

HUMAN RIGHTS AND POLITICAL REPRESSION

Human Rights in China, Russia and the United States of America

Jimena Reyes, Ilya Nuzov, Hugo Gabbero



Several protesters protect themselves with umbrellas and other objects during protests in Hong Kong on November 18, 2019. Photo by Studio Incendio/Wikipedia

The twenty-first century is definitely a multipolar century. The last few years have been characterized by a return to tensions between major regional powers, in particular between the United States and China, with Russia clamoring for the superpower status. China is very openly seeking to promote its political model and become the world's leading economic power, while Russia seems rather interested in discrediting democracies and increasing its sphere of influence and the United States in maintaining its status as the world's hegemon and economic leader. We could describe these three countries in terms of gradations, with China being an assumed dictatorship and Russia still keeping the appearances of a democracy, if only nominal, but of its own 'managed' type with one loyal party dominating the political scene, farcical elections and most fundamental freedoms flouted. The United States, for its part, showed during the last presidential elections that democratic safeguards still worked and that alternation of power between democrats and republicans was still possible despite Trump's populism. It is in this context that this article compares the political repression in those three countries and how the Covid-19 is impacting it.

1. Political repression in China, Russia and the United States

Political repressions bear many similarities between China and Russia: if the Chinese Communist Party has been holding its grip on power since the creation of the Peoples' Republic of China in 1949, making the country a *de facto* one-party State, Putin's United Russia Party has now been in power for some two decades. In both countries, dissent is not tolerated, and systematically met with repression. Both political systems rely on highly repressive laws, vast security structures and a perfunctory judiciary to track, scare, harass, criminalise and arbitrarily detain dissidents. Although civic space is not affected by the same degree of restrictions in the United States, political motivations underpin certain processes and structural discrimination and police violence against African-American population persists. The U.S judiciary and the forces of order have been at times instrumentalized to pursue whistleblowers and migrants rights defenders, Under the Trump administration, the democratic space was systematically hacked through executive orders, fake news and incitement to violence, a situation which increased the degree of political violence in the country and left the U.S. society dangerously divided.

1.1. Chinese Communist Party-dominated political repression in mainland China and beyond

Political life in China is dominated by the Chinese Communist Party (CCP), which oversees central, provincial and local organs of government. In 2018, President Xi Jinping expressed his intention to govern indefinitely after the Chinese legislature amended the constitution to remove the presidential term limit. This decision was also emblematic of the increasing repression under the rule of Xi Jinping.

In this CCP-dominated space, any political opposition or expression of dissent can be met with harsh repression. Domestic NGOs are subject to an extremely burdensome system of registration, which in reality allows the authorities to exercise tight control and arbitrary actions over them. Besides, since 2017, a law has been barring foreign NGOs from providing funds to local NGOs. As a consequence, some groups choose to work without official status, or they opt for legal forms other than the status of NGO, with the accompanying problems this may entail. In China's highly repressive environment, the few independent human rights NGOs and defenders active in the country are faced with constant criminalization.

In July 2020, Chen Yuang, Liu Dazhi and Wu Gejianxiong, members of the NGO Changsha Funeng, were all indicted of the crime of "inciting subversion of state power", under Article 105(2) of the Criminal Code. They are now facing life imprisonment for having defended the right to health of marginalised and discriminated groups through litigation. Article 105(2) has been regularly used to persecute individuals, including human rights defenders and lawyers, for exercising and defending basic human rights. Under this provision, score of dissidents have been detained, imprisoned or sent to "Re-education through Labor" camps. Dissidents are often deprived of liberty under very harsh conditions, as exemplified by the case of 2010 Nobel Peace Prize laureate Liu Xiaobo, who died in 2017 from a cancer which

was left untreated in detention. Li Ming-Che, a Taiwanese defender working for the promotion of civil and political rights in Taiwan and in China, was arrested in March 2017 in China, and has been subjected to continued ill-treatment since the beginning of his detention. Most recently, on October 22, 2020, human rights lawyer Chang Weiping was placed under “residential surveillance in a designated location” (RSDL), a form of enforced disappearance. Six days before his arrest, he had published a YouTube video statement on social media denouncing the physical and psychological torture he had been subjected during a previous detention in January 2020 over Article 105(2)-related charges, including being tied to a “tiger chair”

The right to information in the country is also severely restricted. The Chinese state and private media are under the tight control of the CCP, while foreign journalists trying to work in China encounter more and more obstacles on the ground. According to Reporters Without Borders, more than 100 journalists and bloggers are detained in life-threatening conditions. Beyond human rights defenders and journalists, any citizen can be jailed for comments left on news articles posted on social media or messaging applications, or simply for sharing online content.

In addition, the political repression carried out under the guise of “anti-separatism” or “counter-terrorism” remains particularly severe in Tibet, Xinjiang, and now Hong Kong. In Xinjiang, Uyghurs are subjected to intrusive surveillance, arbitrary detention and forced indoctrination. In recent years, the authorities have carried out a sweeping crackdown in the region, resulting in one million or more people incarcerated in over 380 detention sites. The long-lasting arbitrary detention of Ilham Tohti, defender of Uyghur rights and winner of the Sakharov Prize in 2019, is emblematic of such a systematic repression. In 2006, Ilham Tohti established a moderate Uyghur online website to discuss social issues involving Uyghur-Han relations, in articles published in both Chinese and Uyghur. Chinese authorities have claimed that the website played a role in instigating violent unrest in Xinjiang province in 2009, which resulted in over 200 people killed. As a result, the site was closed down and Ilham Tohti was arrested in January 2014 for supposedly “inciting separatism”, and later sentenced to life imprisonment.

