). According to this view, the legislative body under hybrid regimes exists only to pass the laws that are written by/for the rulers. Prosecutor's office, in its turn, is a tool of incumbent elites, to streamline legal cases to be befitting to their own interests. Courts are a subsidiary institution to the central government, for legitimizing verdicts, while in reality, for transferring the direct orders from the top elites. While it speaks to an aspect of the origin of authoritarian institutions, the view oversimplifies what occurs on the ground.

Depending on different forms of an elite coalition, or a ruler's strategies on governing a state, the authoritarian institutions can be utilized to a differing degree, to process meaningful outcomes tailored to incumbent elites' interest (Gandhi & Przeworski, 2006, 2007; Wright, 2008). In other words, an autocrat activates part or full of functions of state institutions for accomplishing particular goals of his rule. Also, the authoritarian institutions are bureaucracy that carries their

own organizational inertia, whose interests and performance can be developed independently of politics. The vested interests and bureaucratic tendency to process tasks in their favor to survive as an institution implicate that the function of these institutions should not be reduced to mere decoration. This is to say that even though the origin of having an institute was for a democratic façade in the first place, the continued existence of a physical body of bureaucratic organizations should bear a separate substantial consequence. Attention to informal practice of state apparatus under authoritarian regimes reveals how the gap between being façade and the actual operation is reconciled by the relevant actors. The gap signifies the fraction between the formal rules and the informal practice they need to follow to function under an authoritarian system (Hale, 2005; Timm, 2010; Petrov et al., 2010; Sakwa 2011). It is within this context that the reference to decorative authoritarian institutions for the legitimated process of coercion brings out the results that structurally deviate from the initial intent of a ruler.

State repression as a temporary manifestation

The legislative process occurs in a convoluted preexisting web of a legal system. In other words, to make and enforce repressive policies through judicial measures invites the circulative operation of a legal framework. By circulative operation, I mean the constant feedback loop of revising laws to make different sets of laws to be in sync. The moment that repressive policies are molded into judicial measures, it becomes inescapable to be subject to the circular mode of lawmaking. The state makes the repressive policies by reference to the preexisting legal framework – the legitimated process of deploying coercion. The first step to achieve this is enacting relevant laws that embody the decisions to repress, be them allowing riot police to use certain types of weapons

against civilians, strengthening censorship on media, or forbidding the organization of voluntary citizenry communities. Signing the laws into effect is only the beginning of completing the rulers' decision to repress. This is due to the fact that: (1) Updating or making new laws inevitably requires revision of other parts of laws that might not necessarily compatible with such an update. Making one new law brings out the necessity of revising higher or sub-laws that are under in/direct influence by the first updates. (2) It also demands the revisions of laws governing the activities of law enforcement bodies, particularly the security forces. By the time the necessary corresponding updates are made per the two items mentioned above, the pressures for another round of updates come from the two sources: (1) The second stage of updates activates another feedback circle that necessitates the changes of laws. (2) The problems of enforcing the laws on the ground provide additional feedback to revise the original laws. The problems can be difficulties in concretely interpreting specific provisions of laws by law enforcers, jurisdictional confusion, and the impossibility of application of laws given the resources and capacity of law enforcement, to name a few.

The effect of repressive policies is being felt by the targeted group of people as soon as the laws are signed into effect. However, lawmaking and subsequent law enforcement activities are influenced and shaping the never-ending feedback loop in the legal system. This is to say that state repression through the legitimated process is less a final product of such a process than a momentarily shifting manifestation of constantly self-revising mechanism of lawmaking and law enforcement. In sum, state repression as an outcome of the abovementioned process of legitimation via legal framework can be said that it is a temporary manifestation of the activities of multiple actors shepherding the preexisting legal institutions to make the decision to repress by an autocratic ruler work.

2.3 Lesser Levels of Severity

Why does an autocrat's pursuit of legitimacy in deploying state repression bring down the levels of severity, converging to moderate oppression as opposed to extreme violence directed at people? The answer appears to be an immediate one: the pursuit of legitimacy via judicial measures such as lawmaking and law enforcement is diametrically opposed to using violent means of power. The legitimated process prolongs, prevents, and hinders the efficient deployment of force. As discussed earlier, legitimacy and repression, as tools of exerting one's power over others, are not mutually reinforcing. Nevertheless, to argue the effect of legitimization or legitimated process of coercion, merely by virtue of being the opposed strategy to repression, automatically weaken the tendency for severe crackdowns is to dismiss detailed mechanism by which decreased levels of state coercion is produced. The theory suggested here delineates how the juxtaposition of legitimation and repression in the frame of legal process yields moderate state repression under authoritarian regimes. I theorize that:

Once an autocrat chooses the legitimated process of coercion, the judicial measures involve different state actors whose institutional incentives irrelevantly developed apart from those of the state, steer the direction of state repression to moderate levels.

I discuss the following phases constituting the moderate state repression each in turn: first, an autocratic ruler's decision to invoke legitimation process in deploying coercion, and his lack of control over state apparatus constituting the process; second, the process of lawmaking that yields constantly revising feedback loop of laws to fit in the preexisting webs of legal system that

ultimately tone down the severity of punishments stipulated in repressive laws and that provides the space of discretionary practice on the part of law enforcement, and; third, law enforcement's incentive structure dictating terms of preferring cases that avoid liability, produce quantity than quality of performance saving the limited resources as much as possible.

Autocrat's decision and weak executive control

This theory contradicts the notion that a ruler intends to level down the severity concerning his reputation and his legitimate claims to rule placed in danger resulting from deploying brutal violence against the population. Rather, an autocratic ruler decides to pursue the legitimated process of making repressive policies, despite understanding the fact that it might prolong the development of force, and lessen the severity down the line. In other words, from the perspective of an autocrat, the concern of legitimacy leads him to choose to go with the legitimated process of coercion, despite its hindrance of wielding coercive means of power at his will.

Once an autocrat chooses the legitimated path to coercion, his main task is to mandate the work of policymaking and its enforcement to state agencies, and bureaucracy. The entirety of state apparatus now takes over the job, to realize on the ground, a ruler's will/decision to repress. It is the distance between a ruler's decision and the materialization of it on the part of a state apparatus that decides the actual shape of coercion. If a ruler exerts full control over the state apparatus, meaning the distance between the decision to repress and the manifestation of it is virtually nonexistent, it can be said that the ruler's choice is directly interpreted and practiced in/through policies. In contrast, if the distance is significantly far enough to create different effects of

repression apart from the initial decision by a ruler, then it is not the ruler's decision that matters, but the process by which such a decision is materialized.

Under contemporary authoritarian regimes, the latter is more prevalent than the former. The so-called "strong state" in which an autocratic ruler possesses the utmost executive control over state agencies and bureaucrats is a misleading image. As analyzed above, contemporary authoritarian regimes face diverse threats to their rule stemming from different sources such as competing elites, people's uprisings, electoral cycle, and the crisis of legitimacy. The delicate management of tools of the rule is necessitated to survive the fragile environment consisted of both external and internal enemies. Under this context, the central state's capacity to control the actions of bureaucrats in executive branches of central and local governments, legislative body, and security forces cannot be possibly absolute, particularly for the states with historically rooted state apparatus, the vast size of the territory, and relatively large population. In this light, an autocratic ruler's role in producing the effect of repression is an uncertain one, except that the fact that he initiates it. To find out what constitutes the real effect of repression, one needs to turn to judicial measures as follows.

Legislative process

The process of lawmaking contributes to the lesser levels of severity in state repression for two reasons. First, it inevitably writes laws whose level of punishment is mild and ways to enforce repressive rules on civil society relatively less violent as a result of the legislative process to fit into preexisting legal principles and norms. Except for martial law, it is rarely feasible to make laws to allow security forces to use force against civilians brutally or use lethal weapons in case

of peaceful public meetings. Making laws is mostly weaving new provisions with legal concepts, allowance, and limits of conduct to be regulated under laws into the preexisting webs of laws. Introducing the drastically extreme level of state violence into the legal framework is difficult as it requires overturning all the relevant legal concepts and principles that are deeply embedded in the entire society and history, which were buttressed by laws. Apart from the practice of fitting new laws into the preexisting legal system, the authoritarian legislative body is not in full control of the incumbent elites. Being subject to regularly held elections, individual legislators, both from the hegemonic party and opposition party, have reasons, even remotely, to answer to public opinion that opposes passing repressive bills. The negotiated process in a legislative body, though set forth as a façade, opens up a room for the public's attention, which indirectly pressures lawmakers to seek to avoid the direct blame for repressive policies. This also results in relatively moderate levels of punishments stipulated in repressive laws. It is in this vein that the legitimated process of coercion fundamentally reshapes the intent of a ruler to use state's violence, toning down the level of severity.

Second, as a result of the abovementioned practice of legislative process under authoritarian regimes, the resultant repressive laws are written mostly in an ambiguous way, which necessarily provides a wider space of discretionary practice on the part of law enforcement. As analyzed in the previous section, the lawmaking process entails the never-ending feedback loop of continually revising and updating related laws. Repressive laws that are made for immediate use, due to the urgency to respond to popular unrest, become the particular subject of frequent updates, as it is passed in a hurried manner not deliberately considering the laws' compatibility with other laws or feasibility of enforcing them in practice. The repressive laws are revised, because it is too severe, too naïve, too impractical, or targets the wrong group of population or not effective in creating the

originally intended impact. This "temporary" nature of laws, and ambiguous definition of terms in the laws, combined, invites the discretionary practice of law enforcement as an interpretation of laws depends on the enforcers, but not in what is written in laws. The discretionary practice of law enforcement bodies is the main factor why lesser severity is manifested through judicial measures of coercion.

Law enforcement

Law enforcement creates the most direct impact of state repression deployed via judicial measures. Consisted of security forces, prosecutors, courts, and other executive authorities of government, they enforce and execute what the repressive laws stipulate. The corresponding laws also govern law enforcement agencies; Police concern with particular crimes/violations as laws designate. Military or intelligence agencies should have their own jurisdiction separated from police defined by laws. Prosecutor's office and courts likewise have legally circumscribed rights and responsibilities dealing with criminal cases and convictions. Application of repressive laws by the acts of the law enforcers collectively constitutes the contour of state repression on the ground.

The context within which they apply repressive laws should provide an answer as to why state repression enforced by law enforcement agencies converges to moderate severity. As analyzed under the "legislative process" section, repressive laws provide an ample space of discretionary practice on the part of law enforcement. When applying laws depends on the discretion of repressive apparatus agents, such as police officers, prosecutors, and judges, what dictates the terms of how the laws are used is the enforcers' institutional incentive structure (Lipsky, 1980; Paneyakh 2014; Trochev, 2015).

The institutional incentive structure for different authoritarian states should be varied. However, what is consistent is the fact that law enforcement agencies are bureaucratic organizations (Weber, 1978). They tend to prioritize the protection of their institutional interests as a survival strategy than to align with the incumbent's political interests or to yield better results (Lipsky, 1980; Whitford, 2007). Such practices as avoiding bureaucratic liability at all cost, efficient use of one's own resources, or presenting quantifiable performance results to promote one is worth vis-à-vis other competing agencies are characteristic features of bureaucratized institutions of law enforcement. The effect of the bureaucratized incentive structure combined with the characteristics of repressive laws – temporary, shifting, and under-defined – induce the law enforcement bodies collectively to prefer certain parts of laws over others. The preference informed by the bureaucratic incentive structure in the opposite direction from more severity.

The institutional incentive structure mainly geared toward safeguarding oneself from liability would not be interested in deploying brutal violence unless it is coerced order from the top. The law enforcement bodies situated in the interconnected relationship among other similar agencies of repressive state apparatus would not desire to take greater accountability for state violence that might backfire onto themselves later. This tendency is more intensified since state repression is a collective work, locating each agency, by and large, in a sequential manner to coordinate one another to effectuate the repressive laws. Each agency's acts influence other agencies; preferring severer ways of deploying state violence is deterred by a mutually reinforced tendency to reduce the cost for creating a unit conviction, to safeguard from legal liabilities and the public blames. In sum, left alone, law enforcement bodies are not in alignment with the core interest of a ruler – the quiescence of dissents by using means of force. Given repressive laws, law enforcement agencies use them as induced by their institutional incentives, resulting in a lesser

level of violence with emphasis on particular repressive repertories that are advantages in the context of institutional survival.

…

In conclusion, the legitimated process of repression is the choice of an autocratic ruler who faces the crisis of legitimacy and popular dissents simultaneously. The ruler's choice to deploy state repression in this particular way might effectually make him attain the goal of maintaining the claims to rule but result in moderate state repression due to the judicial measures involving state apparatus whose interests direct them to prefer less severity regardless of the initial intent of a ruler. In the following chapters, the case of moderate state repression as a result of the legitimated process using judicial measures is presented with the focus on one of the representative contemporary hybrid regime, Russia, in the period between 2010 and 2017.

Chapter 3. Judicial Repression in Russia

Judicial Repression in Russia: "The Mid-Low Severity Concentration"

Ever since the Bolotnaya protest, the historic mass-scale street politics directly taking issue with the process of electing the incumbent elites, Russian government has initiated more stringent and expansive repressive policies to manage and to oppress activities of wider civil society. Both domestic and international media, civil activists, and citizens are in conformity bearing witness to increasing repression to cover wide areas of civil activism. Yet, many also acknowledge that the state's oppressive policies are, to a degree, affordable, and imposed harshly only for limited number of cases to set examples so as to threaten the public. How can we make sense of the ambivalent observation toward the oppressive regime in Russia? How can one tell whether state's use of coercion is getting severe or not? Where do we draw a line between harsh and moderate levels of repression?

This chapter is to grasp the contortion of state repression, by revealing concrete empirical evidence, to establish the puzzle of moderate levels of political violence, in a representative contemporary hybrid regime, Russia. As the scope of this research focuses on repression made in a legal framework, I examine the data on the application of the repressive laws between 2010 and 2017. I measured the judicial repression by reference to conviction results made under the repressive laws that specifically target the growing civil activism. My analysis show that state repression via judicial punishments increased in its volume during the 8-year period, but only to be consolidated in mid to low severity. As both frequency and severity steadily increased during

the period of interest, the increase in frequency was not necessarily followed by severer punishment. In other words, while state repression became more visible and stronger, the magnitude of punishment did not deepen as much. To discuss this result, in what follows, I begin by presenting the methodology by which the conviction results were measured; I also present the penal codes under the repressive laws that produced such convictions. Second, the time trend of the application of the codes is analyzed. Third, the aggregated conviction results are presented as a frequency-severity nexus, showing the contours of the 8-year judicial repression. Last, I discuss the puzzlement of the mid-low severity concentration.

3.1 Methodology

The laws from the Administrative Code and the Criminal Code create the most directly repressive impact. Charging, indictment, and final conviction should all base their rationale in these codes. In other words, a close examination of the use of such specific clauses should reveal how the impact of state repression via judicial measures is realized. Under the repression laws, there are a total of 32 articles, the penal codes. Table 2.1 presents the article numbers and the shortened title of each article.

Table 2.1 List of the Admin/Criminal Code Articles in the Repression Laws[7]

Article	Title
5.26	Freedom of Conscience
13.5	Protection of Communication Facilities
13.6	The Use of Communication Tools
13.15	Freedom of Media
13.3	Subscriber Identity
13.31	Information Dissemination via Internet
15.27	Financing Terrorism
15.27.1	Support for Terrorism
15.27.2	Support for Terrorism
6.21	LGBT Rights
20.2	Public Meeting
20.2.2	Public Simultaneous Stay
20.3	Nazi Symbol
20.29	Extremist Materials

Article	Title
148	Freedom of Conscience
205	Terrorism
205.1	Terrorism Promotion
205.2	Public Call for Terrorism
205.3	Training Terrorism
205.4	Terrorist Communities
205.5	Terrorist Acts
205.6	Reporting Crimes
212	Mass Riots
213	Hooliganism
280	Public Call for Extremist Acts
280.1	Territorial Integrity
282	National, Racial, or Religious Enmity
282.1	Extremist Communities
282.2	Extremist Acts
282.3	Financing Extremist Acts
354.1	Public Rehabilitation of Nazism
361	International Terrorism

[7] This is not an exhaustive list of all the articles that are used to persecute people politically; it does not include all the articles that are directly or indirectly used to repress civil society. In practice, any provision of law can be invoked to repress civil society's activities and restrict civil rights. In a representative example, an authoritarian ruler might indict opposition politicians or renowned civil activists with embezzlement charges or narcotic transportation charges. In this research, for the purpose of analyzing particular judicial measures that are targeting the growing civil society, I selected those specific articles that are the most approximately relevant, focusing on three categories of laws that have been adopted and target popular dissent at large, namely, laws on "public meeting", "counter-extremism", and "counter-terrorism". As these three categories ostensibly proclaim to concern themselves with potentially dangerous activities by members of society and are increasingly being used to restrict constitutionally guaranteed civil rights, I limited the scope of this research to these laws.

The left side enumerates the articles of the Administrative Code, and the right side enumerates those of the Criminal Code. Each article carries different parts under it, which, in turn, can be independently used to charge different degrees of violations under the same clause. For criminal trials, the court statistics keep separate records for the cases convicted under different parts of an article, whereas the records for administrative convictions do not recognize separate parts' violations. This is why the number of entry points of convictions for the criminal articles exceeds the number of articles; that is, the total of 19 criminal articles have separate conviction records for the 42 parts under them.

I measured the application of these articles by two parameters: frequency and severity. Frequency refers to the number of times an article was used to convict violators in a given period of time. In other words, it is the number of cases (people) that were convicted under an article. Severity measures the level of punishment an article imposes on a conviction. For coherency, I measured the least severe punishment in each of the penal codes, which did not necessarily reflect the width of the lower and upper limits of punishment. For both frequency and severity, year-based records are available on the official website of the Judicial Department at the Supreme Court of the Russian Federation.[8] For frequency, I kept the original number of convictions. For severity, I assigned scores of 1 to 10, 1 being the lowest level of severity and 10 being the highest[9]. I placed

[8] The results of applying concrete clauses, such as the number of charges, the punishment types, and the number of convicted cases are publicly accessible. I used the number of convicted cases to measure frequency. The official court statistics of the Russian Federation are available at http://www.cdep.ru/index.php?id=79, Judicial Department at the Supreme Court of the Russian Federation (Судебный департамент при верховном суде Российской Федерации).

[9] For assigning a severity score to each article, I looked at the minimally required, rather than the median or maximum, punishment level for each article. In this way, I measured the basic level of punishment that could be imposed as a bare minimum by each article on those convicted by it. The basic terms of punishment

the Administrative Code in the first three levels of severity (1, 2, and 3) and the Criminal Code in the latter part of the severity scale (scores between 4 and 10) because the magnitude and the form of punishment differ immensely between the two codes. Not only does being charged under the Criminal Code entail longer and costlier legal procedures, but it also involves the risk of being sentenced to a greater magnitude of punishment, such as imprisonment. In light of this, I found it appropriate to give the Administrative Code articles only 3 levels of distance because the gap between the lowest-scoring and the highest-scoring punishments in the Administrative Code is far narrower than the gap between the lowest-scoring and the highest-scoring punishments in the Criminal Code. In sum, each article[10] initially had two entries of data: first, severity, or its assigned score of severity relative to the other articles, and second, frequency, or its number of convicted cases.

3.2 Trend

During the course of the 8-year period from 2010 to 2017, judicial punishment increased in both frequency and severity. The frequency's rate of increase escalated over time. The severity's rate of increase exhibited a similar trend, but it increased more gradually than frequency.

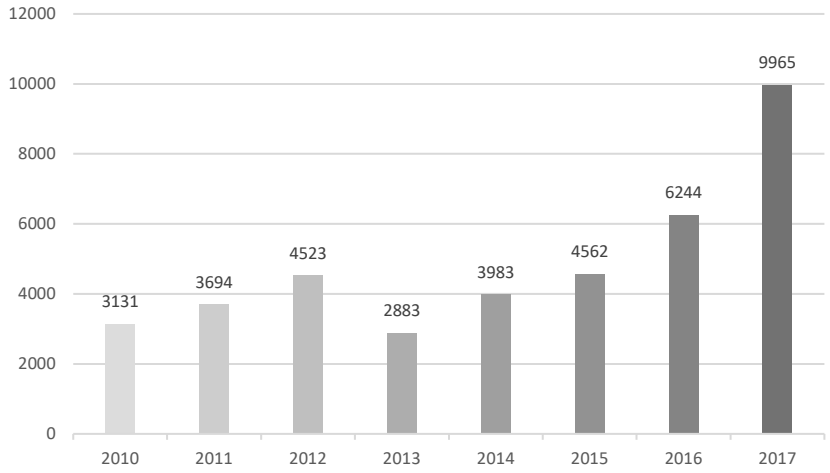
Frequency, the number of people convicted under an article, increased steadily from 2010 until the end of 2017, as illustrated in Figure 2.1. The frequency increased to reach its first peak in 2012, before immediately returning to its base-year level in 2013. In 2014, it increased to its 2011 level, and it began to exceed the base-year level more drastically as time moved forward to the end

I used for comparison were the minimum fines for the Administrative Code and the minimum prison term for the Criminal Code. For a more detailed discussion on the standards used to assign differential index scores, please refer to the Appendix.

[10] For criminal articles, each part under an article was treated as an independent unit for measurement.

of the year. The steep increase in frequency from 2013 to 2017 becomes more significant when compared to the conviction increase in general. The rate at which the total convictions by the two codes increased was only 12%; under the repression laws, however, total convictions increased by 218%.

Figure 3.1 Frequency Increase in Judicial Punishments: 2010-2017, Russia

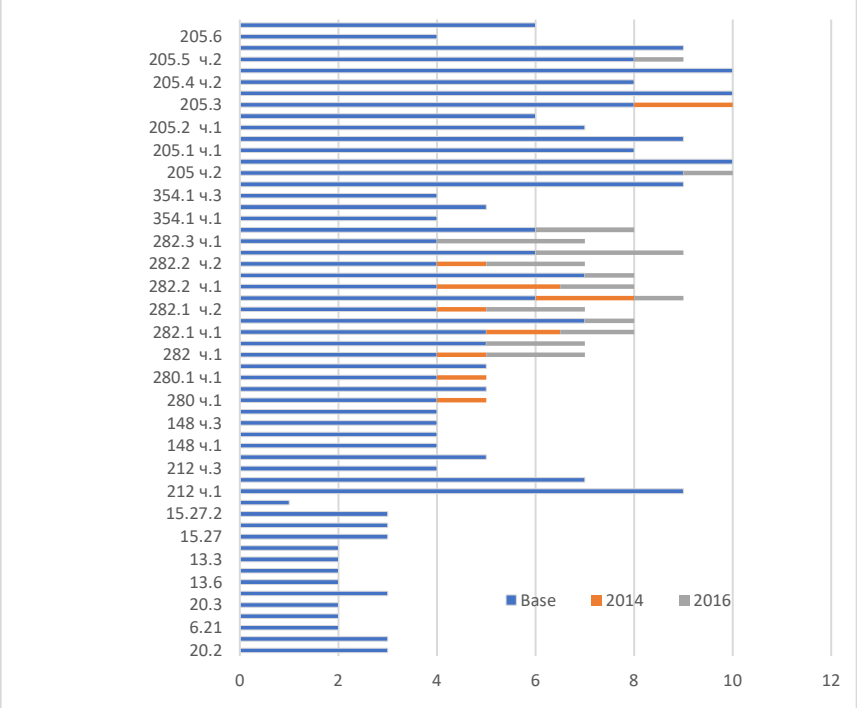


Severity, as measured by the assigned index between 1 and 10 based on the minimum level of imposable punishment by an article, also increased. The first indication of increasing severity during the 8-year period was the change in the severity index. The index increases only when the level of the least severe punishment is upgraded under the articles. Of the 32 articles, 12 articles underwent such an upgrade, as shown in Figure 2.2. Many of those were subject to multiple updates, meaning that their severity index increased more than once during this period. A representative example of such an increase is art. 282.1 part 1, which was updated in its severity twice in 2014 and once in 2016, for a total of three upgrades. Its severity index increased from its initial level of 5 to 6; it then increased to 7, and it ultimately reached 8. More specifically, the

minimum prison term was originally "up to 4 years." With the first update in 2014,[11] it increased to "up to 6 years", only to be changed soon to "2-8 years." Finally, it became "6-10 years" in 2016[12]. Figure 2.2 presents each article's severity index and its updates. By far, most of the index changes occurred in 2014 and 2016.

The change in the severity index score unveils a partial picture of the increase in severity, as it grasps the changes in the least severe punishments under the relevant articles by updates, but it fails to offer a complete depiction of the increase. Although it exposes the willful act by legislators to punish the same violations with severer punishments, it reflects neither the actual level of punishment that is suffered by the convicted, nor other, indirect updates in severity under the articles.

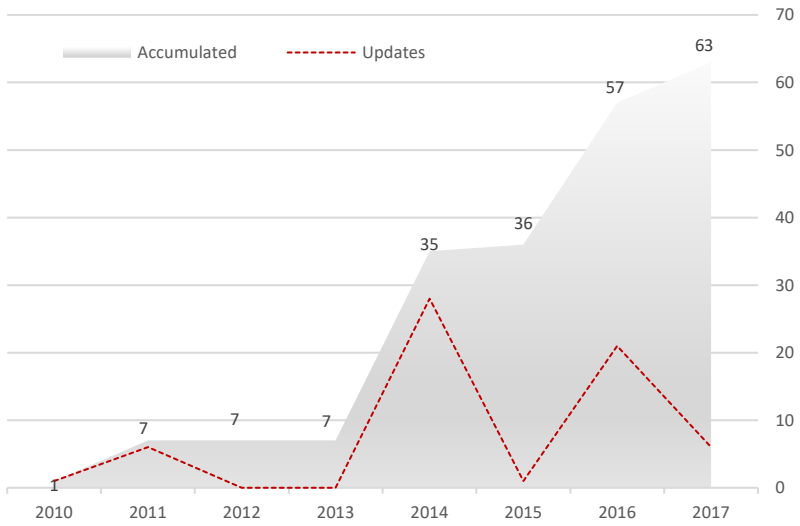
Figure 3.2 Severity Index Updates, 2010-2017



[11] Updated by Federal Law No.5 (Mar 02, 2014)
[12] Updated by Federal Law No.375 (Jul 06, 2016)

To address these limitations, two additional pieces of evidence can be triangulated to achieve a fuller representation of severity change over time. First, there were updates on the articles that increased imposable punishment levels in various ways, which were not necessarily captured by the severity index. Updates in severity, other than changing the least severe punishment, can be made in the following ways: (1) an update can increase the existing level of punishment, for example, by increasing the minimum or the maximum fine or by increasing the length of the prison term; (2) an update can add different types of punishment, thereby adding to the existing punishment; (3) when the conditions of the associated violations are updated, an article's level of severity can be increased because when the scope of violations is enlarged or becomes vague, the chances of receiving a severer punishment under the same article grow. I counted all these different types of updates that were not directly reflected in the severity index. Figure 2.3 reveals how many times updates on the provisions of repression laws have been executed. The dotted line shows the number of updates made in the level of severity each year. The grey area represents the accumulated updates since the base year, 2010.

Figure 3.3 Updates on Severity of the Repression Laws, 2010-2017

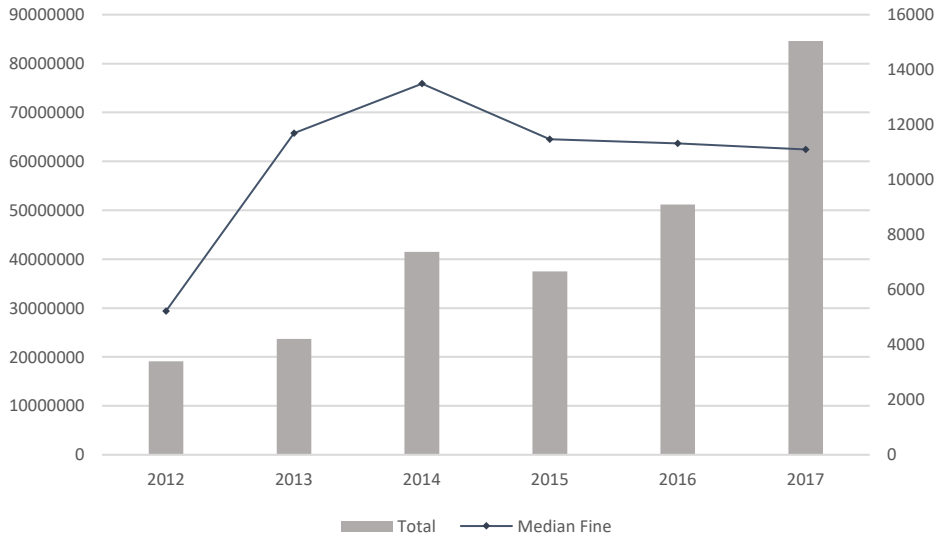


The third indication of increasing severity can be found in the punishment results for administrative convictions[13]. For the 14 administrative articles, the punishment results grew severer over time. Among the many types of administrative punishments, the most frequently used punishment is a fine. Figure 2.4 presents the trajectory of the fines imposed from 2012 to 2017. The total amount fined under the 14 articles steadily increased from 19,120,150 rubles to 84,609,450 rubles, thus increasing by over 300% over the period. In terms of the median fine (the average fine per case), the increase was by approximately 112%. For median fines, 2014 generated a peak, from which the median amount decreased moderately through 2017. This means that the total number of cases increased far more significantly than the levels of the fines. Overall, the level of fines imposed increased, but it increased more gradually than the rate at which the frequency of convictions increased.

[13] While the court statistics for administrative punishments are available in terms of the amount of the fine imposed, collected, and not collected, the court records do not provide the specific terms of punishment for each criminal verdict.

With the three pieces of evidence combined, it can be conclusively said that the levels of punishment imposed by the repression laws, on balance, steadily increased, especially with the two peaks of severity level updates on the articles in 2014 and 2016. These results vindicate the attestations of many observers and civil activists that state repression has been on the rise recently, since the Bolotnaya protest. While the data presented in this section have demonstrated an increase in state repression using judicial punishment over the past decade, the time trend does not necessarily provide a complete picture of judicial repression. What is the final aggregated impact of the 8-year development of state repression on the ground? At what severity level are most judicial punishments focused? Which articles have been used more than the others? What are the ultimate contours of the impact of judicial repression on the ground? To answer these questions, I now present the aggregated results of judicial repression.

