

Jussi Lassila's (Senior Research Fellow, Finnish Institute for international Affairs) speech on Russia at the public hearing "Authoritarianism and shrinking space for freedom of expression, press freedom and human rights defenders, with case studies on China, Egypt and Russia" on Tuesday, 18 February 2020, 14.30 – 17.00

Dear members of the Subcommittee on Human Rights

In my speech, I will touch upon two sides of Russia's ongoing political and societal changes. On the one hand, president Putin's speech to Federal Assembly on 15 January was the official starting point for the Kremlin's preparation for the so-called "2024 problem" – the year that officially marks the end for Putin's current presidential term. On the other hand, Putin's speech and the hastily launched process of revising the constitution was the regime's response to an increasingly unsettled civil society. Although there are no visible political movements threatening the regime, citizens' multiple grievances in all sectors of society against the government, authorities as well as the president have become a major headache for the Kremlin.

Vladimir Putin's announcement of fundamental changes to the Russian Constitution in his speech to the Federal Assembly on January 15, is without doubt a milestone in Russia's authoritarian development. The current 1993 Constitution is based on liberal goals and is in line with Russia's international obligations. It is likely that the most concrete consequences of Putin's demand for sovereignty will be seen in Russia's future relations to international law: instead of the constitution being in line with international obligations (like the current constitution), in the new constitution these obligations will only be valid if compatible with Russian law. An important issue in this respect is Russia's future attitude towards the European Court of Human Rights rulings on Russia. At least the constitutional changes are aimed at strengthening Russia's political message to all international actors. In other words, it is up to Russia alone to decide whether or not to comply with its international obligations, based on its own legislation, and thus Russia wants to demonstrate to the West that it is useless to exert any pressure on her through international obligations such as human rights.

The ongoing constitutional revision process is not only an attempt by the Putin regime to seal the continuation of its own power beyond 2024. It is also seeking to formalize the end of the Yeltsin-era liberal constitution. Under Putin's leadership in the 2010s, from the viewpoint of strengthening authoritarianism and conservative value policies, the current constitution, which was based on liberal goals, has been increasingly out of tune with the Kremlin's actual use of power. In brief, the Kremlin wants to eliminate the conflict between liberal goals of the Yeltsin constitution and Putin's actual use of authoritarian power.

It is difficult to say whether this will mark a transition from the current, ideologically eclectic ("say one, do another") authoritarian regime, to a constitutionally established authoritarian regime. On the one hand, speculations on possible constitutional changes have been on the rise since 2012, when Putin's third presidential term began, and the regime has become increasingly authoritarian and anti-

Western. On the other hand, it is reasonable to ask whether we would have seen the events of January 15th if the restriction on two consecutive presidential terms had been lifted earlier? The current constitution has provided an excellent guarantee of Putin's presidential powers. Innumerable infringements of constitutionally guaranteed civil liberties by the Putin regime have violated the spirit of Boris Yeltsin's liberal constitution. However, the fundamental flaw in the 1993 constitution in this respect lies in the presidential prerogatives. It is the president who guarantees and defines civil liberties, as well as the policies and guidelines of other political institutions. So, Putin has had constitutional right to interpret these freedoms according to his authoritarian will.

It seems that the current presidential powers will be shared in some way, perhaps not so much between parliament and the president, but with the president and a state body whose status will be confirmed in the new constitution. This state body is very likely to be the currently informal State Council, established by Putin in 2000, which has mainly been a prestigious discussion club. Putin would take over the leadership of the constitutionally reformed Council no later than 2024. Whatever this body will be, the issue is about distributing the president's current prerogatives in a way that will guarantee the current vertical exercise of power.

A key challenge in implementing the new constitution may lie in coordinating power in a situation where society loses confidence in the government, the president, or both. In such a situation, how will the State Council coordinate an unpopular president and government if the Council does not have a direct right to appoint any of them? If, on the other hand, the president and government are made absolutely loyal to the State Council, the risk is one of uncertainty and slowness in decision-making. In the event of a crisis, there may be differences of interpretation regarding the prerogatives of the bodies. Although Putin himself has warned of the dangers of dual power, such a risk cannot be ruled out when the new constitution faces political reality.