Most recently, China has also scaled up political repression in Hong Kong, in an attempt to apply Beijing’s authoritarian rule to the Special Autonomous Region (SAR) and jeopardise the package of freedoms Hong Kongers were enjoying since the handover from the United Kingdom to China in 1997. Already in 2014, large protests for electoral freedom had erupted in what later became the “Umbrella Movement”, after China announced that Beijing would vet candidates to run in the 2017 elections. In 2019, another power struggle between pro-democracy protesters and Beijing was triggered by the introduction of the “Fugitive Offenders amendment bill” by the Hong Kong local government, an aborted bill that was planning to allow extradition to mainland China. The move set off a chain of massive protest actions which were met with tear gas, rubber bullets and water cannons, and resulted in scores of arrests. After failing to tighten its grip on Hong Kong through the Beijing-controlled Hong Kong government, Beijing decided to overtly export its repressive legal arsenal to Hong Kong, at the expense of Hong Kong’s progressive Basic Law.

China has scaled up political repression in Hong Kong. The National Security Law criminalizes a wide spectrum of ill- and over-broadly defined conduct, such as subversion or collusion with a foreign country to endanger national security. The maximum penalty is life imprisonment

On June 30, 2020, the “Law of the People’s Republic of China on Safeguarding National Security in Hong Kong” (also known as the “National Security Law” - NSL) was signed into law by China’s President Xi Jinping himself, superseding existing Hong Kong laws whenever they are “inconsistent” with the new law. The NSL mirrors similar draconian legislation in force in mainland China and criminalizes a wide spectrum of ill- and over-broadly defined conduct. The law lists four categories of crimes against national security: 1) secession; 2) subversion; 3) terrorist activities; and 4) collusion with a foreign country or with external elements to endanger national security. The maximum penalty for those found guilty of the four categories of crimes is life imprisonment. Those provisions can apply even to non-permanent residents of Hong Kong for acts committed “from outside Hong Kong”. The law created a Hong Kong-based “Office for Safeguarding National Security” (OSNS) under Beijing’s direct control, making it possible to investigate and prosecute individuals under China’s Criminal Procedure Law and other related Chinese laws, and allowing closed-doors trials in cases “involving state secrets or public order”. The law also allows for Beijing’s direct scrutiny of, and interference in, the operations of foreign NGOs and media in Hong Kong, thereby cementing China’s authoritarian rule over the SAR.

1.2. Russia’s Repressive Policies Under the Presidency of Vladimir Putin

Russia is an authoritarian State with a perfunctory legislature and a near absence of the rule of law [1]. Political power is concentrated in the hands of President Vladimir Putin, who relies on the vast security structures and courts to implement laws designed to stifle any form of political dissent and restrict the civil society.

An increasing number of activists, journalists, human rights defenders, and politicians, have been persecuted, imprisoned, and even killed [2], for challenging Putin or his United Russia party politically, criticizing the regime’s policies or undermining the prevailing values or historical narrative [3]. Those advocating for greater freedoms for the LGBTI face harassment and prosecution [4]; members of the community were subject to a brutal purge in Chechnya in 2017 [5]. The 2014 annexation of Crimea expanded the list of Kremlin’s enemies to Ukrainian patriots, religions and ethnic minorities like Crimean Tartars, and other groups deemed extremist by the government. The number of political prisoners in Russia is currently 362, the highest since the Brezhnev years [6].

Repressions have gradually worsened over the past decade, particularly after the

2011-2012 protests against parliamentary election fraud [7]. Human rights organizations have identified over 50 laws that have since tightened control over the media, increased punishment for peaceful assembly, restricted freedom of association, and created new extremism and terrorism offenses to quash undesirable political speech [8].

A July 20, 2012 amendment to the Law on Non-Commercial Organizations imposed the requirement on NGOs that accept foreign funding and participate in 'political activities' to register as 'Foreign Agents' [9]. The vague definition of the term 'political activity' has been interpreted so broadly by the Ministry of Justice and courts as to encompass organizations that protect human rights, promote history education and memory of victims of Soviet repressions, fight against HIV, monitor elections, and conduct sociological studies [10]. A 2019 amendment to the 'Foreign Agents' law expanded its range to target individual bloggers and journalists [11].

The authorities tightened the noose around free expression and assembly to stifle any opposition to unpopular internal policies and foreign aggression, particularly around the time of the annexation of Crimea [12] In May 2014, an amendment to the Federal Law 'On Information' demanded that internet service providers and website owners store personal data, correspondence and content of their blogs for six months and to give access to the data to FSB, the successor to the KGB, upon request, under the threat of blocking of access and fines [13]. Another measure prohibited the 'Rehabilitation of Nazism' by criminalizing the dissemination of knowingly false information regarding the Soviet Union's activities in the Second World War [14]. A series of measures expanded the list of extremism and terrorism offenses, increased prison sentences and fines for existing crimes [15].

In July 2014, the authorities introduced the new Article 212.1 of the Criminal Code, which imposed criminal liability for participation in unsanctioned protests or rallies upon the third administrative sanction by a court within 180 days. The Constitutional Court, unexpectedly, ruled in favor of petitioner Ildar Dadin, who was the first individual sanctioned under the new law and tortured while serving his two and a half year term, holding that that criminal punishment for these violations must be proportionate to the actual public danger caused by an offense. However, since Dadin, at least two more individuals have been sentenced under the law to exorbitant terms for the mere participation in peaceful rallies, without fulfilling the 'public danger' element [16].