Figure 3.4 Administrative Fine Trend: 2012-2017



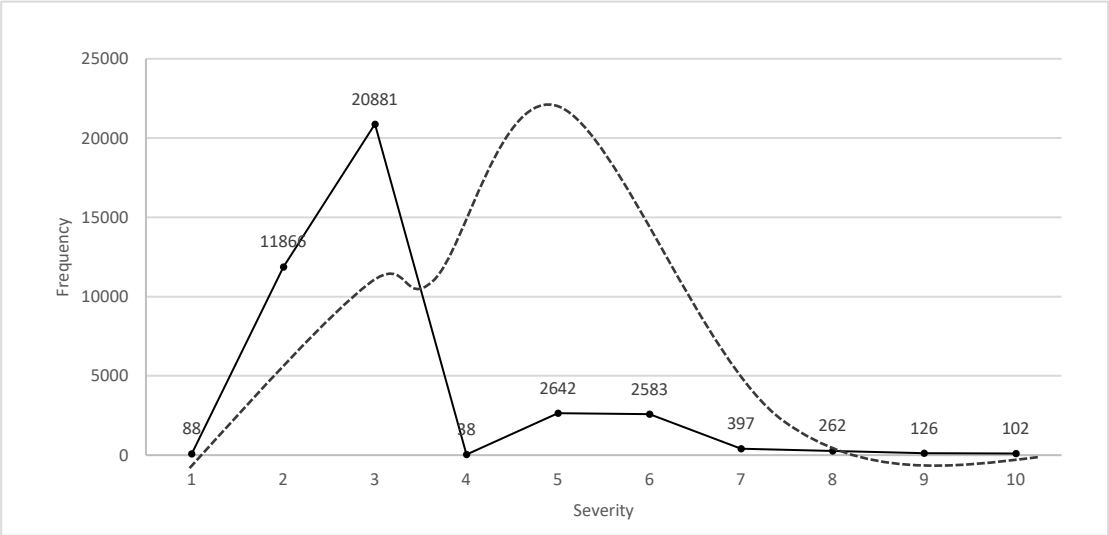
3.3 Aggregated Results

To produce aggregated data on the application of the articles, I used the same two aspects as above, frequency and severity. I did this to unveil the consequential delineation showing the whole shape of state repression during the period from 2010 to 2017, namely, the level of the frequency of repression imposed at differential severity.

Based on the court records from 2010 to 2017[14], each article's frequency was compiled and then collapsed for each corresponding level of severity. Each article initially had two entries of data: first, severity, or its own score of severity, relative to other articles, and second, frequency, or its number of convicted cases. The frequencies for each level of severity have been collapsed together so that for every severity score, a respective total frequency can be shown. The following, Figure 2.5, shows the aggregated frequency for every score of severity, resulting from application of the repression laws during the period of interest.

[14] Most of the administrative articles were not applicable for the first two years of the period of interest, as they had not yet been adopted. In an administrative article's first year of introduction, by and large, the number of convictions it creates tends to be smaller, as it usually takes time to take root in law enforcement.

Figure 3.5 Judicial Repression in Russia, 2010-2017 (Aggregated Frequency-Severity)[15]



As illustrated in Figure 2.5, the highest frequency is observed at severity level 3, followed by the second highest frequency at level 2. Both levels encompass convictions effectuated under the Administrative Code. In the severity range of the Criminal Code (severity index 4-10), levels 5 and 6 exhibit similar frequencies, being the top two among the criminal convictions. As a whole, these levels, from 2 to 6 on the severity index, account for most of the total convictions. The convictions occurred in the 2-6 severity range, 97%[16] of the time. In other words, the articles whose severity scores are between 2 and 6 were asymmetrically used more than the other articles, with lower or higher scores. As analyzed further later, I call this particular range "mid-low severity".

[15] See the Appendix for the raw data for the aggregated frequency-severity nexus.
[16] The estimation was as follows: Severity Level 2-6 / Total * 100 = 97% (Severity Level 2-6 = 38,010, Total = 38,985)

In terms of the use of the administrative articles, there is a clear bias toward imposing the highest level of severity. By contrast, for the criminal articles, a bias is observed in the opposite direction: Application of the criminal articles exhibits a tendency toward the lower level of severity. The following data unveil such a conflicting tendency. Within the lowest three levels, the articles with the highest severity, score 3, have been used the most (20,881 cases, 63.5%), followed by those at level 2 (11,866 cases, 36%), followed by those with a severity score of 1 (88 cases, 0.2%). When the Administrative Code has been used, the administrative articles with the highest possible levels of severity have been used more frequently than those at the lower levels. For punishment under criminal convictions, the highest peak is observed in levels 5 and 6, with 2,642 cases (42% of all criminal cases) and 2,583 cases (42% of all criminal cases), respectively. Out of seven available severity levels for criminal convictions, over 80% occurred at a severity index of either 5 or 6 only.

In sum, on the one hand, the highest levels of severity available within the Administrative Code were consistently imposed; on the other hand, the lowest possible punishments, in terms of severity, within the Criminal Code (to be precise, the articles whose minimally imposable punishment is lower) were imposed. The combination of the two opposite tendencies of conviction by the administrative and the criminal articles produced a frequency concentrated in the mid to low range of severity, as demonstrated in Figure 2.5.

Weighted Severity

Given the large proportion accounted for by the Administrative Code in terms of the total usage of the repression laws, that is, 84%, it is tempting to dismiss or reduce the impact of criminal

convictions to a minimal impact or, at best, an occasional one. The invocation of criminal clauses, however, entails a much heavier burden for both law enforcement agencies and the accused. For law enforcement, the process of securing a conviction under the criminal penal code is costlier than administrative charges in terms of the input of their resources. For the accused, not only is the consequential punishment resulting from a guilty verdict under criminal clauses far severer, but the entire legal process associated with the conviction, including being prosecuted, informal and formal investigation, preparation for trials, and the cost of appeals, is not comparable to the legal process associated with administrative charges. In this regard, the frequency of criminal charges should be more significantly weighted than that of administrative charges. Rather than being dismissed for constituting a lower proportion of the total frequency of convictions under the repression laws, criminal charges should be considered a significant part of state repression via judicial measures. Reflecting this weighted magnitude of severity, a hypothetical graph (a dotted line) is drawn in Figure 2.5.

In the weighted severity, the frequency-severity nexus indicates that convictions were made most intensely under articles rated low in severity (scores 2 and 3); a significant proportion of the convictions were also made under articles rated in the middle on the severity index (scores 5 and 6). Assuming the frequency as an abstract repression effect perceived in continuity along the severity axis, the vast majority of the convictions can be said to occur in the mid to low severity, hence the term "mid-low severity concentration"[17]. To put it in a more schematic perspective, the articles whose least severe imposable punishment is between 2 and 6 on the severity index, as opposed to in the end two tails, have been invoked to convict more frequently.

[17] By "mid to low" in severity, I do not mean the absolute and/or relative level of severity that is felt by the convicted upon conviction. Severity here only indicates the relative severity within the scope of the available depth of punishment as provided in the repression laws.

3.4 The Mid-Low Severity as a Puzzle

I established the contours of state repression in Russia for the 8-year period using the court records for convictions effectuated under the particular penal codes that target civil society at large. The convictions, for sure, increased steeply, but when the convictions are analyzed in terms of two separate elements, a hidden layer is revealed: The frequency of convictions increased starkly, but convictions tended to occur only in the mid to low range of severity, intensifying this tendency as time moved forward.

Why does the mid-low severity concentration emerge? Before delving into the underlying cause of this unique feature of the conviction results, it is necessary to unearth the specific contents of the mid-low severity. Under the abstract severity index, what is it that people violate and receive punishment for? Examining what constituted the mid to low severity, I found that a number of specific articles were primarily responsible for the results.

Within the Administrative Code, which covers the 1-3 range of severity, articles 20.2 (Public Meeting), 20.3 (Nazi Symbol), and 20.29 (Extremist Materials) spearhead the high frequency. Article 20.2 alone convicted 17,687 people, making up 45% of the total frequency. Articles 20.3 and 20.29 convicted 5,925 (14%) and 5,559 (15%) cases, respectively. Combined, these three articles account for 74% of the total convictions. This means that those responsible for obtaining convictions under the repression laws received guilty verdicts with one of these three articles 74% of the time.

On the other side, among the criminal articles that correspond to the severity scores of 5

and 6[18], four codes (four parts under three articles) had sweeping influence: art. 282 part. 1, art. 213 part. 2, art. 280 part. 1, and art. 280 part. 2. Art. 282 part. 1 had a total of 2,038 people convicted. This is 33% of all the criminal cases[19]. Art. 280 convicted 438 people (7% of all the criminal cases), and art. 213, alone, had 2,475 people convicted (40% of all the criminal cases).

A closer examination of these laws spearheading the higher frequency of convictions in the mid to low range of severity reveals the types of behaviors that are most frequently convicted under the repression laws. It appears that the "public protest" category convicted the most (54%). The next most frequently convicted behavior is in regard to extremist materials or harming human dignity: the "counter-extremism" category (38%). The final contribution to the high frequency of convictions originates from the "counter-terrorism" category (7%).

With the above analysis on the specific articles that are more intensely used, it can be surmised that the mid-low severity is a result of using several articles more frequently than others. This preferential use of a small number of articles is the superficial reason why the magnitude of punishment occurred only in the mid to low level of severity.

What can explain the preferential use of certain articles, which, in turn, produced the mid-low severity concentration? This is puzzling because: (1) first, it signifies that the government's use of coercive means to repress civil society was, by and large, limited to producing a relatively low level of punishment in a huge quantity, and (2) second, the fact that the mid-low severity is due to the preferential invocation of a small number of articles indicates that such a lesser level of punishment severity is achieved by only certain types of convictions. Amidst the increasing

[18] The articles are 212.1 (Public Meeting), 280 (Public Call for Extremist Acts), 280.1 (Territorial Integrity), 282 (National, Racial, or Religious Enmity), 282.1 (Organization of Extremist Communities), 282.2 (Organization of Extremist Acts), 282.3 (Financing Extremist Acts), 354.1 (Rehabilitation of Nazism), 205.2 (Public Call for Terrorism), and 213 (Hooliganism).
[19] 0.05% of the total cases under the repression laws.

enactment of laws repressing people in diverse ways and with the increasing need for state repression of the visibly growing activities of civil society, why does the authoritarian state not impose a higher level of punishment severity and the use of diverse articles across the board? Why does the authoritarian state not use more repressive crackdowns and more severe punishments, such as more imprisonments under criminal charges? Why does the authoritarian state prosecute masses of people only to yield a higher number of convictions, resulting merely in petty punishments such as fines or short periods of administrative detention?

A line of conventional account for such a governmental response to rising civil society under an authoritarian state is that, while the state wants to control and repress civil society so that it does not grow strong enough to become a revolutionary force or coup against the incumbent regime, it is still willing to allow some room for people's political activities so that the people can vent their grievances (Lichbach, 1987; Gartner & Regan, 1996; Moore, 2000; Pierskalla, 2009; Petrov, Lipman, & Hale, 2014; Yuen & Cheng, 2017). A certain balance between harsh crackdowns and tolerating rising social movements should be found. While the state wants to control and suppress any social movements that will negatively affect its rule, it does not want to push against the movements to the extent that they might form threatening revolutionary forces. This, in turn, means that the elites who manage the "regime of repression" (Beissinger, 2002) should somehow find, or at least strive to find, the appropriate balance point between outright repression and condoning public expression of dissent. In the case of Russia in recent years, this balance seems to have been achieved by thorough regulations with moderate punishments imposed on civil society's activities, as shown in the above analysis. For example, in public meeting cases, the majority of arrested people in general do not ultimately serve long jail sentences or become objects of abuse and/or torture. Instead, they usually pay a fine or, in severer cases, endure several days of

administrative arrests.

The abovementioned account seems plausible on the surface, and many empirical studies have affirmed such an equilibrium, but it misses a detailed mechanism by which the elites' will to strike a balance filters down from the top, resulting in the particular form of the state repression. It is difficult to postulate that the apparent balance, if it exists, results from the top elites' direct orchestration because, for the most part, the political elites who are in the position of wielding such power cannot ascertain where that balance lies. It is not possible to correctly estimate where that balance should begin and end. Even if they had an abstract notion of a balance and pursued it as a goal, it could not be achieved through their own direct deeds. What the elites do is use other means to reach the vague point of balance, for example, by adopting relevant laws, reorganizing law enforcement bodies, or sending signals to generate political pressure through bureaucratic lines to achieve more or less severe repression. It is these different actors involved in the middle, between the top elites and the final shape of state repression, who implement and produce the final impact of repression[20].

In this vein, I challenge the above account, arguing that the balance, if it exists, has been achieved only coincidently, not because of the central elites' intent to reach the balance, but because of the combined effects of the following three interconnected factors: the central elites' pursuit of procedural legitimacy in repressing civil society, the contents of repression laws, and the law enforcement process. The following three chapters consider how these factors operate.

[20] Scholars probed the question of the role of the agents of state coercion in producing the effect of repression, on behalf of autocratic rulers. See Bueno de Mesquita et al. 2005; Myerson 2008; Svolik 2009; Slater 2010; Greitens 2016.

Chapter 4. Lawmaking

A lawmaking process is a peculiar form of judicial measures of repressive policies that an authoritarian state takes up. It is the first phase of coercion not only in the sense that the codes delineating punishable misconducts are created but also in the sense that it generates its own repressive effect. By undertaking the legislative procedures, the state achieves at least two goals simultaneously. First, it reinstates its authority to define what is right and wrong, reminding its supremacy over society. Second, it secures the legitimacy of rule by pronouncing that the state's use of coercion is an impersonal act referring to the established abstract legal framework. The authority and the legitimacy the state secures through the lawmaking process adds to another layer of repression, as it situates civil society in a position of weakness concerning the fight for legitimacy in resisting the incumbent leadership. Lawmaking under hybrid regimes is both (1) the process by which repression laws are created, and (2) in and of itself a constitutive part of repressive tactics.

This chapter asks the following questions: Are the repressive laws direct outcome of the intention of the central state? Or, do lawmaking procedures get in the way of manifesting the original design of state repression? The former should assume the executive branch and the legislature form a coherent body to act for a coordinated purpose. The latter presumes the opposite – the actors involved in lawmaking have diverging interests, rendering passing laws a product of compromise, negotiation, or power struggle.

I show that the legislative process in Russia does not necessarily fit either extreme versions. The detailed analysis of passing the repressive laws reveals that the Kremlin's de-facto control

over the State Duma via the hegemonic party, United Russia, does not necessarily mean that it is capable of making the contents of laws as it desires at all times. I argue that the repression laws reflect the state's endeavor to secure procedural legitimacy in making laws. The central state's intention to suppress popular dissents is inevitably reshaped due to the properties of lawmaking procedures exerting influence over the contents of the repression laws. In what follows, I analyze actors who are mainly involved in creating the repression laws. Subsequently, the formal legislative process is examined, which is immediately followed by the case discussion on one of the representative repressive laws on public meetings. Last, three properties of the lawmaking process are identified.

4.1 Actors

The understanding of the actors directly involved in the process of lawmaking provides valuable information on the authors of the laws, their incentives, and what informed the authors to revise or oppose the laws. Based on such information, it becomes possible to determine, whether and to what extent, the central state's original design of coercion is reflected in concrete provisions of the repression laws. As for the repression laws, two most relevant actors are investigated in turn: The State Duma, and the Presidential Administration[21].

[21] The RF Constitution indicates that the following government bodies have the right to initiate laws: The State Duma, the Federation Council, the President of Russian Federation (the Presidential Administration), the federal and regional government, the regional legislative assemblies and the higher courts.

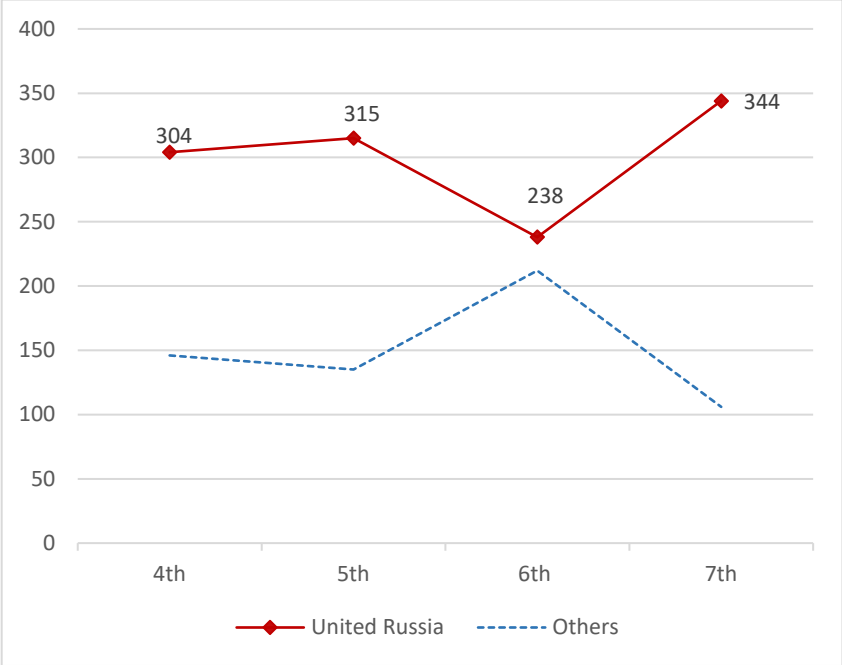
4.1.1 State Duma

The Kremlin controls the State Duma through the United Russia, the party of power[22.] The control over the State Duma through the UR prolonged since the 4th convocation. As Figure 4.1. shows, the number of seats taken by the United Russia has been either majority or constitutional majority, which enable them to pass any bills of their choosing. The UR's rise to the prominent party of power, maintaining its majority for four consecutive convocations was made possible, for the most part, because of its popularity among voters following the high approval ratings of Putin. However, the popularity is partially constructed reality by such tactics as vote manipulation occurring in different levels of governments[23,] bureaucratic maneuvers to hinder the opposition party's entry to the State Duma preemptively, and electoral system and laws tilted towards the favor of the UR.

[22] The United Russia is made by combining two parties – the Unity and the Fatherland-All Russia – in 2001.[22] The merger itself was orchestrated by the Kremlin (Zhegulev & Romanova, 2012), to form a powerful ruling party, as a foundation for stable Putin's rule. Because the merger was not based on homogeneous political ideology or particular economic interest, but for the sake of the incumbent regime, the power center in the United Russia fundamentally revolves around the Kremlin than exogeneous factors such as constituents' ideological predilection or certain economic interests.

[23] For the detailed analysis on election results and voting manipulation, see Treisman (2009), Mebane & Kalinin (2009). For the nature of uncoordinated voting manipulation and its consequence in Russia, refer to Kalinin & Mebane (2012), and Kara-Murza (2012).

Figure 4.1. The Number of Seats for the United Russia (4th – 7th convocations)



In light of the UR being the hegemonic party gaining the majority position thanks to the Kremlin's management of parliamentary elections, the "Rubber Stamp" parliament view, implying the State Duma, merely being an automated tool to pass the bills the Kremlin orders, seems to be appropriate (Remington, 2014; Truex, 2014). Yet, in contrast, Noble (2017) argues that such an image of the State Duma disregards the inner competition between different groups of elites in the State Duma, using the established procedures of lawmaking as tools of negotiation and power struggle, rendering the State Duma "the Elite Battleground" (Noble & Schulmann, 2018; Schulmann, 2016). This elite competition exists because the Kremlin's control over the parliament is never complete. Even the ruling party, the UR became so large to have inner factional conflicts (Slider, 2010), which made difficult for the Kremlin to control and discipline the party to create coherent voice in the State Duma.

Was the sort of power struggle within the UR and the State Duma applicable to those who initiated the repressive bills? The following account for the initiators of the bills reveal that they are the most loyal ones to the cause of Kremlin, representing and manifesting the views of the central state. They try their best to convey the intention of the state. Yet, it is the process by which they need to undergo to make legitimate claims of lawmaking that deflect the will of the Kremlin. Before delving into such a deflection, how the initiators of the repressive bills are in line with the state is explored with the Kremlin's strategies to discipline the UR deputies.

Disciplining Strategies of the United Russia

Two methods are the most commonly used strategies by the party leadership: Seat-Shuffling and Mandate-Transferring. These are legally sanctioned methods not only for securing the majority number of seats for the UR and but more for keeping the deputies in line with the party leadership's direction. The latter occurs particularly because the use of the methods grants the party leadership the ultimate authority who will seat in the State Duma. Seat-shuffling refers to the practice of adding more seats to the UR by inviting elected deputies from other parties. The seat shuffling occurs almost every election, the 4th convocation being the representative case when the UR gain overwhelming majority for the first time.[24] While seat shuffling is bringing deputies from other parties, mandate transferring is securing seats within the party. Mandate transferring occurs when an elected duma deputy according to the party list, gives up his or her position and transfer the mandate to someone else in the party. The UR leadership uses this method rather actively[25], not

[24] The difference between the immediate election results for UR and the final number of seats taken by UR during the 4th convocation was approximately 80. Refer to the Central Election Commission of the RF. www.izbirkom.ru/region/izbirkom. Retrieved Nov.01. 2018. The official state Duma site. duma.gov.ru/en/duma/factions. Retrieved Nov.01.2018.

[25] Approximately min.50-max.95 seats are transferred per convocation. See Candidates' list for the 6th Convocation by the United Russia. https://er.ru/news/61417. (accessed Nov.01.2018) and the list of

out of necessity, but to garner more voter turnouts by putting popular or renowned candidates upfront in the regional candidates lists, knowing the candidates will not take the posts of the Duma deputies after being elected. Usually it is the governors who take this role of being star candidates, after which decide to continue the governorship by delegating the mandate to the members who are located behind themselves in party candidates list. However, more importantly, the practice of mandate transferring function as a disciplining technique for the Duma deputies.

Seat Shuffling and Mandate Transferring are officially established practices under the full control of the party leadership, having the party chairman – usually the president or the prime minister - sit at the top of the party's decision-making pyramid.[26] The President/the Prime Minister of Russia as head of the UR, takes the job as "the head of the list", in which he is listed as no.1 for the candidacy for the state Duma[27], exert the ultimate authority to decide, who to accept as new party deputies, whom to include in the final list of candidates and who will receive mandates from who right after the election. For those yearning to become the state Duma deputies or continue to do the job for the future convocations, garnering more votes by achieving political and economic commitments to their own constituencies is secondary at best. Rather, the utmost incentive lies in the loyalty to the party leadership and to the president, making sure the seat can be reserved for

deputies elected by seat transferring for the 6th convocation. Russiskaya Gazeta. 2011.12.19. Постановление Центральной избирательной комиссии Российской Федерации от 15 декабря 2011 г. N 73/584-6 г. Москва "О передаче вакантных мандатов депутатов Государственной Думы Федерального Собрания Российской Федерации шестого созыва зарегистрированным кандидатам из федерального списка кандидатов, выдвинутого Всероссийской политической партией "ЕДИНАЯ РОССИЯ"". Retrieved Nov.02, 2018 from: https://rg.ru/2011/12/19/mandat-dok.html).

[26] In the federal law (22.02.2014 N 20-ф3), "On the Election of Deputies of the State Duma of the Federal Assembly of the Russian Federation" Article 96 delineates the procedures how mandate is transferred in the event of early termination of power of elected deputies.

[27] For the appointments of the head of the list the State Duma elections, refer to: "Медведев будет один во главе федерального списка ЕР" Retrieved Nov. 01, 2018 from https://ria.ru/politics/20110924/442951792.html. "Медведев согласился возглавить список "Единой России" на выборах" Retrieved Nov.01.2018 from https://ria.ru/politics/20110924/442951792.html.

her/himself by the means – seat shuffling and mandate transferring - that the leadership retains at its disposal.

Aside from the tactics to secure the seats for the UR deputies with which makes UR deputies (and those who potentially aspire to become the Duma deputies) loyal to the Kremlin rather than their constituents, an additional institutional method for exerting control over the Duma is worth noting. There is a so-called new nomenklatura system which makes it official the widely used informal practice of sustaining and using the president's cadre pool to promote those who are highly able and loyal to the cause of the president, in the line of government bureaucracy, political, and economic areas. Many of the State Duma deputies, governors and military/security officials are included in the reserve list and/or are selected from it. The official name of the cadre pool is "*the Reserve of Managerial Personnel under the Patronage of the President.*[28]" As of 2008, by the president Medvedev, it was first publicly established, enlarging its size gradually until present. The people in the reserve often go to a mid-career school, "The Russian academy of public administration (РАГС)[29]" where they network with like-minded comrades and potential competitors who are already in the reserve list or aiming to fall into the list. This kind of institution is a direct disciplining tool to shape future politicians and officials' political orientation fundamentally in alignment with that of the Kremlin. Regardless of the affiliation of political party, those who pursue mid to high level government official positions or regional/federal level politicians, entering into the reserve list is highly appreciated opportunity. As we will see in the

[28] The kremlin's official website publishes the list of people every year. See, "The reserve of managerial personnel under the patronage of the President" http://www.kremlin.ru/misc/58188. Retrieved. 2018.Nov.2. For rules and principles set by the government regarding the reserve, see, https://gossluzhba.gov.ru/, https://gossluzhba.gov.ru/rezerv, retrieved 2018.Nov.2.

[29] The Russian academy of public administration (Российская академия государственной службы (РАГС) – since 2010, it became Russian Academy of National Economy and Public Administration under the President of the Russian Federation (РАНХиГС).

next section, graduating the Russian academy of public administration, being in the reserve list, and then being recommended as a candidate of UR regional list is a well paved path for many Duma deputies.

Deputies

The abovementioned disciplining strategies for controlling individual deputies have been mostly successful especially in the case of initiators of the Repression Laws. This section explores the deputies who initiated the repression laws during the 5th and the 6th convocations. [30] The deputies initiated the representative counter-terrorism bill [31] and the protest law [32]. Though they are only a fraction of the all deputies who are involved in adopting the repression laws by initiating, debating, revising and finally voting, to a degree, these are the representative cases of the larger groups of deputies who involved in the repression laws, because they not only initiated the two bills as above but also actively involved in making and revising other relevant laws throughout their careers. Most of the deputies are the member of the UR, except deputies Kurbanov and Zotov, affiliated with the KPRF and the Party of Pensioners[33] respectively. They usually are considered to be one

[30] Here I will focus on the following lawmakers centering on three federal laws. Initiators of the counter-terrorism bill (06.07.2016 N 375/375-FZ): Deputies of the state Duma I.A. Yarovaya, A.K. Pushkov, N.V.Gerasimova, and member of the Federation Council V.A. Ozerov. Initiators of the protest law (08.06.2012 N 65-FZ): Deputies of the State Duma A.G.Sidyakin, D.F. Vyatkin, R.D.Kurbanov, V.A.Ponevezhsky, I.L. Zotov, A.L. Krasov, N.I. Makarov, M.E. Starshinov.

[31] Counter-terrorism law (Jun.07.2016 N 375/375), "On Amendments to the Federal Law On Countering Terrorism and Certain Legislative Acts of the Russian Federation in Part of Establishing Additional Measures to Counter Terrorism and Ensure Public Security", and "On Amendments to the Criminal Code of the Russian Federation and the Criminal Procedure Code of the Russian Federation regarding the establishment of additional measures to counter terrorism and ensure public safety"

[32] Protest law (Aug.06.2012 N 65-FZ), "On Amendments to the Code of the Russian Federation on Administrative Offenses and the Federal Law on Gatherings, Meetings, Demonstration, Rallies, and Pickets"

[33] The Party of Pensioners was first founded in 1997, after which merged into Just Russia until 2012, when the Deputy I.L. Zotov reorganized the party separate from JR after getting elected in the 6th convocation. Retrieved Nov 03, 2018, from http://pensioner.party/.

of the most active parliamentarians by media[34], meaning they initiate bills more than average level and pretty vocal that many Russians easily recognize due to the media exposure. Close observation of the deputies' profile yields the following common characteristics: law education, and subsequent legal career, strong regional base, experience of changing party affiliation, having been through the "paved-path" and experience of mandate transferring.[35]

The combination of legal career with strong regional base is the most distinctive feature. The state Duma deputies - Yarovaya, Sidykin, Vyatkin, Kurbanov, Makarov, and Pnevezhsky share the history of working as regional prosecutors or a lawyer for electoral processes (in case of Sydykin) which helped them forge needed experience and network, which in turn, helped building foundation for becoming regional politicians. Other than 'legal career – regional politicians' tack, several other deputies were former government or military officials, again before becoming regional parliamentarians.

On the way from the legal career in each region to the central political scene, the deputies were following the "paved-path." The transition from regional duma deputies to the state Duma, or getting elected again in the state Duma continuously necessitated them to change the party affiliation for different reasons. Yarovaya moved from Yabloko to Open Russia, and finally to the

[34] The institute of Socio-Economic and Political Researcher (ISEPR, Фонд ИСЭПИ, Official Site: http://isepr.ru/) publish "the rating of legislators (available at http://www.isepr.ru/upload/lawmakers_autumn.pdf)" which Russia media reverberates. Refer to the following media reports: "Experts named the most active State Duma deputies (Retrieved Nov.03.2018 from https://www.rbc.ru/politics/17/01/2018/5a5e40d09a794710059a3949/)"; "Experts have named the most effective deputies of the State Duma (Retrieved Nov.03.2018 from https://www.vedomosti.ru/politics/articles/2017/09/13/733506-effektivnih-deputatov-gosdumi).

[35] The State Duma deputies' profile including biography and career trajectories are examined the data from the following sources: The United Russia official site (Retrieved Oct.30.2018 from http://www.er-duma.ru/party/list/_____), The State Duma website (Retrieved Oct. 30. 2018 from http://duma.gov.ru/duma/deputies/), The State Duma official site (Retrieved Oct.30 2018 from http://www.gosdumanet/structure/deputies), The Federation Council official site (Retrieved Oct.30, 2018 from http://council.gov.ru/structure/members), Parliamentary Portal (Retrieved Oct.30.2018 from http://portal.parliament.gov.ru/deputy/)

United Russia when she first became the state Duma deputy for the 5th convocation. Sidyakin joined the United Russia through People's popular front. Kurbanov went from the UR to KPRF between the 6th and 7th convocation. Zotov became the deputy with Just Russia affiliation but then changed to the Russian Party for Pensioners. Starshinov is also the case to join the United Russia from Just Russia after getting elected in the 5th convocation. Aside from the change of party affiliation, Kurbanov, Ozerov and Yarovaya have attended the Russian Academy of Public Administration. Yarovaya, Vyatkin and Starshnov centered into "the reserve of managerial personnel under the patronage of the president" in 2009[36].

Most importantly, many of them experienced seat-transferring, actually getting finally elected thanks to it. Yarovaya, Pushkov, Gerasimova, Vyankin, Ponevezhsky and Krasov could enter the State Duma for the 6th convocation[37] only because the mandates were transferred to them because those who were in the upper places in the relevant regional seats refused the mandates. Seat transferring experience is very unique in that it is something often the very deputies who took advantage of it criticize. Seat transferring makes the candidates entirely depend on the chance of getting elected not by votes but those people who give up the seats, meaning that they did not aim for the state Duma in the first place or the leadership helped encouraging the people to give up by finding a more suitable and better positions for them. After experiencing the seat transferring it would naturally follow that those deputies become more loyal to the party leadership and loses the legitimate grounds on which they stand against government and the party lines.

. . .

[36] The list is available at https://www.rbc.ru/politics/21/12/2009/5703d8789a7947733180d5c5.
[37] The list of newly mandated deputies with mandate transferring is available at https://rg.ru/2011/12/19/mandat-dok.html.

The trajectories the deputies follow until they enter into the State Duma forge them to internalize the orientation of the Kremlin. Only those whose political aspirations are in line with those of the Kremlin have higher chances of survival in politics in Russia. Those who depart from the expected behaviors of ideal deputies might have already been filtered out at most at the regional level. Those who survived, as a result of the taming and disciplining by the party leadership and the Kremlin, are loyal to the party line, be vocal and more aggressive to enact the laws which help the future sustainability of the UR and the president (as that is the basic incentive for him or her to get reelected). In this vein, the most state Duma deputies, despite of the temporary set-back of weakening UR, and the protests from their constituencies, write and pass the laws that are in alignment with the incumbent regime survival[38].

