

**ELITE DEFECTION IN UKRAINE IN 2013-2014:
IS PLURALISM THE REASON?**

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Lisa May

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TABLE OF CONTENTS

I.	INTRODUCTION	3
II.	LITERATURE REVIEW	5
III.	CIVIL SOCIETY	10
IV.	MEDIA	18
V.	SECURITY SERVICES.....	26
VI.	CONCLUSION	33
	BIBLIOGRAPHY	37

INTRODUCTION

On December 10, 2011, approximately 50,000 people gathered in Moscow's Bolotnaya Square to condemn ballot-rigging in the parliamentary elections that had been held on December 4. The international media dubbed the demonstration the largest anti-government rally since the fall of the Soviet Union.¹ On May 6, 2012 – the day before Vladimir Putin's presidential inauguration – another rally, the so-called "March of the Millions," took place, and clashes between police and protesters broke out. According to *Radio Free Europe/Radio Liberty*, as a result "between 400 and 700 people were detained."² Dozens of protesters have been prosecuted and many have spent time in detention or were sentenced to prison. On May 7, Moscow's city center was blocked off to stop protesters from disrupting the inauguration, and the police promptly dispersed a rally on Nikitsky Boulevard.³

In November 2013, demonstrations erupted in Kyiv's Independence Square against then-President Viktor Yanukovich's decision not to sign the Association Agreement with the European Union. A violent crackdown on student protesters on November 30 by the special police forces marked the start of the events that ultimately led to mass shootings in downtown Kyiv and Yanukovich's flight to Russia.⁴ On January 22, the first protesters were killed in clashes in Kyiv.⁵ Over 100 people died during the Euromaidan Revolution in Ukraine, most of them civilians. On

¹ "Russian Election: Biggest Protests Since Fall of USSR," *BBC*, December 10, 2011, <https://www.bbc.com/news/world-europe-16122524>.

² "Moscow Protest Marks Five Years Since Bolotnaya Crackdown," *Radio Free Europe/Radio Liberty*, May 5, 2017, <https://www.rferl.org/a/russia-putin-bototnaya-anniversary-opposition-rally/28471273.html>.

³ Mikhail Zygar, *All the Kremlin's Men* (New York, NY: PublicAffairs, 2016), 220.

⁴ "Conflict in Ukraine," *Council on Foreign Relations*, October 2019, <https://www.cfr.org/interactive/global-conflict-tracker/conflict/conflict-ukraine>.

⁵ "Understanding Ukraine's Euromaidan Protests," *Open Society Foundations*, May 2019, <https://www.opensocietyfoundations.org/explainers/understanding-ukraines-euromaidan-protests>.

February 22, after President Yanukovich had fled the country, the Ukrainian parliament voted to oust him and hold new elections.

Both Ukraine and Russia experienced civil unrest in the beginning of the 2010s, but despite similarities in the demographic composition of the protesters and a lack of coordination among the opposition leaders, the outcomes of the protests were drastically different. Vladimir Putin's hold on power in Russia persisted, and arguably grew even stronger after the Bolotnaya protests, while Viktor Yanukovich was overthrown and eventually fled Ukraine. Another major difference between the two cases was the behavior of the political elites during the demonstrations. During the 2011-2013 protests in Russia, the elites stayed loyal to the Putin-Medvedev tandem. Throughout his years in power, Putin had been successful in establishing a working combination of incentives and punishments that deterred political elites from defecting. The Ukrainian political elites, on the contrary, started turning their backs on Yanukovich as soon as they realized that Yanukovich's regime was becoming unstable. One of the first defectors was Serhiy Liovochkin, the president's chief of staff and an ally of 15 years, who resigned after the first crackdown in November 2013.⁶

This research aims to answer the following question: *Why did Russian elites stay loyal to Vladimir Putin during the 2011 protests, while those in Ukraine abandoned Viktor Yanukovich in 2013 almost immediately?* I argue that the answer lies in the fact that Ukraine is a pluralistic society with different centers of power and significant checks on presidential power, while in Russia this is not the case. Because the power in Ukraine was not concentrated exclusively in the president's hands, there was less incentive for Ukrainian elites to stay loyal to Yanukovich and more reasons to behave opportunistically. To support my argument, I examine the state of the media, civil

⁶ Simon Shuster, "Ukrainian President's Allies Start to Abandon Him," *Times*, February 20, 2014, <http://time.com/8935/ukrainian-presidents-allies-start-to-abandon-him/>.

society, and security services prior to Bolotnaya protests in Russia and before the Euromaidan Revolution in Ukraine. I do not include the legislative and judiciary bodies of either country into my analysis because in both cases they lacked independence and were used by the respective regimes to boost their own influence.

In the following section, I provide a literature review where I present different existing arguments as to why Ukrainian elites defected, and those in Russia stayed loyal to the regime. I then compare the state of civil society, the media, and security services in both countries to support my argument. In the concluding section, I discuss my findings and examine the study's limitations.

LITERATURE REVIEW

Various studies have been conducted on the role of elites in authoritarian and hybrid regimes. Henry Hale argues that Ukrainian elites stayed loyal to Viktor Yanukovich up until the regime opened fire with live ammunition on protesters in an attempt to drive them from Independence Square on February 18, 2014.⁷ A similar point was made by political scientist Lucan Way. He argues that then-president of Ukraine used high-intensity coercion, which is characterized by “high-visibility acts that target large numbers of people, well-known individuals or major institutions.”⁸ The author explains that high-intensity coercion usually creates greater cohesion among protesters and often undermines unity at the top. Way contends that large-scale violence is impossible to hide – particularly in the current era of social media as well as information and

⁷ Henry Hale, *Patronal Politics: Eurasian Regime Dynamics in Comparative Perspective* (New York, NY: Cambridge University Press, 2015), Kindle edition, 236.

⁸ Lucan Way, “Why Ukraine’s Yanukovich Fell but so Many Analysts (Including Me) Predicted He Would Survive,” *The Washington Post*, February 26, 2014, <https://www.washingtonpost.com/news/monkey-cage/wp/2014/02/26/why-ukraines-yanukovich-fell-but-so-many-analysts-including-me-predicted-he-would-survive/>.

communication technology – and it often triggers condemnation by the international community and sanctions against the elites. Thus, the members of the political elites who do not want to bear responsibility for the ruler’s actions end up defecting. Furthermore, orders to repress protesters force elites and “coercive agents to tie themselves to the regime in ways that put them at risk should the opposition take power.”⁹

While the above arguments serve as a plausible explanation as to why the protests in Ukraine grew stronger after the violent clampdowns, they do not clarify why the elites in Russia stayed loyal to Putin during the Bolotnaya protests, and why Ukrainian elites defected during the Euromaidan uprising. After all, the violence between the protesters and the police erupted in Moscow on May 6, 2012 when “the police in full riot gear charged into the crowd, dragging out people they suspected of pelting them with bottles and chunks of asphalt, and beating some brutally with nightsticks.”¹⁰ Photos and videos of the clash promptly appeared on the Internet, which caused condemnation by the West. The riots resulted in more than 400 arrests. According to *The Washington Post*, leader of the Left Front Sergei Udaltsov, anti-corruption blogger Alexei Navalny, and liberal politician Boris Nemtsov were detained during the protests.¹¹ Although violence during the Russian Bolotnaya protests did not result in deaths of the protesters, the government used high-intensity coercion by targeting high profile opposition figures and detaining large number of protesters.

⁹ Way, “Why Ukraine’s Yanukovich Fell but so Many Analysts (Including Me) Predicted He Would Survive.”

¹⁰ Ellen Barry and Michael Schwartz, “Arrests and Violence at Overflowing Rally in Moscow,” *The New York Times*, May 6, 2012, <https://www.nytimes.com/2012/05/07/world/europe/at-moscow-rally-arrests-and-violence.html>.

¹¹ Will Englund, Kathy Lally, “In Moscow, Peaceful Protest Turns Violent,” *The Washington Post*, May 6, 2012, https://www.washingtonpost.com/world/europe/peaceful-protest-turns-violent-in-moscow/2012/05/06/gIQAFti35T_story.html.

Another way to test Hale's and Way's hypothesis is to answer the following question: if Yanukovich had not used violence against the protesters in February, would he have stayed in power? The answer to this question is "no." When the rallies in Ukraine broke out in the end of November 2013, one of the protesters' main demands were the government's and president's resignations.¹² After the first crackdown on the demonstrators, those demands solidified, and the first defection occurred. It was not long before the oligarchs started turning on Yanukovich feeling the weakness of the regime. Therefore, the argument presented by Henry Hale and Lucan Way does not provide a viable explanation for why Russian elites stayed loyal to the regime in 2011-2012, and why Ukrainian elites defected in 2013-2014.