Perhaps the most alarming repressive tendency, which began soon after another cycle of anti-corruption and anti-government protests in 2017 and 2018, is the fabrication by the authorities of extremist groups comprised of young, socially and politically active individuals often belonging to anti-fascist or anarchist movements [17]. Nineteen men and women, the youngest 17 at the time of her arrest, were accused of having formed or participated in extremist organizations called 'Syet' (the 'Network') and 'Novoye Velichiye' (the 'New Greatness'), with the aim of committing terrorist acts or overthrowing the government [18]. Some of the extremism offenses added in 2014 were put to use [19], resulting in harsh prison sentences ranging from two and a half to eighteen years [20] on fabricated evidence. Several of the young people were allegedly tortured [21]; two slit their wrists in court to protest the charges [22].

There have not been free or competitive elections in Russia since the 1990s. The number of political prisoners has risen sharply in the aftermath of the 2019 'Moscow protests' against municipal election fraud

There have not been free, fair or competitive elections in Russia since the 1990s. The 2018 Presidential elections were characterized by the Organization for the Security and Cooperation in Europe (OSCE) as lacking genuine competition and carried out in the context of major restrictions on fundamental freedoms [23]. The number of political prisoners has risen sharply in the aftermath of the 2019 'Moscow protests' [24], against municipal election fraud, which were marked by excessive force, arbitrary arrests and prosecutions of close to 3,000 peaceful protesters. Several peaceful protesters received draconian prison terms. Activist Konstantin Kotov was sentenced to two and a half years for individual pickets under the unconstitutional 'Ildar Dadin' law [25].

1.3. Political repression in the United States

The United States is a democracy. However, its history during the twentieth century was punctuated by episodes of political repression in its territory, the most notorious of which are McCarthyism and the criminalization of conscientious objectors during the Vietnam War and of their supporters. Today in the 21st century, the three most concerning trends exacerbated by Trump's presidency are the criminalization of whistleblowers, of migrant advocates, and discrimination and violence against African Americans.

The undue criminalization of whistleblowers and migrant advocates

Indeed, even before Trump, the United States unduly criminalized whistleblowers, in particular in the field of security, as shown by the cases of Assange (Australian who revealed via his platform Wikileaks classified American documents, in particular on abuses committed by the Americans during the wars in Iraq and Afghanistan) and Snowden (American who revealed the existence of the NSA worldwide surveillance program). This phenomenon has intensified with the Trump administration. The Obama administration had given up asking Assange for extradition, while under the Trump administration the justice system made this request twice in 2019. He faces 175 years in prison. Obama also commuted the sentence of Chelsea Manning, the soldier who had received a 35-year prison term for disclosing US diplomatic cables to WikiLeaks. She was arrested and served one year in prison from 2019-2020 for refusing to testify against Assange.

Likewise, defenders of immigrant rights, in particular of undocumented immigrants, were already the subject of legal proceedings when they led, fed, or hydrated migrants encountered in places like the Arizona desert, in applications of Federal felony of harboring

illegal migrants from 1999 “when he assists an alien whom he should reasonably know is illegally in the US or who lacks employment authorization, by transporting, sheltering, or assisting him to obtain employment”. Since the arrival of Donald Trump, NGOs have noted an increase in the criminalization of migrant defenders in application of this law, but also through different harassment techniques which particularly target migrant rights defenders who are migrants, refugees, asylum seekers, undocumented human rights Defenders, women, or queer [26]. All these in the context of the Trump unlawful policies of mass pushbacks of tens of thousands of asylum-seekers at the US-Mexico border, and the forced return to Mexico of tens of thousands of asylum-seekers under “Remain in Mexico” policy.

Structural discrimination and violence against African Americans as political repression

The treatment of African-American populations by the police and the judiciary, including preventive detentions and extrajudicial executions, which are much more numerous for this population than for the white population, constitutes discrimination against this group, which in turn could be considered political repression. Indeed, the magnitude of this phenomenon in the 21st century, combined with the history of slavery and then racial segregation of black Americans in the United States and the legitimization of white supremacists by Trump can be equated to a phenomenon of political repression. Let’s look at this in greater detail.

As Professor Alston puts it: the United States remains a chronically segregated society. «Blacks are 2.5 times more likely than Whites to be living in poverty, their infant mortality rate is 2.3 times that of Whites, their unemployment rate is more than double that for Whites, they typically earn only 82.5 cents for every dollar earned by a White counterpart, their household earnings are on average well under two thirds of those of their White equivalents, and their incarceration rates are 6.4 times higher than those of Whites. These shameful statistics can only be explained by long-standing structural discrimination on the basis of race, reflecting the enduring legacy of slavery. Ironically, politicians and mainstream media portrayals distort this situation in order to suggest that poverty in America is overwhelmingly Black, thereby triggering a range of racist responses and encouraging Whites to see poverty as a question of race. Too often the loaded and inaccurate message that parts of the media want to convey is “lazy Blacks sponge off hard-working Whites”» [27].

The judiciary and the police are active perpetrators of this discrimination: mass incarceration, police violence including extrajudicial executions contribute to political disenfranchisement and to repression. Black people have been 28% of those killed by police in 2020 despite being only 13% of the population [28]. If you are black and unarmed you have 30% more chances to be killed by the police than white people [29]. The 98.3% of killings by police from 2013-2020 have not resulted in officers being charged with a crime. With respect to mass incarceration, in the United States, one out of every three Black boys born today can expect to be sentenced to prison, compared to one out of 17 white boys [30]. The 66% of juveniles sentenced to death are people of color [31].

The police cannot be considered a neutral body. Over the past 40 years, the expansion of racially targeted policing and policies such as stop-and-frisk [32] and the “war on drugs” have helped fuel mass incarceration in the U.S. with people of color. This in context of an increased militarization of police forces. Many local police departments in the U.S. have become heavily militarized in recent decades, and the use of military-type equipment in SWAT (“Special Weapons and Tactics”) raids and similar operations is disproportionately targeted against historically marginalized groups [33]. A study by the ACLU found that 42 percent of people impacted by a SWAT deployment to execute a search warrant were Black [34].