4.1.2 The President Administration of the Russian Federation

Out of 55 Federal laws which are subject of this research, 15 bills were initiated by the president. Although the 15 repression laws is only small fraction of the total presidential laws[39], the higher proportion of it within the repression laws is notable because it implies that the Kremlin payed more attention to the repression laws than others in general. It indicates that the repression laws are more the products of the president himself than any other actors.

[38] Some might argue that the diverse and preemptive tactics for taming the deputies in and of themselves signify the weakening the center's power. The constant trials and sophisticated tactics indicate both the increased opportunities for the opposition to maneuver and the consequent strengthening of the grip of the Kremlin over the lawmaking institution. The balance of power between the two has been leaning towards the latter.

[39] According to the records of the State Duma, on average the president of RF passed 145 bills during one convocation. For the records of presidential bills, refer to: The Analytical Department of the State Duma Office (Аппарат Государственной Думы Аналитическое управление). (2015). *Information Analytical Review: Passing in the State Duma bills introduced by the President of the Russian Federation. Improving the legislative process.* Moscow. Retrieved Oct.09,2018 from http://iam.duma.gov.ru/node/8/5023.

When a bill is initiated under the name of the president, it is understood that the Presidential Administration (hereinafter refer to as the PA) wrote the bills. The PA is a group of aides and advisors to the president.[40] They monitor social, economic and political situation in and outside of Russia and report to the president for forming appropriate policies. Their main tasks include preparing bills to submit to the State Duma and coordinating between different government departments. Although the official description of the PA[41] might sound like any other presidential advisors working directly for the heads of states, but the Russian version is a bit more unique.

It is unique in that the presidential administration of Russia's role is more encompassing than its equivalents in other countries. They are known to be more like a duplicate of government, indicating its vast size and function which constitute itself a microcosm of a government (Huskey, 1999). Sakwa (2010) argued that the dual nature of government structure with such "administrative regime" as PA renders formal state institution mere complimentary, or even a façade. Even though in the legal aspect, the PA is not located above any other bodies of state, in reality, it functions as if it is a supervisory entity over other government ministries, the state Duma, federal and regional governments, and even the constitutional court of Russia[42]. It is no secret that it is also politically engaging in wide areas of governance in Russia, sometimes, forming or dispersing political parties. For example, in 1999, it was the PA staffs who created the *Unity* (Zhegulev and Romanova 2012). *Just Russia* is also the product of PA's deliberate work to form a pro-government opposition party. (Sestanovich 2007; March 2009). One report on the reform of the presidential administration that

[40] Yeltsin created the presidential administration of RF in 1991 by decree. It went through several reorganizations since then, mainly in the year 2000 and 2004 by Putin. The president can appoint and dismiss the staffs by decrees. Approval by other state institutions is not required.
[41] For overall introduction to the PA's tasks and staffs, refer to: The official website of President of Russia Federation. Retrieved Oct.24, 2018 from http://en.kremlin.ru/structure/administration.
[42] For example, the presidential plenipotentiary representatives are dispatched to each federal district, the Federation Council, the State Duma and the Constitutional Court.

was publicly disclosed on *Kommersant* in 2000[43], reveals an ambitious picture as to what PA should be and how it should function both in public and private spheres. According to the report, the tasks that the presidential administrative office includes but not limited to the followings: monitoring social, economic and political situation in and outside of Russia to report to the president, managing and controlling the representation of government and the president of RF in the media, preventing social groups and oppositions enacting certain activities that might be harmful for the incumbent regime, prepare drafts of bills and coordinate with state Duma, and support/manage regional governments and legislatures' activities. In this respect, the similarity can be found less in the Western presidential office than in Central Committee of CPSU. (Beissinger & Kotkin, 2014; Kryshtanovskaya, 2009)

The aides and advisors are usually serving the president for a long term, and possess experience working at and with other government branches.[44] Their background is diverse: former heads of government ministries, military or security officials, former diplomats and business elites. They oftentimes can be found in the government leadership reserve, whose work experience is proven by public records. Compared to the State Duma deputies who usually have strong regional base and connections, and who climb the ladder of hierarchy from their own region and regional office of the United Russia, the advisors in the PA are elites are kinds of elites whose work experience is more focused on certain area of expertise such as in intelligence, foreign service, military or business.[45] In a sense, that their career background is more associated with government

[43] "The Reform of the Administration of the President of the Russian Federation." *Kommersant.* May. 5, 2000. Retrieved Nov.03.2018. from https://www.kommersant.ru/doc/16875.

[44] Approximately the staffs serve for 7-10 years. As a rule, the head of government ministries are continuously work for the president in the PA right after his or her term as a minister end.

[45] The authors suggest different perspectives as to which types of Russian elites became more prominent under Putin and why. For more detailed discussion on the types of Russian elites being recruited for certain areas and periods, see Rivera & Rivera 2006; Kryshtanovskaya, 2009; Huskey, 2010.

bureaucracy in the center. When it comes to proximity to the Kremlin, the advisors are the closest among other actors involved in the repression laws. As it were, they are the constituting members of the Russian Presidency, especially when it comes to the presidential bills in the state Duma.

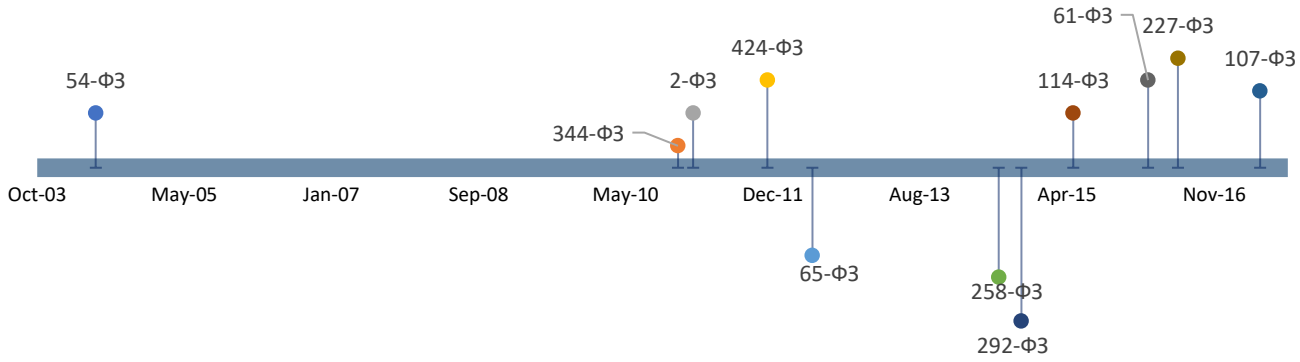
How they prepare and write laws is not publicly open. Each directorate in the PA has distinctive areas of focus but many of their works are known to be overlapping each other. Of the total 55 repression laws, 15 laws were initiated under the name of the president of RF. 15 laws encompass counter-terrorism, counter-extremism and protest laws, of which 7 laws are directly revising/updating set of codes which can be applied to punish the violations of established regulations.[46] These are only a part of PA involvement in initiating and passing laws. There are other indirect, and informal ways to influence in writing and passing bills. Some suggested that some nonexecutive actors initiate bills that are in reality sponsored by, or even written by the PA. Noble presented a case saying "Opposition Duma deptuty Il'ya Pnomarev has argued that almost 80 percent of bills formally sponsored by parliamentarians are not, in reality, the personal initiatives of these same deputies." (Noble 2018, p.64, citing from the original source: Gallai and Bocharova, 2013). Noble (2018, p.65, citing from the original source: Nikol'skaya and Surnacheva, 2015) also introduced other cases which elites in the State Duma are hesitant to be related with certain bills which potentially incur people's discontent especially due to repressive nature of certain bills.

They are constantly writing – revising and updating – laws based on the observation of the dynamic situation in relation of their lawmaking. They update to be consistent with the other relevant law changes and also to respond adequately and consistently with the government's policy

[46] The bills passed by the State Duma becomes one of the following laws: federal laws, administrative codes, civil codes, and criminal codes. Usually federal laws define concepts, establish certain regulations to follow. Violations of the regulations set by federal laws are punished under administrative, civil and criminal codes.

direction to the varying situation. Taking the example from the protest law[47], which first signed into law in the year of 2004, was updated in total 11 times until 2017, out of which 6 times initiated by either PA or government of RF. Figure 4.2. shows the how frequently and constantly the protest law has been updated. The frequent updates on a bill reflects the keen interest of the power elites in the contents of the bill whose immediate impact on civil society is urgent. But the updates also signify one of the tactics of revising the bills by the State Duma and the Kremlin which will be discussed in the next section in detail.

Figure 4.2. Timeline of Updates on Protest Law[48]



The rejection ratio of the executive bills indicate that PA has more decisive role when it comes to the repression laws. The ratio of president's bill finally passed to the whole bills passed during each convocation is maintained at 11%-17%. However, looking at only the repression bills,

[47] The federal law (Jul 19, 2004) No. 54, "*On gatherings, meetings, demonstrations, marches and picketing"*

[48] Federal law "On gatherings, meetings, demonstrations, marches and picketing" June 19, 2004 No.54-FZ (Федеральный закон "О собраниях, митингах, демонстрациях, шествиях и пикетированиях" от 19.06.2004 N 54-ФЗ.

the ratio becomes higher, 27%.[49] This means when it comes to repression bills, it is more president's writings relatively to state duma deputies. The same ratio becomes even higher (32%)[50] if one looks only at those laws which created the codes to punish.[51] President's bill is rarely rejected. Rejection rate for each convocation during the 2nd - the 5th convocation was approximately 1% and even less, in contrast to the whole rejection rate 65~80%, and the Duma rejection rate 30~70%. These figures show that one can assure that the bills that are prepared by the presidential administration, once initiated in the Duma, will be passed.

Higher ratio of PA's passed bills and practically non-existing rejection ration for presidential bills in general can be interpreted in the following ways. First, the fact that the portion of PA initiated bills is higher in repression bills than in general can be telling that the presidential office has a more direct interest in writing repression bills than other bills. Because the rate of success once bill is introduced in the Duma is a lot higher for the PA, those bills which the Kremlin wants assured to be passed in a rather rapid manner, it will not take a different route other than PA to pass the bill in the Duma. These combination of facts – low rejection rate of presidential bills, more concentration on the repression bills by PA, especially on those laws which actually punish violence of established rules – tell us that the repression laws are getting significant attention by the Kremlin.

[49] The ratio of presidential laws to the repression laws = The number of presidential repression laws (15)/The number of the repression laws (55)
[50] The ratio of presidential bills to the repression bill as whole concerning only the punishable codes = The number of presidential bills which created the punishable codes (6)/The number of the repression bills which created the punishable codes (19).
[51] The laws refer to the bills which created administrative and criminal codes which, in their application, punish certain civil society activities, such as administrative codes 20.2, 20.2.2, 6.21 and criminal codes 212 or 280.

4.2 Lawmaking Process

The formal process of lawmaking in Russia is quite similar to that of democratic states. The legally sanctioned initiators[52] submit their drafts of bills to the State Duma. The submitted draft bills should go through two phases of readings for examinations and revisions of the contents of the bills through negotiation and debate. In each reading phase, deputies in the committees prepare their final version of a bill based on the various proposals made during the readings. When the final version is prepared by the committee, then it is taken up to the final phase – the final voting in the State Duma. The vote should collect the majority number of the all deputies, 226, regardless of how many deputies are present in the Duma at the time of voting. When the bill is passed by the majority in the Duma, it is sent to the Federation Council and then to the president for approval. Within 5 days of the signing, the law should become available to the public via *official internet portal for legal information*.[53] Though formally the Federation Council and the president has the right to reject or approve the bills passed by the State Duma, it is the State Duma which retains the ultimate authority to pass the bills if agreed by super-majority defined by the Constitution of the Russian Federation.[54] The Figure II.3. illustrates the formal lawmaking process in Russia.

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[52] The Constitution of Russian Federation (Cont. Article 104.1.) stipulates that the following entities hold authority to initiate laws in the State Duma: the President of the Russian Federation, the Council of the Federation, the members of the Council of the Federation, the deputies of the State Duma, the Government of the Russian Federation, and the legislative (representative) bodies of the subjects of the Russian Federation, the Constitution Court of the Russian Federation, the Supreme Court of the Russian Federation, the Higher Arbitration Court of the Russian Federation on the issues in their authority.

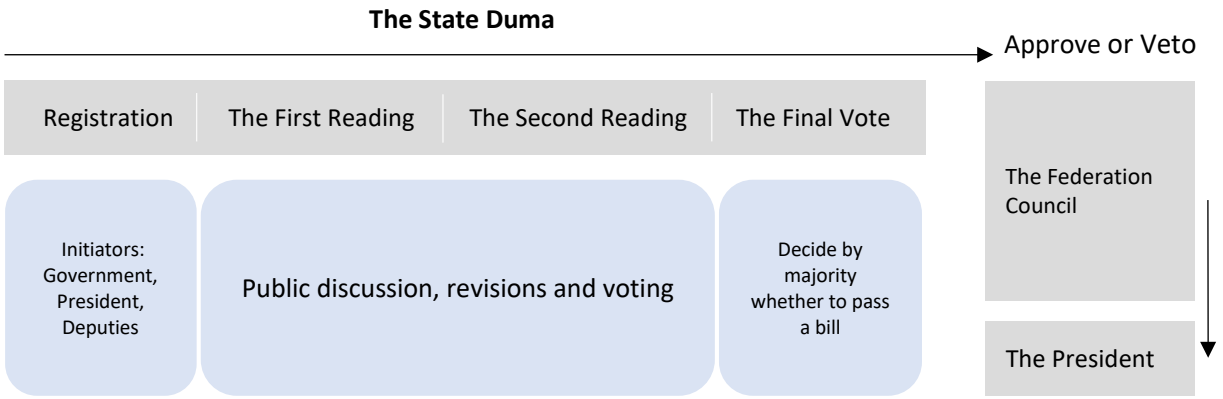
[53] "The official internet portal for legal information (Ofitsialnoe opublikovanie pravovikh aktov)" is available at : www.pravo.gov.ru

[54] According to the Constitution of Russian Federation, Article 105 and 107, the State Duma pass the laws in spite of the upper chamber or the president's rejection as long as it secures the two thirds of the total number of votes. However, Const. Article 109,111,117 delineates the cases in which the State Duma is dissolved by the president, though not directly as result of passing bills. Aside from political cost for each – passing bills by super majority and president's dismissal of the State Duma, the power balance between the State Duma and the Kremlin is at least nominally maintained in the Constitution.

The formal process is delineated in the Constitution of the Russian Federation, and thoroughly kept by the practices of making laws. The initiators should submit their draft with due procedures and try to persuade deputies to support the bill. Before the final voting, the draft bill is open to debate and negotiation during the two reading stages. During the two readings, deputies have opportunities for open discussion which is broadcasted real-time and recorded in transcripts. While the official procedures seem to be fair and transparent enough for all participants in lawmaking have equitable grounds, the limitation of a minority faction faces is also apparent. As mentioned in the previous section, the executive – legislators' power balance is often tilted toward the Kremlin with the party of power, UR, maintaining the majority in the State Duma.

The question is then, whether the established official procedures allow the minority opposition to have a room to maneuver for their voice to be heard, and to influence lawmaking even to a small degree. This section answers this question by examining the process by which one of the repression laws is made. To explore the detailed lawmaking process focusing on the repression laws, the following section examines how the federal law No. 65 (06.08 2012) was passed.

Figure 4.3 The Lawmaking Process in the Russian Federation



4.3 Case Discussion – The Federal Law No.65.

The federal law No.65, "On Amendments to the Code of the Russian Federation on Administrative Offenses and the Federal Law on Gatherings, Meetings, Demonstrations, Marches and Picketing[55]," updated and revised pre-existing laws: part of administrative codes and the law on public meeting[56]. The federal law No.65 is the one which created the Administrative Code art.20.2, and art.20.2.2, stipulating punishments on violations of legal procedures and sanctions of public meetings and protests. Making the federal law No.65 drew itself public attention as it was widely considered to be the Russian government's official response to the Bolotnaya protest occurred in early May 2012, contesting the fraudulent results of both parliamentary and presidential elections.

[55] Federal Law No. 65 (June 08, 2012), Registration No. 70631-6
[56] The Protest Law refers to the Federal law No. 54 (06.19 2004), "On gatherings, meetings, demonstrations, marches and picketing"

The bill was initiated by 8 deputies[57], most of whom are affiliated with the UR faction. It took only 29 days to be signed into law since its first draft has been submitted to the State Duma. Taking approximately a month in the State Duma is the most accelerated pace for a bill to be signed into effect. It should be also noted that it was the one of the rare cases that drew upon visibly strong opposition within the State Duma, utilizing the official procedures of making laws to reshape, delay and block the bill. The opposition's filibustering during this time led the Duma change its rules to officially forbid the stonewalling tactic. What follows show the procedures the federal law No.65 went through until it was finally approved by the president of the RF. First, a detailed chronology of lawmaking process is presented. Second, the development of the contents of the bill will be explored in each phase. Third, on a separate note, the oppositions' endeavor to revise, delay and block the bill is examined.

Lawmaking Chronology*[58]*

Initiation

The first draft was registered and sent to the State Duma on **May 10th, 2012.** Upon the registration of a bill, a committee that would be in charge of examination and final drafting of the bill is appointed, with more deputies adding their names to the list of initiating writers in support of the bill. The committee for the law No.65 was "The Committee on Constitutional Legislation and State

[57] The initiators of the federal law No. 65 are as follows: State Duma Deputies – A.G. Sidiykin, D.F.Vyatkin, R.D. Kurbanov, V.A. Ponevezhskii, I.L. Zotov, A.L. Krasov, H.I.Makarov, and M.E.Starshinov.

[58] This is a styled depiction of the primary documents recording the process of passing the law No.65, retrieved from the State Duma website archive.
The State Duma website provides the information on passing bills – chronology, transcripts, documents and voting results are accessible to the public. The information on the Federal law No. 65 (06.08 2012) is available at http://sozd.duma.gov.ru/bill/70631-6.

Building (hereinafter refer to as the committee)." The timeline for the final signing of the bill has been set for the spring session in 2012. The first draft and the other related information about the draft had been sent to each Duma factions, the council of the State Duma, the president of the RF, governments of the RF and etc., for each party. They would have to complete their own initial examination on the draft and submit the results of such consultation to the committee.

Preparation for the first reading

On 15th May, the committee received the draft bill and the suggestions from the other bodies of government and parliamentary factions. In this phase, two documents were prepared by the committee: "the draft resolution," and "the suggested amendments to the draft bill." The first one, the draft resolution is written by the Chairman of the State Duma, calling for (1) the adoption of the draft bill in the first reading, (2) submission of the draft to the relevant bodies of the State Duma and the government, (3) and finally asking for the committee to work on the amendments which they will submit to the second reading. In relation to (3), the committee prepared the second document, "the suggested amendments to the draft bill" for the first reading. The suggested amendments enumerate a summary of suggestions as to how the first draft should be revised.

The first reading

On 22nd May, the first reading took place to answer to the documents prepared by the committee, "the draft resolution," and "the suggested amendments." The decision to pass the bill, with attached revisions, if there are any, to the next phase (the second reading), the majority of votes are required.

Before voting, a representative among the initiators, deputy Sidyakin, made a proposal speech explaining the context and the purpose of the bill urging for deputies to vote for "yes (за)". Subsequently, the floor was given to each faction's representative for their turn to speak for their respective positions. CPRF, LDPR and Fair Russia opposed the bill while Just Russia supported aligning with the United Russia. Fair Russia boycotted the voting by not making the podium, wearing the white ribbons, symbol of the Bolotnaya protest. In the end, the draft resolution and the amendments were passed by majority, passing those two documents to the second reading phase without any amendments.

The second & the third reading

On 1st June, the documents prepared by the committee for the second reading were submitted to the State Duma. In this phase, the committee prepared "The text of the bill", "the suggested rejection" and "the suggested acceptance." "The text of the bill" is the version incorporating the amendments that the committee recommends. In other words, it provides the complete contents of the bill that the committee intends to pass. The other two documents - suggestions for adoption, and suggestions for rejection – are consisted of itemized points of the suggested or rejected proposals under each deputy's name who suggested the revisions. Whether each itemized suggestion should be reflected/rejected is to be determined by rule of majority in the second reading.

On 5th June, the second reading took place. According to the records of the State Duma, there were 100 times of voting being composed of 89 rejections ("no ") and 11 times of acceptance ("yes"). Voting results perfectly correspond with the suggestions made by the committee as above.

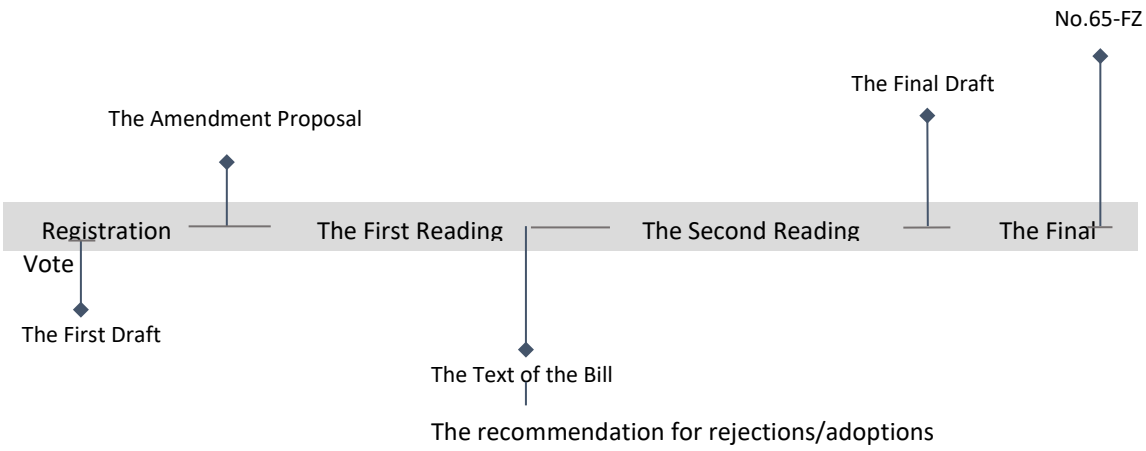
All the suggestions for rejections were rejected in the voting and all the recommendations for adoption were adopted by majority. The third reading took place and the bill was passed by majority, whose detailed voting results and transcripts of discussion are not disclosed in the State Duma website. **On 8th June** the law is signed by the president and the next day was available publicly.

Drafts become laws

Did the abovementioned process change the first draft of the bill in anyway? Did the fundamental part of the first draft survive as it was written by the initiators, in the final version of the law? If it was reshaped by the procedure above in the State Duma, to what extent and to what direction was it amended? To track down if and how these procedures had any influence in forming the final bill, the comparison of the five versions of documents should be made, as evolved with the passage of the lawmaking process described above. (See Figure 4.4) The five versions are as follows: (1) the first draft registered in the State Duma (hereinafter referred to as "the first draft"), (2) amendments prepared by the committee before the first reading (hereinafter referred to as "the amendment proposal"), (3) text of the bill submitted to the second reading (hereinafter referred to as "the text of the bill"), (4) the text of bill submitted to the third reading (hereinafter referred to as "the final draft"), and (5) the bill that is signed into law, the Federal law No.65 (06.08 2012)[59].

[59] All the five versions of the documents can be found at http://sozd.duma.gov.ru/bill/70631-6.

Figure 4.4 The Five Documents for the Federal Law No.65



The Contents of the Bill

The First Draft

The first draft's main three points are: (1) to newly introduce "mandatory work" as a type of penalty under the Administrative Code, (2) to increase the max upper limit of fine under the Administrative Code, and (3) to incorporate the strengthened punishments, the increased fine and the newly adopted "mandatory work," in the penal codes punishing violations of the rules of public meetings, such as in art. 20.2. In sum, the first draft strengthens punishments on violations of rules of public meetings.

The severity level of newly introduced fines and mandatory work hours was so immense that even the initiators themselves explained multiple times during initial proposal process that the punishments, indicated in the draft would be revised reasonably as the bill proceeds to the next

readings. The penalty for violation of procedural rules for holding public events under Administrative code 20.2, Part 1, was either fine min. 10,000 – max. one million rubles, or mandatory work for max. 200 hours. This was an increase from the previously assigned fine by 1000 times more.[60]

The first draft was not a bill that was deliberated for a long time as the writers of the law admitted publicly. Not only did it lack legal sophistication, reflecting reasonable level of punishments defined by the overarching principles of the Administrative and the Criminal Codes or concerning other relevant laws that will be (in)directly affected by the change of certain provisions, it also was not at all compatible with the overarching law on public meetings.

The Amendment Proposal

The amendment proposal suggests a plan as to how the first draft should be updated. Two elements of revision are proposed: (1) to reduce the severity of punishments and differentiate the level of severity according to degree of violations, (2) to readjust the contents of the law on public meeting the federal law No.54 (Jun.19, 2004) "On gatherings, meetings, demonstrations, marches and picketing", to correspond to what the bill amends.

[60] Previously, the fine for the same violation was min. 1000 ₽ – max. 2000 ₽.

The first part of the amendment proposal[61] indicates to reduce the originally proposed fines to a reasonable level, to include conditions for exemption when imposing mandatory work, and to differentiate the levels of punishments according to the degree of violations[62].

The second part of the amendment proposal makes suggestions on the law on public meeting, the federal law No.54 (Jun.19, 2014). This part was not mentioned at all in the first draft. It requires the clarification on the qualification of organizers of public events, the rights and (strengthened) responsibility of organizers, legally guaranteed rights of security forces involvement for protecting the participants and the public order, and prohibition of using masks, weapons and being intoxicated during the events.

This version of the bill, though not in a complete form of law, began incorporating essential elements of the final law, including the contents of the laws on public meetings, and the legal sophistication on the differentiated level of violations, and its respective severity of punishments.

The Text of the Bill

The text of the bill is a re-written draft, a complete form of law, incorporating "the amendment proposal" prepared by the committee for the first reading. The main contents of the text of the bill are: to introduce mandatory work as a type of penalty under the Administrative Code, to increase maximum upper limit of fine imposable under the Administrative Code, to introduce new penal codes into the Administrative Code, art. 20.2, and art.20.2.2, and to introduce updates on the

[61] Another important suggestion in the amendment proposal is to punish separately those public meetings which did not ask for legal permission in the first place. This new additional provision effectively demanded all the public meetings be reported and sanctioned by governments. Later, this suggestion becomes Administrative code 20.2.2.

[62] This is to distinguish light violations, such as procedural violation of public events from causing harms in public order, properties or human injuries.

federal law No.54, tightening the regulations on public meeting in general. The final law (as the "the text of the bill" has become the final law, No.65), is a completely different version when compared to the very first draft, that was registered for initiating this bill.

Incorporating the updates on the federal law No.54 (the law on public meeting) logically made sense in the spirit of the first draft – more restrictions on public meetings. Only after the update on the federal law No.54, which delineates the tightened rules of holding public meetings, did the increased level of punishment initially suggested by the first draft, fit to the right place. This is because the violators of the rules delineated by federal law No.54 are punished under the penal codes art.20.2, and art.20.2.2.[63] Given that the federal law No. 54 defines the basic legal concepts and terms regarding public meetings, and circumscribes the procedures, and the rules with which the participants of public meetings follow, the concurrent updates should have been made both in the Federal law No. 54 and the Administrative Code.

As mentioned above, the third version is what the committee proposes as the contents of the final bill to be voted, reflecting the suggested revisions submitted by different deputies between the first reading, and the second reading. However, the close reading of the text of the bill reveals the fact that it actually is a combined version of the first draft and the amendment proposal, ruling out the revision requests made by the opposition factions.

Opposition

The opposition deputies who voiced their opinions in the two readings' public debates are the ones who submitted their proposal for amendments to the committee. Their names appear in the

[63] Violations of the federal law No.54 (06.19 2004), for severer cases, can also be punished under Criminal Codes of the Russia Federation.

transcripts of the two readings, and mostly in the document(s) prepared by the committee for the second reading, "the recommendations for rejection". All of their suggested revisions was crossed out in the second reading. Each of their names and party affiliation are as follows, affiliated faction in parentheses: G.V. Gudkov (Fair Russia), O.A. Nilov (Fair Russia), I.V. Ponomarev (CPRF), C.A. Pempov (Fair Russia), D.E. Gorovtsov (Fair Russia), and V.M. Zubov (Just Russia).

Many of them soon disappeared from the State Duma for good after the federal law No. 65 is passed for different reasons. Though no one can confirm officially but many casts suspicion if the clearing of these vocally opposing deputies off of their seats an act of the Kremlin, as political retribution. The opposition deputies were renowned politicians often voicing against the United Russia, if not Putin. Deputy Gudkov who appear the most in the discussion transcript and the rejection recommendation, participated actively in street politics with non-systemic opposition leaders such as Navalny, and Nemtsov. He was one of many deputies who made a speech at a rally in the Bolotnaya Square. [64] Soon after the federal law No.65 is passed, he was deprived of his mandate as a deputy for violating the law on the status of a deputy of the State Duma.[65] Deputy Ponomarev also stood side to Gudkov when the Bolotnaya protest was ongoing. Ponomarev is now living in Ukraine, not able to come back to Russia, being accused of embezzlement several months after voting against the annexation of Crimea in 2014. Deputy Zubov, a renowned scholar and long-serving Duma deputy was one of the eight deputies who voted against the Dima Yakovlev law[66] and one of the three deputies who abstained from voting for the annexation of the Crimea. He died of illness in 2016.

[64] Free Radio(Radio Svaboda) "Bolotnaya: chronicle and impression. Photo. Video. (Bolotnaya: khronika I vpichatlenya. Foto. Video.)" Retrieved on Dec 05, 2018. https://www.svoboda.org/a/24417009.html.
[65] https://www.economist.com/eastern-approaches/2012/09/17/why-gennady-gudkov-was-expelled-from-the-duma , Sep 17th 2012by J.Y. | MOSCOW, the Economist, Retrieved on Dec 05, 2018.
[66] The Dima Yakovlev law refers to which prohibits the adoption of Russian orphans by foreign citizens

What did they want to change in the federal law No.65? Examination on the results of opposition's revision proposals attest to the limited capacity of these deputies to exert influence on revising the bill. The proposed revisions can be categorized into three as follows: (1) The technical changes of wordings such as titles or specific terms which mostly overlap with the revisions suggested by the initiators themselves. (2) Substantial proposals which revises the first draft but for the direction in line with the initiators of the bill. (3) Substantial revision requests in opposition to the intent of the original draft[67].

The first type (1) revisions concern with technical changes such as the date of the law to go into effect, or the title of the bill. The second type (2) is the subtle change of wordings that are not necessarily going against the overall notion of the first draft but still reshaping the bills, such as adding some extra conditions for imposing "mandatory work" punishment, the number of hours for the punishment, the appropriate temperature for serving the mandatory work and etc. Many second type items are partially or fully recognized in the amended version. It appears as rejected because the duplicated proposals are made by the writers of the bill, rendering the provisions suggested by opposition deputies not needed. In other words, the second category proposals are either reshaping the original documents so subtly that it becomes meaningless to include them in the bill or something the initiators themselves already incorporated.

