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Kremlin's Omerta Blocks Justice for Magnitsky

By Michael Bohm

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After the U.S. Senate Foreign Relations Committee unanimously approved the Magnitsky Act on Tuesday, the bill is one step closer to becoming law.

Unlike the House version of the act, which targets only suspected and convicted Russian criminals, the Senate's version effectively de-emphasizes Russia by applying visa restrictions and asset freezes to suspected and convicted criminals all over the world.

It was almost as if the Senate was trying to say to President Putin: "Nothing personal, Vladimir. We are against all criminals, not just Russian ones."

But this seeming nod to Russia was lost on Putin. During the Group of 20 summit last week, he said once again that if the bill becomes law, Russia would apply symmetrical measures against Americans. Essentially, he was saying Russia would "retaliate," to pull an old Cold War term out of the closet.

But presumably Russian authorities would ban convicted and suspected U.S. criminals from entering Russia anyway, regardless of the Magnitsky Act. Let's hope that Russia's "retaliation" doesn't mean it will pick Americans at random — innocent businessmen, journalists or academics who are working in Russia or who want to work there — just to show Washington that it can make its own "symmetrical" blacklist if push comes to shove.

Amid all the bluster and feigned indignation around the Magnitsky Act, Putin is conveniently ignoring the fact that there has been a "Magnitsky list" of sorts used by both the United States and Russia for decades. Washington has always denied visas to convicted and suspected criminals.

Take, for example, State Duma Deputy and crooner Iosef Kobzon, who has been denied a U.S. visa several times for alleged ties to organized crime. Russia, for its part, in 2006 denied a visa to Bill Browder, once a leading Western investor in Russia, although the official reason was far less compelling: that he was an unspecificed "threat to national security."

The original House version of the Magnitsky bill focused on a $230 million embezzlement scheme allegedly carried out by Internal Ministry officials against Browder's firm, Hermitage Capital, for which Magnitsky worked as outside counsel. According to a YouTube video called "Russian Untouchables. Episode 4" released Tuesday by Magnitsky supporters, this scheme was part of a much larger organized-crime syndicate headed by Dmitry Klyuyev, who purportedly embezzled and laundered $800 million and is implicated in extortion, kidnapping and other violent crimes.

The emergence of Klyuyev might explain why there were no investigations into seemingly small-time players in the Hermitage and Magnitsky cases — mid-level Interior Ministry and tax officials. Apparently, the trail goes much higher.

Washington has just as much right to deny U.S. visas to Klyuyev and any suspected members of his supposed crime syndicate as Russia would have if infamous U.S. mafia gangsters — such as "Lucky" Luciano and dozens of his consigliere and associates, for example — had applied for visas to visit Russia.

At the same time, however, there are two key differences that separate the Magnitsky Act from the standard practice of denying visas to suspected or convicted criminals. It would also freeze their U.S. assets and make the names on the list public as a "shame" measure. Notably, the administration of U.S. President Barack Obama is against both of these additional measures in the bill, presumably to avoid upsetting Russia or jeopardizing the "reset" in relations.

Although some doses of realpolitik are inevitable when dealing with autocratic regimes that are strategically important, Obama should ask himself if the reset is truly worth taking the sharp teeth out of a bill that fights organized crime members and human rights violators. If Obama doesn't ask himself this question, presidential candidate Mitt Romney and his fellow Republicans certainly will during the next four months leading up to the U.S. election.

One possible reason the Kremlin opposes the Magnitsky Act is it believes that the people on the blacklist are squeaky-clean. But given the compelling evidence that points to guilt, there should be a thorough Russian investigation of all the figures, followed by fair and open

trials.

Instead, investigations and charges against top figures in the Hermitage scheme and others like it have all been hastily brushed aside by Russian authorities for "lack of evidence." Perhaps they should take another close look at the thick U.S. dossiers on members of the Magnitsky list. Even the Kremlin's own human rights council concluded last year that Magnitsky was probably beaten to death by prison guards.

But the real reason for opposing the Magnitsky bill is that the Kremlin has no interest in fighting corruption against its own major crime syndicates. This would explain why the complete inaction in investigating the Hermitage embezzlement and other similar schemes looks like a government cover-up — a "reverse omerta" of sorts, where the government refuses to snitch on the country's top organized-crime members. The problem, of course, is that in Russia the two groups are so intertwined that it is often hard to determine who are state officials and who are mafia members.

The official reason Russia likes to cite in opposing the Magnitsky bill is that it is "U.S. interference in Russia's internal affairs." The purpose of the bill, however, is not to dictate to the Kremlin how it should rule its own country but to take a firm U.S. position against foreigners who are considered to be organized crime members or human rights violators after thorough, independent investigations by U.S. authorities. They should not have the privilege of traveling to the United States or using U.S. financial institutions.

The other argument that top officials, including Foreign Minister Sergei Lavrov, cite against the Magnitsky Act is that it is "anti-Russian." This is absurd. If fighting corruption is anti-Russian, Lavrov, it would seem, made an astounding, self-incriminating statement about the true criminal nature of Russian government.

In theory, of course, the battle against global organized crime is something Russia and the United States should be fighting together, as they do against global terrorism. They should be sharing files and cooperating on investigating members of organized crime who have a direct impact on both countries.

But this kind of cooperation would be possible only if both countries were driven by the rule of law. Instead, the Kremlin appears to be driven by a completely different rule: omerta.

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