Hale also argues that public opinion plays an important role in patronal systems. The author points out that authoritarian rulers become vulnerable when the elites they rely upon to carry out their orders start expecting them to fall and begin preparing for a future without these rulers. In the case of Ukraine, there was a drop in public backing for Yanukovich already in 2011 due to the sentiment that "the president had broken campaign promises to improve people's lives."¹³ However, according to a poll conducted by the sociological group Rating, if presidential elections had been held in early October 2013, "24% of respondents (among those who would participate in elections) would support Viktor Yanukovich."¹⁴ According to *Focus* magazine, in 2012 Yanukovich was named the most influential Ukrainian.¹⁵ When it comes to Russia, multiple polling agencies registered a drop in public support for Putin and Medvedev over the course of

¹² Oksana Grytsenko, "Ukrainian Protesters Flood Kiev After President Pulls Out of EU Deal," *The Guardian*, November 23, 2013, <https://www.theguardian.com/world/2013/nov/24/ukraine-protesters-yanukovich-aborts-eu-deal-russia>.

¹³ Hale, *Patronal Politics*, 234.

¹⁴ «Електоральні настрої громадян: жовтень 2013,» *Соціологічна група «Рейтинг»*, 21 жовтня 2013, http://ratinggroup.ua/research/ukraine/elektoralnye_nastroeniya_grazhdan_oktyabr_2013.html.

¹⁵ «Фокус представил рейтинг 200 самых влиятельных украинцев,» *Фокус*, 24 декабря 2012, <https://focus.ua/rating/archive/2012/254440>.

2011, though each remained more popular than any other potential alternative. According to the Levada Center, in September 2011, 68% of respondents indicated that they were supportive of Vladimir Putin compared to 77% in September of 2010; and 62% approved of Dmitry Medvedev compared to 73% in September 2010.¹⁶ The decline in support was attributed to slowing economic growth combined with fatigue with the leadership.¹⁷

Therefore, after examining the approval ratings of Russian and Ukrainian leaders before the protests broke out in each country, it is unclear whether public opinion could be the reason why elites defect or stay loyal to the regime. There was a slight drop in public support in both cases, yet in both countries the leaders were still popular relative to the opposition. Thus, the public opinion argument does not explain why the Ukrainian elites defected, while those in Russia stayed loyal to the regime.

Another possible explanation of why Ukrainian elites abandoned Yanukovich was presented by Vladimir Gel'man, who argues that the former Ukrainian president failed to build a power vertical.¹⁸ Gel'man contends that “instead of investing in authoritarian institution-building and turning the coercive apparatus into an effective instrument of control over the state machinery, Yanukovich staffed subnational executive offices with his personal loyalists, thus increasing the alienation of many local leaders and oligarchs.”¹⁹ Putin, on the other hand, successfully recentralized the state during his first two presidential terms. The Russian leader provided a strong

¹⁶ «От перемены мест в тандеме рейтинг не меняется,» *Левада-Центр*, 30 сентября 2011, <https://www.levada.ru/2011/09/30/ot-peremeny-mest-v-tandeme-rejting-ne-menyaetsya/>.

¹⁷ Hale, *Patronal Politics*, 283.

¹⁸ Vladimir Gel'man, “Bringing Actors Back In: Political Choices and Sources of Post-Soviet Regime Dynamics,” *Post-Soviet Affairs* 34, no. 5 (2018): 288, <https://doi.org/10.1080/1060586X.2018.1493785>.

¹⁹ Gel'man, “Bringing Actors Back In,” 288.

system of incentives for political loyalty and “extended it from the level of regions and cities to the level of enterprises.”²⁰

The argument that Yanukovich completely failed to establish the power vertical is not entirely true. In fact, the former Ukrainian president tried to mimic Vladimir Putin’s power structure upon his arrival into office. In June 2010, during the Second Meeting of the Committee on Economic Reforms, Yanukovich said the following: “In a short period of time, we were able to successfully build a well-functioning power vertical.”²¹ During his presidency, Yanukovich made changes to the judiciary that brought the courts under his control. In 2010, the Constitutional Court ruled that the 2004 reform, which curbed presidential powers in favor of the parliament, had been unconstitutional.²² The ruling meant that Ukraine once again became a presidential republic. In addition, Yanukovich’s team adopted new electoral rules, which basically removed prospective opponents from competition in local elections.²³

Like Putin, Yanukovich brought his former co-workers into the team: just like Putin brought the so-called *piterskie* to Moscow, Yanukovich brought the *donetskie* to Kyiv.²⁴ Yanukovich concentrated a considerable amount of wealth in his hands, those of his sons Oleksandr and Viktor, as well as their associates who are collectively known as the Yanukovich “family.” The former Ukrainian president handed out infrastructure projects to his personal friends, and by doing so he alienated the rest of the oligarchs and influential elites. On the other hand, however, he provided rewards and incentives to his personal loyalists, who still ended up

²⁰ Gel’man, “Bringing Actors Back In,” 288.

²¹ This quote was translated from Ukrainian by me. It was retrieved from the following source: «Виступ Президента України Віктора Януковича на II засіданні Комітету економічних реформ,» *Державна фіскальна служба України*, <http://sfs.gov.ua/media-tsentr/novini/print-55031.html> (accessed April 10, 2020).

²² “Ukraine Court Boosts Powers of President Yanukovich,” *BBC*, October 1, 2010, <https://www.bbc.com/news/world-europe-11451447>.

²³ «Корреспондент: Янукович плавно превращается в Путина,» *Telegraf.by*, 23 июля 2010, https://telegraf.by/ukraine/korrespondent_janukovich_plavno_prevraschaetsja_v_putina/.

²⁴ «Корреспондент: Янукович плавно превращается в Путина,» *Telegraf.by*.

defecting during the Euromaidan protests. After the brief description of Yanukovich's attempts to build the power vertical provided above, however, it is not obvious that he completely failed to establish one. A more plausible argument would be that the power vertical built by Yanukovich failed to function. Therefore, Gel'man's argument does not explain why Ukrainian elites defected, and those in Russia stayed loyal to the regime.

CIVIL SOCIETY

Before comparing the state of civil society in Russia and Ukraine, it is worth clarifying the definition of civil society. According to the UN, civil society is the "third sector" of society, which comprises civil society organizations (CSOs) and non-governmental organizations (NGOs).²⁵ Since the Orange Revolution of 2004, Ukraine experienced a steady increase in officially registered CSOs. Moreover, there has been a qualitative shift from the state-controlled Soviet-type organizations to independent citizens' initiatives at the grassroots level.²⁶ Starting in 2005, public councils were established in different ministries in order to improve dialogue between civil society and the authorities.²⁷ The dialogue, however, remained on the national level. When it came to the local level, the decision on whether to involve the representatives of NGOs and CSOs into the policy discussion was left up to the local authorities.²⁸

During Yanukovich's presidency, civil society did not face any significant legal restrictions to its work. Surprisingly, from 2010 to 2013, the legislative framework for the activities

²⁵ "Civil Society," *United Nations*, <https://www.un.org/en/sections/resources-different-audiences/civil-society/index.html> (accessed March 12, 2020).

²⁶ Mridula Ghosh, "In Search of Sustainability: Civil Society in Ukraine," *Friedrich-Ebert-Stiftung* (June 2014): 3, <https://library.fes.de/pdf-files/id-moe/10862.pdf>.

²⁷ Ghosh, "In Search of Sustainability: Civil Society in Ukraine," 3.

²⁸ Ghosh, "In Search of Sustainability: Civil Society in Ukraine," 3.

of the CSOs and NGOs was improved in consultation with members of civil society. In 2011, the Verkhovna Rada adopted the Law on Access to Public Information, which made it easier for citizens to obtain information. In 2013, a new Law on Civic Associations came into effect. It simplified registration procedures, allowed CSOs and NGOs to conduct profit-making activities as long as they furthered the organization's purposes, and simplified electronic submission of accounting and tax records.²⁹ Additionally, in February 2013 the new Law on Charity and Charitable Organizations came into force. It simplified registration, provided for better control over the use of charitable funds, and established endowments.³⁰ When it comes to international efforts, Ukraine joined the Open Government Partnership and adopted an action plan to increase government transparency and accountability.³¹

At the same time, soon after Yanukovych came to power, international human rights organizations started documenting increasing attacks against human rights defenders and public activists. One of the most prominent cases against human rights activists during Yanukovych's tenure was that of Dmytro Groisman. Groisman was one of the founders of the Ukrainian office of Amnesty International and the founder of the Vinnytsya Human Rights Group, which fought against torture in prisons and helped refugees.³² In December 2010, he was charged with the import, production, sale, and distribution of pornographic objects and the desecration of national

²⁹ Iryna Solonenko, "Ukrainian Civil Society from the Orange Revolution to Euromaidan: Striving for a New Social Contract," *OSCE Yearbook 2014*, 225, https://ifsh.de/file-CORE/documents/yearbook/english/14/Solonenko-en_S.pdf (accessed March 20, 2020).

³⁰ «Закон України про благодійну діяльність та благодійні організації,» *Законодавство України*, 2013 <https://zakon.rada.gov.ua/laws/show/5073-17>.

³¹ "Ukraine – Letter of Intent to Join OGP," *Open Government Partnership*, July 11, 2017, <https://www.opengovpartnership.org/documents/ukraine-letter-of-intent-to-join-ogp/>.