What essentially repudiates the intended direction of the first draft bill, is the third type (3). The items in the third type revision requests suggest excluding certain parts of the draft law from the final law (or reducing the amount of fine drastically), mitigating the severity of originally suggested punishment (mandatory work), and adding complicated procedures and conditions in

[67] A total of 410 items were officially marked for recommendation for rejection by the committee during the second reading phase. Of 410 items, 37 were the first type, 152 were the second type and the rest of the items, 221 provisions were the third type.

enforcing the newly defined punishments so that the final effect of punishment is markedly reduced. As mentioned above, these suggestions were all rejected in the second reading.

The observation of the recommendations for rejection yields a significant insight with regard to the process of lawmaking. The revision requests made by the opposition deputies are used as tactics to delay and to confuse the process of making the law, not necessarily in the genuine hope for changing the contents of the law. Many items within the total of 410 revision requests are overlapping within themselves. Some stipulates exactly same proposed revision wordings under the different names of deputies. Or, the same deputies call for multiple items with subtly different wordings of revisions which basically point to the same sort of revisions. Even the third type revision proposals do not seriously pressure the changes in the draft. With the exception of the proposal of excluding an item, many proposed revisions, in the third type, are addressing only the amount of the fines calling for reducing the degree of the increased portion, or addressing the number of hours given to the mandatory work by suggesting some conditions to lighten the burden of new punishment. The third type does not address the core meaning of the draft law, questioning the fundamental intention or injustice of newly defined punishments and violations. All the proposed revisions, made by the opposition deputies, are placed in the rejected recommendation category, regardless of the fact the proposed items are in alignment with the perspective of the initiators of the bill. This indicates that, first, from the very beginning the committee did not have any intention to consider any proposals coming from the opposition, and second, the opposition deputies made the complicated suggestions of 410 items purposefully, to delay and hinder the process.

In sum, the division between the accepted amendments and the rejections is not based on their contents, but based on who proposed the changes. As the opposition deputies are aware that

their proposals for any revisions would not be accepted, the proposals made from the opposing factions should not be read verbatim in their sincere sense. Rather than the contents of revision proposals, the quantity of the proposed revisions is worthy of attention. The quantity signifies how eagerly the opposition deputies try to delay and obstruct the procedures of passing the draft bill. Only in this context, is it become understandable why such meaningless and insignificant proposals are made meticulously by the opposition deputies.

Did the activities of the opposition influence on making the final law? Though it could not prolong the speed at which the law is signed, nor directly revise the contents, the existence of the opposition and their filibustering during the second reading, apparently imposed indirect pressures on those who were trying to pass the law. The opposition deputies' diverse tactics of delaying proceedings in each reading could bring about more public attention to the State Duma. As for the contents of the law, though it is not clear whether the existence of the strong opposition in the State Duma led the writers of the bill adjust the contents, the fact that at least the voice of the opposition was recognized and heard officially in the lawmaking process shows the writers/supporters of the bill were aware of the fact that opposition exists, buttressed by popular support. Because of such visible and strong existence of the opposition, the writers had to come up with reasonable level of punishment, and had to make least gestures of reflecting some of the revision proposals made by the opposition faction. Evidently, the opposition's activities are imposing a degree of burden in making the repressive laws, especially in the phase from the initiation to the second reading.

4.4 The Properties of the Lawmaking Process

The foregoing analysis on the lawmaking process reveals particular characteristics of the State Duma, with regard to the repressive bills. Three significant properties of lawmaking procedures can be identified as follows.

First, the laws are made essentially as myopic measures, without deliberate consideration, for the expeditious process to avoid public attention, and to preemptively guard against the opposition faction's attempt to revise or to oppose the bills. In passing the Federal Law No.65, four deputies submitted their first draft in a hurried manner, only submitting the rough draft of basic ideas – to strengthen punishments on those who participate in public meetings. The first draft read as a basic mind-map version signifying that it is written under pressure to meet a certain deadline, to submit whatever available to secure a place in the first reading for a timely consideration of the bill. This feature – the fact that the draft is written in a hurried manner and was used to secure a place, expecting later revisions and refining – is confessed by many parts in the transcript recording the discussion in the plenary session in the first and the second reading by the initiators and committee members themselves.

Second, the power of opposition faction to revise the contents of the bills is clearly limited, but it pressures indirectly either to tone down the contents of the bills, or to make the contents of the bills dubious as it pushes the hegemonic party deputies to pass the incompletely considered bills to meet predetermined timelines. The case discussion above shows how the final contents are decided by the second reading phase, neglecting all the proposals to revise made by the opposition factions. Yet, the whole process of introducing and arguing new revisions are done to delay and to

hinder the process, rather than genuinely hoping to revise the bills. By these tactics of delaying and getting in the way of passing legislations, the opposition deputies could draw public attention and ultimately exert implicit, but clearly existing influence on the laws, mostly by rendering the provisions of the laws, dubiously defined, incompatible with the preexisting laws which will require future updates and revisions.

Third, the repressive laws that the deputies aim to pass are rarely made from scratch. The contents of the bills are updating and revising multiple preexisting laws to create a policy – seemingly coherent one from the outlook, but that entails numerous regulations, bylaws, and penal codes. Because the deputies are dealing with the convoluted webs of preexisting institutions of legislation, the pressures mentioned as above, especially makes the works of making laws poor quality. In other words, implanting a new policy into the preexisting webs of laws, institutions, and subsidiary laws such as order, rules, bylaws, and regulations cannot be possibly done by a single act of passing a bill, especially under the pressures as state above.

In sum, the process of lawmaking, as a first phase of creating repressive policies in a legitimate way, inevitably produces uncoordinated results, even if the State Duma, informally controlled by the Kremlin. The distinct properties of lawmaking process are reflected in the laws, the subject of the next chapter on “the Repression Laws.”

Chapter 5. The Repression Laws

This chapter explores the forms and the contents of the repression laws for the following reasons. First, they are the results of the state's pursuit of a legitimate lawmaking process, as discussed in the previous chapter, and second, they are the basis on which the state apparatus of law enforcement operates on the ground. As the hegemonic party, the United Russia, dominates the legislative process, laws reflect more the direction advocated by the ruling elites in the Kremlin. Nevertheless, the formal lawmaking procedures inevitably conditioned the overall environment in which the laws are made, infusing them with the influence of the systemic opposition and broader public. In this light, it is inescapable that the final laws, both in their forms and contents, are the characteristics of the official procedures under which they went. This is to say, although the repression laws are primarily the product of the central elites' design to control the rising dissent movements, the laws are shaped by the formal lawmaking procedures that the authoritarian elites themselves put forward. In this vein, an examination of the repression laws reveals not only the embedded intent of the autocratic ruler but also to what extent the legislative process reshaped the initial design.

Aside from confirming the impact of the pursuit of procedural legitimacy in repression, probing the characteristics of the provisions of the laws is necessary for understanding moderate levels of violence as they are the basis of law enforcement materializing the state's use of coercion. How the law enforcement bodies investigate, gather evidence, arrest, charge, and indict depends upon what laws they base their operation. Also, restructuring the law enforcement agencies correspond to shifting functions each agency takes up according to the related changes in the laws.

This chapter is divided into three sections, which logically follow one another. The first section introduces the repression laws. The second section presents the case analysis with three representative repression laws to unveil their detailed contents and central features. The last section summates the characteristics of the repression laws based on the case analysis.

5.1 Definition and Scope

I identify legislation that was introduced in responding to popular movements against the incumbent regime in Russia. The legislation, which hereinafter referred to as "the repression laws," aims to regulate and contain potential/currently active opposition politicians and broader civil society to safeguard the incumbent regime from provocative popular uprisings. It is "repressive" because the laws restrict the civil rights guaranteed by the Constitution of the Russian Federation, such as freedom of assembly, freedom of speech and consciousness. Theoretically, any laws can be the means of oppression as no specific laws are ostensibly earmarked for the state repression.[68] However, across civil society in Russia, it has been acknowledged that the repression laws are made to target newly rising civil society specifically, and concomitantly growing oppositionists against the current autocratic leadership.[69] Although the repression laws first emerged in the early 2000s during Putin's first term, it was only the mid of the 2000s that the laws were streamlined for a coherent purpose. The range and the severity of the laws' application have been notably increasing since 2012.

[68] For example, in many cases, civil activists have been arrested for embezzlements or possession of illegal narcotics possessions. This research limits itself to the laws whose articles and contents are directly addressing the limitation of civil rights, or its usage has been mainly focusing on persecuting civil society and oppositions' activities.

[69] Monitoring organization based in Russia, such as OVD-Info(https://ovdinfo.org/) and SOVA Center (https://www.sova-center.ru/) regularly publishes reports on the use of the repressive laws.

In this light, this research focuses on the laws that are purported to be used against civil activists, media, non-government organizations, and civil society in general, primarily divided into three categories: *Public meeting laws, Counter-extremism laws, and Counter-terrorism laws.* As shown in Table 5.1, the laws take three forms: federal laws[70], the Administrative Code, and the Criminal Code[71]. The first column in Table 5.1 indicates three basic federal laws that provide the most basic and overarching rules governing each category, indicated in each row – public meeting, counter-extremism, counter-terrorism, and others. The second, and the third column each contains the Administrative Code and Criminal Code that are relevant with each row's category. In other words, each row indicates the laws that are created in the specifically circumscribed category as defined by the laws in the first column. For the public meeting laws category, the basic, and overarching regulations for public meetings are delineated in the federal law No.53. The violators of the rules set by the federal law No.53 would be punished by the penal clauses in the Administrative or Criminal Code in the same row.

The federal laws and the penal codes under the same category were not introduced at a time, or in a deliberately predefined order. It is a vexing process by which these laws are adopted and amended to be fitting and correspond to one another. In theory, a federal law should first be created for defining a specific area, such as "counter-extremism." Subsequently, it should yield specific penal codes under the Administrative or Criminal Code to punish the violations in the arena of counter-extremism. In other words, at least in theory, the process of forming one category

[70] All the laws are called federal laws if it was passed by the State Duma, the Federation Council, and finally signed by the president. Federal laws can be a stand-alone document delineating certain concepts, regulations, and punishments. The federal laws can also update or revise preexisting laws. It can also be used to introduce, update, and revise new articles and provisions in criminal, civil, and administrative codes.
[71] The Administrative Code defines administrative violations and the respective punishments. The violation and the punishments under administrative codes are not in criminal nature, thus, relatively weak in its severity in comparison to the Criminal Code. The Criminal Code defines what constitutes crimes and respective punishments.

with a bundle of federal laws, and related penal codes start from a basic, and an overarching federal law which subsequently evolve to adopt more specified articles for differential violations. In reality, the laws and the articles are created in the preexisting webs of legislation, rendering the theoretical process of introducing laws not possible.[72] As will be discussed later in this chapter, the convoluted process of making laws making its own inroads within the preexisting myriad of legislation produces specific features in the repression laws as a coherent genre.

Table 5.1. The Repression Laws

	Federal Law	Administrative Code	Criminal Code
Public Meeting	Federal Law No. 54 (06.09 2004) "On gatherings, meetings, demonstrations, marches and picketing"	20.2 (Public meeting) 20.2.2 (Public simultaneous stay)	212 (Mass riots) 212.1 (Repeated violation of rules of public meeting)
Counter-Extremism	Federal Law No.114 (07.30 2002) "On counteracting extremist activities"	5.26 (Freedom of conscience) 6.21 (LGBT rights) 13.15 (Freedom of media) 20.29 (Extremist materials) 20.3 (Nazi symbol)	148 (Conscience and religion) 280 (Public call extremist acts) 280.1 (Territorial integrity) 282 (The incitement of national, racial or religious enmity) 282.1 (Org of extremist community) 282.2 (Org of extremist acts) 282.3 (Financing extremist acts) 354.1 (Rehabilitation of Nazism)

[72] There are at least five different ways of making changes and creating laws, articles, and some provisions within articles. First, the three federal laws defining the three categories in the repression laws created relevant administrative and/or criminal codes. Second, the administrative codes are created/updated/revised by one (or more than one) of the three federal laws. Third, the criminal codes are created/updated/revised by one (or more than one) of the three federal laws. Fourth, the federal laws updated or revised the first three federal laws. Fifth, the federal laws that are not related to the three fundamental laws independently revise the administrative and criminal penal codes that were created by the three federal laws.

Counter-Terrorism	Federal Law No.35 (03.06 2006) "On counteracting terrorism"	13.5 (Communication facilities) 13.6 (Communication tools) 13.30 (Subscriber identity) 13.31 (Dissemination on the internet) 15.27 (Financing terrorism) 15.27.1 (Financial support for terrorism) 15.27.2 (Information on persons tax foreign accounts)	205 (Terrorism) 205.1 (Terrorism promotion) 205.2 (Public call terrorism) 205.3 (Training terrorism) 205.4 (Org of terrorist community) 205.5 (Org of terrorist acts) 361 (Act of international terrorism)
Others[73]	NA	19.3 (Disobedience) 20.1 (Petty hooliganism)	205.6 (Reporting crimes) 213 (Hooliganism) 214 (Vandalism) 318 (Violence against authority)

Before discussing representative cases of the repression laws, it should be useful to visit each category of laws in turn to unveil the essential profile and the nominal direction of each category.

Public Meeting Law

The law that governs protest activities is the federal law No.54 (Jun 09, 2004) "On gatherings, meetings, demonstrations, marches, and picketing." It was introduced first in 2004, then got updated 11 times since then, through the latest update on Oct. 11, 2018. The relevant penal codes are art. 20.2, art. 20.2.2, art. 212 and art. 212. The most known update was made with

[73] There are several laws that do not go into the three main categories, but still included in the scope of this research as part of the repression laws, because they are known to be frequently applied for political persecution on civil society's activities, such as administrative code art. 19.3, and art.20.1.

the federal law No.65 (Jun 08, 2012), "On Amendments to the Code of the Russian Federation on Administrative Offenses and the Federal Law on Meetings, Rallies, Demonstrations, Marches and Pickets."

The law No.54 covers different types of public events ranging from one-person picketing to mass-scale public meetings. It defines the term "public events," which are subject to government sanctions. The update made in 2012, in the middle of the Bolotnaya protest by federal law No. 65 (Jun 08, 2012), was what made the law as it is today. The law No.65 strengthened the rules of getting the government's permission to hold public meetings, particularly circumscribing the organizers' credentials and responsibilities.

Counteracting-Extremism Law

The federal law No.114 (Jul 30, 2002) “On countering extremist activities” provides basic principles and norms governing the field of counter-extremism. The law No.114 has been updated 17 times since its first introduction; its relevant articles are art. 6.21, art. 20.29, art. 20.3, art.148, art.280, art.280.1, art.282, art.282.1, art.282.2, art.282.3, and art.354.1.

The law No. 114 was first adopted in 2002 during Putin’s first term. It attempts to regulate NGOs’ and media’s activities, especially with regards to their speech acts. The word, “extremism,” is defined in a loose and ambiguous manner under the law No.114. “Extremism” covers comprehensive forms of public speeches whose influence and contents are considered to be harmful to state security and social order. The law created the blacklist of individuals and organizations that are forbidden legally due to their (potential) danger as extremists or extremist

organizations, posed to society. Online censorship has been strengthened by this law, though gradually in conjunction with other laws.

Counteracting Terrorism Law

The basic norms and regulations for counter-terrorism can be found in the federal law No.35 (Mar 06, 2006), "On Countering Terrorism." It was introduced in 2006, and then updated 17 times, with its final update made in April 2018. The relevant codes are art.205 (Terrorism), art.205.1 (Terrorism promotion), art. 205.2 (Public call for terrorism), art.205.3 (Training terrorism), art.205.4 (Organization of terrorist community), and art.205.5 (Organization of terrorist acts).

The counteracting terrorism law defines terrorist activities as acts that threaten public safety, political and economic integrity, and stability. "Terrorism," according to the law, involves individual or collective acts of violence or support for or triggering physical violence to disrupt the abovementioned stability. Putin joined the war on terrorism with George W. Bush in the early 2000s, with subsequent enactment of the law "On countering terrorism." This culminated Putin's endeavor to join the international effort against terrorism, which resonated with his own rhetoric for enlarging Russia's sphere of influence in the near abroad. However, the recent updates in the law, and its usage point to deterring people's noncompliance, rather than fighting against external terrorist organizations, via preventive measures to identify and uproot the potential collective action of domestic enemies for provoking the current status quo of power.

5.2 Cases

The repression laws, composed of three categories - public meeting, extremist activities, and terrorism - have evolved to be coherent legislation that mainly aims at the activities the state intends to block, prevent, and manage. This section delves into the detailed forms and the contents of the repression laws, with three representative cases for each category. For public meeting laws, the federal law No.54, and art. 20.2, a penal code under the Administrative Code, that punish organization, and participation of public protest are examined. For counteracting extremism, I investigate the laws restricting freedom of speech. For counteracting terrorism, the laws strengthening informational control in the name of preventing terrorist activities are analyzed.

5.2.1 Public meeting: The Federal Law No.54, and Article 20.2

Article 20.2 under the Administrative Code is the most frequently used article, not only within the protest law category but also in the entire repression laws. The article was signed into effect in 2012 with the federal law No.65 in the middle of the Bolotnaya protest and immediately used to arrest the mass people participating in the protests[74]. As discussed in the previous chapter, federal law No.65 streamlined the laws related to public meeting regulations. It remade the federal law No.54. Along with it, it created art. 20.2, and art.20.2.2, the penal codes that define the level of violations, the respective punishments for the violations of the rules for organizing public meetings. As such, the law No.54 and Article 20.2 are supposed to be used conjointly.

The regulations for holding public protest, according to federal law No.54, can be summarized as follows. For all kinds of public meetings, be it demonstrations, marches, or picketing, the legal permission from relevant local authorities in advance is required. Spontaneous

[74] During the latter half of 2012, a total of 6,453 people was officially charged by art. 20.2. (Data on judicial statistics from Judicial Department at the Supreme Court of Russian Federation, http://www.cdep.ru/)

mass scale meetings, protests, or marches without official sanctions by no means are allowed[75]. To receive the legal sanction for public meetings, organizers should submit applications with a plan for public meetings indicating the purpose, time, venue, and the number of participants. The organizers should not have been committed violations of the rules of public meetings or held the records of other remotely related misconducts/crimes. Organizers have both rights and responsibilities: Organizers can ask for help from security forces to prevent or block the activities of participants or other people from disrupting peaceful and organized public meetings. Organizers are also responsible for taking the utmost possible measures to keep the public meeting as safe and planned as possible and have an obligation to enforce the rules of public meetings. Participants, in their turn, should abide by the rules as stipulated in the law No.54. Otherwise, they can be either be forced to leave the public meetings or can be arrested for violations of the protest law. Participants should not use any means to hide their faces as identification by faces should be made possible by organizers and the security forces. They should not use weapons or any items that might be potentially used as weapons, and should not be in a status of intoxication. Even sanctioned public meetings, at any time, can be terminated and dismissed at the discretion of the local authority or the dispatched security force for public safety.

Any violations of the rules, as stipulated above, are punished under article 20.2[76]. Art. 20.2, part 1, as usual, delineates the most basic level of violation. The latter parts add elements to the first part, usually in ascending order of degree of harms. Part 1 concerns the organizers' violation of the established order of organizing public events according to the law No.54. Part 1 imposes administrative fines, min. 10,000 – max. 20, 000 rubles or compulsory work for max. 40

[75] For the spontaneous break out of protests, article 20.2.2 was adopted.
[76] The relevant articles, such as articles 20.2, 20.2.2, or art. 212. (See Table 5.1, the first row). Article 20.2 consists of eight parts in total. Art.20.2 is most frequently used.

hours.[77] Part 2 stipulates the violations of the organizer of public meetings, who organized a meeting without official notice, to be punished with fines min. 20,000 – max. 30,000 rubles, or compulsory work up to 50 hours, or administrative arrest for up to 10 days. Part 3 and 4 are adding specific harms (that are related to transport or social infrastructure, harm to human health or property) that are caused by actions of parts 1 and 2, imposing severer punishments.

While part 1,2,3, and 4 concern with organizers of public meetings, part 5, 6, and 6.1with participants. Part 5 stipulates that if participants of a public event violate established procedures for holding public events as indicated in the law No. 54, administrative fines of min. 10,000 – max. 20,000 rubles or compulsory work up to 40 hours are imposed. If part 6 strengthens punishments to part 5, for the case of entailed human health or property. Part 6.1 stipulates the cases of participation of unauthorized meetings, which cause harm to various functioning of social infrastructure, with severer punishments. Part 7 is for the unauthorized meetings which are taking place in designated venues for their sensitivity in securing public safety, such as the territory of a nuclear installation, radiation source, or storage facility for nuclear materials and radioactive substances. Part 8 is the clause which has been introduced in 2014 by the federal law No.258 (Jul 21, 2014), for weighted punishments for those who violated art. 20.2 repeatedly.

The level of severity of punishment was first strengthened by the federal law No.65 in 2012 and has gotten severer in 2014 by the federal law No.258 (Jul 21, 2014). The law No.258 added "administrative arrest" to the preexisting punishments. As for the characteristics of the punishment, ECHR[78] has ruled that art. 20.2 is treating the violation of the rules of public events, something that should be dealt with under criminal law, because first, the protest laws view the

[77] For officials – from 15,00m to 30,000 rubles, for legal entity – from 50,000 to 10,000 rubles.
[78] Many people who prosecuted under the protest laws go to appeal to ECHR (European Court of Human Rights) to appeal the injustice of the application of the law. Many cases are won and got compensated by Russian counterparts.

damage caused by violation is general rather than individual, and second, the punishment it imposes is punitive and preventive rather than compensating the damage. The magnitude of the violation and the punishment, which art. 20.2 imposes, in the view of the ECHR, is the proof that the Russian legal system views it as a crime, but put it under the administrative law for the administrative law can arrest more amount of people with fewer resources spent for trials and due process that is usually guaranteed under the criminal law.

5.2.2 Counter-Extremism: "Reposting" Laws

The term, "reposting laws," refers to a set of laws primarily under the counter-extremism category prosecuting the act of posting on the internet the materials that are considered to be extremist. The word "reposting" points to the cases convicted for merely reacting to messages or online materials that are only remotely extremist in a genuine sense of the term. Although prosecuting certain types of speeches on the internet is only a fraction of counter-extremism laws, the actions represented by the term "reposting" have been increasingly the subject of most vibrant prosecution recently. It appears that the state's endeavor to counteract extremism focuses more on censoring speeches made online than anywhere else.

The following four penal codes are relevant to "reposting" cases: art. 282 "The incitement of national, racial or religious enmity," art. 148 "Violation of the right to freedom of conscience and religion," art. 20.29 "Production and distribution of extremist materials," and art. 20.3 "Propaganda or public demonstration of Nazi paraphernalia or symbols, or paraphernalia or symbols of extremist organizations, or other paraphernalia or symbols, propaganda or public

demonstration which are prohibited by federal laws." The following sections explore the contents of these articles, and their unique features, in turn.

Article 282

Art. 282 is one of the most often used articles to prosecute the online (re)postings of photos, messages, and videos. Art. 282 is relatively short, with only two parts. Part 1 introduces the basic levels of misconduct that can indict violators.

"Part 1. Actions aimed at inciting hatred or hostility, as well as at humiliating the dignity of a person or group of people on grounds of gender, race, nationality, language, origin, attitude to religion, as well as belonging to any social group, committed publicly or with using mass media or information and telecommunication networks, including the Internet."

As part 1 states, it is similar to "hate speech" acts in a democratic state. It has clear direction to put more weight in punishing the intent of actions that target and attack the groups based on minority identities. The punishment is a prison term of two to five years.[79] Part 2 stipulates on the cases with added elements to the conducts delineated in Part 1, with severer punishments.

Article 148

[79] Part 1 gives the range and option of punishments as follows. "a fine in the amount of from three hundred thousand to five hundred thousand rubles, or in the amount of the salary or other income of the convict for a period of two to three years, or forced labor for a period of one to four years with deprivation of the right to occupy certain positions or engage in certain activities up to three years, or imprisonment for a term of two to five years." (Article 282. Part 1.)

Another frequently used article for extremist materials is art. 148, "Violation of the right to freedom of conscience and religion," under the Criminal Code. It is another form of hate speech act particularly aimed at protecting religious identity, feelings and dignity, and its social gatherings and related infrastructures. Art. 148 consists of four parts as follows. Part 1 concerns with "public actions expressing obvious disrespect for society and committed in order to insult the religious feelings of believers." The punishment is imprisonment for up to one year.[80] Part 2 adds part 1, the cases which occur in specific places for worship, other religious rites, and ceremonies, for weighed punishments – imprisonment for up to three years. Part 3 covers illegal obstruction of the activities of religious groups for lesser punishment – arrest for up to 3 months. Part 4 adds to part 3, the cases where violations are committed using official posts or the application or the threat of application of violence.

Though the reading of the article does not immediately reveal its repressive nature, as it pronounces to protect the right to freedom of conscience by punishing those who are in harm's way. The repressive nature of this particular provision is manifested only when specific conducts are prosecuted under the article. It is the application of this law, not what the law says, that makes this provision repressive. As discussed more in detail in the later chapters, some of the laws are particularly and frequently utilized to target specific actions of the civil society since the provision provides more range of application and interpretation, a more convenient way of gathering evidence and thus more probability of success in getting guilty verdicts. Art. 148, though written

[80] For the other range and options of punishment, art. 148 indicates as follows: "a fine of up to three hundred thousand rubles or in the amount of the salary or other income of the convicted person for a period of up to two years, or compulsory work for up to two hundred and forty hours, or forced labor for up to one year, or imprisonment for the same period."

to protect the religious rights, is often used to charge those who post the materials, relatable to religious figures, using them as critiques or satirical purposes.

Article 20.29

Article 20.29, "Production and distribution of extremist materials" under the Administrative Code, is to punish "mass distribution of extremist materials included in the published federal list of extremist materials, as well as their production or storage for mass distribution." The punishment for such action is imposing "fines min. 1000 to max. 3000 rubles or an administrative arrest for up to 15 days, with the confiscation of the specified materials and equipment used for their production." The level of punishment is remarkably lower compared to that of the protest law – for the basic level of violation (the art 20.2, part 1), the administrative fine is min. 10,000 to max. 20,000 rubles. However, the fact that those charged with distributing extremist materials under art. 20.29 are to be (either before or after conviction) listed in the federal list of extremists and extremist materials, which entails specific punishments such as limitation of travel, financial sanction (not being able to use their bank account due to freezing their bank accounts and assets for financing extremism or terrorism), indirect persecution in work or school, puts more burden than being accused of participating in a protest.

Unlike art. 282 and art. 148, it refers to the source of the prohibited materials, namely, "the published federal list of extremist materials." The list is governed by the rules in federal law No.114 "On counteracting extremism," a foundational law for counter-extremism. The list is being added and continuously revised based on the law No.114, and incorporates articles, books, memes, images, and symbols. In other words, art. 20.29, is deeply related to the law No.114, buttressing

the legal effectiveness of the list. The more extensive application of countering extremist laws is possible by art. 20.29 because the process by which some materials fall in the blacklist is quite simple. Those who use even some minuscule parts of the materials in the list can be prosecuted under art. 20.29.

Article 20.3

Article 20.3 is one of the earliest adopted articles to regulate extremist materials. The Nazi Symbol, a form of a swastika, due to the history between Hitler's fascist Germany's hatred toward the communist Soviet Union, and their fight during the World War II, has long been recognized as a political and social taboo. Extremist groups such as neo-Nazi or nationalist right-wing organizations in Russia often used the swastika as their symbols. Art. 20.3 reflects this context, but lately, it has been applied to the cases deviating from the law's original context, as it were, applying the law to the broader cases where different symbols are interpreted as carrying extremist nature.[81]

Art. 20.3 has two parts, part 1 stipulates "propaganda or public demonstration of Nazi attributes or symbols, or attributes or symbols similar to Nazi attributes or symbols to the degree of confusion, or attributes or symbols of extremist organizations, or other attributes or symbols, propaganda or public demonstration of which are prohibited by federal laws."[82] The punishment is administrative fines min. 1000 to max. 2000 rubles, same as art. 20.29 (On the distribution of

[81] Originally, art. 20.3 concerned only with Nazi symbols. However, with updates in 2012 and in 2014, the scope of forbidden symbols has expanded to include "symbols of extremist organizations (by the Federal law No. 255 (Dec. 25, 2012))", and "other paraphernalia or symbols, propaganda or public demonstration of which is prohibited by federal laws (by the Federal law No. 332 (Nov. 04, 2014)".

[82] This law refers to the federal law No. 80 (Nov 04, 2014) "On perpetuation of the Victory of the Soviet people in the Great Patriotic War of 1941-1945" Article 6. "Fight against manifestations of fascism."

extremist materials), with confiscation of the subject of an administrative offense, or administrative arrest for up to 15 days with the same confiscation.

The application of art. 20.3 is more limited than art. 20.29. As the symbol swastika has already been noted as one of the representative symbols of extremist groups, the use of Nazi or Nazi-related symbols can be charged under either of the two articles. As art. 20.3 has been updated to include more than just Nazi symbols, by adding new wordings such as "attributes or symbols of extremist organizations, or other attributes or symbols, propaganda or public demonstration of which are prohibited by federal laws," the two articles become closer to each other as they are being updated.

"Reposting" Laws as a Constellation

The four "reposting" laws, though each concerning different misconduct nominally, overlap in charging similar conduct. This is not to say that these articles are perfect substitutes to one another, but to point to the fact that the existing room for interpretation in each article allows the application of the four laws in a unified spectrum. For instance, a case initially started by being charged under art. 282, when confronted with difficulty in proving the violators' malignant intention or the magnitude of harm commensurate to be punished under criminal laws, often gets shifted to be indicted under art. 20.29 instead. This occurs because the burden of proof for the same violation is less under indictments using the Administrative Code. Also, as noted earlier, for many cases of using forbidden symbols, both art. 20.29 and art. 20.3 can be interchangeably used. Therefore, it will be useful to situate the four laws in a single constellation and observe the coherent features which arise when seen as a group of laws, rather than individual articles.

The four articles are adopted and amended in different time lines by different initiators in the State Duma. This means that the constellation of these four articles was not intended when the laws were made in the first place. Rather, it was the application and the later updates of the laws that made such constellation. Examining the timeline of updates of the four article reveals this point. Each article was first introduced in different times. The most recent update, by the federal law No.375 (Jul 06, 2016), has amended art 282. Art. 20.29 has been updated a year before by Federal law No.116 (May 02, 2015). Art. 20.3's last update has been in 2014, and for art. 148, 2013. The order of the most recent updates in a descending order is as follows: (1) article 282, (2) article 20.29, (3) article 20.3, and (4) article 148.

Another distinctive aspect is that the more the recent update, the more comprehensive range of extremist materials is incorporated. The two laws that were introduced earlier, art.148 and art. 20.3, target only limitedly circumscribed areas, religious freedom, and Nazi symbols, respectively. In contrast, art.282 and art.20.29, which have been adopted and newly updated later, concern with all extremist materials or enmity targeting various and widely defined identities. Art. 20.29 seems to be an extended version of art. 20.3 and art. 282, of art.148.