The United States remains a chronically segregated society. The judiciary and the police are active perpetrators of racial discrimination: mass incarceration and police violence contribute to political disenfranchisement and to repression

This discrimination reaches such a scale that post-segregation history of the United States is also marked by the killings of Afro-Americans by the police, even those who made the headlines have remained in the most complete impunity. The last killing was that of Georges Floyd strangled during long minutes by a policeman in the middle of the street. As the IACHR reaffirmed: the murder of George Floyd (Minnesota, 2020) and those of Trayvon Martin (Sanford, 2012), Michael Brown (Missouri, 2014), Eric Garner (New York, 2014), Tamir Rice (Ohio, 2014), Alton Sterling (Los Angeles, 2016), Philando Castile (Minnesota, 2016), Terence Crutcher (Oklahoma, 2016), Breonna Taylor (Kentucky, 2020), as well as all other assassinations of Afro-Americans due to racial police violence, are not isolated acts of violence, but rather part of a historical and structural process of systematic discrimination based on ethnic-racial origin in the United States. The Commission observes that these serious crimes are framed in a context of historical impunity; and of insufficient or no accountability by the criminal justice system and police institutions, respectively [35].

2. The Covid-19 Effect on political repression in China, Russia and the United States

2.1. China: a repression exacerbated by the extraordinary COVID-19 circumstance

Since the outbreak of COVID-19 in early 2020 in Wuhan, the surveillance of the whole population sharply increased through so-called smartphone “health apps”: as of late February 2020, at least 15 Chinese provinces and cities announced the deployment of such apps, adding to a host of surveillance tools already in use, such as facial recognition and telephone data tracking. Those health apps, designed to track anyone’s travel history and health status through a QR code, were still required as of late 2020 to enter many restaurants, subway stations, offices, parks, shopping centers, and even apartment blocks.

At the political level, the authorities have used the extraordinary situation triggered by the pandemic both to try to minimize negative news coverage about the virus and its domestic consequences, and to take further aggressive steps against any form of dissent or opposition.

At the beginning of 2020, news about the initial outbreak was bluntly suppressed. Dr. Li Wenliang, from Wuhan Central Hospital, who had been among the first medical professionals trying to share information and alert about the new coronavirus –and who eventually died from the disease– was summoned for questioning, intimidated, and ordered to keep quiet. Other whistle-blowers and activists such as lawyer Chen Qiushi and Wuhan resident Fang Bin were similarly harassed and forcibly disappeared. Shortly after, the CCP scaled up the country’s public security apparatus to track down and detain known activists and ordinary citizens sharing information about the COVID-19 outbreak. Just between January 1 and March 26, 2020, the NGO Chinese Human Rights Defenders (CHRD) documented 897 cases involving Chinese Internet users penalised by police for their online speech or information-sharing about COVID-19. Among them was rights lawyer Xu Zhiyong, arrested on February 15 after he published a stinging letter calling for President Xi Jinping to step down over the government’s mismanagement of the COVID-19 crisis. One month later, Mr. Xu was unsurprisingly charged with “inciting subversion of state power”.

Over the past months, summary quarantines –often imposed just after detainees cleared previous ones– have been another way to stifle dissent. For instance, Li Wenzu, the wife of rights lawyer [Wang Quanzhang](#), released in April 2020, was unable to take her son to visit his father in Shandong on the grounds that the latter was quarantined, and police even denied them the option of communicating by video. Many other activists in quarantine have been detained without their families’ knowledge, denied the right to communicate with the outside world, held in secret locations and not given the option to self-isolate at home. This quarantine regime has provided Chinese authorities with a new, powerful and arbitrary tool for detaining dissidents on alleged sanitary grounds.

Moving back to Hong Kong, perhaps it is also not by chance that Beijing managed to tighten its grip on the SAR through the NSL in the summer of 2020, at a time where the top priority of most of the world countries was the fight against COVID-19 at home. Amid a persisting health crisis situation around the globe, Beijing seems to have taken advantage of the decrease in external scrutiny to continue and even intensify its political repression both in mainland China and abroad, without fear of consequences. Or almost. The promulgation of the NSL has indeed drawn a mixed response from the international community: while many democratic nations have roundly condemned Beijing’s move, countries that fall under China’s influence such as Laos, Vietnam, Cambodia, Myanmar, North Korea, and Sri Lanka, expressed support for Beijing’s enactment of the law.

Chinese authorities have used the extraordinary situation triggered by the pandemic to take further aggressive steps against any form of dissent

This split was reflected at the United Nations Human Rights Council, when in late June 2020, a statement signed by 27 countries which criticized the NSL was presented at the Council, while at the same time, another statement that expressed support for the NSL, signed by 53 other countries, was read before the same Council. Interestingly, almost all of those 53 countries are involved in the implementation of China's Belt and Road Initiative (BRI) projects, another initiative driven by Xi Jinping which -under the guise of economic development- is aimed at exporting Beijing's authoritarian policies and influence far beyond China's borders.

2.2. Russia

The repressive tendencies identified above have been exacerbated by the Covid-19 pandemic. The crisis served to further entrench the President, who used it to push through radical changes to the Russian Constitution [36], which were initially introduced on 20 January 2020, curb freedom of expression and assembly, the right to privacy, and the right to fair trial.

The restrictive measures in Russia were adopted on the basis of a very general Federal law which delegated the regulation of lock-down and quarantine measures to regional authorities and local levels of government [37]. A nationwide state of emergency was never introduced, ostensibly in order to avoid the higher economic burden on the central government. Instead, by March 19, 2020, all of the subjects of the Russian Federation introduced a regime of 'high alert' [38]. On 1 April 2020, a Federal Law introduced harsher penalties for violations committed during a state of emergency, an epidemic or a period of quarantine [39]. On 2 April 2020, the Government approved rules of conduct under the 'high alert' regime, prescribing the means of movement for individuals and transport [40].

