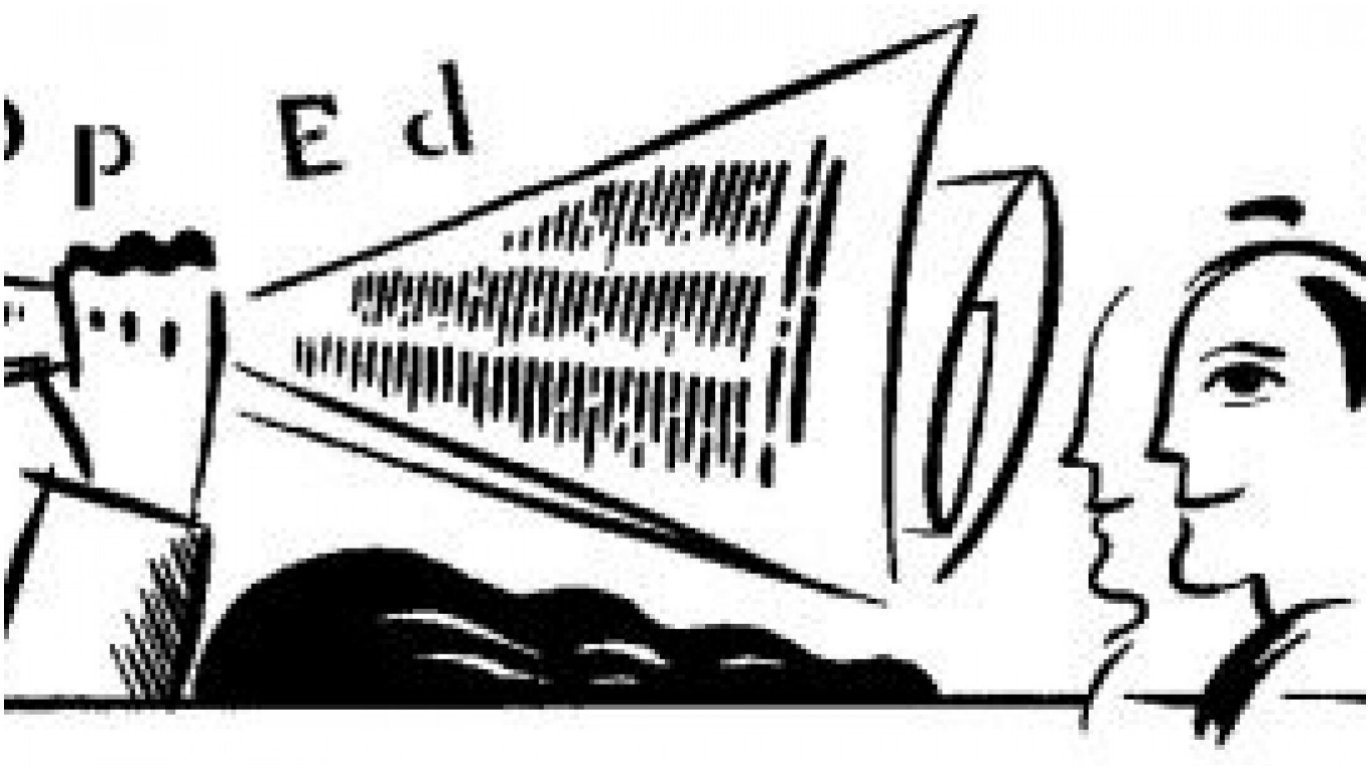
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Managing Magnitsky in a Managed Democracy

By Jamison Firestone

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Last Tuesday, the Investigative Committee announced that it had closed the investigation of the death of Sergei Magnitsky because they couldn't identify an "event of crime." I was immediately inundated with calls from journalists asking if I was surprised or disappointed and what our next move would be.

I was certainly not surprised. Russia is a managed democracy, and the Magnitsky case is also managed. It has become obvious that the highest levels of government have decided to protect the people who stole hundreds of millions of dollars from the government and who killed the whistleblower who exposed this crime.

In late 2007, Magnitsky discovered a crime in progress, and his client, Hermitage Capital, reported it on Dec. 3, 2007, before any tax money was stolen. In the summer of 2008, Magnitsky documented that $230 million was stolen with the help of government officials, and Hermitage reported this as well. The two complaints consisted of hundreds of pages of supporting documents, all of which were ignored by the Russian government.