By examining the four articles as a whole in one spectrum as above, some significant features of "reposting" laws can be unveiled. First, the mixture of criminal and administrative codes for similar types of violations has been established for differentiating the degrees of violation and the respective punishments. Though with different wordings have been used to describe the actions covered by each article, the actions which will be eventually charged by those four laws can be the same. What is different is the degree of punishment, but more importantly, whether will it be successful or convenient from the perspective of law enforcement bodies to charge and indict the violators.

Second, the range of actions that can be charged under the laws are widening as more updates are made. The more recent the updates, the wider the application of the law made possible. This means that the laws have been being updated in the direction which provide more leeway for law enforcement agents and the courts to apply and interpret. For security forces, prosecutors and courts, not only are they provided with different options of laws to choose from, but also, they now can interpret the depth of the violations with larger room of discretion.

Third, the updates have been increasing its severity. Take the most recent update in art. 282[83] as an example. It imposes imprisonment for "2-5 years" compared to "up to 1 year" under art. 148[84]. Even under art. 20.29, or art. 20.3, the punishments are severer than what they appear to be. As has been compared to the punishments imposed by the protest law, violators of extremist actions that are related to spreading extremist ideas, materials, and relevant actions might seem weak. Nevertheless, going through trials and being listed on the federal list of extremists puts more substantial burden and consequences to endure.

5.2.3 Counter-Terrorism: Yarovaya law

The Yarovaya law refers to the federal laws No.374, and No.375, which are initiated together in 2016. The laws are labeled as "Yarovaya" after one of the initiators' name, Irina Yarovaya, who is known for her fervor support for various repressive laws. Yarovaya law amends multiple laws

[83] For the violations, which usually are charged with art. 282, art. 20.29 can also be used. Art. 20.29 imposes much less severe level of punishments than art.282. However, usually, the act of "reposting" extremist materials is indicted under art. 282 first. In this vein, the threat of being indicted with "reposting" charges is a serious one.

[84] Art. 148 has been updated in the direction of more severity in punishment. In 2014, obligatory work from "up to 2 years" changed to "up to 4 years," In 2016, the imprisonment period was prolonged from "up to 4 years" to "2 to 5 years."

and penal codes under an overarching theme of counteracting terrorist activities. The main amendments concern three areas: information control, the freedom of conscience (religious liberty), and strengthening penalties under both the Administrative and Criminal Code. In what follows, each is discussed in turn.

For information control, the Yarovaya law introduces a number of restrictions on information service providers. The internet and communication service providers are required to store the contents of voice/text messages, images, video postings, and other activities in addition to metadata for a specified period[85]. Internet providers should store information on their users for one year. The stored data should be made available to government authorities such as FSB, Foreign Intelligence Service, and other investigating agencies involved in "operational search activity." The internet and communication service providers are required to use only certified encryption equipment. Otherwise, they face either administrative or criminal charges. Upon the authorities' request, the means to decipher encrypted information should be provided[86]. The law also requires telecom operators to obtain officially recognizable identifications of subscribers and provide them to the related authorities.

Although the Yarovaya law is mostly known for its draconian rules on informational control, another significant repressive aspect the federal law No.374 introduces is restrictions on religious liberty. By ambiguously defining illegal activities by missionaries, it effectively threatened the existence of different religions in Russia. Missionaries can be accused of "carrying out an extremist activity," "enforcing breaking a family," and "causing damage to the morality, and health of citizens," for their mundane religious practice. It also limits the venues in which

[85] For storing metadata, internet operators are obliged to store metadata for one year, and communication providers for three years. Storing content data, up to 6 months.
[86] The related articles are art. 13.6, art. 13.15, and art.13.31.

missionary activities take place: Only the buildings and land belonging to particular religious organizations are allowed. When carrying out missionary activity, a person should, in advance, receive a permit from the relevant religious organization and able to present it upon the authority's request. Foreign religious organizations and foreign nationals' missionary activities are virtually forbidden.

The last distinctive change that the Yarovaya law introduces is strengthening the severity level of penalties under the Criminal and the Administrative Code concerning both counter-extremism and counter-terrorism articles. It lowered the age of criminal liability to 14 years of age. According to the initiators of the law, this is due to the fact, arguably, that the terrorist organizations recruit children to work for them, and those above/at the age of 14 should be liable as they can be responsible for their actions supporting terrorist activities.

The Yarovaya law also newly introduced art. 205.6 "Not Reporting a Crime." It reads as follows:

"Failure to report to the authorities authorized to consider reports of a crime, about a person (s) who, according to reliably known information, prepares, commits or has committed at least one of the crimes stipulated in articles 205, 205.1, 205.2, 205.3, 205.4 , 205.5 , 206 , 208 , 211 , 220 , 221 , 277 , 278 , 279 , 360 and 361 of this Code,.."

The most controversial wording is "prepares, commits or has committed." It criminalizes a non-action on the part of innocent observers of the preparation of terrorist activities. The clause lends a significant ambiguity in the interpretation of violations as the core terms such as "terrorist

activities," or "prepare" are not defined concretely in higher laws. The provision reveals the preventive preemption strategies of the Yarovaya law.

The law No. 375 strengthened the severity of punishments for the articles that are related to new updates made by law No. 374. What is noticeable is the fact that it not only strengthened the criminal articles related to counteracting terrorist activities but also the articles that are nominally categorized under counter-extremism – art. 282, art. 282.1, art. 282.2, art. 282.3's level of punishments was increased along with the counter-terrorism articles such as art. 205, art. 205.2, and art. 208. This will be discussed more in detail in the next section with counter-extremism law, as a phenomenon that the different categories are being interwoven across the board, as more updates are made.

5.3 Characteristics

The repression laws evolved to be used together for targeted behaviors. The laws and penal codes comprising the repression laws are sometimes independently, and some other times interrelatedly adopted and revised, responding to the results of the applications on the ground. The overall evolution of these laws in the recent period gradually converged them to be used in a spectrum of targeted conducts to repress civil society and opposition politicians. In this vein, the repression laws conformed to be a genre as a whole, rather than a mere combination of separate laws covering independent areas of misconduct. With this outlook, this section summarizes the central features of the repression laws based on the case analysis presented above, shedding light on the main direction to which the repression laws are oriented and what that implies in enforcing the laws.

Prevention

The case analysis has shown that the core recent updates carry more preventive clauses than those which directly punish violations. Prevention, by definition, concerns with the conditions under which the target activities occur. This is to say: First, the targeted behaviors are determined under the repression laws; second, the laws point to a set of conditions that are not only necessary but sufficient to cause such misconduct. The laws with preventive characteristics focus on dealing with such conditions – defining what the conditions are, providing measures to prevent them, and finally, stipulating how to punish those who are in possession of the conditions.

The form of preventive laws can be subtle and implicit. Rather than finding such conditions and punishing them, it establishes regulations to make the cost of reaching the conditions expensive so that people are deterred from wanting them in the first place. It indirectly puts the burden onto people who make use of the conditions, so that the ultimate violation is less prone to take place at all. Another form is a more direct one, which pronounces that the law's purpose is to prevent the targeted violation and punish those who possess such conditions. The three categories of the repression laws, laws on public meetings, counteracting extremism, and counteracting terrorism, take the two forms of prevention differently.

First, the laws on public meetings are preventive in an implicit way. As presented above, federal law No.54 puts out many regulations that organizers and participants of the meeting should follow to register their events for the local authority. The organizers' qualifications to submit the official registration, finding the proper venue and the time of public meetings, the organizers' duty to keep the number of participants within the predetermined limit, and the responsibility for the actions of the participants' during the public meeting are raising the cost of holding public

meetings. From the perspective of participants, there are various barriers to participate. They are not allowed to mask their faces for identification by the authorities. Holding undesirable types of pickets or chanting can be the basis for numerous different charges not only under protest laws but other laws, such as promoting extremist materials. Participation in public meetings essentially means risking the chance of being arrested, charged, and endure penalties as the regulations are so meticulous that it is almost impossible not to be charged. As such, the laws on public meetings prevent the events from taking place in the first place.

Second, counter-extremism laws are more direct in their endeavor to prevent extremist activities. What is standing out in the counter extremism law is its preemptively preventive clauses in combating extremism. The main focus of the countering extremism law is not really to punish the violators of certain regulations under the category of extremism, but rather to prevent such violations before them being realized. In law No.114, article 2 "Basic Principles of Countering Extremist Activity" stipulates that "countering extremist activity is based on several principles," among which includes "the priority of measures aimed at preventing extremist activities." Article 3 "The Main Directions of Countering Extremist Activities" also indicates the two main areas of countering extremism: (1)"first, taking preventive measures for eliminating conditions that are conducive to extremist activities, and second, identification, prevention and suppression of extremist activities." Though both directions include the word "prevent", the difference lies where the first direction is more general application as it takes preventive measures toward wider target to detect and eliminate causes or conditions which yield higher probability to extremist activities, but yet to be an extremist activity. The second direction is more direct involvement of extremist activities that are actually happening on the ground.

The emphasis on preventive measures can be found again in the bill No. 114, article 5 and 6. In article 5 “Prevention of Extremist Activity”, the relevant authorities “take preventive measures, including educational, propaganda, measures aimed at preventing extremist activities as a matter of priority.” In article 6, “Announcement of a Warning about the Inadmissibility of Extremist Activity”, “for sufficient and preliminarily confirmed information about impending illegal actions containing signs of extremist activity, and in the absence of grounds for criminal prosecution, the Prosecutor General of the RF or other relevant authority sends a written warning about the in admissibility of such activities with an indication of the specific reasons for the warning.” This clause corresponds with the first direction of combating extremism as stipulated in the Article 3 - identifying and the eliminating the impending signs of extremism rather than already realized extremist activities.

These “preventive” measures become more problematic because they are added to the vagueness of the definition of extremism. The line between the signs of extremist activities and the actually committing extremist activities is blurred. This happens due to the fact that the definition of extremism is wide and vague, and also to the fact that the law does not indicate the clear distinction between the impending signs of violations from the actually committing the activities. The discernment of that distinction is ultimately up to the law enforcement bodies and the decisions of the courts, not in the deeds of the violators.

Lastly, the counter-terrorism laws had its own preventive clauses with less direct approaches than the counter-extremism law. However, it also aims to “prevent” the terrorist activities with the justification that the consequence of terrorism is more detrimental and irreversible than other crimes. For the sake of preventing terrorism, the counter-terrorism bills give the government tools of more tightening control over society. The representative third type bills

as analyzed in the previous section, the Yarovaya law, almost all the amendments are putting emphasis on the measures which can help reconnaissance activities in preventing terrorist acts in advance.

The articles regarding information control, for example, are giving the tools for government to more fully control the traffic of information on the internet and telecommunication. Such informational control is justified for prevention of terrorist activities. Information control itself is not charging terrorist activities but rather to find or suppress, or in advance quell down the conditions which might lead to terrorist activities. Prevention becomes a strong tool for the lawmakers to make such laws to give the government an additional tool for control over its people. Tightening control on religious liberty is also another aspect of such preventive regime rather than engaging directly with terrorist activities. When it comes to religious liberty, its connection to terrorist activities is so unattached to the extent that it is not understandable why legal regulation on religious liberty and missionary activities fall under the category of counter-terrorism legislations. The newly adopted criminal article, art. 205.6 is showing how far "preventive" clause can reach in a legal code. As mentioned in the previous section, the art.205.6 establishes that it is a crime not to report such activities that are presumably preparing terrorist activities. This law is basically stipulating that non-action (not reporting) on non-committed crime constitutes a crime.

Expanding the Administrative Code

An important feature found in the above case analysis is the incorporation of Administrative Code articles to punish violations governed by the repression laws. As updates are made, more provisions from the Administrative Code appeared. The tendency to utilize the Administrative

Code is distinctive, considering the fact that it was mainly provisions from the Criminal Code that were used to charge the targeted civil activism. In other words, the misconducts that are being defined newly in the repression laws by the frequent and constant updates lean towards utilizing the Administrative Code more than the Criminal Code.

The following discussion is to briefly touch on how each category of the repression laws has been making inroads to the Administrative Code. Under the public meeting category, since the first appearance in 2012, art. 20.2, and art. 20.2.2 became the representative laws to charge the violations regarding public meetings. Even though a similar provision under the Criminal Code, art. 212 existed previously, responding to the newly rising tide of mass protest necessitated the adoption of art. 20.2, and art. 20.2.2 for prosecuting and punishing individuals for participating public events. Though a later update in 2014 created art. 212.1 under the Criminal Code to punish repeated violations of the rules of public meeting, no one has yet to be charged.

Under counter-extremism category, there appears to be more provisions from the Criminal Code than from the Administrative. Yet, the frequency of usage of each penal code yields different implication. As mentioned above, laws for reposting cases reveals how administrative code articles are being used in the same constellation alongside the criminal laws. As will be discussed more in detail in the next chapter, the Administrative Code has been used far more frequently than the Criminal Code. The phenomenon that the category of counter-extremism is newly updating articles under the Administrative Code, such as art. 20.3, and their expanding application in the matters of censorship on public speech imply the intention to take advantage of the Administrative Code.

Counter-terrorism category is the most active area that intensely incorporates the Administrative Code. As the laws for counteracting terrorism take the form of preemptive prevention, it began to encroach their sphere to areas that are detached from direct terrorist

activities. The responsibilities of information network service providers, users of such services, religious organizations and NGOs, who seem to be less relevant with terrorist activities, are now being monitored and being bound by the regulations set under administrative code articles governed by the Counter-Terrorism Law. To name a few, such art.13.6 “The use of communication tools that have not passed the procedure for confirming their compliance with established requirements”, art.13.15 “Abuse of Freedom of the Media”, and art. 5.26 “Violation of legislation on freedom of conscience, freedom of religion and religious associations” are newly updated.

Why do the repression laws expand into the Administrative Code? I propose two reasons. First, the Administrative Code provides broader and more acute tools of charging violations. Second, the preventive characteristics of the repression laws fit the Administrative Code. The wider and more acute tool is made possible by using the Administrative Code. What needs to be noted here is that the violations that are covered by administrative code did or could exist under criminal code. The similar sort of conduct which were used to be handled by the Criminal Code is now being shifted to the Administrative Code. For example, protest violations used to be dealt under the Crime. art. 212, are now subject to the Admin. art. 20.2. The illegal religious activities can be charged both under the Crime. art. 148 and the Admin. art. 20.29. Terrorist related activities, under the name of preventing terrorist activities are also dealt under the Admin. Code more and more than the Crime. Code. With more updates, this particular parallel structure is being formed.

Not only does this parallel structure give law enforcement agencies more options of articles to choose to charge the same violations, but also the wider range of violations is charged now as expanding the Administrative Code can prosecute the hidden range of violations, usually light ones which the Criminal Code alone could not cover. Making parallel administrative articles inevitably reduced the magnitude of violation, the level of respective punishments, and changed the process

by which a violation is charged and punished. This is due to the fact that the overarching norms, direction and regulations which the Administrative Code follows are different from those of the Criminal Code. Putting the particular type of violations which need to be dealt under the Crime Code into the Administrative Code created a number of issues and problems.

Another reason for expanding administrative code is due to the preventive features. The preventive orientation tends to use more administrative articles. The preventive clauses do not target felonies conventionally charged under the criminal articles. The preventative scheme under the repression laws deals with the type of misconducts whose magnitude of harm is not commensurate with criminal convictions. Punishing violations of minutiae rules of holding public protest, prosecuting teenagers for posting illegal materials that might only potentially provoke the feeling of insubordination against the political, and/or religious authority, or alerting internet providers' incoordination of installing government sanctioned encryption software, are more suitable with the Administrative Code. In addition, an effective prevention presupposes a constant monitoring/policing before the more serious crimes are committed. The Administrative Code provides more effective tools of such preventative endeavors, than the Criminal Code, that provide the basis for investigation and prosecution after the fact. In other words, utilizing the penal codes under the Administrative Code is in alignment with the general direction of incorporating more preventative measures within the repression tactics.

Intertwining Categories

The initially independent three categories become intertwined one another as more updates are made. The boundaries of the categories are blurred because first, the related articles are used for

more than just one category making the distinction between the categories meaningless in practice, and second, the contents of each categories are formally reshaped so that it covers more than a single category. Intertwining occurred by the following three phases.

In the first phase, laws that update other preexisting legislation under a theme, such as Yarovaya law, touch on different categories simultaneously: It revises public meeting related articles in the name of counter-terrorism or counter-extremism. In other words, while the formally pronounced purpose of update is for counter-extremism, in practice, it reshapes the other two categories: counter-terrorism, and public protest articles. This measure of blending different articles under one category intensify the tendency that the laws are used across categories. In the second phase, some specific terms which were found in only one category begin to appear in another. With the simultaneous updates made in the first phase, words such as extremism can be found under counter-terrorism, and public meeting laws. Inserting the core terms that used to define only one category to the others brings out a subtle change in applying the laws on the ground in the beginning, but it eventually leads to the practice of interchangeable application of different laws to similar misconducts. In the final phase, the clauses that were not associated with the repressive laws originally become inclusive part of the genre. This occurs because widening application of the repression laws, results in encompassing its influence in other areas of laws. This is to say that expanding the use of the Administrative Code, and intertwining three categories of laws, attract similar laws to be used alongside the repression laws.

The federal law No.114 “On Counteracting Extremist Activity” (Jul 30, 2002) illustrates how the three phases of intertwining strategies produce a genre of the repression laws. The federal law No. 114 is the first-type law that provides overarching norms and regulations for the field of

counteracting extremism. The laws[87] that updated the law No.114 simultaneously created, and revised multiple laws including the law No.114. These updates systematically and gradually interwove the articles in the repression laws under the ambiguous umbrella concept of extremism.

The updates on the law No.114 are reshaping other laws concurrently. The appearances of the vocabularies such as extremism, protest, public meetings and terrorism across all three categories are the evidence of the intertwining process. The reference of terrorism, or public meetings within the counter-extremism laws open up the application of the counter-extremism clauses on the cases that originally were convicted under the name of public meeting or terrorism. For instance, in the law No. 114, art. 1. "Basic Terms", stipulates "public justification of terrorism and other terrorist activities" as one of the extremist activities. Also, according to art. 15 (under the law No.114), "Prevention of Extremist Activities during Mass Actions", the extremist activities are prohibited during public meetings, and the organizations which are included in the warning/prohibition list cannot organize or participate in the public events. As a result of interweaving the laws, formerly irrelevant laws can be involved with extremism and/or are interpreted via the lens of extremism. The representative examples are clauses related to social enmity and religious consciousness, education, LGBT rights and informational control.

The intertwining is the combined effect of intention of the legal-minds who construct the laws in a particular way, and the by-product of making new laws by planting them in the preexisting webs of the legal framework. Either way, the effect of the intertwining is a concrete one – widening the influence of a vague legal norm as extremism to other areas of laws. The extremism category is widening its scope by incorporating more misconduct that previously was

[87] The law No.114 has been updated by the following laws: 27.07.2006 N 148-ФЗ, от 27.07.2006 N 153-ФЗ, от 10.05.2007 N 71-ФЗ, от 24.07.2007 N 211-ФЗ, от 29.04.2008 N 54-ФЗ, от 25.12.2012 N 255-ФЗ, от 02.07.2013 N 185-ФЗ, от 28.06.2014 N 179-ФЗ, от 21.07.2014 N 236-ФЗ, от 31.12.2014 N 505-ФЗ, от 08.03.2015 N 23-ФЗ, от 23.11.2015 N 314-ФЗ.

not related to extremism. The implication of such widening influence is mainly in two folds. First, people's perception of the newly defined behaviors with extremism can change. By defining certain activities – such as posting particular messages or images on the internet – as extremism, not only does the term itself enter into the daily lives' lexicon, but also influence people's perception towards the defined acts, often resulting in self-censorship. Such permeation of the norm of extremism can be subtle but profound. Second, such a widening scope of extremism yields serious implications in enforcing the relevant laws. The vagueness of extremism and the related preventative clauses magnifies the chances of abuse by law enforcers such as police, prosecutor, and courts. In sum, the widening influence gives more room for malleable interpretation of the laws ever, rendering the discretionary practice of law enforcement a norm than an anomaly.

Chapter 6. Law Enforcement

The results of applying the repression laws in Russia during the period of 2010-2017, followed a distinct pattern. The pattern is the large proportion of final convictions under articles of mid to low levels of severity. While the total number of convictions increased since 2010, the actual magnitude of judicial punishment did not catch up with the former. On the one hand, the visibility of state repression has been getting stronger, on the other hand, majority of those who is punished underwent relatively mild forms and levels of punishment. The mismatched trend between frequency and severity under the repression laws presents a puzzle. Amidst increasing enactment of laws repressing civil rights in diverse ways, and with the increasing need for state repression of visibly growing popular dissent, why do we not see higher level of severity? Why not use more repressive crackdowns and severe punishments such as more imprisonments by criminal charges? Why employ massive arrests and charges only to yield a higher number of convictions, resulting merely in petty punishments such as fines or short periods of administrative detention?

From a schematic perspective, the resulting pattern of convictions is the outcome of using particular articles more intensively than others. The question is then, why do we observe such a preferential use of certain articles? This research finds that the biased use of particular articles results from a distinctive confluence of the law enforcement's preexisting incentive structure and the provisions of the repression laws. To situate it in a bigger picture, state repression as measured by the conviction results is the consequential effect of the following factors: the deflection of the elite's original intent to repress civil society by the lawmaking process, the contents of the repression laws, and finally, law enforcement practices. As previously outlined, the elite's original intent to repress civil society is first shaped by the lawmaking process. This lawmaking process,

in turn, produces the repression laws, the contents of which reflect not only the initial intent but also the unique properties of the lawmaking process itself. In this sense, the contents of the repression laws deviate from the original intent of the state. We now arrive at the final phase - when such laws are applied on the ground, they are merged with preexisting law enforcement practices. This merger results in the biased invocation of a specific set of articles, producing the specific form of conviction bias - the mid-low severity concentration.

I set forth a set of factors that arise from the confluence of the law enforcement's preexisting incentive structure, and the provisions of the repression laws. The factors are: 'institutional competition', 'preventive measures', 'administrative charges', 'widening discretion', and 'more severity, ceteris paribus'. Before presenting how each of these factors arises, and constitutes the conviction bias, I discuss what the incentive structure is, and which actors are involved in that structure.

6.1 Incentive Structure of Law Enforcement

To make sense of the preferential use of certain articles over others it is essential to understand how different law enforcement agencies function as a coherent system. The conviction bias, "the mid-low severity concentration," is not a making of a single agency, but operation of law enforcement system as a whole. As the law enforcement agencies work in a sequential conviction chain, only by unveiling their relational operation, the detailed causal mechanism of the particular form of conviction bias can be brought to light.

Russian law enforcement is well known for its prosecution bias: Its convictions reflect a pattern as to how prosecutors choose, indict, and present cases in courts. Though it implies the

influential position of the prosecutor's office vis-à-vis other law enforcement agencies, the bias is not made solely by prosecution. The conviction bias is the function of shared incentive structure among different law enforcement agencies, largely attributed to the preexisting performance evaluation scheme (Paneyakh, 2014, 2015). The law enforcement agencies have shared incentives in the direction for reinforcing the conviction bias, because, with the lack of external constraints, each agency follows the logic of bureaucratic accountability, prioritizing its institutional survival by avoiding liability, not necessarily by performing better to serve the public interest (Solomon, 2012; Paneyakh, 2015). When such an operational logic exists in the conviction chain in which multiple agencies work side by side their survival depend on one another. Put simply, the bureaucratic accountability of each law enforcement body can only be achieved by mutual cooperation. Against this backdrop, a shared incentive structure is created for law enforcement, encompassing security forces, prosecutors, and courts.

The shared incentive structure is developed mainly due to the two following evaluation schemes (Paneyakh, 2014, 2015). First, the performance of each officials, prosecutors and judges in the law enforcement organizations are evaluated based on the summarized statistics of their performance. While the statistics cover various aspects, they are geared toward something that can be quantified – such as number of investigated cases, indicted cases, appeals, the severity of final verdicts, acquittal rates, and so on. Second, the work is organized in a vertical hierarchy, meaning every subordinate is only responsible for reporting to his or her direct superior. The performance of middle or upper level management is evaluated based on the summarized statistics reflecting the performance of their corresponding subordinates. These two factors in the performance evaluation creates the practice of "hitting the numbers," carrying out tasks so that it can be well reflected in the targeted indicators, focusing more on quantity than quality.

To hit the numbers, each law enforcement body should clear its cases by passing them onto the next phase in the conviction process. The numbers would not be counted, if cases are not properly filed, returned or dismissed. In other words, the cases one individual agent prepares should be accepted[88] by a law enforcement agency located right next to the former agency. To be accepted, the cases should be something favorable for the next agency in the context of "hitting the numbers" performance evaluation. Simply put, to hit the numbers, one needs to care for how other agencies (in the next phase) hit the numbers. As they pass the cases along the line of conviction chain, the incentive for choosing certain cases is forged in a way to benefit everyone involved in the chain – hence, a shared inter-organizational incentive structure.

For example, police officers monitoring potential illegal activities are prone to choose cases which will initiate official preliminary investigation. In the immediately following phase, those who investigate the cases likewise prefer cases whose indictment would be approved by prosecutors. Prosecutors in their turn are incentivized to approve indictments which later yield guilty verdicts in courts. Knowing other agents' preference in advance helps to choose the right cases whose probability of clearance is higher. This way, all the different law enforcement organizations, be them police, FSB, prosecutors or courts, will in the end form similar incentives as to which cases they prefer. As they all want to "hit the numbers" they are prone to find easy cases – the cases which will boost the "numbers" but which requires less work –such as gathering evidence, writing protocols and drafting indictment statements along with diverse activities finding violators to finally yield guilty verdicts. Especially, prosecutors prefer cases, with other things

[88] The acceptance takes diverse forms in different phases of conviction chain. For field investigators, the indictment statements or protocols they draft should be approved (accepted) by prosecutors. For prosecutors, in their turn, the acceptance of a case means that it went onto the trial phase passed by court hearings, and eventually getting the verdict that she pursued in courts or not to be appealed.

equal, which will be vindicated with severer level of punishment. The law enforcement officials prefer standardized cases as they already have pre-made documents– no need for additional work.

6.2 Actors

The law enforcement in the RF, at least according to an official account, is not much different from how a democratic judicial system works. It goes through three phases, investigation, prosecution and conviction by trials. All the procedures are governed by formal legal principles and expected to be transparent to the public[89]. What sets apart Russian law enforcement from other states is how different actors in the process operate, and how much influence the executive body exert over the actors. Categorically, three types of actors are involved - Investigative Body, Prosecutors' Office and Courts. The Investigative Body such as police or FSB agents initiate cases based on evidence they gather. Prosecutors involve in the end of preliminary investigation phase by indicting cases and appear in court to defend their stance. Final decisions on conviction are made in court. The three government law enforcement authorities are examined each in turn, focusing on their relative power vis-à-vis each other and their relationship with the executive body.

Investigative Body

[89] Criminal conviction process is mainly governed by Criminal Procedure Code of the RF (Federal law No.174, adopted on Dec. 18, 2001). It has been the target of criticism which dubiously recognize the responsibilities of law enforcement agencies and the judiciary procedures which should guarantee the defendants' right to due process and fair trial. See Severance (2002), Burger & Holland (2008), and Greenberg (2009).

There are three official investigative agencies in Russia according to the Criminal Procedure Code of the RF: The Investigative Committee, FSB (the Federal Security Service) and MVD (the Ministry of Internal Affairs). The investigative agencies are legally mandated for preliminary investigation, a phase which involve monitoring, gathering evidence, finding culprits, initiating criminal charges, and drafting indictments. Each agency's jurisdiction for preliminary investigation is indicated in art.151 in the Criminal Procedure Code. The Investigative Committee covers most of felonies and high-profile crimes. FSB's jurisdiction focuses on crimes related to national security, terrorist activities, or weapons/narcotics. MVD takes up the widest range of crimes except for some clauses that are specifically designated to the other two bodies. Although the jurisdictions are circumscribed with specific clauses, in practice, it is not clear whether which agencies should or should not engage with which crimes.

Not only does the designated jurisdiction for the three agencies overlap partially as stipulated in the law itself, the constant rearrangement of organizational structure between and within the investigative bodies adds to the complexity of mixed jurisdiction. For example, the Investigative Committee which was founded under the Prosecutor General's Office in 2007 and became an independent stand-alone organization in 2011, took the investigative function from the Prosecutor's Office and the Police. This entailed reshuffling of resources, subdivisions and employees from MIA and Prosecutor's Office to the new institution. Likewise, the creation of spin-off bodies such as Rosgvardiya, Roskomnadzor, and the Center for Counter-Extremism (hereinafter referred to as Center "E") also accompanied restructuring the preexisting law enforcement agencies. On top of the rearrangement of personals along with their functions, the convoluted and vague nature of the Criminal Code and the Criminal Procedure Code of the RF additionally entangles the jurisdictional confusion.

Though the three bodies are in the midst of jurisdictional turf wars, the Investigative Committee is the one who oversees the activities of the two other agencies. They can initiate criminal prosecutions for government officials, the members of FSB, MVD, and even the Prosecutor's Office. In this regard, the Investigative Committee has more authority over other law enforcement bodies. Yet, FSB has been known to be the utmost influential organ in the politics of Russia, as the term Siloviki implies - a nickname for a group in the inner circle of central elites which is comprised of former security forces such as FSB agents, police, and military personals. The influence of FSB in this sense is not limited to the law enforcement process per se, but reaches as far as policy makings in the PA, Kremlin and the State Duma. MVD, as opposed to a newly empowered body - the Investigative Committee, or a traditional powerhouse – FSB, is less powerful. For many year, it has been the target of reform for its inefficiency, lack of capacity and corruption The MVD had to give in its resources and sub-functioning organs to other newly established organizations. Along with the parceling off their own departments and manpower, their jurisdictions are constantly shifting.

Prosecutors' Office

Conventionally, prosecutors are considered to be the most powerful law enforcement agency in Russia. *Prokuratura* whose claimed origin stems from the 18th century Russian empire, supposedly possesses many inherited qualities formed during the Soviet period as an authoritative organ which enacts the will of the CPSU, than answers to law (Berger & Holland, 2008; Greenburg, 2009). Unlike its counterparts in other judiciary systems, whose primary work is prosecution of crimes, Russian prosecutor's office had more wide-range of mandates with its investigative authority, and

supervisory role over other government bodies, government officials at all levels, and even the judicial process. Some observes that the prosecutor's office also exert their influence in policy makings through the PA and the State Duma (Noble & Schulmann, 2018). As such, the prosecutor's office has not been only a prosecutorial agency, but rather a politically influential organization which covers the law enforcement across the board, investigating and prosecuting crimes in general, and supervising other government agencies' compliance of the laws (or their alignment with the central elites).