Freedom of Assembly and Arbitrary Arrests

While restrictions concerning public events and mass gatherings at first varied between regions in their scope and timing, by the end of March 2020 all public events and mass gatherings were banned in 45 out of 85 Russian regions [41]. These closures followed the recommendations of the Chief State Sanitary Doctor, who called for restrictions of 'mass gatherings' [42]. In practice this term has also been extended to single-person pickets, which do not require authorization under Russian law. At the end of May 2020, Moscow police detained seven journalists and a writer who were holding peaceful single-person pickets in solidarity with other detained journalists [43]. They were charged with participating in an unsanctioned public gathering and accused of violating a city ordinance banning 'public and other mass gatherings' [44].

Restrictions to peaceful assembly have been applied inconsistently across the country. Certain protests were allowed to go ahead unimpeded whilst others, such as a demonstration in Moscow against the Constitutional amendments, planned for March 22 2020, were not approved, with no alternative date or time offered to the organizers [45]. Although the annual May 9 Victory Day parade was postponed last minute, rehearsals

involving 15,000 armed forces took place throughout April, endangering the participants' right to life. [46]. Mass protests in Russia's Far East Khabarovsk over what appears to be an arbitrary arrest of the popular Mayor Sergei Furgal, in July 2020, have been allowed to continue intermittently [47].

One mass public protest that had taken place in Vladikavkaz, the capital of North Ossetia in the North Caucasus region, in June, was dispersed by force and dozens of participants were detained, with over 60 subsequently sentenced for 'failure to comply with lawful demands of police officers' [48]. Organizer Vadim Cheldiyev, a popular v-logger and opera singer, was detained for two months in Saint Petersburg several days before the rally and is facing additional criminal charges, including 'public incitement of extremism', which carries a sentence of up to five years [49].

Freedom of Expression

There are two problematic aspects concerning the respect for freedom of expression during the Covid-19 pandemic: access to reliable information about the pandemic and the one hand, and restrictions of speech critical of the handling of the crisis on the other.

With respect to the first, human rights organizations, journalists and researchers have pointed to an absence of accurate information about the number of infected and the mortality rate, and have identified the overarching tendency towards the covering up of cases of infection due to the risks of criminal prosecution among hospital staff [50]. Care workers who have spoken to media outlets about the rapidly rising number of cases in the institutions where they work have done so anonymously, saying they fear they could lose their jobs if they speak out [51].

Any criticism of the government's handling of the crisis has been stifled. On 31 March 2020, Russian lawmakers adopted a package of 'anti-virus' laws which upgraded penalties for knowingly disseminating false or inaccurate information about circumstances that pose a threat to the life and safety of citizens in times of public emergencies [52]. The new law complimented the 2019 so-called 'fake news' legislation criminalizing the 'dissemination of knowingly false publicly significant information' that 'threatened life or health of citizens, property, public order' [53]. Independent monitors have identified over 200 administrative and criminal proceedings under the 'fake news' provisions in 2020 [54]. Of these, only two cases concerned the prosecution of public officials. Seventeen of the 42 cases of criminal prosecution are connected to statements made by activists, journalists, bloggers, and politicians [55]. Thus the 'fake news' law has become a tool of censorship, designed to stop journalists scrutinizing the performance of government during the crisis, including for having published information about the shortage of ventilation machines [56]. The government has instrumentalized the other repressive legislation at its disposal to carry out the crackdown. In the last six months, it has sent over 15,000 requests to Yandex, Russia's most popular search engine, to request the data on users, 84% of which were satisfied [57].

Further Usurpation of Power

Prior to the onset of the pandemic, Putin proposed Constitutional amendments to 14 articles of the Constitution which, among other things, would formalize the ability of Russian courts to decline to implement decisions of international treaty bodies [58], effectively ban same-sex marriage, give the President the power to fire Constitutional Court judges, and regulate speech about the Soviet Union's role in the Second World War [59]. Although not enshrined in any rule of procedure, the authorities held a nationwide constitutional vote in an attempt to give the proposed amendment an air of legitimacy.

In Russia, human rights organizations and journalists have pointed to an absence of accurate information about the number of infected and the mortality rate. Any criticism of the government's handling of the crisis has been stifled

Prior to the vote, originally scheduled for 22 April, Putin introduced another measure which would legalize the annulment of his previous presidential terms allowing him to stand at the 2024 elections and to serve, if re-elected until the year 2036. In the so-called referendum, which took place between 25 June and 1 Julye due to the pandemic, voters were asked to vote yes or no on a single package of over 200 measures, the biggest shake-up to the Constitution since it was adopted in 1993. The vote did not comply with Russian law and international standards. In particular, the requirement of a fair and transparent campaign, access for observers, transparent voting procedure, and other criteria guaranteeing a democratic election process were not fully respected. Numerous violations of the electoral code were reported: fraud, multiple voting, the obligation for some employees to vote against their will, unfair campaigning, and failure to follow procedures in polling stations [60].

2.3. Management and effect of COVID 19 by the Trump administration

The United States is the country with the highest figure of death from Covid (248.000) and among the highest per 100.000 habitants. The disastrous handling of Covid 19 by Trump's administration has both underscored the populist nature of its regime and exacerbated political repression against Black Lives Matter groups that denounce police violence against African Americans. This had an opposite effect to the one President Trump may have expected.