³² "Dmytro Groisman, Trailblazer for Rights in Ukraine," *Boston Globe*, August 13, 2013, <https://www.bostonglobe.com/metro/obituaries/2013/08/12/top-ukrainian-rights-advocate-dmytro-groisman-dies/RCSqFzRwcdFp2cr6nuGG3O/story.html>.

symbols because of his blog posts on LiveJournal.³³ On October 15, 2010, as part of a criminal investigation into pornography, police searched Groisman's apartment as well as the office of the organization.³⁴ The decree of September 22, 2010 issued by the Leninsky District Court of Vinnytsya only authorized the search of the apartment.³⁵

In his commentary to *Tyzhden.ua (The Ukrainian Week)*, Groisman said that during the search, the law enforcement officers paid the greatest attention to the documents of the Vinnytsya Human Rights group and ended up confiscating the organization's computers, paperwork, and financial reports.³⁶ The human rights activist was convinced that the real purpose of the search was the desire of the leadership of the regional police to punish him for making public the facts of human rights violations by the Vinnytsya police.³⁷ On August 5, 2013, Dmytro Groisman died after suffering a heart attack. Vinnytsya City Court posthumously acquitted him due to a lack of evidence.³⁸

Another example of an attack against human rights activists is the case of Yuriy Kosarev, the member of the Luhansk Human Rights Group. In May 2011, Kosarev filed complaints for violations of labor rights and environmental laws against the public company Uspenskiy Karyer.³⁹ The activist repeatedly received threats from company executives, and on May 22, 2011, police

³³ «Переслідування громадянського суспільства в Україні в 2011 році,» *Українська Гельсінська спілка з прав людини*, 21 листопада 2011, <https://helsinki.org.ua/publications/peresliduvannya-hromadyanskoho-suspilstva-v-ukrajini-v-2011-rotsi/>.

³⁴ «Переслідування громадянського суспільства в Україні в 2011 році,» *Українська Гельсінська спілка з прав людини*.

³⁵ «Переслідування громадянського суспільства в Україні в 2011 році,» *Українська Гельсінська спілка з прав людини*.

³⁶ «Українська влада почала боротьбу з правозахисниками?» *Тиждень.ua*, 19 жовтня 2010, <https://tyzhden.ua/News/15745>.

³⁷ «Українська влада почала боротьбу з правозахисниками?» *Тиждень.ua*.

³⁸ «Суд посмертно виправдав правозахисника Гройсмана,» *ZN.ua*, 12 серпня 2013, <https://dt.ua/UKRAINE/sud-posmertno-vipravdav-pravozahisnika-groysmana-126587.html>.

³⁹ «Human Rights in Ukraine 2011. XI. Freedom of Association,» *Kharkiv Human Rights Protection Group*, <http://khpg.org/en/index.php?id=1332401365> (accessed March 16, 2020).

officers appeared in his yard asking Kosarev to come with them without providing any documentation or explanations of their actions. In his interview for the *RFE/RL*, Kosarev said that his friend Serhiy Ignatov and him were beaten by the law enforcement officers.⁴⁰

Yuriy Kosarev was charged with assaulting three police officers. He spent two months in a pre-trial detention center, after which he was put under house arrest.⁴¹ But his friend, Serhiy Ignatov, who had to undergo a surgery because of the beating, spent a year and a half in a detention facility. He was also accused of assaulting law enforcement officers.⁴² On September 28, 2012, the trial court, after finding multiple procedural violations during the pre-trial investigation and inconsistencies in the testimonies of the prosecution witnesses, remanded the case for retrial and dismissed Serhiy Ignatov. In December 2013, the Slovianoserbsk District Court issued a decision to further investigate the case.⁴³

The two cases described above provide examples of persecution of members of civil society in Ukraine. The Ukrainian Helsinki Human Rights Union published annual reports documenting the most prominent cases. In Ukraine, there was a sharp increase in attacks against members of civil society during the events of late 2013, whereby the right to peaceful assembly was denied in several *oblasts*, and many activists were beaten and detained. However, it is difficult to assess whether the persecutions of the civil society members under Yanukovich prior to 2013 were more prevalent than under Yushchenko or Kuchma because of a lack of data prior to 2010.

⁴⁰ Андрій Кузнецов, «На Луганщині судять правозахисника,» *Радіо Свобода*, 11 вересня 2012, <https://www.radiosvoboda.org/a/24704372.html>.

⁴¹ «Справа Юрія Косарева: сьогодні прокуратура спробує врятувати залишки своєї репутації,» *Правозахисний центр «Поступ,»* <https://postup.lg.ua/news/sprava-yuriya-kosarieva-sogodni-prokuratura-sprobuie-vryatuvati-zalishki-svoieyi-reputaciyi> (accessed March 17, 2020).

⁴² «Справа Юрія Косарева,» *Правозахисний центр «Поступ,»*

⁴³ «Лутугинский активист Юрий Косарев одержал еще одну победу над беспредельщиками в милицейской форме,» *Правозахисний центр «Поступ,»* https://postup.lg.ua/news/lutuginskiy-aktivist-yuriy-kosarev-oderzhal-eshche-odnu-pobedu-nad-bespredelshchikami-v-militsiyskoy-forme-v?fbclid=IwAR0miSk4KWEUINQULxzd-WK409J5ByoXGIziRC48X7cC8rvGxqXl_H7YbY8 (accessed March 17, 2020).

When it comes to the Russian legal environment, in 2006 the government adopted a law that regulates the activities of nongovernmental organizations (NGOs). The law was heavily criticized by Human Rights Watch and other international organizations for granting state officials excessive powers to control the operations of NGOs.⁴⁴ The law allows the government to conduct inspections of non-governmental organizations annually; it gives the Federal Registration Service unlimited discretion to request documents for inspection; and gives authority to the Federal Registration Service to reject registration applications if the organization's "documents are prepared in an inappropriate manner," which can have broad interpretation.⁴⁵

In April 2009 Dmitry Medvedev called for a reform of the 2006 law and established a working group to draft amendments to the legislation.⁴⁶ Medvedev's decree of May 2008 mandating the transfer of NGO registration and oversight authority to the Ministry of Justice resulted in almost no change in the level of unwarranted intervention in the work of the non-governmental organizations.⁴⁷ Besides the 2006 NGOs law, the Russian government also uses other tools, such as a 2002 Law on Countering Extremist Activity and a variety of administrative regulations, to target civil society organizations. The 2007 amendments to the anti-extremism law "allow any politically or ideologically motivated crime, as well as certain forms of defamation of public officials, to be designated as extremist activity."⁴⁸ This law is applied in arbitrary manner and is used to silence political dissent. The government does not target all civil society organizations equally. It focuses on foreign-funded NGOs and those organizations working on

⁴⁴ "Choking on Bureaucracy: State Curbs on Independent Civil Society Activism," *Human Rights Watch*, February 19, 2008, <https://www.hrw.org/report/2008/02/19/choking-bureaucracy/state-curbs-independent-civil-society-activism>.

⁴⁵ "Choking on Bureaucracy," *Human Rights Watch*.

⁴⁶ "An Uncivil Approach to Civil Society: Continuing State Curbs on Independent NGOs and Activists in Russia," *Human Rights Watch*, June 17, 2009, <https://www.hrw.org/report/2009/06/17/uncivil-approach-civil-society/continuing-state-curbs-independent-ngos-and>.

⁴⁷ "An Uncivil Approach to Civil Society," *Human Rights Watch*.

⁴⁸ "Choking on Bureaucracy," *Human Rights Watch*.

controversial issues. Thus, a comparison of domestic legal environments in Russia and Ukraine demonstrates that the Russian government created various obstacles to the work of civil society organizations, while the Ukrainian government at least on paper simplified the bureaucratic procedures the NGOs had to undergo in order to function.

In 2011, Agora International Human Rights Group recorded over 850 cases of attacks on activists from 60 regions of Russia. In 2010, 603 attacks were registered, and for 2009 the number was 308.⁴⁹ The largest number of cases of persecution against the members of civil society was recorded in Moscow, St. Petersburg, the regions of the North Caucasus, as well as in the Irkutsk region and Udmurtia.⁵⁰ The most common types of harassment of civil activists are killings, assaults, and detention during public protests.⁵¹

One of the most prominent cases of 2009 was the murder of Natalya Estemirova, a Russian human rights defender and board member of Memorial Human Rights Center. On the morning of July 15, 2009, she was kidnapped near her apartment building in Grozny. She was found dead later that day in the neighboring North Caucasus republic of Ingushetia.⁵² When the chairman of Memorial Oleg Orlov learned that Estemirova had been killed, he called a press-conference and told the reporters that he was certain that Ramzan Kadyrov was “in some way responsible for the murder.”⁵³ Kadyrov filed a defamation lawsuit against the human rights activist in 2009. Orlov

⁴⁹ «Преследование гражданских активистов в России. Итоги-2011,» *Фонд содействия защите здоровья и социальной справедливости имени Андрея Рылькова*, 31 января 2012, <https://rylkov-fond.org/blog/novosti/agora-stat/>.