Having such an overarching position in law enforcement, the prosecutor's office has been at the center of critics for legitimizing the authoritarian political maneuvers of state. As a political instrument, the prosecutor's office has been known for targeting political opponents of Kremlin, giving blind immunity to the allies of the central elites, and cases of abuse of power in their law enforcement activities (Burger & Holland, 2008). To remedy the ill, in 2007, Investigative Committee (*Sledkom*) has been established as a subdivision under the auspices of the prosecutor's general to take over the investigative function of the prosecutor's office and the supervisory role by separating the jurisdiction of prosecuting high profile criminal cases for government officials or other law enforcement officials[90]. However, it has been criticized that the creation of the Investigative Committee was less about reforming the prosecutor's office than a political epitome resulting from factional rivalry within *Siloviki* (Burger & Holland, 2008). In the critics' eyes, it divided the tasks (not so clearly) which were held by the prosecutor's office between the two distinct bodies which are constituted by exactly same people as before, only to add institutional tension and confusion. Despite the formality of reform, the creation of the Investigate Committee did take away some core functions of the prosecutor's office and thus weaken the power of the

[90] The supervisory role also includes the rights to initiate investigation and prosecution over the prosecutor's office. Sledkom became an independent organization in 2011, reporting directly to the president of the RF.

office relatively. Yet, it does not necessarily mean that it rendered an independent law enforcement body away from the influence of politics. The prosecutors, being the political instrument of the powerful elites, selectively prosecuting and answering to the Kremlin still remains to be the case. Political will, if be reflected in the law enforcement process, then it most likely emanates through the prosecutor's office (Smith, 2007).

In relation with the repression laws, the question is whether the prosecutor's involvement in prosecuting crimes is politically driven or not. There is a stark contrast in what prosecutors do between mundane cases and high-profile political ones. Some research (Hendley, 2004; Hendley, 2006; Solomon,2007) analyzing the recent judicial processes reports that the people are turning to both courts and prosecutors more for their complaints, reasonably expecting their case will be heard and observed by law on fair grounds, indicating the trust for both prosecutors and courts has been increasingly recovered. As such, for general cases, i.e. nonpolitical ones, the performance of the courts and the prosecutors is increasingly considered as independent, fair and trustworthy. This does not apply to politically driven, high-profile cases. When political will drives the prosecution process in a particular way, the prosecution process deviates from the day-to-day operation.

Is application of the repression laws politically driven? The answer can be both yes and no. Yes, because the bills and the articles which compose the repression laws itself was the product of politics carrying the political will of the elites to suppress, and, if possible, to uproot civil society. Many politically sensitive cases such as hindering or quelling down public protest especially of political nature, targeting renowned opposition leaders or civil activists, or controlling media in a conflict-ridden region are dealt under the repression laws. However, as will be discussed later in detail, the majority cases that are charged by the repression laws are rather mundane cases, increasingly more so as time goes by. Even though the repressive bills definitely

carry political intention, the individual charges using the provisions of the repression laws are not the product of the keen attention from political elites. This is to say that the main body of the conviction results under the repression laws is the result of mundane law enforcement without particular political pressure from the top. The repression that is done by political pressure using some of the provisions of the repression laws is an anomaly, rather than norm, which one should be able to detect. What finally shapes the contour of state repression via judicial measures is more the preexisting practices of law enforcement using the repression laws than ad-hoc political will.

Courts

Compared to the powerful and politically driven prosecutor's office, the Russian courts are more known for its subservient position in law enforcement system (Ledeneva, 2008).While prosecutors are playing the central role in leading law enforcement mostly in line with the interests of the political elites, courts are complementary to such prosecutor's endeavor. Several features on the part of the courts are worth noting in that regard; the practice of giving low (or non) acquittals, low probability of revoking original decisions by higher courts, and the bias toward more repressive law enforcement (giving severer punishment as possible) (Pomorski, 2001;Solomon, 2007). These features are the outcome of different factors such as courts' relative position in the law enforcement process, especially vis-à-vis prosecutors, and courts' bureaucratic hierarchical structure (Solomon, 2007, 2012; Paneyakh, 2015). Courts are organized in a way similar to that of typical bureaucracy wherein the chair persons of regional courts control the majority of resources and exert overwhelming influence over what individual judges' career path and tangible benefits. In this context, judges are working towards to fit the expectation of their superiors, which are not

necessarily compatible with what fair and independent court decisions. Another and more significant factor is courts' position vis-à-vis that of the prosecutor's office (Smith, 2007; Gilligan, 2010; Schultz, Kozlov, & Libman, 2014). Prosecutors and judges have informal ties which form a mutual community, which becomes a channel where prosecutor's demand and interest is delivered to judges (Schultz, Kozlov, & Libman, 2014). Meeting prosecutors' demand is more likely to render positive results for individual judges, because first, prosecutors evaluate the courts' performance while judges do not, and second, meeting prosecutor's demand coincides with the demands from their own superiors, and lastly, thanks to the mutual informal relationship, judges perceive prosecutors as part of a cooperative community at large, rather than adversary. In sum, these factors situate individual judges in a particular bureaucratic hierarchy, forging the entire judiciary, to be part of a government bureaucracy which executes the orders from the top, not an independent body constraining the power of other governmental branches[91]. Yet, its verdicts are still regarded, by and large, as products of prosecution rather than its own decisions (Paneyakh, 2014)[92]. This is to say that Russian judges are inclined to give verdicts as presented by prosecutors in courts.

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The criminal conviction chain, the locus where the above-mentioned actors are situated together, brought about the inter-organizationally shared incentive structure. Such a criminal justice process creates the conviction bias in general. I argue that it is the basic landscape on which the judicial repression on civil society is made using the repression laws. To fully account for the results of

[91] "Telephone Judges" captures such a characteristic well. The term is coined during the period of the Soviet Union for the practice of giving direct orders to judges via telephone, making judicial decision processes ambiguous and informal (Ledeneva, 2008).

[92] The relatively passive position of courts has been reportedly reversed recently, as reform for more independent and fair trials started to regain trust mostly from ordinary citizens and business sector. For this line of research see Hendley 2004, 2009, & 2016.

applying the repression laws, factors that are directly relevant with state repression on civil society need to be discovered.

6.3 Enforcing the Repression Laws

I suggest a series of factors that account for the mid-low severity concentration. Although the incentive structure in criminal conviction process explains how conviction bias is produced in general, it is not in and of itself the cause for the mild levels of repression in Russia for the following reasons. First, it solely focuses on criminal conviction which is only half the story with regard to the repression laws that contains not only the Criminal Code but also the Administrative Code. Inclusion of the Administrative Code activates different institutional logic magnifying the tendency of preferring easy, cost-efficient, and standardized cases distorting the existing conviction bias.

Second, application of the repression laws involves preventive measures such as surveillance activities by law enforcement agencies. This type of repressive repertoires are not reflected in the final conviction records. It renders meaningfully different calculation for the performance evaluation especially concerning the practice of hitting numbers.

Third, new agencies established to carry out particular tasks bearing on the repression laws should be approached differently than that of other preexisting law enforcement bodies.

Fourth, the particular characteristics of the repression laws as discussed in the previous chapter, should be incorporated to account for the mid-low severity concentration. Which parts of the repression laws makes the incentive structure stand out more or less? Why do certain articles

have more affinity with the preexisting incentive structure? Answering these questions explain why the mid-low severity has been manifested in the conviction results.

Having these additional considerations in mind, I argue that, on top of the inter-organizational incentive structure, the following factors operate in law enforcement in conjunction with the repression laws. The factors reveal how the law enforcement officials are incentivized to choose cases and corresponding article(s) among others, in every juncture of the conviction process. In what follows, I discuss each factor in turn in greater detail.

a. Institutional Competition

With the passage of repressive bills, new institutions, both internal to and external to law enforcement bodies, are created for the fulfillment of specific tasks to repress civil society. For example, the Center for Counter Extremism (Center "E"), Rosgvargiya, Roskomnadzor, and the Investigative Committee (Sledkom) were organized by rearranging the resources of preexisting law enforcement bodies, such as MVD. The new institutions intensify the rivalry that characterizes law enforcement activities for two main reasons. First, "institutional survival" instinct inculcates the new institutions with the organizational urge to prove their worth by overperforming in their tasks. Second, the "overlapping tasks" phenomenon ensures that the newly added institutions compete with the preexisting law enforcement agencies for cases, in accordance with the shared incentive structure, because the relevant laws that circumscribe the corresponding jurisdiction for each law enforcement body are vague.

Within the preexisting inter-organizational incentive structure, the new organizations are positioned to fit within the preexisting system. With all else being equal, the new agencies strive

to yield as many results as possible to prove themselves worthy of continued existence, bureaucratic empowerment, and, eventually, additional resources, such as facilities, manpower, and budget. The logic of institutional survival should inevitably entail an organizational push toward expanding its jurisdiction vis-à-vis other agencies, especially in a volatile environment in which new agencies are relatively easily formed and dissolved. It is against this backdrop that newly created agencies eagerly try to boost their overall performance. The new institution's zealous contribution in charging and prosecuting violations of the repression laws accounts for the proliferation of the relevant conviction.

The additional agencies, which are eager to perform to the best of their respective abilities, contribute to the jurisdictional confusion, which engenders overlapping tasks among law enforcement bodies. The overlapping jurisdiction increases the rivalry in applying laws to the same targeted behaviors. This tendency becomes severer when it is far from clear as to which part of the repression laws resides under the purview of which organization. For example, the FSS, the Center "E", the police, and Roskomnadzor all seem to boast a legal mandate to monitor and investigate extremist activities, especially in online space. The increasing competition between these different bodies to regulate a similar set of behaviors implies the following. It adds to the general inefficiency of law enforcement, as multiple government bodies seek to use different (often the same) laws to address the same violations. It increases the number of charges (frequency in the conviction records), as agencies tend to exhibit higher productivity as part of their efforts to compete more effectively by surpassing the competition. Lastly, as individual officials are pressured to meet their own targeted quotas, at which point the competition for the same violations intensifies further, the urge to find even marginally relevant cases begins to take center stage.

b. The Repression Laws - Preventive Measures

Preventive measures are a large part of the newly enacted repressive articles to regulate the overall areas in which civil society is engaging. Preventive measures in various forms, such as monitoring online and offline activities, executing covert maneuvers to gather necessary intelligence, or interrogating civil activists unofficially, are still positively reflected in the law enforcement performance. In spite of this, however, attempts to translate such measures directly into official conviction records may, for some agencies, be destined to fail. This is because certain behaviors, regulated by the repression laws that are yet to be officially prosecuted, serve as targets of these preventive measures. Some of these violations, instead of being officially convicted by courts, are punished by placement onto a blacklist , receipt of warnings for shutting down websites, or confrontation with (the threat of) forced closures of organizations or businesses. These cases remain unnoticed in the conviction records, but they still belong to a targeted spectrum of behaviors, which will be added to the performance evaluation of law enforcement activities. The unnoticed portion of law enforcement activities should be taken into account in any interpretation of the final conviction results.

c. The Repression Laws - Administrative Charges

The administrative articles are incorporated as a crucial part of the repression laws in terms of both quality and quantity. The use of administrative articles to regulate the newly rising civil society has been the main feature of state repression in recent years. Administrative charges are applied in a more consistent manner and entail relatively light punishment. The mid-lower severity

concentration is due in large part to the adoption (and use) of the administrative articles under the repression laws.

The administrative articles fit within the preexisting incentive structure. In the practice of hitting numbers, administrative cases are more than welcome, as their conviction process is a lot simpler than criminal proceedings. The simpler process translates into cost savings, greater efficiency, and, thus, higher "numbers" in a given time. Increased use of administrative articles leads to forming standardized cases, which help to reduce the marginal cost of prosecuting an additional case. Once standardized cases have been formed, typical types of convictions using the same articles can proliferate. The proliferation effect occurs mostly with administrative cases due to the simplified process of administrative conviction.

While the preference for administrative charges, given the preexisting incentive structure, makes sense, it has another impact on law enforcement. As far as the repression laws are concerned, prevailing administrative charges render prosecution and conviction practices more discretionary (Paik, 2017). As more violations under the repression laws are incorporated into the Administrative Code, law enforcement officials can take advantage of opportunities to use more administrative articles. Resorting to the administrative articles rather than the criminal articles grants more room for pure discretion on the part of law enforcement agents as to whether to charge and punish. The nature of the violations that are subject to the Administrative Code, light and petty violations that do not necessarily entail malignant intentions, warrants such discretion. Furthermore, invoking administrative articles is, in itself, less burdensome than initiating criminal charges, which is followed by indictment approval, court hearings, and trials. In this regard, providing law enforcement with this abundance of administrative articles means that they are freer to use their discretion to decide whether to initiate the whole conviction process.

Another aspect of discretionary practice lies in the fact that law enforcement faces a wide array of opportunities to choose between administrative charges and criminal charges. Many targeted behaviors are treated with both administrative articles and criminal articles. This forms a parallel structure to give the law enforcement agencies diverse options of clauses under which to charge and indict the very same types of behaviors. As such, the question of whether administrative or criminal charges are applied is becoming increasingly subject to the discretion of the law enforcement officials concerned. When such a choice is available, rather than depending on the content of the violations, the nature of the charges applied will depend on the relevant official's discretion.

d. The Repression Laws – Widening Discretion

One of the characteristics of the repression laws is categories intertwined across each other. As bills are updated, the three main categories, distinctively developed in the beginning, face the process in which they are rearranged and intermingled across different categories. In particular, the laws on countering extremism have been widely infiltrating the two other categories, the laws on public meetings and on counter-terrorism. When the contents from one category are combined with the contents from another category, the range of application of such a law becomes inevitably vague, for two reasons. First, the regulatory clauses, which initially targeted only one category of action, suddenly aim to target multiple actions under different categories. For example, surveillance for preventing potential terrorist acts can become widely applicable to those who organize public meetings or any other types of extremist activities. Second, core concepts, especially "extremism", are defined ambiguously, with a wide-ranging scope. With a loose and

wide definition of such a core concept, the laws will not necessarily become sources for reference in directing law enforcement on the ground. Rather, questions of when and how the laws are applied will depend entirely on each official's interpretation of the laws. As such, when the laws themselves no longer concretely guide how law enforcement agencies apply them, the incentive structure will induce officials to use the laws in the way that most benefits them. In other words, the cases that help with hitting numbers, that create lighter workloads with superior results, and that produce standardized paths for a repeated use in the future will be preferred in the application of laws that do not necessarily provide definite grounds for their enforcement.

e. More Severity, Ceteris Paribus

The inter-organizational incentive structure implies that, when other conditions remain the same, law enforcement officials tend to impose severer punishment. This is because charging and indicting more serious violations is better reflected in the performance evaluation (Paneyakh, 2015). This should also be the case for the repression laws. The preference for severer punishment, however, weighs less than other factors with regard to applying the repression laws. The tendency to prefer severer punishments is likely to be surpassed by other, more pressing concerns, such as saving time and resources for yielding higher case clearance on the part of an individual official or agency. In the midst of different factors to consider, such as difficulty in gathering evidence, the existence of assured culprits, and whether the evidence would warrant clearance in the conviction chain, the preference for severer punishment can be deprioritized. The severity factor should, however, make a difference in a situation where other considerations have already been addressed.

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The above factors accounting for the mid-lower severity concentration are observed across the board in applying the repression laws. In summary, the final path of repression via judicial measures is created by applying the laws along the lines of how the preexisting incentive structure informs the law enforcement. In the following section, I bring up two in-depth case analysis to unveil the detailed processes of these different factors at work.

6.4 Public Meetings

Denis Lutskevich, who has had never participated in any public protest until the Bolotnaya Protest, was beaten up by riot police during his first appearance in a public meeting in Moscow on May 6, 2012. To his surprise, a month later, he was accused of using violence against the authorities, the riot police. The evidence presented by prosecutors was testimonies of the riot police themselves and a video clip merely showing Lutskevich standing nearby the police officers. Lutskevich went up to the appeals court and made a separate appeal to the Investigative Committee[93] to revoke the first decision made by a district court. None of the appeals changed the original decision - a guilty verdict under criminal penal code, art.212, and art.318, that sentenced him three and a half years in prison.[94]

Lutskevich is one of the many "the Bolotnaya Case (*Bolotnoe Delo*)" victims. The Bolotnoe Case refers to a series of lawsuits, 30-50 cases, some of which is still on-going until today, made against participants of the Bolotnaya protest in May 2012. The Bolotnaya protest was in the midst of a series of historical mass protests, broken out abruptly, to contest the results of parliamentary and the presidential election, which took place in late 2011 and the first half of 2012, respectively. The State Duma hurriedly responded by passing a set of legislation strengthening regulations on public meetings with severer punishments – federal law No.54 (Jun 19, 2004), art. 20.2 and art. 20.2.2 were the direct outcome of such a response.

[93] The Investigative Committee of the RF is an independent government organization for high-profile criminal investigation, which was established under the Prosecutor General's office in 2007 and became a de-facto independent law enforcement body answerable directly to the president of the RF in 2011. It has been known that it was created to keep the Prosecutor's Office and Police in check, especially weakening the influence of the Prosecutor's General's office by taking away its primary investigative function.

[94] The anecdote of Denis Lutskevich's case is a stylized summary of multiple media reports. The detailed records of Bolotnoe Delo can be found at OVD-info (https://ovdinfo.org) and PolitPressing (https://politpressing.org).

As with Lutskevich case, most of the Bolotnaya cases ended with guilty verdicts with 2-5 years' prison terms based on ill-founded evidence presented by the law enforcement agencies, taken favorably by courts. The persecuted were mostly random individuals, not the members of a political party or an organized social movement. Appeals were meaningless as the first courts' decisions were never overturned, only incurring additional burden of legal cost on the accused. These individuals, even after serving their prison time, often fell under the administrative surveillance regime[95] that requires one to report police about their whereabouts regularly, are prohibited to take part in public meetings, or any other civil society's activities of that sort and even their use of online networking sites. It can also limit a workplace and the place of residence.

As such, the *Bolotnoe Delo*, 30-50 cases of criminal charges with either (or both) art.212 or art.318 are made on an arbitrary, ad-hoc basis, unfairly accusing innocent participants in most cases. The law enforcement went as far as to find the cases that can be charged on any possible ground, even if it means fabricating evidence and taking up false testimonies. The investigation tracking down culprits for violating the laws of public meetings continued until as late as 2015. As much as the Bolotnaya Protest was a historical anomaly, and a shock to the central political elites, the urge for controlling the wave of protest was much stronger than usual, pressuring the law enforcement to contain the protests and the related activities as rapidly and effectively as possible. The political nature of the particular repression might account for the significantly severe magnitude of punishment imposed on these participants. Prison time for 2-5 years would situate them in the severer side on the severity index I introduced in chapter 3[96]. It is right beneath the

[95] "Administrative Surveillance" is indicated in the federal law no.64 (Apr 6, 2011), "On administrative supervision for persons released from places of detention". It is one of the measures that the police can take to prevent further crimes by those who got released from prison.

[96] I assigned severity scores of 1 to 10 to the least severe punishment under an article, 1 being the lowest level of severity and ten being the highest. For a more detailed discussion on the standards of assigning differential index scores, refer to the Appendix.

highest level - more than ten years of a prison sentence to life imprisonment. In sum, the Bolotnaya Case demonstrates the highest levels of severity that the law enforcement of the RF could reach within the existing laws of public meetings. Given the levels of threats that the Bolotnaya protest was posing to the incumbent regime, why did the Bolotnaya Case prosecute only so much, 30-50 individuals?

It is puzzling because 30-50 individuals under the Bolotnaya Case is only a minuscule part of the whole protests. The unofficial estimation of protesters who participated in the Bolotnaya protest was at least hundreds of thousands.; the number culminated at its peak on the eve of the inauguration of Putin as a president. Although 30-50 criminal charges are a large number in itself, given the quantity of the entire participants of protest, the number of criminal charges is only a small portion. The records of criminal charges for public meetings also vindicate the limited propensity of prosecution in this matter. In 2012, when the Bolotnaya Protest occurred, in total, 47 convictions were made under art.212[97]. It came back to the prior level before 2012 to 21, 30, and 16 convicted cases in the years 2013, 2014, and 2015, respectively. In 2016 it increased again to 49 and then in 2017 to 52 convictions. The conviction trend under art.212 implies that its invocation in a large quantity more the 30 was a rare event, as it maintained the pre-Bolotnaya level for three years during the period between 2013 and 2015. Even when it was highly used, as in 2012 and 2016-17, it appears that the highest conviction rate has hit a glass ceiling at around 50. What accounts for such an apparent limitation in criminal charges for public meeting cases?

The flip side of the question is the fact that the number of people convicted for public meeting violations has increased continuously. While the criminal convictions are limited in public meeting cases, more convictions can be found with administrative charges. Since the 2012 protest,

[97] This was a stark increase from the previous year's conviction record. In 2011 only 25 were convicted under art.212.

during the time the criminal charges stagnated, the administrative charges starkly increased. The administrative convictions under art. 20.2 and art. 20.2.2 takes up most of the frequency in public meeting convictions since 2012. In other words, convictions on public protests have been increased in terms of its volume throughout these years, mainly due to the administrative charges whose punishment is mainly in the lower band of severity. From the perspective of participants of public meetings, most of the time, they can go to public meetings and demonstrations without being arrested or punished. If charged, they end up with administrative fines or arrests for a couple of days. In sum, the Russian state oppresses participants of protests and puts a stronger restriction on the freedom of assembly, a lot more than their democratic counterparts, but not to a degree to refrain people from taking streets, out of fear of brutal violence or serious criminal charges.

I argue the results of state repression concerning public meetings as above are making of circumstantial factors and preexisting structure of decision makings on the part of law enforcement, rather than the central elites' design. The public meeting cases demonstrate how the process of law enforcement produces distinct results of state repression.

Incentives for Administrative Charges

Public meeting cases reveal how law enforcement officials are more incentivized to use administrative clauses over the criminal. The law enforcement bodies are sensitive in saving the cost to produce the results of their work, according to the existing performance evaluation system. Against this backdrop, with other things remain the same, choosing administrative over criminal cases, if such a choice is available, would be more beneficial in economizing the needed cost in improving performance records. In the following, I discuss how the balance between using

criminal penal codes and administrative once is in favor of the latter in terms of cost efficiency concerning public protest cases.

When mass-scale protest occurs, for the law enforcement to respond to contain the movements, two legal options exist[98]. One is to initiate criminal charges, based on federal law No.54 (Jun 19, 2004), using art. 212, "on Mass Riots." The other one is to invoke administrative articles, art.20.2 or art.20.2.2, by arresting individual protesters, taking them to a police station for further investigation. The former option, which entails more physical coercion as the authorities deal with violent mass riots, in theory, requires the evidence that the protesters' actions during the public meetings were significantly harmful to general social safety, public health, or lives. The degree and the amount of evidence with which the law enforcement officials should provide as a basis for using such levels of coercive means are considerably immense. In addition to the burden of proof, forceful crackdowns are followed by court procedures for criminal charges for the arrested individuals, whose resultant court rulings for guilty verdicts are not necessarily guaranteed. As seen in the Bolotnaya Case, the investigation process alone before formal charges can take a couple of months to several years.

Contrary to the criminal charges, the other option, dispersing the public meetings using a relatively lighter form of coercive power[99] taking some individuals to police stations and then initiating administrative charges, make much more economic sense to the law enforcement agencies. By invoking administrative charges, law enforcement officials do not need to dispense

[98] Often, public meetings are preemptively prevented/hindered to take place at all by the preventative measures taken by local governments and security forces based on the federal law No.54 (Jun 19, 2004).
[99] The levels of violence used by the riot police in public meetings is to forcefully hinder the direction of marches by blocking the road by cars or bodies of the riot police, or taking individuals to police stations but not necessarily involving severe beating. The use of weapons such as water cannons or tear gas has not been used in Russia during the recent decade.

their resources on lengthy criminal conviction procedures.; Not only does the burden of proof for using state violence become unnecessary, but more importantly, public blame and legal ramifications resulting from an abuse of power are evaded.; Charging administrative cases is much simpler as opposed to criminal cases. This is particularly so with "public meeting" violations because the conviction process with administrative articles is a well-paved path, meaning standardized procedures with which no additional effort to be made by police officials to gather information on the culprits, violations of the rules, and new documentation. What follows illustrates how rapidly and economically a protester can be charged and finally receive a verdict under an administrative code, art.20.2[100].

How art.20.2[101] is enforced in practice

The law enforcement officers, usually members of regional police or the riot police[102], are dispatched for patrolling the venue of public meetings. If they witness violations of the rules of public meetings, they arrest the violators and take them to the nearest police stations. Once arrested, a protester waits up to 3 hours for police to decide whether to file protocol or not. When

[100] There are two administrative articles related to public meetings – art. 20.2 and art. 20.2.2. The difference between the two is a small one. Art.20.2 is usually for violations of/during officially sanctioned public meetings while art.20.2.2 is for unsanctioned, abrupt public meetings. The section only refers to art.20.2, as it is more commonly used.

[101] Art. 20.2 has now become a cliché term for repression on protesters across Russian media and civil society. It is not exaggeration to say that art.20.2 broadly defines what Russian government responds to protest at its core. It is one of the particular articles that is most frequently used among all the articles that are adopted by the Repression Law. The article is the one that accounts for the peak of the frequency across the interested period 2010-2017, which mainly concentrated in the mid-lower level of severity.

[102] The riot police used to be "Omon (Отряд Мобильный Особого Назначения – Mobile Squad for Special Purpose)" a specialized unit under the Ministry of Internal Affairs of the RF. Rosgvargia took over the task of the riot police since 2016, by merging OMON from the MVD. Nowadays, the Russian riot police dispatched to public meetings are called "Cosmonaut" for their gears' outlook.

the police determine that there is a sound ground to proceed with the case, then within the next 48 hours, evidence should be collated to put together a protocol. Therefore, the arrested individuals might stay up to 2 days in a row in detention facilities in the police station. If the police do not complete the filing of a protocol within the given 48 hours, they need to release the arrested and then follow up on the case within three months[103].

Once the protocol is filed, the defendants are summoned to courts for administrative trials, as instructed by the police. Protesters who experienced standing in administrative trials testify that no witness or prosecutors are present at courts. Lawyers can be accompanied but helpful merely for emotional support, as their influence of defense has no significant bearing on final verdicts. Usually, a judge and a defendant are present when the verdict is given. The punishment for guilty verdicts is either paying fines or administrative arrests[104]. An appealing opportunity exists, but the cost of appealing outweighs that of accepting the original decisions as the additional time, and legal fees are not worth given the low probability of getting original verdicts reversed in an appeals court. Instead, some of the convicted choose to go to ECHR (the European Court of Human Rights) to appeal the illegality of the verdict or the laws that produced such a verdict, and to be compensated through ECHR's judgment.

The civil activists and lawyers[105] report that the police officers filing protocols do not necessarily concern what happened on the ground during protests/marches to determine whether to file or not. Instead, more often than not, other bureaucratic factors supersede, such as the amount

[103] The required timeline for the administrative conviction procedures is stipulated in the Administrative Code art. 27.5.
[104] The punishment for conviction under art. 20.2, as an individual participant is min. 10,000 – max. 20,000 rubles, or compulsory work up to 40 hours. The administrative arrest for a non-organizer participant is max. thirty days, but only imposed when he or she is repeatedly convicted. (Part 8. art.20.2.)
[105] As many participants are first-time protesters who do not possess any legal knowledge, several groups of civil activists, volunteers, and human rights lawyers help out those who are arrested during public meetings in Russia.

of workload at hand, whether they reach their "target" number or superiors' specific demand for more or fewer cases. For police officers to file protocol for the violations of public meetings, they draw on from what was already written and used for similar cases, use standardized format and general language to create a large volume of protocols for different individuals. When hundreds of people get arrested, police officers filing protocols do not know each different state of affairs. The patrolling police or the riot police who arrest and allocate protest participants are not the ones who put together the protocols. Police officers who are stationed in each precinct fill in the blanks in the pre-made documents to charge protesters without appropriate information on the occurrences of arrests and protest scenes. Though the process is simplified and standardized, due to the time constraints of filing protocols (48 hours), police officers are haunted by the deadline on top of the existing workload. It is in this light that the mass production of protocols makes sense; Police are incentivized in clearing the cases of public meetings in a lump sum. Due to the practice of the mass-production of protocols, apparent mistakes such as missing constituent's names, signatures, simple typos, and writing inaccurate addresses are pervasive. The misinformation written in the protocols, not the contents of the violations, has become the primary reasons why some cases are returned from courts or result in acquittals[106].

How the law enforcement agencies deal with public meeting violations is analogous to how traffic tickets are issued. The chances that a violation gets caught is not absolute, but arbitrary and random. Once caught, the sequential process of getting charged, indicted, and receiving verdicts is automated and rapid without involving convoluted trial procedures. For a guilty verdict to be produced, not much evidence is needed except the fact that authorities issue the tickets. Appealing a traffic ticket is not worthy of one's time and resources in general. With administrative

[106] The overall acquittal rate is still modest, as in other administrative cases.

charges under art.20.2, by participating in a public protest, an individual faces a random chance of getting caught. The consequence of guilty verdicts can be comparable to that of getting traffic tickets, only a bit more expensive. From the perspective of law enforcement officials, prosecuting public protest cases means issuing a large sum of traffic tickets at a time without the additional burden of carrying out the criminal investigation and trials or of a political ramification of using brutal state violence.

The administrative charges under art.20.2 appear to be an epitome of balance found in repressive policies toward freedom of assembly. It does not quell down protesters using lethal weapons or severe violence but imposes pressures by planting negative incentives. The seeming balance is not an orchestration from the center, but a result of law enforcement's application of the repression laws, following the preexisting operational tendency informed by their incentive structure. The incentive structure led them to prefer administrative charges to criminal ones. The preference for administrative charges is not an individual police officer's or a prosecutor's choice. Instead, it is institutionally embedded preference guided by inter-organizationally shared incentive structure, primarily aiming at boosting the target number for the performance evaluation by tending to incentives of each law enforcement agency's counterpart in the conviction chain. The large quantity of convictions under art.20.2 intensifies the preexisting incentive structure because it makes inroads in the conviction process by providing a way to reduce cost in producing one conviction for every law enforcement agency involved. The smooth learning curve in applying art.20.2 benefits everyone until an external factor disrupts such a process.

More Severity, Ceteris Paribus

Law enforcement's preference for severer punishment also applies to public meeting cases. From the outlook, it might sound counter-intuitive as the law enforcement officials choose administrative charges (lighter punishment) over the criminal ones (severer punishment) after all. However, a closer examination of the results of punishment unveils the administrative charges on public meetings lean toward its own maximum level of severity, though within the range of administrative punishment. Limiting the gaze on the administrative convictions only, one can find that the punishment has been imposed at the severest possible level in two respects. For one, the most often used articles, namely the articles on public meetings, art.20.2 and art.20.2, are the ones with notoriously harsh levels of punishment as opposed to other general administrative clauses. Second, even within the punishment range of the lower and the upper limit under art.20.2, the verdicts tend to impose more severely than not.