Prosecutors then accused Magnitsky of being a tax cheat and of committing the very theft that he reported. It based its case solely on the testimony of the people whom Magnitsky accused of corruption and extortion. Prosecutors named Magnitsky's alleged co-conspirators, but conveniently they were all dead.

When Magnitsky died in November 2009, we were first told that he died from pancreatitis, a condition that he was repeatedly denied treatment for while he was detained for almost a year in pretrial detention. Then, after people began to question why his pancreatitis wasn't treated and ask whether this was intentional, we were told his death was a result of an unpredictable heart failure. This is the reason there were no arrests in Magnitsky's death, we were told, and this became the basis for closing the inquiry into his death.

But the President's Council on Human Rights concluded that when Magnitsky was critically ill from pancreatitis and needed immediate surgery to save his life, he was handcuffed and beaten by eight officers and left in a room for 1 hour and 18 minutes to die. The bruises and lacerations on his corpse leave no doubt of this, but investigators ruled the council's conclusions inadmissible in any investigations.

Investigators also said they can't find any stolen money because a police truck with all the bank records blew up in central Moscow. Even if this exploding-truck story is true, the Russian government could easily trace the money by asking for co-operation from the foreign banks that moved the money and the law enforcement agencies that govern them. This was never done.

So according to the Russian government, Magnitsky's death was natural, no one is to blame and none of the stolen money can be found. At the same time, however, all of the tax, police and Interior Ministry officials whom Sergei accused of corruption are multi-millionaires, and bank records can easily show how fortunes were moved to them within Russia and abroad.

But this explanation does not explain to millions of Russians why Magnitsky was detained, why the U.S. passed the Magnitsky Act to sanction Russian officials over his death, and why U.S. parents can no longer adopt Russian orphans. To explain this, the Russian government needed a narrative.

Last week, state-controlled NTV ran a 40-minute program accusing Magnitsky's client, Hermitage Capital CEO William Browder, of causing Russia's default in 1998, killing the banker Edmund Safra, spying for Britain, attempting to take control of Gazprom and failing to pay Russian taxes. The program also accused Magnitsky of stealing whatever taxes Browder did pay and accused Browder, who lives in London, of killing four witnesses to his crimes in Russia. To top all of this, the program even said Browder was responsible for killing Magnitsky while he was detained in pretrial detention to discredit Russia. It ended with the assertion that Browder lobbied the Magnitsky Act to keep honest Russian investigators from investigating his crimes, and the U.S. eagerly passed it by large majorities it to humiliate Russia.

What was the message of the NTV program? Patriotic Russians should support their government's heroic efforts to prosecute these people and stand up to Western meddling in Russia's internal affairs.

This heavily promoted program was the prelude to the posthumous and preposterous "trial" of Magnitsky, a show whose ending is known long before it begins. The trial has repeatedly been delayed because nobody understands how to try a dead man and because the lawyers assigned by the state to defend Magnitsky are hardly enthusiastic about being part of this farce.

Interestingly enough, the increasing absurdity of the actions of the Russian government are rapidly becoming a side show. They are important only as they demonstrate to Russians and to the international community that the Kremlin will condone and cover up murder to protect the right of its officials to steal from their own people. One day this will be the true importance of the Magnitsky affair, but for now, the government, having lost all of its credibility, has abdicated its role in the Magnitsky case itself. Everything meaningful in the case will now happen outside of Russia.

The trail of stolen government money through the world's banks cannot be erased, and we are following it. There are six money-laundering investigations opened in Europe, opened by people the Russian government wants to brand as criminals. Not one of them was opened at the request of the Russian government itself.

Money is now frozen in two European countries. There is a direct money trail of millions of dollars from the Russian treasury to one of the tax officers who authorized its fraudulent refund. There is another trail from the treasury to apartments purchased in New York by the son of a Moscow region official.

U.S. President Barack Obama has signed the Magnitsky Act to ban Magnitsky's killers and their money from the U.S. and to do the same to anyone who would commit these crimes. Similar legislation is moving through the parliaments of Europe. The Magnitsky family has appealed to the European Court of Human Rights where facts do matter. These are important times for the case, and the Kremlin's ability to be obstructionist is decreasing in direct proportion to its demonstrable lies.

At this point, all I expect from the Russian government is more lies. Our plan is simple: follow the money and let the West and the Russian people themselves compare facts with absurdity. I have no doubt that the result will be a European-wide Magnitsky Act, a disastrous loss of credibility at home and abroad for the Kremlin and a place for Magnitsky as one of the first heroes of 21st-century Russia.

Jamison Firestone is an attorney and Sergei Magnitsky's former boss.

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