⁵⁰ «В России за пять лет число нападений на гражданских активистов возросло в пять раз,» *Newsru.com*, February 3, 2011, <https://www.newsru.com/crime/03feb2011/attackactiviststat.html>.

⁵¹ «В России за пять лет число нападений на гражданских активистов возросло в пять раз,» *Newsru.com*.

⁵² Наталья Джанполодова и Светлана Павлова, «Все изменилось там к худшему.» 10 лет без Натальи Эстемировой,» *Радио Свобода*, 15 июля 2019, <https://www.svoboda.org/a/30051353.html>.

⁵³ Michael Schwartz, “Russian Rights Activist Cleared of Defamation,” *The New York Times*, June 14, 2011, <https://www.nytimes.com/2011/06/15/world/europe/15shechnya.html>.

lost, and both him and Memorial were fined 70,000 rubles in total.⁵⁴ During the latest trial, Kadyrov's lawyers demanded a 3-year prison sentence for Orlov.⁵⁵ The judge, however, found Orlov not guilty.⁵⁶ When it comes to Estemirova's murder, a decade later, the killing still has not been properly investigated. Chechen officials claim that the man who had shot the human rights activist was an Islamic extremist killed by the police in autumn 2009.⁵⁷ Memorial and other human rights groups are skeptical of this assessment. Estemirova's murder represents one of the many uninvestigated cases of kidnappings and killings of human rights defenders in Russia, and specifically in the North Caucasus.

Another case is that of persecution of Anastasia Denisova. Anastasia Denisova used to be President of Ethnics, a Krasnodar-based youth group promoting tolerance and nondiscrimination.⁵⁸ In 2009-2010, she was repeatedly harassed by the law enforcement. In August 2009, the activist and her colleague were detained on the Russia-Abkhazia border and interrogated for 7 hours without any explanation of the reason behind it.⁵⁹ In September, a news piece published in a Krasnodar paper accused Denisova of inciting hatred through her articles about xenophobia in the region and her activities in support of the Russian-Georgian dialogue.⁶⁰ In October, security services agents conducted a search of the Ethnics office claiming that they had received a

⁵⁴ «Омбудсмен Чечни считает слишком мягким вердикт суда в отношении Орлова,» *РИА Новости*, 7 октября 2009, <https://ria.ru/20091007/187886433.html>.

⁵⁵ Schwirtz, "Russian Rights Activist Cleared of Defamation."

⁵⁶ Schwirtz, "Russian Rights Activist Cleared of Defamation."

⁵⁷ Schwirtz, "Russian Rights Activist Cleared of Defamation."

⁵⁸ «Краснодарский край: сотрудницу ПЦ «Мемориал» продолжают преследовать,» *Правозащитный центр «Мемориал»*, 1 марта 2010, <https://memohrc.org/ru/news/krasnodarskiy-kray-sotrudnicu-pc-memorial-prodolzhayut-presledovat>.

⁵⁹ "Russian Federation: Withdrawal of the Charges Faced by Ms. Anastasia Denisova," *World Organization Against Torture*, May 20, 2010, <https://www.omct.org/human-rights-defenders/urgent-interventions/russia/2010/05/d20709/>.

⁶⁰ "Russian Federation: Withdrawal of the Charges Faced by Ms. Anastasia Denisova," *World Organization Against Torture*.

complaint about the use of unlicensed software.⁶¹ During the search, three computers were seized. The agents presented a warrant with an incorrect address and asked Denisova to come with them for interrogation. She refused to follow them, claiming that the reasons for the interrogation had not been clearly stated.⁶²

In January 2010, the police searched Denisova's apartment and seized her laptop, hard drive and a flash card. Soon after, Denisova learned that a criminal case had been opened against her in December 2009.⁶³ She was facing criminal prosecution, a fine up to 500,000 rubles, and up to 6 years in prison for the purported use of unlicensed Microsoft software, which was in violation of Russia's antipiracy laws.⁶⁴ Following the condemnation of the authorities' actions by Russian and international civil society organizations, the criminal charges against Denisova were dropped in April 2010 for lack of evidence. Ethnics by that time was no longer a functioning organization.⁶⁵ Denisova's case is illustrative because from 2009-2011 security services carried out multiple raids against human rights groups. They argued that "inquiries reflect their concern about software piracy, which is rampant in Russia."⁶⁶ However, no searches were carried out against organizations supportive of the government.

After comparing the state of civil society in Ukraine under Yanukovich and in Russia under the Putin-Medvedev tandem, it can be concluded that persecutions of activists in Russia

⁶¹ «Краснодарский Край: Сотрудницу ПЦ «Мемориал» Продолжают Преследовать,» *Правозащитный Центр «Мемориал.»*

⁶² «Краснодарский Край: Сотрудницу ПЦ «Мемориал» Продолжают Преследовать,» *Правозащитный Центр «Мемориал.»*

⁶³ «РФ: давление на правозащитника, руководителя организации ЭТНИКА,» *Харьковская правозащитная группа*, 1 марта 2010, <http://khp.org/ru/index.php?id=1267446458>.

⁶⁴ "Anastasia Denisova: Serving Victims of Hate Crime Violence in Russia," *Human Rights First*, March 5, 2012, <https://www.humanrightsfirst.org/2012/03/05/anastasia-denisova-serving-victims-of-hate-crime-violence-in-russia>.

⁶⁵ "Anastasia Denisova: Serving Victims of Hate Crime Violence in Russia," *Human Rights First*.

⁶⁶ Clifford Levy, "Russia Uses Microsoft to Suppress Dissent," *The New York Times*, September 11, 2010, <https://www.nytimes.com/2010/09/12/world/europe/12raids.html?pagewanted=all>.

were more systematic than those in Ukraine. Additionally, the Russian government created significant legal obstacles to the work of the civil society organizations, while no such restrictions were present in Ukraine prior to 2014 when the Verkhovna Rada passed the so-called Oliynyk-Kolesnichenko law, criminalizing libel and extremist activities. The Ukrainian government promptly abolished majority of the provisions of this law following condemnation by the international community and the Ukrainian civil society.

MEDIA

Although freedom of the press in Ukraine declined during Yanukovich's presidency, the media sector in the country was still diverse in comparison to other former Soviet republics. According to Freedom House, in 2013 Ukraine had a rating of 60, falling one point short of the Not Free range.⁶⁷ Several laws adopted by the government caused the increase of self-censorship in the media.⁶⁸ A law protecting personal information, signed by Yanukovich in June 2011, complicated the work of journalists and exposed them to being criminally prosecuted. According to the law, journalists had to ask a person's permission before publishing any information about them other than their first and last name.⁶⁹ On October 18, 2011, the Verkhovna Rada adopted draft legislation #7132 On Changes to the Law on Protecting Public Morals. According to the law, broadcasters were required to limit violent content or risk losing their license.⁷⁰ In November 2011,

⁶⁷ "Freedom of the Press: Middle East Volatility Amid Global Decline," *Freedom House* (2013): 8, <https://freedomhouse.org/sites/default/files/FOTP%202013%20Booklet%20Final%20Complete%20-%20Web.pdf> (accessed March 25, 2020).

⁶⁸ "Freedom of the Press 2012 – Ukraine," *Freedom House*, October 6, 2012, available at: <https://www.refworld.org/docid/50757c151a.html>.

⁶⁹ Jean-François Julliard and Elsa Vidal, "Press Freedom in Ukraine: Temptation to Control," *Reporters Without Borders* (August 2010): 3, <https://rsf.org/en/reports/temptation-control-report-fact-finding-visit-ukraine>.

⁷⁰ Закон України про внесення змін до закону України «Про захист суспільної моралі,» Стаття 23 (2011), http://search.ligazakon.ua/l_doc2.nsf/link1/JF5I400B.html.

the Ukrainian government adopted a new election code, containing “clauses authorizing the courts to close media outlets for the duration of an election campaign if they commit a ‘gross’ violation.”⁷¹ Needless to say, the document did not define what constitutes such violation.

Media ownership in Ukraine lacks transparency. Although the Law on Television and Radio Broadcasting requires that the National Television and Radio Broadcasting Council of Ukraine (NTRBC) provide information about media owners, the council only publishes the company names, which are usually foreign enterprises registered in offshore zones.⁷² According to unofficial sources, in 2013 the major media owners in Ukraine were oligarchs Viktor Pinchuk, Rinat Akhmetov, Dmytro Firtash, Ihor Kolomoisky, and Serhiy Liovochkin.⁷³ Since the media in Ukraine is controlled by oligarchs who profit mostly from other industries, the coverage provided by those media outlets has often been uncritical of the authorities in exchange for benefits to the owner’s main business (such as state subsidies, bailouts from debt, tax breaks, etc.).⁷⁴

Media watchdogs, like Reporters Without Borders, reported an increase in attacks and pressure on journalists in Ukraine since Yanukovich became president.⁷⁵ In August 2010, the Kyiv Administrative Court ruled that the allocation of broadcast frequencies to TVi and 5 Kanal was illegal.⁷⁶ These two channels were independent and provided critical coverage of the activities of those in power. Additionally, the complaint against TVi and 5 Kanal was filed by Valeriy

⁷¹ “Freedom of the Press 2012 – Ukraine,” *Freedom House*.