Situating art.20.2 and art.20.2.2 in the context of the use of the Administrative Code in general shows their levels of punishment is high. Comparison to other often-invoked administrative articles reveals the point. The cases such as 'violation of traffic rules,' 'involving minors in smoking,' or 'violation of rules on communication lines,' entail the administrative fines from minimum 500 rubles, at most, 5,000 rubles. This is the customary level of administrative fines imposed on ordinary citizens, not acting in the capacity of government officials or legal entities. In contrast, the minimum fine for an individual violator for art. 20.2 is at least 10,000 rubles - twice more amount than the usual maximum amount for other administrative clauses. The only comparable level of punishment can be found in 'driving under the influence (art. 12.26)' that imposes 30,000 rubles. However, taking into account the fact that under art.20.2, the max. amount

is 20,000 rubles, but with repeated violations, min. 150,000 – max. 300,000 rubles, art.20.2 is much severer than even the punishment for 'driving under the influence.'

It was the legislators' intention that made art. 20.2 and art.20.2.2 were as harsh as possible. To do this, they first needed to revise the part in which the Administrative Code defines the range and the standards for administrative punishment - art.3.2 and art.3.5. The update included a new type of punishment, "mandatory work," and increased the possible minimum amount of administrative fine for individual violators, to 600,000 rubles. It was a drastic increase given that the average minimum administrative fines are under 5000 rubles in general. For art.20.2 and art.20.2.2, the minimum amount has been increased starkly up to 600,000 rubles. This was to increase the possibly imposable amount of fine, especially for weighted or repeated violations of the public meeting rules[107]. The harshness of the punishment level is also recognized by both ECHR and the RF Constitutional Court. ECHR has ruled (*Kasparov vs. Russia*) that the level of punishment can be indicative that the art.20.2 is punitive, not preventive, or compensative[108]. The RF Constitutional Court also gave an order[109] for legislators to reconsider the minimum amount of fine as it is disproportionally high that is not compatible with other clauses in the Administrative Code, and the amount and the magnitude of harm the violation causes in society.

Not only are the levels of punishment the penal codes impose severe, but also, judges do not necessarily give lighter punishments within the range once the charge is presented in courts.

[107] The revision for the possible minimum amount was made concomitantly with the adoption of art.20.2 by Federal law No.65 (June 08, 2012) "On Amendments to the Code of the Russian Federation on Administrative Offenses and the Federal Law on Meetings, Rallies, Demonstrations, Marches, and Pickets."
[108] On this ground, *Karparov v. Russia* ruled that the conviction of Kasparov under art.20.2 should be considered as criminal conviction rather than administrative, which in turn should grant the right to due process and fair trial in courts.
[109] See the following resolution of the Constitutional Court of the RF. February 14, 2013, No. 4-П "On the case of checking the constitutionality of the Federal Law" On Amendments to the Code of the Russian Federation on Administrative Offenses and the Federal Law "On Meetings, Rallies, Demonstrations, Processions, and Pickets."

The records of punishment imposed under the two most often used articles for public meeting cases reveal such a tendency. The average fine paid by an individual violator for the recent seven years since the adoption of art.20.2 in 2012, has been approximately 10,963 rubles[110]. Provided that the most of the cases are charged under part 5. art.20.2, which prosecute individual participants in unsanctioned meetings without causing harms to human health, social facilities or private properties, the median fine, 10,963 rubles imply that courts have been walking the fine line between (a) abiding by the RF Constitutional Court ruling to go below 10,000 rubles[111] and (b) giving severest possible punishment as art.20.2. suggests. As courts do not comply with what the Constitutional Court orders and legislators do not seem to have any intention to change the minimum amount of fine as the Constitutional Court recommended, the practice of courts, imposing the de facto max amount of fine to the violators of rules for public meetings would continue.

With courts' inclination to sentence harsher punishments and art.20.2 and art.20.2.2's innately severe levels compared to other administrative codes, it can be concluded that public meeting cases confirm law enforcement's preference of severer punishments. The practice of imposing severer punishment within the range stipulated in the administrative codes accounts for the mid-low severity concentration. Art.20.2 and art.20.2.2 are the two penal codes that take up the most of the frequency in the severity level 3-4, the highest level imposed by administrative

[110] This is the median value of all the average values for each year since 2012. The average value is calculated by dividing the total amount of fine imposed for a year by the total number of convicted individuals.

[111] Under the provision 3.1, the decree of the Constitutional Court of RF (February 14, 2013 No. 4-П "On the case of checking the constitutionality of the Federal Law" On Amendments to the Code of the Russian Federation on Administrative Offenses and the Federal Law "On Meetings, Rallies, Demonstrations, Marches, and Pickets"), the ruling concluded that the minimum fines for violating rules for public meetings are not constitutional and suggested that legislators reduce the minimum fine to an appropriate level. The decree also ordered courts to disregard the minimum amount indicated in the present administrative clauses such as art. 20.2, i.e., 10,000 rubles, until the legislative body makes the due changes.

charges. In sum, one of the primary reasons why the judicial repression in Russia shows "the mid-low severity concentration" is: (1) the law enforcement's preference of administrative cases over criminal convictions, and (2) their tendency to punish as harsh as possible particularly when applying administrative penal codes.

Intertwining Category of the Repression Laws

Due to the intertwining aspect of the repression laws, participating in a protest entails the risks of getting charged by the laws other than those related to public meetings. Not only laws on public meetings, but also penal codes from counter-extremism, and counter-terrorism can be invoked to accuse protesters of different contents of violations. Charging protesters under different laws other than public meeting related clauses is a common practice. Strictly, this is not an abuse of power as long as all the accusations base their claims in the laws regulating conduct concerning public events. As analyzed in chapter 4, the laws are structured in a way that the law enforcement officials, especially investigators and prosecutors, can charge a protester with multiple penal codes.

While art.20.2, art.20.2.2, art.212, and art.212.1 are directly relevant to public meeting cases, other laws such as art.6.21, art. 20.29, art. 20.3, art.148, art.280, art.280.1, art.282, art. 282.2, art.354.1, art. 205.1, art. 205.2, and art.213 have been known to be used to accuse protesters. All the deeds and words during public meetings become the target of these separate clauses. The content of pickets or slogans can be punished for creating, and spreading extremist materials (art.6.21, art.20.29, art. 20.3, art.148, art.280, or art. 282). Arguing with dispatched police officers or the riot police can be charged under clauses for ‘obstruction of justice (art.19.3 or art.318).’ Expressing support for the independence of Crimea/Ukraine can be charged as violating ‘the

territorial integrity of the RF (art.280.1),' or 'inciting enmity toward national dignity (art. 282).' These are made possible due to widely and ambiguously defined terms and concepts in the articles under counter-extremist and counter-terrorism laws. In other words, participation in public events can attract multiple charges at the same time – a protester is an extremist and a terrorist, if not a plain hooligan.

What is the impact of a spectrum of available penal codes charging one type of action? For one, it infuses law enforcement agencies with a vague understanding of the corresponding jurisdiction, aggravating overlapping tasks among themselves. Not only does it boost the number of cases that are charged by different law enforcement agencies, but also it diminishes the overall quality of law enforcement practice. The more serious consequence is that each phase of law enforcement - investigation, prosecution, and giving final verdicts – is opened up to discretionary practice by officials as their interpretation and determination about which laws should be applied or what the contents of the laws mean become critical. The fact that law enforcement faces multiple choices of possible applications of laws makes the preexisting incentive structure more relevant. It is the incentive structure that drives the discretionary practice, not what the laws say. In this vein, the enforcement of laws, rather than the laws themselves, dictate the terms of state repression.

Preventive Measures for Public Meeting Cases

The conviction results of the public meeting clauses are a fraction of state oppression once the preventive measures are taken into account. What is observed in the official record of convictions is a reduced version of what potentially might have been realized if not for preventive measures. The existence of constant monitoring on renowned civil activists and preventive regulations that

raise the cost for participating in public protests partially account for the mid-low severity concentration because it decreased the need for visible repression by using official coercion.

How are public meetings prevented? The most commonly used tactic is limiting the locations or the number of participants for security concerns. The regional authorities often cancel their sanctions to public meetings for a variety of reasons – for holding another event at the same venue, abrupt renovation/reconstruction plans, or other safety concerns. They grant sanctions frequently on the condition: (1) that public protests take place in a different venue, usually a designated site by the authorities, far away from the center of a city, and (2) that the organizer reduces the number of participants drastically. The local governments also problematize various points about the public meetings to cancel the meetings in advance: qualification of organizer(s) of the meetings, the potential involvement of extremist/terrorist activities, or any other harmful influence on society.

Online censorship is another strategy for preventing public meetings. Roskomnadzor, Center "E," and police constantly monitor online postings for information on upcoming public events. They demand that such information be deleted immediately, otherwise threaten to charge it for violating the relevant administrative or criminal codes. Especially, Center "E" agents are known for their covert activities to oppress influential civil activists. They find the reasons to block or cancel public protests or plan on dispersing protesters in advance before they get out of control. The overlapping roles of law enforcement bodies exist regarding preventive measures. Local governments, police officers, and FSB agents have all been involved in these matters

conventionally. On top of that, new agencies such as Roskomnadzor or Center "E" are positioned to compete in an open market for public meeting cases both in prevention and conviction.

6.5 The Reposting Case

Maria Motuznaya, a 23-year-old college student from a small town in Barnaul, a city in Altai krai, flew to Ukraine as an intermediate place for seeking political asylum eventually in the EU. While she is seeking refugee status for political persecution, she is also preparing to sue the Russian government for moral damage imposed on her by unjust criminal prosecution. This exorbitant venture of hers, fleeing her country and filing lawsuit against the state, began with some of the pictures she saved in her personal page in a social networking site, VKontakte[112]. The pictures depicting politically controversial memes with religious symbols were what Motuznaya stored several years ago. The pictures were not of her own creation and were buried deep down her private account that did not attract much attention from public, let alone her friends'. In approximately 3 years, to her surprise, the posted pictures were deemed to be extremist in their nature, at least, in the eyes of the Russian law, inciting hatred/hostility and harming other people's religious feelings. Immediately she was listed in the black list of extremists[113], which entailed freezing her bank

[112] VKontakte (VK) is the most popular social networking site throughout the whole Eurasia region, mainly among Russian language users. Founded in 2005 in St. Petersburg, it accrued more than 100 million users worldwide within a decade, being the second largest global network. It is most commonly targeted outlet for reposting cases.

[113] The full official name of the list is "the list of terrorists and extremists (Перечень террористов и экстремистов)." The list is compiled by Rosfinmonitoring (The Federal Financial Monitoring Service of the Russian Federation) based on information received from law enforcement agencies such as FSB, Investigative Committee, General Prosecutor's Office, and Police. It includes foreign and national legal entities and individuals who are pointed as suspects of organizing terrorist/extremist acts - a court ruling or an official indictment is not required to go on to the list. Rosfinmonitoring essentially imposes a financial sanction on the listed individuals, by blocking the access to bank accounts.

account and limited the area of residency. She was initially charged with two criminal articles - inciting hatred or hostility (art. 282) and insulting the feelings of believers (art. 148.1). Under the articles, the potential sentence would have been imprisonment of 1-5 years. What transformed one ordinary student in a small city in Russia to be an extremist was only a number of pictures, one of which depicted Jesus with certain political descriptions and memes. The pictures could see the light of the day only because the law enforcement unearthed them.

What Motuznaya went through has been labelled as "reposting cases", a term coined by media referring to prosecutions and convictions of diverse form of speeches made in online, whose contents are problematic in that they violate numerous clauses particularly under counter-extremist legislation. The legislation was part of the core development of the repression laws since 2014, when the annexation of Crimea and Ukraine crisis provoked more civil society's activities[114]. The violations of these laws circumscribe as illegal is equivocal. They concern wide range of extremist activities and expressions. Different forms of online expression, encompassing video clips, links, photos, pictures, memes, or even expression of support using SNS functions such as "likes," "share," or "retweets," are subject to be target of the counter-extremist legislation.

Penalizing speeches made in online started incrementally to control street politics, with a plan to suppress collective action organized by grassroots movements. As online communication outlets such as messengers, SNS, and other applications provided inexpensive tools for collective action, the government wanted to put the online space under their regulatory regime. On the one hand, the government tightened its grip over online communication providers, so that the related

[114] In 2014, numerous laws were passed which updated public meeting, counter-extremist and counter-terrorist laws, mostly in direction of strengthening regulations and punishments. Especially, such laws as Federal law No. 179 (June 28, 2014), No.130 (May 05, 2014), No.274 (July 21, 2014), and No. 5(Feb 3, 2014) expanded the relevant legislations' coverage to internet space in the administrative and criminal articles such as art.280, art.282, art.280.1, and art.282.3.

companies cooperate with the government. They were told to shut down certain websites and to provide meta-traffic information or the contents of the communications which occurred in those web sites, apps, or telephone lines[115]. On the other hand, out of a need for constant monitoring, *Roskomnadzor*, monitoring and licensing bureau for communication services and network, was rearranged and empowered newly in 2012 as the point organization to monitor online activities, and enforce the relevant legislation concerning communication services.

What is puzzling is the reposting cases appear to chase after obviously harmless cases for serious charges of crimes as seen in the Motuznaya case. The reposting cases drew public resonance in part because the individual cases were so minuscule that the magnitude of prosecution and punishment seemed asymmetrically draconian. Why is severe punishment imposed on such piecemeal cases that do not inherently constitute harmful activities to the general public? It seems to be the measures of controlling public discourse as a preemption to shut down even remote possibility of anti-regime provocation. By regulating the online space, the government draws the line where people can pass and stop, framing the desirable public mind for their ideal citizenry.

The above account for reposting cases is not entirely wrong but does not explain why reposting cases are created so much at a starkly increasing rate, with severer levels of punishment. I argue that this phenomenon, increasing punishment on petty reposting cases with asymmetrically severe punishment, occurs not because of the state's orchestration, but because of the combined effect of the contents of the repression laws, and the law enforcement incentive structure. The

[115] The regulations on the disseminating or restricting information on the internet in Russia is mainly governed by the first type law, the federal law No.149 (Jul 27, 2006), "On Information, Information Technologies and Information Protection." First adopted in 2006, the law was amended incrementally in the direction of strengthening the regulations on activities online. Notably, the updates made in 2012, 2014, and 2016 shaped the internet regulatory regime. In 2012, it expanded the legislation's scope to encompass internet space. In 2014, it required internet service providers and website organizers to store and collect user data and some level of meta-data for online activities. In 2016, the so-called "Yarovaya" law required to store, not only user data or metadata but the actual content of the online communications.

reposting case is the conglomeration of the different factors at work in the law enforcement processes. Such factors as "Institutional Competition," "Preventive Measures," "Administrative Charges," "Widening Discretion," and "More severity" were prone to creating more reposting cases regardless of what the original intent of the online censorship was in the first place. The reposting cases are a poster child of the law enforcement system in Russia.

To make sense of the proliferating number of reposting cases, one needs to take into account the easiness of the cases on the part of the law enforcement compared to other cases. Note that the law enforcement agents are situated in a shared inter-organizational incentive structure, leading them to behave in a way to efficiently save cost to produce "target number." In doing so, not only do they need to be sensitive if the case is cost-efficient, but also whether it would be beneficial for their counterpart located next to themselves in the conviction chain. Reposting cases make perfect sense concerning the incentive structure because the cases are supposed to be cost-saving, and that they flow smoothly throughout the junctures of the conviction process[116].

The evidence to charge reposting cases is relatively easy to attain. It costs the least amount of time, and other resources on the part of the law enforcement bodies to produce "target numbers," befitting to the incentive structure. The evidence that investigators look for is video clips, images, memes, or messages uploaded online openly. Glossing over websites with or without a particular automated algorithm's aid occurs in-door work environment without the need to mobilize coercive means or physical workforce to track down culprits or to collect hard/physical evidence. Sometimes the investigators base their searches on reports from other sources. For example, what initiated the case of Motuznaya was two students' voluntary complaints on extremist materials to

[116] As reposting cases are produced in a larger scale in a rapid pace recently, some cases are dismissed or returned before the court trials for reasons as lack of evidence, lack of probable cause or mistaken documentations. However, the volume of dismissal or returning the case to the prosecutors/investigators is in itself a vindication that the law enforcement is resorting to the reposting cases more often than not.

the regional police. Roskomnadzor openly recruits and invites the voluntary reports from ordinary citizens. Once the potentially "illegal postings" or "extremist materials" are reported, the next step is to identify the person who posted such materials online. Whether the person is the creator of such illegal content, or the degree of publicity was high is not significant consideration. Identification of the violators is not a challenging task as they are not professional hackers or organized online frauds. The violators, i.e., "extremists," are usually late teenagers or in their early 20's who are more prone to use SNS as their daily-basis communication tools. They do not necessarily play hide-and-seek with the investigators.

What adds to the easiness of the reposting cases is how the repression laws are structured. The laws render the whole prosecution process for postings on the internet relatively effortless. The repression laws provide the law enforcement with the articles whose terms of violations are so vague that the abuse of the application of these laws can be rampant. Not only are the core concepts ambiguously defined, but also, the so-called "intertwining" across different categories of laws leave cases at the discretion of the law enforcement. In sum, the investigative agents looking for the evidence of violations of counter-extremism clauses, find: (1) the term "extremism" is so dubiously defined that it is possible to fit a wide range of materials to extremist charges, and (2) there are different options of articles to choose from, with varying degrees of the content of violations and the level of punishment, to charge reposting cases. In other words, the reposting cases are the outcome of the discretionary practices of the law enforcement bodies taking the advantage of the repression laws. The preexisting incentive structure kicks in more strongly when the terms of the laws cannot definitively dictate what can be charged or not. In what follows, I discuss in detail the two elements of the repression laws accounting for the increasing reposting

cases: first, how extremism is defined in the law, and second, available options of articles for online postings.

Vague Definition of Terms

The term "extremism" is defined under the article 1. "Basic Term", in the federal law No. 114 (Jul 25, 2002), "On Counteracting Extremist Activities." The article 1. delineates the basic definition of extremism, extremist organizations, and extremist materials and symbols. The rest of the law stipulates how the government regulates these extremist activities. The article 1 defines extremism as widely and vaguely as possible. The following is an excerpt from the article 1:

"For the purpose of this federal law the following basic concepts apply: extremist activities (are)…. 'violent change of the foundations of the constitutional order and violation of the integrity of the RF', 'public justification of terrorism', 'excitement of social, racial, national or religious discord', 'obstruction of the exercise by citizens of their voting rights and the right to participate in a referendum or violation of the secrecy of the vote', 'obstruction of lawful activities of state bodies, local government, election commissions, public and religious associations or other organizations, combined with violence or the threat of its use.'…"

By definition indicated in the article 1, "extremist activities" in the RF, enumerates at least, but not exhaustively, the following analytically different categories of the activities: (1) provocation of the current political order of the RF, (2) support for or an act of terrorism, (3) incitement of social, racial or religious discord, (4) obstruction of election procedures and voting rights, (5) obstruction of government authority's activities, and (6) public calls, spreading, or

organizing and supporting of the extremist activities. The extremism, defined as in the related law, encompasses some elements of each of the following legislations - treason, terrorism, hate speech, and obstruction of justice. By defining the term "extremism" in this particular manner, the contents of the extremism are settled not by what the law says, but by what and who is convicted with such terms. In other words, the contents of extremist activities become certain only when the final conviction is determined by courts, not before then.

When the law is vague as such, the prosecution and the resulting convictions depend on either the political will or the law enforcement practice. The reposting cases are the result of the law enforcement practice with the ambivalent laws when the political will, pressuring the prosecution in a specific direction, is not actively present. The distinctive characteristics of the reposting cases, proliferating number of convictions concentrated in seemingly non-malignant cases, and asymmetrical severity of punishment, point that it was more for the law enforcement processes that created reposting cases than the political intent to oppress freedom of speech. In sum, reposting cases are combined results of (1) some materials on the internet that fall into any one of the categories of the broad and dubious definition of extremism as stipulated in the repression laws, and (2) Law enforcement's tendency to use particular penal codes to convict cases with online line evidence.[117]

Available choices

In addition to the fact that the law enforcement officials use their discretion to interpret what is extremism or not, they possess multiple choices with regard to penal codes to indict and convict

[117] In the repression laws, counter-extremism clauses are mostly used for reposting cases. However, as extremism, an overarching concept, expands across different categories in the repression laws, other clauses such as public meeting laws, counter-terrorist or media/information laws also prosecute reposting cases.

violators. As mentioned above, more than one particular clause can be invoked to charge various types of speeches posted online as extremist activities/materials. This is due to the lawmaking processes in Russia, which update and recycle preexisting repressive clauses on one hand, but at the same time, create new clauses for similar contents of the old laws on the other. On top of this, the other categories of laws such as "counteracting terrorism" or "protest laws" are being arranged under the broad umbrella term of extremism as more legal revisions are made. The laws that updated the counter-extremist laws created, updated, and revised other relevant laws which eventually created concrete penal codes. As a result, to initiate reposting charges, theoretically, the following clauses can all be relevant[118]:

Table 6.1 Penal Codes for Reposting Case

Article No.	Title
Article 5.26	Violation of legislation on freedom of conscience, freedom of religion and religious associations
Article 6.21	Promotion of non-traditional sexual relations among minors
Article 20.3	Propaganda or public demonstration of Nazi paraphernalia or symbols, or paraphernalia or symbols of extremist organizations, or other paraphernalia or symbols, propaganda or public demonstration of which are prohibited by federal laws
Article 20.29	Production and distribution of extremist materials
Article 148	Violating the right to freedom of conscience and religion
Article 205.2	Public calls for terrorist activities, public justification of terrorism or propaganda of terrorism
Article 280	Public calls for extremist activities
Article 280.1	Public calls for the implementation of actions aimed at violating the territorial integrity of the RF
Article 282.	The incitement of hatred or enmity, as well as the humiliation of human dignity
Article 282.1	Organization of extremist community
Article 282.2	Organization of extremist organization
Article 354.1	Rehabilitation of Nazism

[118] The one or two-digit numbered articles are the Administrative Code, the three-digit numbered articles, the Criminal Code.

These numerous articles provide options for prosecuting illegal contents posted in the online space,[119] an additional layer of discretionary practice on the part of the law enforcement. However, it does not mean all the clauses are used equally. Under the incentive structure, the law enforcement's use of particular articles is inevitably biased. How it is biased and patterned vindicate that the law enforcement's incentive structure determines the conviction bias. To analyze the pattern, it is necessary to explore a parallel structure existing in the above administrative and criminal clauses.

Closer examination of the clauses reveals that they can be grouped for the similar contents of misconducts. Art.5.26 and art.148 are both about the religious expression and regulations. Art.20.3 and art. 354.1 are bearing on Nazi symbols, expressions or such movements in regard to Nazism[120]. Art.205.2 and art. 280 are both about the act of calling for legally forbidden activities, such as extremist and terrorist activities, respectively. Likewise, art.282.1 and art.282.2 are about organization of illegal activities, or the organizations which will move forward with the activities, each for extremism and terrorism. Lastly, art.20.29 and art.282 could be also grouped together as they deal with the wide range of speeches made in public which in general considered to be harmful to society. These grouped clauses basically cover the same type of violence with different degree

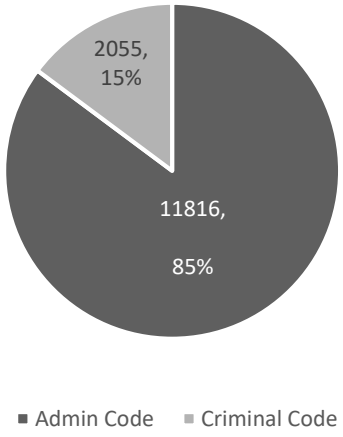
[119] It is not the case that these clauses are only for repostings cases. These articles can also punish offline evidence or misconduct as in nowhere do these specify the locus of violations. However, most of the convictions are based on internet materials posted online partially or fully. That is more increasingly so as time goes by. As will be discussed more in detail later, those articles with more and increasing conviction records are relevant to reposting evidence than those not.

[120] The use of Nazi symbol by Russian right-wing, nationalist movements can be traced back to the late 1990s and early 2000s, presumably translating the sentiment of anti-Semitism, ultra-nationalist and conservative political views. However, it should be noted that the penal codes which punish the use of Nazi symbol has begun to be used only after 2012 to punish not the right-wing nationalists but more broadly the freedom of speech and public meetings.

of impact and intent of violations. Put simply, each group has an administrative clause along with a criminal clause for similar content of violation.

These groups show a pattern in their conviction records. Given the similar content of violations, administrative articles are used far more frequently than the criminal ones. For 'Freedom of conscience (art. 5.26 and art. 148)', 'Nazi symbol and Nazism (art. 20.3 and art. 354.1)', and 'Extremist materials and incitement of hatred (art. 20.29 and art. 282)[121]', the administrative articles convicted at least twice more than their counterparts in the Criminal Code during the same period of time. Not only is the total sum of the conviction more with the administrative article, but also the rate at which it is increasing is starkly steeper. (See Figure 6.1)

Figure 6.1 The Use of Reposting Penal Codes[122]



[121] In 2018, Art. 20.3.1. "Incitement of hatred or enmity, as well as the humiliation of human dignity" has been created under the Administrative Code. The parallel structure for art. 282 for lighter punishment under the Administrative Code is now more complete. This means art.20.29 and art.282 were not a perfect substitute to one another which brought about the need for creating a counterpart of art.282 under the Administrative Code as the overuse of art.282 whose punishment is harsh for mere repostings was being recognized to be inappropriate.

[122] The conviction records of the six articles (art.5.26, art.148, art.20.3, art.354.1, art.20.29, and art.282) are collapsed into the two categories, the Administrative Code and the Criminal Code, for comparison.

Though the fact that the administrative articles are more often used is no surprise, as they yield more convictions in general, it is worth noting that the same type of violations are punishable under both codes. The parallel structure gives a room of discretion, for the law enforcement bodies to choose one or the other. This structural choice leads to more administrative convictions, as they are more "cost-efficient" given the current inter-organizational shared incentive scheme. The administrative conviction processes tend to provide with standardized, fast-track cases which will safely move along the lines of the conviction chain in the RF.

Apart from the cost-saving aspect, introducing the similar set of violations into both the Administrative and the Criminal Code[123] is sending a message as follows: (1) It is at the law enforcement's discretion whether the same action is punished by administrative or criminal code. (2) The crimes punishable by the criminal code will now be simultaneously punished by the administrative code, which signals more frequent convictions with the convenience of simpler prosecution processes though with lighter punishment. The eventual effect of such a signaling is to punish these violations in mass-scale, with speedy processes, consistently circumventing the burden of open and prolonged trials which attract more publicity and attention from society. Simply by giving another option to charge with administrative articles, the state repression, particularly for activities made in online came to possess a thinner (lighter punishment) but wider coverage (more frequency).

The pursuit of cost-efficiency not only created the preference of the administrative convictions, but also explains biased use of some criminal clauses among others. It accounts for

[123] The administrative articles related to extremist materials, freedom of religion and conscience and incitement of hatred are more recent amendments or invocations of its use than the criminal articles. This means that the behaviors which used to be punished by the Criminal Code, is now shifted to the Administrative Code.

the difference among criminal clauses themselves. This can be observed in the conviction results from the following penal codes: 'Public call for extremism/terrorism (art. 280, and art. 205.2),' 'Organization of extremist/terrorist communities or organizations (art. 282.1 and art. 282.3).' The degree of feasibility of convicting reposting cases with each of these articles correspond to the frequency. In other words, the more feasibility and easiness brought more convictions. For instance, to convict reposting cases, it is easier to charge violations with "public calls for X" articles than "organization of X". "public calls for X" articles (art. 280, art. 205.2) convict merely based on the intent of "calls" without hard evidence of organizing physical bodies for any kind of social movements. Such cases as supporting or encouraging participation of some protests, or postings of materials whose words describe some terrorist or extremist activities can be conveniently constitute the evidence of "call for extremism or terrorism". In contrast, the articles "organization of X (art. 282.1, art. 282.3)" require additional evidence or intent in/beyond the online postings, which should prove that the postings are indications of actual physical movements attempting extremist or terrorist activities.[124] The need for another layer of evidence, which is not desirable from the cost-efficient aspect, in the end, reduces the volume of convictions as shown in the frequency records between 'public calls for X' articles and 'the organization of X' articles.

In sum, out of all available articles for prosecuting reposting cases, the articles that best save the cost incurring during the conviction process are used the most, with a positive tipping balance for administrative articles. The conviction frequency observed among the articles is

[124] The "New Greatness (*Новое Величие*)" is one of the exemplary cases which the law enforcement prosecuted for organizing extremist community under art. 282.1. In 2018, 10 members of an internet-based social group got arrested for organizing extremist communities. The advocates of the accused claim that the case is orchestrated from the beginning by covert law enforcement authorities from police and FSB who joined the group. For more detailed information, see ovdinfo.org report. (https://ovdinfo.org/articles/2018/10/27/delo-novogo-velichiya-kto-eti-lyudi-i-za-chto-ih-sudyat-gid-ovd-info)

determined mainly by the combination of two factors :(1) preference of the administrative cases, and (2) whether the specific content of the articles more suitable to prosecute online cases. The two factors are working towards "saving the cost" on the part of the law enforcement bodies, especially by lightening the burden of collecting and presenting before courts the viable evidence. Consequentially, the more use of an article creates standardized, fast-track cases that contribute to the proliferating rate of prosecution with the article given the current incentive structure. The steep cost-benefit curve suggested by specific clauses makes sense by the law enforcement agencies that a snowballing effect, creating a particular type of case as "reposting cases," is finally formed.

Art.282 enforced in practice

Art. 282 (inciting hatred) [125], the one article that is most frequently used of all the criminal articles in reposting cases, epitomizes how the above mechanism is at work. Art.282 is situated with art.20.29 in the same group as they both cover wide speech-act in general. While the force of "Preference of administrative cases" still applies - art.20.29 has been used a lot more frequently than art.282 - art. 282, being a criminal clause, has convicted people in a significantly immense scale. In total, for about 7 years, it convicted 2038 people. The conviction records only, '2038' for 7 years, gives the impression that this is not a criminal but administrative cases. Actually, convicting with art.282, though being criminal article, possess some qualities of administrative convictions. The evidence that art. 282 requires is similar to what an administrative case is based. The evidentiary requirement for criminal conviction with art.282 is easily fulfilled by the investigators, police officers and prosecutors, and would suffice to be presented before the courts.

[125] It was first adopted in 2003. It was updated in 2014 and in 2016 by Federal law No.179 (June.28.2014) and No.375 (July.28, 2016), respectively.

The easiness of reposting cases is working perfectly with a criminal code, which gives another advantage, because winning a criminal case and thus yielding severer punishment will be better reflected on their performance evaluation. If possible, one would go with art.282, only when charging with art.282 is not certain for yielding guilty verdicts, one would turn to the counterpart administrative article, art. 20.29[126]. In this light, turning more to art.282, for problematic postings online is understandable, which explains the overall proliferating rate of convictions for reposting cases.

The mass convictions under art.282 provides the simplest answer to the initial question asked in the beginning of this section, "Why is asymmetrically severe punishment imposed on such piecemeal cases that do not appear to be inherently harmful to the general public?" The answer is that all the "incentives" in the law enforcement practice point to using specific clauses, such as art.282, whose punishment is so severe for such petty cases. For art.282, finding evidence for "incitement of hatred" is doable and possible one. The prospect of getting guilty verdict for criminal prosecution with such easy evidence is relatively hopeful. Also, the severity of the punishment is higher once convicted, which is preferred by all the agents involved in the law enforcement process. Along with these conditions, the learning curve effect for these cases must have been consolidated as time went by. This happened under the overarching scheme of the repression laws, and the existing law enforcement incentive structure in the RF – which is the result of pursuit of legitimacy by an authoritarian regime to repress increasing activities of civil society.