Since the official start of the pandemic, Trump's management was characterized by a disdain, a rejection of expert opinion including those of the World Health Organization (WHO) who advocated social confinement and alienation in the face of the pandemic. This

rejection was expressed through minimization of the danger, explicit refusal to follow the experts' recommendations, humiliation, sanction or dismissal of the specialists. Thus, Trump affirmed in March that the risk of the spreading of Covid 19 in the United States was very low and that the virus would disappear with the rise of temperatures in April. Then, while declaring a state of emergency in the country, he said he would not wear a mask. He said or implied on several occasions, including in September 2020, that the death rate in the United States was inflated in relation to reality. He frequently humiliated his health advisors in public [61]. This anti elite, anti-scientist attitude is typical of populism. Pursuant to Mudde and Kaltwasser populism is a thin ideology that divides society into two groups, the pure people and the corrupt elite. In the populist discourse, the elite is organized as an oligarchy or a tyrannical caste that has taken over the monopoly of political, but also economic, cultural and media power to the detriment of the people. The claim of the populists is to make the general will of this "silent majority" triumph by privileging a direct and unmediated link [62].

Yet, another trend during the pandemic was the instrumentalization and galvanization of this "pure" population so that they use protests and violence to affirm their disagreement with the policy of experts focused on prevention through confinement, distancing and masks. Mixing these themes with those he usually uses of racism, anti-media, anti-elite. Since mid-April, Trump encouraged protests against the containment and distancing measures decreed by the governors of certain states while hardly criticizing the excesses or violence of those demonstrations. These demonstrations initially against the measures of the pandemic in the United States were increasingly violent, organized and armed. Trump, for example, said of the armed protesters who stormed the Michigan government in late April to yell, in particular, to "lock her up" at the governor: "They are good people, but they are angry" [63].

These demonstrations, which took place in more than half of the states, although relatively small (a few thousand people at most in each), had a lot of visibility in the media. They were composed mainly of followers of Trump, including several far-right groups, some are funded by people close to Trump [64]. In addition, according to an Associated Press investigation, at least 40 of these Facebook groups that had been created by conservative or pro - weapons groups evolved in June in conversations focused on the attack on the Black Lives Matter protests, after the death of George Floyd [65]. The way Trump spoke and dealt with those demonstrations is in sharp contrast with the way he dealt with the #BlackLivesMatter demonstrations.

Since the assassination of Georges Floyd in May 2020 in the middle of the pandemic, millions of Americans have demonstrated all over the US against racial violence by the police. Research shows that 93% of these protests were nonviolent [66]. However, tens of thousands of demonstrators, activists and Black Lives Matter supporters have been arrested and hundreds face very serious charges, some including life sentences.

For example in Salt Lake City, Utah, Madalena McNeil and two others are accused of throwing painting to the Attorney General's office and broking a windows, during a 9 July protest. The group was charged with felony criminal mischief and riot charges, and

prosecutors added a “charging enhancement” claiming the protesters operated as a gang. That means the group could face life in prison [67].

Another example is the one of Colin Mattis and Urooj Rahman, both attorneys committed to social justice, who are Black and South Asian, respectively and were arrested and charged by the federal government with allegedly attempting to burn an abandoned police car and charring the interior. For this alleged property damage –a routine state law crime– they are facing federal charges carrying a mandatory minimum of 45 years in prison. These are the types of charges that generally accompany incidents with mass casualties. Two federal judges decided Colin and Urooj could safely be released on bail, which they were, until the government made the highly unusual move to appeal the decision [68]. Like hundreds of other protesters detained and charged they are now waiting for their trial.

Thousands of Black Lives Matter supporters have been arrested and hundreds face very serious charges, including life sentences. The unduly criminalization of a movement which overwhelmingly was pacifist has had a chilling effect

This disproportionate use and instrumentalization of criminal law constitute a political repression. The highest authority of the United States, Donald Trump who supported or refused to criticize the white supremacist demonstrations but called the BLM ones a “symbol of hate” and claimed without evidence that “Antifa” will “attack your homes” [69], he also published on the 26th of June an Executive order calling for the prosecution to sanction the Black Lives Matter protesters to the fullest extent permitted under Federal law [70].

This unduly criminalization of a movement which overwhelmingly was pacifist has obviously had a chilling effect, in addition to reproducing the same racism the demonstration were denouncing since a large number of the arrested demonstrators come from ethnic minorities. This policy is in total contradiction with that of many states and cities which seemed to realize the systemic character of the racism of the police force, and committed themselves to put in place a certain number of reforms.

3. Conclusion and recommendations

There are many differences in the political systems and economic resources of the three States in question, but certain common tendencies, highlighted by the official response to the unprecedented scourge, could be observed. First, while the ruling political elites have touted a robust and effective response to the Covid-19 pandemic, the authorities in the U.S. Russia and China in reality gravely mismanaged the response to the crisis. Secondly, all three States have, to a lesser or greater extent, manipulated the pandemic to increase the onslaught on human rights. The impact on specific rights has differed: in authoritarian China and Russia, where freedom of assembly is already severely repressed, the focus has

been on restriction of speech about the extent of the crisis and the State's inadequate responses. This is particularly true in China, where the virus has originated. In Russia, in addition to using the 'anti-virus' laws to prevent public protest and to detain journalists, bloggers and human rights defenders, poor access to courts has facilitated the passing of especially harsh sentences against other defendants of the 'Network' and 'New Greatness' cases, as well as an astonishing 13 year sentence against historian and political prisoner Yuri Dmitriev [71], while avoiding the public outcry these high profile cases would have normally warranted [72]. In democratic United States, the backlash of the authorities has targeted primarily freedom of assembly, disproportionately impacting the African-American population.