⁷² Natalya Ryabinska, “Media Capture in Post-Communist Ukraine: Actors, Methods, and Conditions,” *Problems of Post-Communism* 61, no. 2 (2014): 8, <https://doi.org/10.2753/PPC1075-8216610204>.

⁷³ Ryabinska, “Media Capture in Post-Communist Ukraine: Actors, Methods, and Conditions,” 9.

⁷⁴ Ryabinska, “Media Capture in Post-Communist Ukraine: Actors, Methods, and Conditions,” 18.

⁷⁵ Olha Dorovskykh, “Concerns Mount About Press Freedom in Ukraine as Journalist Attacked,” *Radio Free Europe/Radio Liberty*, September 21, 2010, https://www.rferl.org/a/Concerns_Mount_About_Press_Freedom_In_Ukraine_As_Journalist_Attacked/2164350.html.

⁷⁶ Julliard and Vidal, “Press Freedom in Ukraine.”

Khoroshkovsky, who was at the time the Head of the SBU and the co-owner of the U.A. Inter Media Group Ltd, part of which was one of Ukraine's most watched TV channels, Inter.⁷⁷

In April 2011, a self-censorship scandal broke out in the *Kyiv Post*, the Ukrainian English-language newspaper. Its editor-in-chief Brian Bonner was fired by the owner Mohammad Zahoor because of his refusal to kill an interview with the Minister of Agriculture Mykola Prysiashniuk about the lack of transparency in government grain export quotas.⁷⁸ The newspaper's editorial department went on strike, calling Bonner's dismissal an interference with the freedom of the press.⁷⁹ After the articles about this issue appeared in the *Financial Times* and *Reuters*, the owner of the *Kyiv Post* reversed his decision and said that Bonner's firing was a misunderstanding.⁸⁰ Reporters Without Borders commented on Zahoor's decision: "This U-turn has shown that, although the authorities and media owners in Ukraine have been trying to control editorial content for more than a year, they can be made to back down when journalists and public opinion are mobilized. This is a great victory for the *Kyiv Post*'s staff and an encouragement to all those fighting for media freedom in Ukraine."⁸¹

In 2013, the Ukrainian online newspaper *Ukrainska Pravda* became the target of a smear campaign. The website is famous for exposing Yanukovich's luxurious residence; and details of the deals from the building contracts to get Ukraine ready for the UEFA Euro 2012 soccer championship.⁸² In August 2013, a fake printed issue of *Ukrainska Pravda* was disseminated. According to *Ukrainska Pravda*, the physical newspaper copied the design of the website but

⁷⁷ Julliard and Vidal, "Press Freedom in Ukraine."

⁷⁸ "Brian Bonner Reinstated as *Kyiv Post* Editor," *Reporters Without Borders*, updated on January 20, 2016, <https://rsf.org/en/news/brian-bonner-reinstated-kyiv-post-editor>.

⁷⁹ Pauline Tillmann, "Ukraine Press Freedom Under Threat," *Fair Observer*, July 17, 2011, <https://www.fairobserver.com/region/europe/ukraine-press-freedom-under-threat/>.

⁸⁰ Tillmann, "Ukraine Press Freedom Under Threat."

⁸¹ "Brian Bonner Reinstated as *Kyiv Post* Editor," *Reporters Without Borders*.

⁸² Andrew Wilson, "Dirty Tricks Undermine Media Freedom in Ukraine," *Open Democracy*, October 2, 2013, <https://www.opendemocracy.net/en/odr/dirty-tricks-undermine-media-freedom-in-ukraine/>.

contained articles that were never published on the website.⁸³ The publication of the fake newspaper coincided with the launch of a clone website, whose design completely followed that of *Ukrainska Pravda*.⁸⁴ The editorial staff of the online newspaper regarded both of these developments as attempts to discredit *Ukrainska Pravda*.⁸⁵ The journalists demanded an investigation of the case by law enforcement to find out whether pro-government forces were involved in creating fakes. The investigation was never carried out, but the clone website at kryvda.com no longer exists.

Under Yanukovich's rule, independent journalists were often prevented from carrying out investigations and were physically assaulted. On August 11, 2010, Vasyl Klymentyev, the editor of an investigative newspaper *Novyy Styl* covering corruption in the Kharkiv region, disappeared.⁸⁶ The police opened a homicide investigation on August 15, 2010. In March 2012, the police issued an arrest warrant for Andriy Kozar, a former police officer.⁸⁷ He was one of the two main suspects in Klymentyev's kidnapping. The journalist's body was never found, and the identity of the person who ordered the killing was never established. The police, however, agreed that the murder was caused by Klymentyev's professional activities.⁸⁸

The situation with freedom of the press in Russia remained as grim under the Putin-Medvedev tandem as it was before Medvedev became president. According to Freedom House,

⁸³ «Чи задіяна влада в провокаціях проти «Української правди»? Чекаємо на відповідь,» *Українська правда*, 4 вересня 2013, <https://www.pravda.com.ua/articles/2013/09/4/6997266/>.

⁸⁴ «Чи задіяна влада в провокаціях проти «Української правди»? Чекаємо на відповідь,» *Українська правда*.

⁸⁵ «Чи задіяна влада в провокаціях проти «Української правди»? Чекаємо на відповідь,» *Українська правда*.

⁸⁶ Dorovskykh, "Concerns Mount About Press Freedom in Ukraine as Journalist Attacked."

⁸⁷ «Міліція заявляє про розкриття вбивства харківського журналіста Климентьєва,» *Тиждень.ua*, 2 серпня 2014, <https://tyzhden.ua/News/56991>.

⁸⁸ «Міліція заявляє про розкриття вбивства харківського журналіста Климентьєва,» *Тиждень.ua*.

Russia had a rating of 81 in 2011, falling into the Not Free category.⁸⁹ In 2010, the Russian government owned all national TV networks, two radio networks, more than 60% of the regional newspapers, as well as two national newspapers.⁹⁰ Additionally, international radio and television broadcasting was generally restricted. Although access to most websites was freely available, the government increasingly engaged in content removal.⁹¹

Television today remains the main news source for most Russians, although its dominance is being increasingly challenged by the internet. It is also the form of media in which independent investigative journalism has been suppressed the most thoroughly. The elimination of the independent media in Russia began after the 2000 Kursk nuclear submarine disaster. The TV channel ORT aired a segment on the tragedy accusing Putin of lying.⁹² ORT at that time was 51% government owned. The other 49% was owned by the Russian tycoon Boris Berezovsky. Berezovsky was heavily influencing the channel's editorial policy at the time of the Kursk tragedy. After the ORT's critical coverage of the disaster, the government took over the TV station.⁹³ Berezovsky still owned another TV channel, TV6, but in 2002 it was closed due to being in debt.⁹⁴ In 2001, another independent TV company, NTV, was seized by the Russian Gazprom because of the debts its owner Vladimir Gusinsky owed to the gas monopoly.⁹⁵

Defamation laws are the principal sources of restrictions of press freedom and freedom of expression in Russia. The Criminal Code contains several articles that address defamation. According to Article 129, libel disseminated by mass media and libel accusing someone of

⁸⁹ "Freedom of the Press: Signs of Change Amid Repression," *Freedom House* (2011): 251, <https://freedomhouse.org/sites/default/files/FOTP%202011%20Final%20Full%20Report.pdf>.

⁹⁰ "Freedom of the Press: Signs of Change Amid Repression," *Freedom House*, 253.

⁹¹ "Freedom of the Press: Signs of Change Amid Repression," *Freedom House*, 254.

⁹² Zygar, *All the Kremlin's Men*, 28.

⁹³ Zygar, *All the Kremlin's Men*, 28.

⁹⁴ Zygar, *All the Kremlin's Men*, 40.

⁹⁵ Zygar, *All the Kremlin's Men*, 38.

committing a particularly serious crime are more serious crimes than ordinary libel and are punishable by up to three years in prison.⁹⁶ Article 298 addresses the liability for false statements made about a judge, jury, prosecutor, investigator, or police officer.⁹⁷ Article 319 deals with the issue of liability for insulting a government official “who is performing his duties or in connection with the performance of his duties.”⁹⁸ In November 2011, the Russian State Duma repealed Articles 129 and 130 of the Criminal Code, but in July 2012 Putin signed into law amendments to the Criminal Code, which would reintroduce defamation as a felony punishable by fines in an amount up to about \$150,000.⁹⁹

Additionally, defamation is included in the Russian Civil Code. Article 150 of the Code provides for the protection of dignity and reputation and other rights referred to as non-material values and non-property rights; Article 151 deals with the compensation for moral damages; and Article 152 addresses the protection of reputation, referred to as either honor, dignity, or business reputation.¹⁰⁰ Moreover, Articles 8 and 11 of the Law on Countering Extremist Activity prohibit the distribution of extremist materials and the presence of any signs of extremism in the activities of a media outlet.¹⁰¹ The activities of media outlets can be terminated by the court order if they fail to rectify the situation after receiving a warning, re-offend, or if their actions cause harm to physical or legal persons.