[126] The use of art.282 and art.20.29 are not entirely interchangeable, meaning, art.282 and art.20.29 were not a perfect substitute in the first place. In general, art. 282 is considered to have wider coverage than art.20.29, which makes it more suitable for "universal usage" as in many cases of repostings. Only in 2018, art 20.3.1 has been adopted to have the parallel counterpart of art.282 under the Administrative Code.

Table 6.2 Conviction Results of Reposting Cases

Article no.	No. Convicted								
	2010	2011	2012	2013	2014	2015	2016	2017	Total
5.26 (Freedom of Conscience)			5	2	1	3	47	274	332
6.21 (LGBT rights)	NA	NA	NA	NA	2	8	4	3	17
20.3 (Nazi Symbol)			172	256	468	1202	1796	1665	5559
20.29 (Extremist Materials)			152	398	665	1185	1679	1846	5925
148 (Freedom of Conscience)	0	0	0	0	1	2	0	5	8
205.2 (Public call Terrorism)	2	4	1	2	10	26	47	75	167
280 (Public call Extremism)	19	12	19	53	50	64	113	108	438
280.1 (Territorial integrity)	NA	NA	NA	NA	0	5	1	5	11
282 (Incitement of hatred)	105	117	130	185	267	378	395	461	2038
282.1 (Org. of extremist com.)	2	3	1	4	4	7	16	4	41
282.2 (Org. of extermist org.)	9	17	37	38	36	29	18	26	210
354.1 (Rehabilitation of Nazism)	NA	NA	NA	NA	0	4	2	3	9

Institutional Competition

While the abovementioned two factors – the easiness of the convicting online-speech cases and the characteristics of the repression laws – explain why reposting cases are increasingly made in mass-scale, another factor, 'Institutional Competition' is worthy of separate examination. The following forces are at work for yielding reposting cases: (1) "the overlapping tasks" which drive heightened competition for easy cases, (2) "institutional survival" impetus due to new creation of agencies, and (3) "preventive measures" which additionally repress online speeches with or without conviction process.

Particularly, the former two factors operate in combination; the overlapping jurisdiction between different law enforcement bodies expedited the inevitable competition for cost-efficient cases. The inefficiency embedded in the law enforcement practice has led to the creation of new

institution, whose mandate/jurisdiction is more specialized for a particular type of violations. The new institutions struggle to perform better to prove the necessity for their continued existence and bureaucratic empowerment, intensifying the inevitable competition between different bodies of law enforcement. The competition is a structural one, rather than a conscious choice by each individual agent. In what follows, I discuss how such forces in the end the proliferating rate of reposting cases.

Overlapping Jurisdiction

First, overlapping jurisdiction leads to prosecuting similar cases by FSB, police, prosecutors, and other sub-institutions such as center "E." It is not because all the agencies go after "reposting" cases; they converge to similar cases because they use the online postings as evidence. Table 6.3 shows some reposting cases initiated by different bodies of law enforcement with different charges, all based on online evidence. FSB has initiated many cases on their own for violations articulated in art.280 or art.282, handing over the case to the police or to the prosecutors for official prosecution. Center "E" which is under police, independently deal with such cases as extremist materials. Police, in general, initiate reposting cases as they are the ones who receive reports from other citizens, or other government authorities.

As the related laws do not necessarily designate particular agency for extremist conducts, all the law enforcement bodies use the available counter-extremist, counter-terrorist, and/or public meeting penal codes, if they can make their case with vindicated evidence. Online postings, not only prove the date, and the person who posted, but also the contents provide so many angles that

the law enforcement interpret as extremism/terrorism with the least cost. The reposting cases are by-products of the law enforcement practice, its structural competition for online based evidence.

Table 6.3 Various Initiators of Charges for Online Postings

Name	Date	Initiator	Violation	Location	Result
Igor Stenin	2016 May	**FSB**	Vkontakte, calling for extremism, materials related to Ukraine	Astrakhan	art.280, part2, 2 yrs in prison, later overturned.
Alexey Mironov	2017 Jun	**Police and FSB**	Vkontakte, materials related to Muslims (FSB), possession of extremist materials (Police)	Chuvash	art.280, part2, art. 282 2 years and 3 months prison time.
Daria Polyudova	2015 Jun	**Police and FSB**	Vkontakte, postings insulting Putin	Krasnodar	Dismissed by FSB itself for lack of corpus delicti.
Vadim Ananin	2017 Nov	**Center "E"**	Postings with the inscription "Crimea is Ukraine"	Kirov	Criminal case dismissed by the Investigative committee.
Sergey Postnov	2016 Oct	**Center "E"**	Vkontakte, Symbols of the Ukrainian volunteer battalion "Azov"	Invanovo	art.20.29, fine 3,000 rubles
Andrei Volobuyev	2018 Feb	**Center "E"**	Vkontakte, Recording for calling for a public meeting contesting unjust detention of an activist	Smolensk	art.20.2 part2. 150,000 rubles
Sergei Ionov	2017 Jun	**Center "E"**	Vkontakte, reposting of a prohibited video by Alexei Navlany from 2011	Samara	art.20.29, art.20.3
Dmitry Karprov	2019 Mar	**Police**	SNS, posting of a picture of Putin's (fake) tomb	Sverdlovsk	Summoned to the police for an explanatory note.
Sergei Kryuchkov	2018 Nov	**FSB**	Vkontakte, a posting against UR	Ulyanovsk	Summoned to the police for an explanatory note and administrative charge. (art.20.29)

Maria Motuznaya	2017 Nov	**Police**	Vkontakte, repostings on some religious caricatures	Altai	art.282 part 1., The court returned the case to the prosecutor.

Center "E" and Roskomnadzor

Second, the government added new institutions whose purpose focuses solely on targeted cases. The creation of new institutions with specialized tasks adds to the structural competition for easy cases which already existed among the existing law enforcement bodies. This is because these new institutions are designated for specific area of focus, does not mean the old law enforcement bodies as FSB and Police officially forego part of their jurisdiction to the new institutions. In theory, the new institutions' area of focus, and the old law enforcement bodies' should not overlap. They are in complementary position one with another, as the new institutions are created under an existing law enforcement agency (as in the case of Center "E"), or to complement other law enforcement bodies' work by reinforcing monitoring or executive operation. (as in the case of Roskomnadzor or Rosgvargiya). However, in the end, as discussed in what follows in more detail, they face the overlapping tasks and jurisdictions, which makes them more resort to the easy cases using materials online. The impact of new institutions, especially on reposting cases is, more competition for each body of law enforcement in the RF.

Center "E" symbolizes such increased competition with newly created institution, which translates into the boost of reposting cases. The impact of creating Center "E" is more cases in the area of extremism. Center "E" accounts for reposting cases in that they constantly monitor both on and offline activities of civil society to preemptively prevent further social disruptions, especially

political protest. Established as an independent sub-organization under Police in 2008, Center "E" has become a special force within police to deal with public meetings and other extremist activities.

Though Center "E" does not target speeches made in online only, they use online postings as source to prevent or hinder the process of further extremist (at least in their view) actions often with their own covert strategies to contain extremism. They tend to have "conversations" with civil activists to persuade and coopt to stop the current (or future) actions. Many civil activists testify that the agents of Center "E" act among the protesters to monitor and to gain inside information. Often times, how Center "E" initiate reposting cases is because by such charges, they disrupt the whole process of public meetings or opposition party's organization, and activities. Many times the old postings of civil activists are unearthed by Center "E" agents to block the person's activities by charging even for minor violations of administrative clauses. This way, it is no different than accusing a civil activist or a political opponent with embezzlement or narcotic trafficking charges to hinder his or her further political influence and actions. The only difference lies in the fact that charging people with their postings online is a lot easier than charging someone with narcotic trafficking.

How Roskomnadzor function in light of the reposting cases is different from that of Center "E". Whereas Center "E" is located in the middle of the RF law enforcement, Roskomnadzor is an executive bureau under the government administration[127]. What primarily Roskomnadzor is mandated is not to initiate administrative or criminal charges, but to control and supervise media including broadcast stations and papers, radio, telecommunication and internet space. It grants licenses to providers of service to use the communication channels and monitors whether all the relevant laws regarding the mass media, telecommunication and internet are upheld. Roskomnazor

[127] Roskomnadzor is under the Ministry of Communications and the Mass Media (MinComSvyaz) of the RF. However, it is known that it is directly controlled by the PA (Presidential Administration).

executes relevant laws, decrees or directions given by the administration or by courts. As Roskomnadzor fulfills its function it contributes to the creation of reposting cases in two following indirect ways: first, it aids other law enforcement bodies to prosecute cases with evidence gathered in online space by monitoring, supervising and controlling the online space. Second, it adds one more layer of repression by its online censorship which is not directly reflected in the conviction results. Each is discussed in more detail in turn as follows.

First, Roskomnadzor aids other law enforcement bodies to prosecute cases with evidence gathered via online space by its monitoring function. Roskomnadzor keeps the registry of blocked websites for containing illegal contents. The registry reflects all the information gathered from different sources such as complaints made by citizens[128], different government authorities, and/or courts' rulings. In turn, such a result of monitoring becomes the basis on which the law enforcement collects their evidence for prosecuting cases. By its function, Roskomnadzor is another separate, specialized intelligence team working for the other law enforcement bodies in the matter of online space.

Second, it adds one more layer of repression by its function in online censorship. Roskomnadzor is mandated to block the website even without a court ruling as long as they evaluate (in consulting with relevant experts from relevant government authorities) some contents as illegal, usually four different categories of illegal contents: (1) child pornography, (2) information about illicit drugs, (3) contents that promote suicide, and (4) extremist materials). With the information they received, the information is to be evaluated by relevant government authorities, and finalize as report on the illegal contents. The report goes in to a system "*the Unified*

[128] Such as voluntary reports are mainly coming from pro-Kremlin youth organizations such as Media Guard (https://vk.com/mediagvardia)

System of Electronic Cooperation between State Agencies." Then, Roskomnadzor notifies the service provider or the website administration to erase or block the access to the materials within 3 days. If the administrator or owner of such a website does not follow suit, the website is listed on the "out-load" list which is a database of prohibited websites (the registry of blocked or censored websites). Network operators are supposed to download the database two times a day, each at 9 am and 9 pm. The operators have to block the webpages, which Roskomnadzor checks regularly whether this has been carried out. Blocking webpages and thus infringing the right to free speech and causing economic harms does not necessarily entail court rulings or prosecution processes. Those blocked webpages are not in and of themselves reposting cases for the fact that no one is convicted because of it.

After all, Roskomnadzor could execute the laws bypassing the whole convoluted processes of prosecution which would not have been possible if it was part of law enforcement bodies. They provide with the short-cut to the state to attain more a direct grip over civil society. The short-cut was made possible because such an institution as Roskomnadzor has a direct mandate to oversee the compliance of a set of regulations and laws that give dubious jurisdictions with wide and vague concepts especially in regard to extremist materials. The short-cut path can be seen as a tool devised by the state to overcome the whole law enforcement process which usually cost more and attracts public attention. The speedy and simple way of cutting down the economic and political cost of repression has been consolidated with the operation of Roskomnadzor. In relation with reposting cases, this means, ironically, that not every illegal postings will be punished via prosecution and/or conviction. As for online space, this is a hidden but additional layer of repression which is not necessarily reflected in the official conviction records.

Institutional aspect reveals that the structural competition among different bodies of law enforcement makes reposting cases more attractive as they save the cost of conviction. Convicting with online postings are easy, fast and therefore safe. The competition is more intensified as new institutions with specific type of tasks are created. The new institutions such as Center "E" and Roskomnadzor, not only add to the competitive nature of online-based cases, but in and of themselves have separate impact on reposting cases as they strive to survive as newly empowered organizations. Center "E" boosts reposting cases as they use reposting cases to prevent civil activists' actions or movements. Roskomnadzor provided an encompassing tool to aid to gather information regarding online activities to the law enforcement. The preventive measures taken by these new institutions are another layer of repression that is not necessarily reflected in the conviction records.

…

Reposting cases are a by-product of enacting the repression laws in that the law enforcement agencies resort to using online evidence due to the incentive structure preferring fast, standardized, and easy cases for saving the cost in the conviction chain. The tendency of preferring cases based on online evidence is amplified by structural, institutional competition, and the involvement of new agencies with specialized tasks aiming at extremist activities. How only particular clauses are preferred, reveal the strong bias toward reposting cases. In this vein, reposting cases are a symptom, reflecting the law enforcement practice given the clauses under the repression laws. The reposting cases should not be seen as censorship in online space, but a broader consequence of how the state repression is applied on the ground in Russia.

Chapter 7. Conclusion

State repression is one of the central tools that rulers possess to maintain their power. The related literature considers a high level of coercion as a critical feature of authoritarian regimes, but little attention has been paid to the variation in the levels of repression within such regimes. By focusing on regime type as a significant determinant of political violence, the previous literature has overestimated the severity of oppression, which is contrary to what we observe in contemporary authoritarian states. Without due attention to the actual contour of repression, we are boxed into a preconceived notion of authoritarian rulers' unchecked power to use coercive means at their disposal, dismissing the political context within which the distinctive leadership finds itself while maintaining its power. This research addressed the gap in the literature by examining subtle strategies of state repression in Russia's recent history, particularly its judicial measures to control rising popular dissent.

In this research I showed, contrary to the previous research and the conventional image of an omnipresent and a strong authoritarian state, the state's deployment of coercion in Russia has been relatively mild in its severity. I argued that such moderate repression is a by-product of the regime's pursuit of legitimacy, leading the state to follow legally established procedures of coercion. Despite the formality of authoritarian institutions, it deviates from the original design of repression made at the top, as it inevitably involves different actors of repressive apparatus whose incentives do not necessarily align with those of the central state. The case of Russia reveals that the preexisting incentive structure of the repressive apparatus as a whole prefers quantity over quality in the direction of avoiding bureaucratic liability. This, in turn, dictates the terms of

investigation, prosecution, and, finally, courts' rulings. The newly adopted repressive laws targeting dissent movements aid the tendency as the laws point to widening discretion in general due to dubiously defined jurisdiction, the vague contents of provisions, and expanding regulations that punish minor misconducts than felonies. The confluence of the repressive laws and the incentive structure results in a proliferating rate of convictions with light punishment, accounting for the relatively mild level of coercion.

Moderate State Repression: Process, Legitimacy and Authoritarian Institutions

The findings presented in this research shed new light on the use of the state's coercion by contemporary hybrid regimes. First, to account for the moderate levels of repression, I argued for the need to pay more attention to the process by which the repressive policies are deployed in practice rather than the decision to repress. The ruler's capacity to enact coercion aiming at desired levels and specific repertories was overestimated. Though understanding the circumstances under which an autocratic ruler initiates state's repressive policies is a worthy subject to explore, it is misleading to interpret the decision to repress as the practice of repression, particularly in a contemporary hybrid regime with the specific necessity of managing popular dissents for a long time, rather than quelling down one or two specific events of protests. The agency of practitioners of judicial repression became decisive with regard to shaping the final contours of oppressive policies. Eventually, investigating the chasm between the top ruler's decision and the enacting such a decision on the ground accounted for the moderate levels of repression as the realization of moderate state repression could not possibly result from the initial design.

Second, I argued why an autocrat is motivated to pursue legitimacy in deploying coercion,

and how the legitimated process of repression produces its own distinctive results deviating from an autocrat's will. Legitimacy and repression, as opposed to strategies of rule, in theory, were considered to be pursued separately, or at best, as a tool for justifying repression in light of autocrat's continued survival. This research probed the unexplored field of inquiry, namely, the utmost juxtaposition of the pursuit of legitimacy and state violence. I differentiated this particular use of a state's legal framework to mobilize state coercion from the acts of justification of repression by developing official narratives or by demonstrating judicial procedures. The former, as I labeled as "the legitimated process of repression," is deliberately chosen strategy by a ruler who is being deprived of diverse resources for claiming his legitimate rule, and who has access to deep-rooted state institutions of judicial measures. By resorting to the legitimated process of repression, the ruler effectuates state coercion by mandating the task of policymaking and its enforcement to other state actors whose interests are not necessarily aligned with that of the central state.

Third, this research contributed to the new understanding of the role of authoritarian institutions in constituting state repression. The Russian case revealed that authoritarian institutions, such as the legislative body, security forces, and other law enforcement institutions are neither under the absolute control of an autocratic ruler to serve his political interest, nor mere façade of democracy.: (1) The ruler's capacity to control the everyday practice of lawmaking and law enforcement was limited. (2) Although their origin stems from the goal of setting forth nominally democratic institutions, the operation of each institution was not merely for demonstration but fulfilled substantial tasks. The state actors of repression were essentially bureaucrats informed by their own incentive structure in realizing repressive policies on the ground. As their incentive structure has been developed separately from the political interest of the

incumbent elites, the inevitable incompatibility between the central elites' decision, and how the state apparatus interprets in enacting it is epitomized in the relative mild level of severity in applying the repressive laws, but with precipitously increasing rate. In sum, the ruler's decision to resort to the legitimated process of coercion, ironically activated the agency of repressive state apparatus and the related institutions to fill the space between state and society.

The Russian Case: Mid-Low Severity Concentration

Since the Bolotnaya protest in 2012, the scale of protests and its frequency have been continuously rising. The backbone of this increase in street politics is the growth of grassroots civil society in Russia. In responding to the rising popular movements, state repression has become more visible and severer. Civil society in Russia, however, increasingly seems to be thriving in the present climate. Organized or wild-cat public demonstrations have become routine scenes in major cities this decade. Diverse forms and sizes of grassroots social communities have been organized at a rapid pace. Various non-systemic political opponents have gained the momentum of popular support more than ever against this backdrop. One factor that explains the shape of civil society, particularly under repressive authoritarian states, is the environment, the degree of repression under which civil society is embedded. The constraints for organizing civil society are determined by how effective state repression is in suppressing popular dissent. According to this logic, the coexistence of state repression and civil society in Russia can attest that state repression exists to a small enough extent that the growth of civil society has been made possible.

I unveiled empirical evidence of a relatively low level of state repression, namely, the mid-low severity concentration. Analyzing the conviction results under a subset of penal codes

formulated within the frame of the repression laws, I found that when measured by two parameters, frequency, and severity, while both increased during the 8-year period, most of the conviction frequency was concentrated in the middle or low level of severity. What was more interesting was the fact that most of the frequency concentrated in the mid to low range of severity was attributable to convictions effectuated under only three articles. In other words, only certain types of conduct were punished, at a very high frequency, but to a lesser level of severity.

I introduced a set of factors to explain how law enforcement applying the repression laws produces the conviction bias, that is, the mid-low severity concentration. The main factors are "institutional competition," "preventive measures," "administrative charges," "widening discretion," and "more severity." As a result of these factors, three distinctive features emerged. First, mass-scale arrests were made possible by the articles under the Administrative Code rather than the Criminal Code. Second, within the given range of severity, the level of punishment imposed approximated the maximum possible punishment for administrative convictions. Third, the tendency to use online-based evidence to reduce the cost of the conviction process has been strengthened, yielding massive use of the articles that can be initiated either through the partial or exclusive use of online-based evidence. The cases that contain the above three features are cases that embody the mid-low severity.

What would these findings imply for the current status of state repression and civil society in Russia? In terms of the severity of repression, it would be maintained as it is unless the political will were present to institute severer treatment of popular dissent. This would signify the necessity to distinguish between times when additional political will is present and times when it is not. This is because political pressure originating from the top to repress more severely (or more frequently) would disrupt the preexisting pattern of law enforcement. The political signal for more

investigation, more prosecution, and more convictions would tip the balance toward severer punishment by distorting the preexisting tendency to avoid bureaucratic liability.

For sure, such severer repression imposed abruptly has become more probable thanks to the fact that the legal infrastructure is in place, and the special security force for state repression has planted its roots in the soil in advance. It can be said that without additional political pressure, state repression would enter a dormant phase of waiting and preparing to employ the appropriate combination of harsh crackdowns whenever the state's elites need it.

Apart from creating an appropriate context for severer punishment as part of an abrupt state crackdown, having the repressive laws and the relevant agencies, such as Rosgvarigia, Roskomnadzor, and Center "E" will be likely to produce side-effects. This is to say that these new organizations and the laws that are created to target the newly rising civil society at large in Russia at this moment should come with baggage. They will build up institutional inertia in law enforcement practice, which cannot be easily modified in a specific direction; this effect will build up over time. For the time being, this means that not only will state repression as it is now witnessed continue, but also some unintended consequences will occur down the line.

From the perspective of civil society, the environment in which they are embedded is not at all favorable. Even with state repression occurring primarily at mid to low severity, however, the constantly increasing frequency of conviction and the widely spreading diversified preventive tactics will set the threshold to cross for civil activism high. Being willing to participate in a political protest, risking a significant fine, being randomly beaten up by riot police, or the consequential extra-judicial persecution in schools and workplaces is not something ordinary citizens can afford easily. By contrast, however, the current mid to low severity of punishment can incentivize more popular dissent, as suggested by some previous research. State repression, as

opposed to its stated aims, can become the focal point at which civil activism is both encouraged and rallied around. As such, the current status of state repression in Russia seems to be a double-edged sword for the state itself, as it continually pushes and is pushed back by civil society.

Authoritarian Politics in the Age of Soft Control

In this research, I identified the conditions under which the softer levels and forms of repression are induced in authoritarian regimes: competitive elements in their politics, demands for transparency of rule in the midst of rapidly spreading information technology, provocative social movements, external pressures for democratic opening, and the consequent deprivation of legitimacy claims. What does it signify for the chances of autocratic survival and the autocrat's state repression in general?

Ironically, the regimes with ample "legitimacy capital" are more likely to resort to the severer level of political violence than the regimes with eroding legitimate claims. The former states have less motivation to resort to legitimization or legitimated process of coercion. Under strong leadership based on economic performance, rallying effect due to external security threats or foundational myth, they not only less witness popular dissents, but once faced, would prefer quick and ruthless solution rather than engaging in multiple fronts with convoluted schemes of subtle control of a population.

The moderate state repression stemming from the legitimated process of coercion has more emphasis on preventative measures than punishment. Not only does such a subtle way of controlling people cost less legitimacy for the rulers, but it is more befitting to the enactment process by judicial measures. As it were, autocratic survival by juxtaposing legitimation and

repression depends on how much it circumvents the need to deploy extrajudicial violence or drastically extreme level of crackdowns. By deploying subtle ways of control, such as punishing only trivial misconducts, circumscribing the limits of collective action, or managing public discourse via censorship and education, an authoritarian ruler walks a fine line between maintaining his popularity/legitimacy and repressing population under the suppressed necessity for using outright violence.

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Appendix

I. The Repression Laws

Since 2012, a series of repressive laws has been passed as a response to the mass-scale Bolotnaya protest and the growing civil activism at large. The new laws are made using preexisting webs of legislation, which entails convoluted and indirect ways to revise, update, and, change it. Therefore, it is not straightforward to figure out which laws are made particularly to target civil society for the purpose of suppressing popular dissent. The difficulties are added if one considers that application of laws almost always departs from what is written in laws. This is to say that, more often than not, some laws are not repressive in their contents on the surface, but are used to punish certain types of conducts to repress social movements. With these things considered, using the media sources and with the information gathered from the interviews of civil activists and human rights lawyers in Russia, I collated the relevant set of laws which are adopted and/or used, specifically aiming at civil activism. I name the whole set of such laws as 'the repression laws'.

The repression laws can be divided into three categories: *Protest laws, Counter-extremism laws, and Counter-terrorism laws.* As shown in Table I.1, the laws take three forms - federal laws[129], the Administrative Code, and the Criminal Code.[130] The first column in Table I.1 shows three federal laws which set forth the overarching norms and regulations governing each category, indicated in rows – public meeting, counter-extremism, counter-terrorism, and others. The second

[129] All laws are called federal laws if they were passed by the State Duma, approved by the Federation Council, and finally signed by the president of the RF. Federal laws can be its own standing document delineating certain concepts, regulations, and punishments for a specific area. It can also be used to introduce, update and revise the preexisting federal laws, specific clauses in criminal, civil and administrative codes.

[130] The Administrative Code of the RF defines administrative violations and the respective punishments. The violation and the punishments under administrative codes are not in criminal nature, thus, starkly less severe than in the Criminal Code.

and the third column each contains the Administrative Code and the Criminal Code. Simply put, each row indicates the laws that are created in the specifically circumscribed category as defined by the laws in the first column. Taking the protest laws category as an example, the overarching regulations for public meetings are delineated in the federal law No.53. The violators of the rules set by the federal law No.53 would be in general punished by penal codes in the Administrative or Criminal Code in the same row. Which specific articles will be applied depends on the scope and the depth of specific violations.

Table I.1. The Repression Laws

	Federal Law	**Administrative Code**	**Criminal Code**
Public Meeting	Federal Law No. 54 (06.09 2004) "On gatherings, meetings, demonstrations, marches and picketing"	20.2 (Public meeting) 20.2.2 (Public simultaneous stay)	212 (Mass riots) 212.1 (Repeated violation of rules of public meeting)
Counter-Extremism	Federal Law No.114 (07.30 2002) "On counteracting extremist activities"	5.26 (Freedom of conscience) 6.21 (LGBT rights) 13.15 (Freedom of Media) 20.29 (Extremist materials) 20.3 (Nazi symbol)	148 (Conscience and religion) 280 (Public call extremist acts) 280.1 (Territorial integrity) 282 (The incitement of national, racial or religious enmity) 282.1 (Org of extremist community) 282.2 (Org of extremist acts) 282.3 (Financing extremist acts) 354.1 (Rehabilitation of Nazism)

Counter-Terrorism	Federal Law No.35 (03.06 2006) "On counteracting terrorism"	13.5 (Communication facilities) 13.6 (Communication tools) 13.30 (Subscriber identity) 13.31 (Dissemination on the internet) 15.27 (Financing terrorism) 15.27.1 (Financial support for terrorism) 15.27.2 (Information on persons tax foreign accounts)	205 (Terrorism) 205.1 (Terrorism promotion) 205.2 (Public call for terrorism) 205.3 (Training terrorism) 205.4 (Org of terrorist community) 205.5 (Org of terrorist acts) 361 (Act of international terrorism)
Others[131]	NA	19.3 (Disobedience) 20.1 (Petty Hooliganism)	205.6 (Reporting crimes) 213 (Hooliganism) 214 (Vandalism) 318 (Violence against authority)

[131] There are several laws that do not go into the three main categories, but still included in the scope of this research as part of the repression laws, because they are known to be frequently applied for political persecution on civil society's activities, such as administrative code art. 19.3, and art.20.1.

II. Severity Index

I measure severity of each penal code by its least severe level of punishment. Though it is the final courts' verdicts which decide the level of punishment imposed on the convicted, it is deemed to be appropriate to use the least severe punishment in each code to compare its relative significance of severity to other provisions. The least severe punishment signifies the standard by which to determine if a violation is punished more (or less) severely than others, irrelevant of a degree of violations or crimes judged by courts.

The following table shows the severity index from 1 to 10, each index indicating the range of punishments that belong to it. The first three levels take punishment – the minimum fines - from the Administrative Code. The rest of seven levels take punishment – the least prison terms – from the Criminal Code.

Table II.1 Severity Index of the Repression Laws

	Severity Index (Score)	**Punishment**
The Least Severe	1	0 - 500
	2	1,000 - 9,999
	3	10,000 and beyond
	4	0 ~ up to 3 years
	5	Up to 4 ~ up to 5 years
	6	Up to 6 years and beyond
	7	Min. 1~3 years
	8	Min. 4~6 years
	9	Min. 7~10 years
The Most Severe	10	Min. 11 years ~ and beyond

III. Frequency and Severity Nexus

Table III.1 shows the aggregated frequency – the number of convictions under each penal code, and the severity score for each of the penal codes under the repression laws. The yearly based data is added together per each code. For the codes whose level of severity changed during 2010-2017, I used 2014-year severity index. This is because first, the year 2014 is the mid-year for the interested period, and second, the most penal codes got updated in 2014 for severer punishment.

III.1 Aggregated Frequency and Severity (2010-2017)

Articles (Abbreviated Title)	Severity	Frequency
20.2 (Public meeting)	3	17687
20.2.2 (Public simultaneous stay)	3	500
6.21 (LGBT rights)	2	17
20.29 (Extremist materials)	2	5925
20.3 (Nazi symbol)	2	5559
5.26 (Freedom of conscience)	3	332
13.6 (The use of communication tools)	2	32
13.15 (Freedom of media) (together with 13.16)	2	312
13.30 (Subscriber identity)	2	0
13.31 (Information dissemination on the internet)	2	21
15.27 (Financing terrorism)	3	2359
15.27.1 (Financial support for terrorism)	3	0
15.27.2 (Information on persons tax foreign accounts)	3	3
13.5 (Protection of communication lines/facilities)	1	88
212 (Mass riots) part.1	9	22
212 (Mass riots) part.2	7	241
212 (Mass riots) part.3	4	6
212.1 (Repeated violation of rules of public meeting)	5	0
148 part.1 (Freedom of conscience)	4	6
148 part.2 (Freedom of conscience)	4	2
148 part.3 (Freedom of conscience)	4	0
148 part.4 (Freedom of conscience)	4	0

280 (Public call for extremist acts) part.1	5	229
280 (Public call for extremist acts) part.2	5	209
280.1 (Territorial integrity) part.1	5	1
280.1 (Territorial integrity) part.2	5	10
282 (The incitement of national, racial or religious enmity) part.1	5	1912
282 (The incitement of national, racial or religious enmity) part.2	5	126
282.1 (Org of extremist community) part.1	6	23
282.1 (Org of extremist community) part.1.1	7	0
282.1 (Org of extremist community) part.2	5	18
282.1 (Org of extremist community) part.3	8	0
282.2 (Org of extremist community) part.1	6	72
282.2 (Org of extremist community) part.1.1	7	1
282.2 (Org of extremist acts) part.2	5	137
282.2 (Org of extremist acts) part.3	6	0
282.3 (Financing extremist acts) part.1	4	1
282.3 (Financing extremist acts) part.2	6	0
354.1 (Rehabilitation of Nazism) part.1	4	5
354.1 (Rehabilitation of Nazism) part.2	5	0
354.1 (Rehabilitation of Nazism) part.3	4	4
205 (Terrorism) part.1	9	20
205 (Terrorism) part.2	9	84
205 (Terrorism) part.3	10	51
205.1 (Terrorism promotion) part.1	8	121
205.1 (Terrorism promotion) part.2	9	0
205.2 (Public call for terrorism) part.1	7	155
205.2 (Public call for terrorism) part.2	6	13
205.3 (Training terrorism)	10	16
205.4 (Org of terrorist communities) part.1	10	2
205.4 (Org of terrorist communities) part.2	8	3
205.5 (Org of terrorist acts) part.1	10	33
205.5 (Org of terrorist acts) part.2	8	138
361 (International terrorism)	9	0
205.6 (Reporting crimes)	4	14
213 (Hooliganism) part.2	6	2475