Following these potential challenges that the implementation of the new constitution might pose for the regime, the other side of these developments concerns Russian society that has become increasingly dissatisfied. By 2017 at the latest, the so-called Crimean consensus – a patriotic euphoria following the Crimean invasion in 2014, when confidence in all social institutions, not just the president, had risen sharply – had lost its significance as a legitimizer of Kremlin authoritarian policies. In 2017, for the first time in Putin's rule, the number of citizens expecting large-scale societal changes instead of status quo exceeded 50%. Currently, over 60% of Russians are expecting major changes from the regime.

So far, the Kremlin has succeeded in taking the social initiative with Putin's declared constitutional changes. Their scale, abruptness, speed of action, government resignation eventually turned the public attention from surrounding societal problems into speculations on the Kremlin's further actions. The idea of including a minimum wage as well as pension indices in the new constitution may appeal to

the poor, whose number has been rising in recent years. At the same time, the Kremlin is trying to respond to citizens' growing demand for social justice.

Far more problematic is the justification of the authoritarian system with stagnant economy to citizens, whose expectations are increasingly detached from the ideals of the state television propaganda. Between 2014 and 2018, despite considerable anti-Western propaganda, the proportion of Russians who wanted Russia's future to be based on liberal values (human rights, freedom of expression) increased from 27% to 37%. Similarly, the proportion of Russians who wanted Russia to be based on the Kremlin's conservative values fell from 35% to 27%. In a similar vein, the attitude of the Russians towards the West, both to the US and to the EU, has improved considerably, although the state's official policy is trying to say the opposite. In the big picture, the role of television in Russia is crumbling, and this is one of the major challenges for the regime's ability to justify its policies in the future. It is not surprising, then, that the regime has become increasingly dependent on authoritarian coercion, as economic development makes it increasingly difficult to maintain previous social contracts. In addition, there are no signs of patriotic euphoria in the society. On the contrary, the Kremlin's political prioritization towards the country's superpower status and foreign relations instead of domestic matters is gaining less and less public acceptance.

As far as it is highly unlikely that the current regime is changing its policies, let alone giving up its power, repressive measures towards civil society are likely to continue. Central to them has been the creation of a deterrent effect for citizens; for instance, legislation against "foreign agents", Internet restrictions, restrictions to electronic money transfers, tightening the conditions for organizing public meeting and tougher penalties in terms of unauthorized demonstrations as well as extending anti-extremism laws.

Moreover, the weakness of the judiciary has served as an important authoritarian deterrent. Judges have made their decisions more in terms of guaranteeing their position and the associated loyalty to the system rather than in terms of independent law. This has resulted in the excessive power of the investigative and prosecution authorities, and the entire judicial process is largely dictated by their will. Acquittals have been extremely rare. Violence by the security and supervisory authorities as well as violence and torture in prisons are widely recognized facts. The widespread publicity related to cases of torture in recent years is reflective of the critical media and the viability of civil society, despite the difficult circumstances. Yet, these revelations can raise the threshold for citizens to participate in any action prohibited by the authorities.

However, in 2019 we witnessed a new kind of corporate solidarity against the repressive methods of the authorities. The case of journalist Ivan Golunov in June 2019 was a pivotal moment in this respect when journalists' solidarity led to the withdrawal of the arbitrary prosecution against him. Following multiple arrests related to the Moscow protests in the summer 2019, we have since seen groups of

actors, lawyers, doctors, and even church representatives acting on behalf of the convicted, calling for the charges to be dismissed. Although not fully dismissed by the authorities, they have partially reduced their original claims and created an important civic pressure against authorities.

Today, changing the constitution to a more authoritarian direction has been a cause of particular concern for many older generation liberals in Russia. The protests of recent years have seen countless petitions and demands for respect for the civil liberties guaranteed by the Constitution. In this sense, the Constitution has been an important reference for the opposition in questioning the legitimacy of government actions. Nevertheless, the Putin regime has been able to secure its authoritarian status with the current constitution, above all with the help of almost authoritarian presidential powers it guarantees. This is why many younger generation liberals do not see the change as dramatic. In the big picture, constitutional changes are unlikely to improve the regime's position in any significant way in the eyes of citizens. In the light of the polls, citizens are very skeptical about the Kremlin's aspirations. Dissatisfaction will not go away, but opposition and civil society will probably face more difficulties when the new constitution does not give the former formal justification for their actions.