Various organizations protecting freedom of the press expressed their concerns about the arbitrary use of these laws by Russian authorities to suppress criticism and hamper investigative

⁹⁶ “The Cost of Reputation: Defamation Law and Practice in Russia,” *Article 19* (November 2007): 23, <https://www.refworld.org/pdfid/4756cfd60.pdf>.

⁹⁷ “The Cost of Reputation,” *Article 19*, 23.

⁹⁸ “The Cost of Reputation,” *Article 19*, 23.

⁹⁹ “Russia: Criminal Libel Law a Blow to Free Expression,” *Human Rights Watch*, July 16, 2020, <https://www.hrw.org/news/2012/07/16/russia-criminal-libel-law-blow-free-expression#>.

¹⁰⁰ “The Cost of Reputation,” *Article 19*, 24.

¹⁰¹ Федеральный закон «О противодействии экстремистской деятельности.» Статьи 8 и 11 (2002), <http://docs.cntd.ru/document/901823502>.

journalism in the country. Data on the number of defamation lawsuits per year filed in Russia varies. The Russian Supreme Court cited a number of about 5,000 cases a year in the early 2000s, while the Parliamentary Assembly of the Council of Europe (PACE) in its 2005 report referred to as many as 10,000 cases.¹⁰² On numerous occasions the Russian courts sentenced journalists to imprisonment. One of such cases is that of journalist Eduard Abrosimov, who in 2005 was sentenced to seven months of forced labor by the regional court in Saratov after two lawsuits were filed against him.¹⁰³ The first suit was initiated by the Russian politician Vyacheslav Volodin after the article titled *Don't Look Through the Keyhole* by Andrey Zabelin was published in the Moscow newspaper *Sobesednik*.¹⁰⁴ The news piece alleged that Volodin had been seen in a gay club. Volodin filed the lawsuit, arguing that this information had negatively impacted his professional reputation.¹⁰⁵ It was never proven Abrosimov was the author of the article, but the court decided this was irrelevant and ruled that the news piece indeed harmed the plaintiff's reputation.

During the investigation into Abrosimov's case, the journalist's computer was seized. Among the emails, the police officers found the draft of another article saying that the prosecutor's office had received bribes to release crime suspects from detention.¹⁰⁶ The article was published in the local Saratov newspaper, but the reporting about bribery had been removed.¹⁰⁷ Despite this, a second criminal case against Abrosimov was opened and subsequently merged with the first one. When hearing the case, the court examined the draft article sent by email to the newspaper's editor instead of the piece that ended up being published.¹⁰⁸ After the investigation, Abrosimov was

¹⁰² "The Cost of Reputation," *Article 19*, 28.

¹⁰³ "Journalist Sentenced to Seven Months Forced Labour for Defamation," *Reporters Without Borders*, updated on January 20, 2016, <https://rsf.org/en/news/journalist-sentenced-seven-months-forced-labour-defamation>.

¹⁰⁴ "Russian Court Imposes Prison Term in Defamation Case," *Committee to Protect Journalists*, June 24, 2005, <https://cpj.org/2005/06/russian-court-imposes-prison-term-in-defamation-ca.php>.

¹⁰⁵ "The Cost of Reputation," *Article 19*, 32.

¹⁰⁶ "Russian Court Imposes Prison Term in Defamation Case," *Committee to Protect Journalists*.

¹⁰⁷ "The Cost of Reputation," *Article 19*, 32.

¹⁰⁸ "The Cost of Reputation," *Article 19*, 32.

sentenced to seven months in prison. An appeal in October 2005 secured a reduction of sentence from seven to six months, which Abrosimov had already served by then.¹⁰⁹ It is important to note that at least three other journalists were also imprisoned on defamation charges in 2005 and 2006 alone, and many others were ordered by the courts to pay excessive fines.

Russia is the third deadliest country in the world for journalists. It is also the ninth worst in solving the murders of reporters.¹¹⁰ The authorities' reluctance to properly investigate the crimes against journalists creates an atmosphere of impunity in the country. Even when suspects are identified, they rarely receive any serious punishment. On April 29, 2009, the editor-in-chief of the *Korrupsiya i Prestupnost* newspaper Vyacheslav Yaroshenko was attacked on the staircase of his apartment building in Rostov-on-Don.¹¹¹ He was hospitalized with skull and brain injuries, underwent several surgeries and passed away two months after the attack. Rostov law enforcement officials gave conflicting accounts of what happened to Yaroshenko in April: at first the police said he had been injured in a fistfight on a local street, and later they said that Yaroshenko had injured himself by falling down the stairs in the entrance of his apartment building.¹¹² According to Yaroshenko's colleague Sergey Sleptsov, the attack on the journalist was caused by his professional activities. In the weeks preceding the incident, *Korrupsiya i Prestupnost* had published a series of articles on alleged corruption in the Rostov regional government, police, and prosecutor's office.¹¹³ The police never opened a criminal investigation. In 2007, Sergey Sleptsov

¹⁰⁹ "The Cost of Reputation," *Article 19*, 32.

¹¹⁰ "Russian Newspaper Editor Dies from Head Injuries," *Committee to Protect Journalists*, June 29, 2009, <https://cpj.org/2009/06/russian-newspaper-editor-dies-from-head-injuries.php>.

¹¹¹ "Russian Newspaper Editor Dies from Head Injuries," *Committee to Protect Journalists*.

¹¹² "Russian Newspaper Editor Dies from Head Injuries," *Committee to Protect Journalists*.

¹¹³ Григорий Бакунин, «Журналист Вячеслав Ярошенко погиб, но газета его живет (Ростов-на-Дону),» *Радио Свобода*, 10 октября 2009, <https://www.svoboda.org/a/1848852.html>.

himself was brutally assaulted in a manner very similar to the attack on Yaroshenko.¹¹⁴ Rostov law enforcement did not open a criminal investigation in that case either.

After comparing the state of the media in Ukraine prior to the Euromaidan Revolution and in Russia before the Bolotnaya protests broke out, it can be concluded that even though legal obstacles to the work of journalists were present in both countries, defamation laws in Russia were used systematically to suppress criticism and force journalists to self-censor. Moreover, the fact that the Russian government controls all national TV networks, some radio networks, as well as the majority of the regional newspapers suggests that the level of self-censorship among journalists is higher than in Ukraine, where most major media outlets are owned by oligarchs. Lastly, the Russian authorities' reluctance to open investigations into crimes against journalists creates an atmosphere of impunity in the country.

SECURITY SERVICES

The Security Service of Ukraine (SBU) is both an intelligence and a law enforcement agency. According to Article 1 of the Law on the Security Service of Ukraine, the SBU is a state special purpose body with law enforcement functions that ensures the national security of Ukraine.¹¹⁵ The Security Service of Ukraine is entrusted with the protection of state sovereignty, constitutional order, territorial integrity, economic, scientific, technical and defense potential of Ukraine, as well as legitimate interests of the state and citizens' rights from the intelligence and subversive activity of foreign special services.¹¹⁶ Some SBU units perform law enforcement

¹¹⁴ «Союз журналистов Ростова-на-Дону потребует возбуждения уголовного дела по факту избияния журналиста,» *Кавказский узел*, 6 мая 2007, <https://www.kavkaz-uzel.eu/articles/113540>.

¹¹⁵ Закон України «Про Службу безпеки України,» Стаття 1 (1992), <https://zakon.rada.gov.ua/laws/show/2229-12>.

¹¹⁶ Закон України «Про Службу безпеки України,» Стаття 2.

functions related to national security, counter-terrorism, corruption, organized crime, smuggling, drug trafficking, and economic crimes, which is problematic because they supplant the functions of other law enforcement agencies.¹¹⁷ The structure of the SBU has largely remained similar to that of its Soviet predecessor – the KGB.

Following the election of Yanukovich, law #2592-VI was adopted, making amendments to the Law on the Security Service of Ukraine. According to the updated law, the Security Service of Ukraine became subordinate to the President, while in the previous version it was subordinate to both the President and the Verkhovna Rada.¹¹⁸ The Head of the SBU and his Deputies are appointed and dismissed by the President without any involvement by the Verkhovna Rada.¹¹⁹ Article 24 titled “Duties of the Security Service of Ukraine” imposed on the SBU an obligation to perform other tasks directly aimed at ensuring the internal and external security of the state on behalf of the President of Ukraine.¹²⁰ It was not specified what constitutes other tasks.

The SBU was involved in several controversies during Yanukovich’s tenure. In May 2010, professors of the Ukrainian Catholic University in Lviv complained about interference by the Security Service in its activities as a group of students staged a protest against an agreement signed with Russia extending the lease of the Russian Black Sea Fleet in Crimea.¹²¹ University Dean Borys Gudziak said that on May 18 he received a call from a representative of the SBU requesting a meeting. During the meeting, Gudziak was told that “the university administration should warn

¹¹⁷ «Служба безпеки України та права людини – Є. Захаров,» *Українська Гельсінська спілка з прав людини*, 23 січня 2017, <https://helsinki.org.ua/sluzhba-bezpeky-ukrajiny-ta-prava-lyudyny-e-zaharov/>.