These negative trends are likely to continue in China and Russian well into 2021 due to systemic deficiencies with respect to human rights and the rule of law. In order to reverse the current trends in China and Russia, the authorities must adopt systemic measures that will strengthen the rule of law, ensure free and fair elections, the separation of powers and the independence of the judiciary. In the current political circumstances in Russia and China, the following interim measures should be adopted:

- Public health information, particularly surrounding the Covid-19 crisis, should be disseminated accurately, timely and openly. Reports of concealment of the seriousness of the crisis should be investigated and effective measures should be adopted to address the shortage of medical equipment and hospital beds.
- Fake news' and national security legislation should be repealed or not used in an arbitrary way that has a chilling effect on speech critical of the government's handling of the crisis.

The upcoming change in the highest political office offers a glimmer of hope for the United States, and President-elect Joe Biden will have to make sure to timely address the anti-democratic Trump legacy. One of the first questions that will arise for President Joe Biden on this issue will be that of the necessary amnesty for demonstrators prosecuted through inadequate and disproportionate legal figures. Our recommendations for the U.S. authorities are the following:

- Journalists, activists, bloggers and human rights defenders should be allowed to carry out their work freely and be protected from interference by third parties.
- The authorities must ensure that especially vulnerable communities (including women and girls, migrants, people with disabilities, older people) are not discriminated against in terms of healthcare provision, welfare support and access to public health information.
- Robust safeguards must be put in place for the use of remote technology and virtual hearings with regular review and monitoring.

- Implement independent police surveillance and control; initial training and continuing education covering human rights, conflict mediation and violence reduction with an ethnic-racial perspective; adopt special measures for effective access to justice for marginalized African-American and other minority communities.

REFERENCES

- 1 — Freedom House. [Available online](#).
- 2 — BUSHUEV, Mikhail. “Boris Nemtsov: The man who dared to criticize Vladimir Putin”. [Available online](#).
- 3 — HUMAN RIGHTS WATCH. “World Report 2019: Russia”. [Available online](#).
- 4 — The so-called ‘Gay Propaganda Law’, adopted in 2013, prohibits the dissemination of information about the ‘social equivalence of traditional and non-traditional sexual relation. 29.06.2013 No. 135-FZ ‘On amending Article 5 of the Federal Law ‘On the protection of children from information harmful to their health and development’ and certain legislative acts of the Russian Federation on the protection of children from information that promotes the rejection of traditional family values’.
- 5 — “OSCE Rapporteur’s Report under the Moscow Mechanism on alleged Human Rights Violations and Impunity in the Chechen Republic of the Russian Federation”, 20 December 2018. [Available online](#).
- 6 — According to Human Rights Center “Memorial”. [Available online](#).
- 7 — See, e.g. “May 6, 2012 events on Bolotnaya square. Assessment by the International Expert Commission”. [Available online](#).
- 8 — International Federation for Human Rights (FIDH). “Russia 2012 – 2018: 50 anti-democracy laws entered into force within last presidential mandate”. [Available online](#).
- 9 — Federal Law of 20 July 2012 No. 121-FZ ‘On the introduction of amendments to the different legislative acts of the Russian Federation concerning the regulation of the functioning of non-commercial organizations, performing the functions of a foreign agent’.
- 10 — EURASIANET. “Россия: иностранных агентов станет больше”. [Available online](#).
- 11 — RADIO FREE EUROPE/RADIO LIBERTY. “Putin Signs Amendments Allowing Large Fines For ‘Foreign Agents’ Law Violations”. [Available online](#).
- 12 — United Nations General Assembly Resolution 68/262, 27 March 2014.
- 13 — Federal Law of 05.05.2014 No. 97-FZ ‘On amending the Federal law ‘On information, information technologies and protection of information’ and certain legislative acts of the Russian Federation on streamlining the exchange of information using information and telecommunication networks’.
- 14 — Article 354.1 of the Criminal Code of the Russian Federation.

- 15 — See, e.g. Law of 03.02.2014 No. 5-FZ ‘On Amendments to the Criminal Code of Federal Law and Article 31 of the Criminal Procedure Code of Russian Federation’; 05.05.2014 No. 130-FZ ‘On amending certain legislative acts of the Russian Federation’.
- 16 — See, e.g. OMCT, “Russian Federation: Continuing judicial harassment and arbitrary detention of Mr. Konstantin Kotov”. [Available online](#).
- 17 — Amnesty International, “Russia: Prosecution for membership of a non-existent ‘terrorist’ organization must stop”. [Available online](#).
- 18 — Andrey Kaganskikh, “The Network: how Russian security services are targeting Russian anarchists and anti-fascists”. [Available online](#).
- 19 — Law of 5.05.2014N 130-FZ ‘On amending certain legislative acts of the Russian Federation’.
- 20 — RADIO FREE EUROPE/RADIO LIBERTY. “Seven Russian Activists Given ‘Horrific’ Sentences On Terror Charges”. [Available online](#).
- 21 — Amnesty International, “Russian Federation: The Network case, shrouded in secrecy and marred by numerous torture allegations”.
- 22 — BBC. “Russians accused of extremism cut wrists in court”. [Available online](#).
- 23 — OSCE. “Russian presidential election well administered, but characterized by restrictions on fundamental freedoms, lack of genuine competition, international observers say”. [Available online](#).
- 24 — International Federation for Human Rights (FIDH), Report, “Brutal Repression of Protests in Moscow: a complete account of violations”. [Available online](#).
- 25 — RADIO FREE EUROPE/RADIO LIBERTY. “Russian Opposition Activist Kotov’s Prison Term Shortened”. [Available online](#).
- 26 — Front Line Defenders, Red TDT, LIS-Justicia en Movimiento, Prami Universidad Iberoamerica. “Defenders beyond borders: migrant rights defenders under attack in Central America, Mexico & the United States”. [Available online](#).
- 27 — Philip Alston, “UN Report of the Special Rapporteur on Extreme Poverty and Human Rights on His Mission to the United States of America”. [Available online](#).
- 28 — “Mapping Police Violence”. [Available online](#).
- 29 — “Mapping Police Violence”. [Available online](#).
- 30 — National Association for the Advancement of Colored People. “NAACP | Criminal Justice Fact Sheet”. [Available online](#).
- 31 — National Association for the Advancement of Colored People. “NAACP | Criminal Justice Fact Sheet”. [Available online](#).
- 32 — See, for example, case law led by CCR in NY: Center for Constitutional Rights, “New Stop-and-Frisk Report: NYPD Racial Bias Persists”. [Available online](#).
- 33 — Inter-American Commission on Human Rights and Organization of American States. *African Americans, Police Use of Force, and Human Rights in the United States* (2018). [Available online](#).
- 34 — American Civil Liberties Union (ACLU). “War Comes Home” (2014). [Available online](#).