¹¹⁸ «Служба безпеки України та права людини – Є. Захаров,» *Українська Гельсінська спілка з прав людини*.

¹¹⁹ «Служба безпеки України та права людини – Є. Захаров,» *Українська Гельсінська спілка з прав людини*.

¹²⁰ «Стаття 24. Обов’язки Служби безпеки України,» *Протокол*, https://protocol.ua/ru/pro_slugbu_bezpeki_ukraini_stattya_24/ (accessed March 30, 2020).

¹²¹ “University Protests ‘Interference’ By Ukraine Security Service,” *Radio Free Europe/Radio Liberty*, May 26, 2010, https://www.rferl.org/a/University_Protests_Interference_By_Ukraine_Security_Service/2053644.html.

students that those involved in illegal activities during protests against the government will be prosecuted.”¹²²

On June 26, 2010, the Head of the Ukrainian office of the Konrad-Adenauer-Stiftung (KAS) Nico Lange was detained for 10 hours in Kyiv Boryspil airport by the State Border Service.¹²³ The border guard acted on instructions from the SBU. During his interview earlier that month, Lange made critical remarks about changes that had taken place in Ukraine since Yanukovich became president.¹²⁴ At first, the Security Service of Ukraine declined to comment on their actions, but later the First Deputy Head of the SBU Vladimir Khimey wrote the following: “Niko Lange was banned from entering Ukraine on the basis of provisions the second paragraph of the second part of Article 25 of the Law on the Legal Status of Foreigners and Stateless Persons.”¹²⁵ The aforementioned article addresses a threat of interference by foreign citizens into the matters within the domestic jurisdiction of Ukraine. After the German embassy intervened into the matter and conducted talks with the Ukrainian authorities, Nico Lange was able to leave the airport and go to Kyiv. The SBU later described the incident as a misunderstanding.

In July 2010, the SBU summoned blogger Oleh Shynkarenko accusing him of threatening the life of the President of Ukraine in his posts on LiveJournal.¹²⁶ Shynkarenko was forced to sign an affidavit stating that he did not intend to make a threat and apologizing for his blog entries.¹²⁷

¹²² “University Protests ‘Interference’ By Ukraine Security Service,” *Radio Free Europe/Radio Liberty*.

¹²³ Євген Захаров, «Діяльність СБУ у 2010 р., яка стосується свободи вираження поглядів,» *Харківська правозахисна група*, 22 квітня 2014, <http://khp.org/index.php?id=1398189489>.

¹²⁴ “German Expert Was Denied Entry to Ukraine Due to State Security Threats,” *Kyiv Post*, June 30, 2010, <https://www.kyivpost.com/article/content/ukraine-politics/german-expert-was-denied-entry-to-ukraine-due-to-s-76198.html>.

¹²⁵ Євген Захаров, «Діяльність СБУ у 2010 р., яка стосується свободи вираження поглядів,» *Харківська правозахисна група*.

¹²⁶ «СБУ вызвала блогера к следователю,» *ТСН*, 30 июля 2011, <https://tsn.ua/ru/ukrayina/sbu-vyzvala-blogera-k-sledovatelyu.html>.

¹²⁷ «Блогера викликали до СБУ через жарти у ЖЖ про Януковича,» *Харківська правозахисна група*, 30 липня 2010, <http://khp.org/en/index.php?id=1280504719>.

The insulting posts were later removed from the blogger's LiveJournal by the SBU. Other bloggers, journalists, and activist groups were also intimidated by the SBU in a similar manner.

The cases above suggest that the Security Service of Ukraine was targeting those critical of Yanukovich. However, it is not clear why the SBU was not acting on a larger scale and did not go after the oligarchs opposing the President, like Petro Poroshenko. After becoming president, Yanukovich started concentrating wealth in the hands of the "family," which turned the oligarchs against him.¹²⁸ Considering this, it would have made sense for Yanukovich to use the SBU to target Ukrainian tycoons and solidify his hold on power. The Head of the Security Service and the co-owner of the U.A. Inter Media Group Ltd Valeriy Khoroshkovsky did file a lawsuit against Poroshenko's 5 Kanal. However, it can be argued that he took this step out of his personal business interest. Moreover, ownership of a TV channel was not Poroshenko's main source of income, and even if the oligarch were to lose 5 Kanal, his other enterprises would still be functional and successful. The Security Service also did not play any significant role in the 2011 arrest of Yulia Tymoshenko, which suggests that the SBU was not always acting in Yanukovich's interests.

Another interesting fact is that in January 2013 and February 2014 the SBU warned Yanukovich of potential threats to Ukrainian national security coming from Russia.¹²⁹ The intelligence agency submitted reports in which it informed then-president Yanukovich that "an interdepartmental group had been established in Russia aimed at political, humanitarian, and economic support for the intervention in Ukraine."¹³⁰ This means that the Ukrainian security agency was not merely a tool used by Yanukovich to suppress critical voices but also carried out

¹²⁸ "Ukraine Crisis: Yanukovich and the Tycoons," *BBC News*, December 11, 2013, <https://www.bbc.com/news/world-europe-25323964>.

¹²⁹ "SBU Warned Yanukovich Twice of Russian Invasion Threat – Declassified Evidence," *UNIAN*, April 18, 2018, <https://www.unian.info/politics/10085867-sbu-warned-yanukovich-twice-of-russian-invasion-threat-declassified-evidence.html>.

¹³⁰ "SBU Warned Yanukovich Twice of Russian Invasion Threat – Declassified Evidence," *UNIAN*.

the functions it had been mandated with by law and retained some level of independence during Yanukovich's time in office.

When it comes to Russia, there are four main intelligence agencies. The Federal Security Service (FSB) is a domestic security and counter-intelligence agency.¹³¹ The Foreign Intelligence Service (SVR) and the Main Intelligence Directorate (GRU) are responsible for the external intelligence gathering.¹³² Lastly, the Federal Protection Service (FSO) is formally tasked with protecting key government figures and locations.¹³³ This research will focus specifically on the FSB, since it is the most powerful agency. The Federal Security Service is a federal executive body responsible for protection of the national security of the Russian Federation, counterterrorism, the protection of the Russian border, ensuring the information security, as well as coordinating the counterintelligence efforts.¹³⁴ The activities of the FSB are supervised by the Russian President and have no parliamentary oversight.

After Vladimir Putin came to power, he began rearranging and strengthening the Federal Security Service. In 2000, he expanded the FSB's functions of military counterintelligence and gave it the authority to fight organized crime.¹³⁵ In 2003, Putin incorporated the Border Guard Service and a major part of the abolished Federal Agency of Government Communication and Information (FAPSI) into the FSB.¹³⁶ With Putin's support, the agency got

¹³¹ Mark Galeotti, "Russian Intelligence Is at (Political) War," *NATO Review*, May 12, 2017, <https://www.nato.int/docu/review/articles/2017/05/12/russian-intelligence-is-at-political-war/index.html>.

¹³² Mark Galeotti, "Putin's Hydra: Inside Russia's Intelligence Services," *European Council on Foreign Relations* (May 2016): 2, [https://www.ecfr.eu/page/-/ECFR_169_-_INSIDE_RUSSIAS_INTELLIGENCE_SERVICES_\(WEB_AND_PRINT\)_2.pdf](https://www.ecfr.eu/page/-/ECFR_169_-_INSIDE_RUSSIAS_INTELLIGENCE_SERVICES_(WEB_AND_PRINT)_2.pdf).

¹³³ Galeotti, "Putin's Hydra: Inside Russia's Intelligence Services," 2.

¹³⁴ "Federal Security Service," *The Russian Government*, <http://government.ru/en/department/113/> (accessed April 1, 2020).

¹³⁵ Andrei Soldatov and Irina Borogan, *The New Nobility: The Restoration of Russia's Security State and the Enduring Legacy of the KGB*, (New York, NY: PublicAffairs, 2010), 21.

¹³⁶ Soldatov and Borogan, *The New Nobility*, 21.

the upper hand over the Ministry of Internal Affairs. Eventually the FSB outgrew all of the other Russian security agencies. In July 2010, the FSB's mandate was expanded to allow it to order individuals, organizations, and media outlets to stop activities deemed extremist by the agency.¹³⁷ The architects of the revival of the Federal Security Service were the so-called *piterskie* – Putin's personal friends who once served in the KGB's regional departments in St. Petersburg and Karelia.¹³⁸ This group included Nikolai Patrushev, Rashid Nurgaliev, Viktor Cherkesov, Viktor Ivanov, Igor Sechin, and of course Vladimir Putin.¹³⁹

Throughout the years, the Russian Federal Security Service has been involved in multiple contentious cases. On October 25, 2003, FSB agents stormed the plane of Mikhail Khodorkovsky, the CEO and the owner of Yukos, which was Russia's largest private oil company at the time. Khodorkovsky was charged with tax evasion, fraud, and embezzlement.¹⁴⁰ Despite assurances by the Russian government that the action against Khodorkovsky and Yukos was nothing more than a routine investigation, the choice of the target and the timing of the prosecution discredit such claims. Prior to his arrest, Khodorkovsky was critical of the Kremlin, financed opposition parties and candidates, and hinted at personal political aspirations.¹⁴¹ The Yukos affair was one of the earliest cases of Putin's heavy use of the FSB and the judicial system to discipline his opponents.

On October 7, 2006, famous Russian journalist and human rights defender Anna Politkovskaya was shot dead in the elevator of her apartment building in Moscow.¹⁴²

¹³⁷ "Russian Federation," *Observatory for the Protection of the Human Rights Defenders* (2011): 471, <https://www.refworld.org/pdfid/4ea7b3fb11.pdf> (accessed April 1, 2020).

¹³⁸ Soldatov and Borogan, *The New Nobility*, 22.

¹³⁹ Soldatov and Borogan, *The New Nobility*, 22.

¹⁴⁰ "The YUKOS Affair," *American Enterprise Institute*, October 1, 2013, <https://www.aei.org/research-products/report/the-yukos-affair/>.

¹⁴¹ Seth Mydans and Erin Arvedlund, "Police in Russia Seize Oil Tycoon," *The New York Times*, October 26, 2003, <https://www.nytimes.com/2003/10/26/world/police-in-russia-seize-oil-tycoon.html>.

¹⁴² Yekaterina Sinelschikova, "Anna Politkovskaya Murder: 10 Years Later, Still no Clear Answers," *Russia Beyond*, October 8, 2016, https://www.rbth.com/politics_and_society/2016/10/08/anna-politkovskaya-murder-10-years-later-still-no-clear-answers_636919.

Politkovskaya's investigations focused primarily on crime and corruption in the FSB and human rights violations in Chechnya. She was an ardent critic of Putin and the Kremlin's policies. The investigation of her murder has been flawed and drawn-out. The first trial ended with the suspects' release due to lack of evidence. Only during the second trial in 2013 did the court officially acknowledge that Interior Ministry collaborators and the FSB agents were involved in the journalist's murder.¹⁴³ Six people were convicted for organizing and executing the murder. Those who ordered the killing, however, were never identified.

On November 23, 2006, the former FSB officer Alexander Litvinenko died in London after being poisoned with radioactive polonium-210 a couple weeks earlier.¹⁴⁴ Litvinenko served in the Russian security service through the 1980s and 1990s. In 1998, he was arrested on charges of abusing his office after exposing an alleged plot to assassinate the Russian oligarch Boris Berezovsky.¹⁴⁵ Litvinenko later wrote a book *Blowing up Russia: Terror from Within*, in which he argued that "FSB agents had been responsible for the bombing of apartment blocks in Moscow and two other cities in 1999."¹⁴⁶ The former FSB agent fled to the United Kingdom in 2000, and up until his death he remained critical of the Kremlin and Putin personally. A public inquiry into Litvinenko's poisoning found that his killers were sent by the FSB, and "that the operation had 'probably' been approved by Putin."¹⁴⁷ All the aforementioned cases demonstrate that the Russian Federal Security Service is often used as a tool to suppress dissent in Russia.

¹⁴³ Sinelschikova, "Anna Politkovskaya Murder: 10 Years Later, Still no Clear Answers."

¹⁴⁴ Heidi Blake et al., "From Russia with Blood," *BuzzFeed News*, June 15, 2017, https://www.buzzfeed.com/heidiblake/from-russia-with-blood-14-suspected-hits-on-british-soil?utm_term=.lcVWAYKDq#.itkwBED79.

¹⁴⁵ "Alexander Litvinenko: Profile of Murdered Russian Spy," *BBC News*, January 21, 2016, <https://www.bbc.com/news/uk-19647226>.

¹⁴⁶ "Alexander Litvinenko: Profile of Murdered Russian Spy," *BBC News*.

¹⁴⁷ Blake et al., "From Russia with Blood."

There are some similarities between the Ukrainian SBU and the Russian FSB. Both agencies are successors of the Soviet KGB. Both the FSB and the SBU have broad mandates combining features of an intelligence agency and a law enforcement body. Both security services were subordinates of their respective presidents. However, after comparing the Ukrainian SBU under Yanukovich to the Russian FSB under Putin, several differences can be identified. Putin has a strong personal connection to the FSB. He is a former KGB agent, and his inner circle consists of people he served with in St. Petersburg. Those same people helped him revamp the FSB after his arrival to power in 1999. Yanukovich did not have a strong personal connection to the Security Service of Ukraine and arguably failed to provide the security officers with enough incentives to stay loyal to him personally. Because of these personal ties, the FSB in Russia is a significantly more powerful agency than the SBU in Ukraine. The Russian security service has been involved in multiple high-profile cases featuring tycoons and famous journalists, while its Ukrainian counterpart has been engaged in mostly monitoring students and Live Journal blog entries.

CONCLUSION

This paper aimed to answer the following research question: *Why did Russian elites stay loyal to Vladimir Putin during the 2011 protests, while those in Ukraine abandoned Viktor Yanukovich in 2013 almost immediately?* My main argument is that even during Yanukovich's presidency Ukraine remained a pluralistic society with different centers of power able to hold the government and the president accountable for their actions. Because the power in Ukraine was not concentrated exclusively in the president's hands, there was less incentive for Ukrainian elites to stay loyal to Yanukovich and more reasons to behave opportunistically.

To support my argument, I compared the state of the media, civil society, and security services prior to the Bolotnaya protests in Russia and before the Euromaidan Revolution in Ukraine. I chose these three categories because in democratic societies they serve as watchdogs and have the ability to hold those in power accountable for their actions. If the media, civil society, and security services in Ukraine under Yanukovich functioned with more independence and less restrictions than those in Russia, it would mean that Ukraine had more centers of power than Russia, therefore the hypothesis would be accepted.

After analyzing examples of persecutions of civil society members in Russia and Ukraine, several differences stood out. First, the Russian government created significant legal obstacles to the work of civil society organizations, while no such restrictions were present in Ukraine prior to the Euromaidan protests. Moreover, attacks against activists and human rights defenders in Russia were more systematic and brutal than those in Ukraine. It should also be noted that in Russia persecutions were carried out against prominent and less famous civil society members alike, while in Ukraine they were mostly directed at local activists uncovering corruption and human rights violations in their *oblasts*. Perhaps the Ukrainian authorities were hesitant to use force against activists due to a fear of angering civil society and the repercussions that would come as a result of doing so.

When it comes to the state of the media in Ukraine and Russia, I also identified several differences. First, the Russian government controls all national TV networks, some radio networks, as well as a majority of the regional newspapers, which means that the level of self-censorship among journalists is high, and independent investigative journalism in the country is almost non-existent. This allows the state to control the narrative and portray activists as a fringe element or even terrorists. In Ukraine, despite the fact that media ownership is not transparent, some

Ukrainian outlets were able to provide independent coverage. Ukrainian reporting remained somewhat unbiased and was able to show opposing narratives to those of the government. Similarly to the case of the CSOs, attacks against journalists in Russia were more systematic, brutal and high profile than those in Ukraine.

Upon comparing the SBU under Yanukovich to the FSB under Putin, the major difference was Putin's strong personal connection to the FSB. He is a former KGB agent, and his inner circle consists of people he served with in St. Petersburg. Yanukovich did not have a strong personal connection to the Security Service of Ukraine. This provided the Ukrainian security service with a position of more autonomy. The Russian security service has been involved in multiple high-profile cases featuring tycoons and famous journalists. In Ukraine, the security service has mostly engaged in monitoring students and Live Journal blog entries.

The above differences show that even during Yanukovich's presidency, Ukrainian civil society, media, and security service were able to maintain a higher level of independence than their Russian counterparts. Although there has been an increase in attacks against the independent media and civil society, the journalists and activists in Ukraine remained influential and largely independent from authorities. The Ukrainian security service has also historically been more autonomous than its Russian counterpart. This means that Ukraine is a pluralistic society with significant checks on presidential power. Since even under Yanukovich Ukraine remained a pluralistic society, and the power was not concentrated exclusively in the president's hands, there was no reason for the elites to remain loyal to Yanukovich once his regime became unstable. On the opposite, there were reasons for the elites to behave opportunistically by defecting and condemning Yanukovich's actions. That way they could potentially win support of civil society and gain positive coverage in the media as well as avoid an investigation by the SBU.

Today Ukraine remains a pluralistic society seeking closer ties to the European Union and NATO. Despite having an independent media, a robust civil society, and a largely autonomous security service, Ukraine is in a dire need of comprehensive reforms, such as judicial, law enforcement – including reforming the SBU, as well as decentralization. Independent judiciary and strong local governments particularly will ensure the distribution of power and prevent any future concentration of power in the president's hands. In Russia, numerous protests erupted in the summer of 2019, calling for fair local elections. In the end, the ruling United Russia party won with little difficulty in most regions. In Moscow, however, the party received 25 of 45 seats, winning by a narrow margin. Although this outcome was far from victory for the opposition forces, it signals that the Russian people are growing dissatisfied with the authorities. Further economic stagnation will result in an increase in discontent, which could eventually lead to consolidation of the Russian civil society and create a split in the Russian elite.

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