- 35 — OAS, “The IACHR Expresses Strong Condemnation for George Floyd’s Murder, Repudiates Structural Racism, Systemic Violence against Afro-Americans, Impunity and the Disproportionate Use of Police Force, and Urges Measures to Guarantee Equality and Non-Discrimination in the United States” (1 August 2009) . [Available online](#).
- 36 — International Federation for Human Rights (FIDH). “Constitutional Coup in Russia: Putin’s Move to Devalue International Human Rights Treaties Could Set Dangerous Global Precedent”. [Available online](#).
- 37 — International Partnership for Human Rights, Report, “Human Rights Impact Assessment of the Covid-19 Response in Russia”, August 2020, p. 14. [Available online](#).
- 38 — Citizens’ Watch, Report, “The Right to a Competent Legal Defense During the Covid-19 Pandemic”, p. 3. [Available online](#) (in Russian).
- 39 — Federal Law No. 99-FZ of 1 April 2020.
- 40 — Rules of Citizens’ and Organisations’ Conduct during the Heightened Preparedness or Emergency Regime. Regulation No. 417 of 2 April 2020.
- 41 — IHRP Report, p. 29.
- 42 — Recommendations of the Chief State Sanitary Doctor of March 13, 2020 on additional measures to reduce the risks of spread of COVID-19.
- 43 — Human Rights Watch, “Russia: Journalists Held Over Peaceful Pickets”, 29 May 2020.
- 44 — Resolution adopted on 7 May 2020 and effective at the end of May (banning mass gatherings until 31 May 2020). [Available online](#).
- 45 — Novaya Gazeta. “The authorities did not authorize yet another meeting against the Constitution”, 13 March 2020. [Available online](#).
- 46 — See, e.g., Roth, Andrew. “Russia defies calls to halt Victory Day parade rehearsals”, *The Guardian*. [Available online](#).
- 47 — RADIO FREE EUROPE/RADIOLIBERTY. “Russian Police Detain Dozens Amid Continuing Protests in Khabarovsk”. [Available online](#).
- 48 — IPHR Report, p. 30.
- 49 — RADIO FREE EUROPE/RADIO LIBERTY. “Opera Singer arrested for initiating anti-government rallies in Russia’s North Ossetia”, 21 April 2020. [Available online](#).
- 50 — Human Rights Watch, Report, “Russia: Publish Data About Covid-19 in Institutional Care Lack of Information Could Exacerbate Spread of Infection, Deaths”.
- 51 — Human Rights Watch, Report, “Russia: Publish Data About Covid-19 in Institutional Care Lack of Information Could Exacerbate Spread of Infection, Deaths”.
- 52 — Article 207.1 of the Criminal Code makes it a criminal offence to “publicly disseminate disguised as truthful knowingly false information about circumstances threatening the life and safety of citizens and/or measures to ensure safety of the populace and areas, of ways and methods of protection from such circumstances”. See [consultant.ru](#) (in Russian).

- 53 — Article 13.5, paras 9, 10, 11 of the Code of Administrative Offences.
- 54 — Agora International Human Rights Group, “The fake news ‘infodemic’: the fight against coronavirus as a threat to freedom of speech”. [Available online](#).
- 55 — Agora International Human Rights Group, “The fake news ‘infodemic’: the fight against coronavirus as a threat to freedom of speech”. [Available online](#).
- 56 — International Press Institute. “New ‘fake news’ law stifles independent reporting in Russia on COVID-19”. [Available online](#).
- 57 — TVRAIN.RU, *За полгода «Яндекс» получил от властей более 15 тысяч запросов на раскрытие данных пользователей. 84% удовлетворили*. [Available online](#) (in Russian).
- 58 — International Federation for Human Rights (FIDH). “Constitutional Coup in Russia: Putin’s Move to Devalue International Human Rights Treaties Could Set Dangerous Global Precedent”. [Available online](#).
- 59 — BBC. “Putin strongly backed in controversial Russian reform vote”. [Available online](#).
- 60 — International Federation for Human Rights (FIDH). “Russia’s Constitutional Vote: France, EU and the International Community Must Not Recognise Results”. [Available online](#).
- 61 — WARLOP, Quentin. “Entre changements de stratégie et contradictions, la drôle de ligne de Donald Trump face au coronavirus” (2020). [Available online](#).
BBC News. “Coronavirus: Trump’s signals ‘not helpful’, says Fauci” (29 July 2020). [Available online](#).
- 62 — Cas Mudde and Cristóbal Rovira Kaltwasser, *Populism: A Very Short Introduction* (Oxford University Press 2017).
- 63 — BECKETT, Lois. “Armed Protesters Demonstrate against Covid-19 Lockdown at Michigan Capitol”. *The Guardian* (30 April 2020). [Available online](#).
- 64 — GABBATT, Adam. “Why the DeVos Family’s Backing of the Michigan Protests Is No Surprise”, *The Guardian* (26 April 2020). [Available online](#).
- 65 — SEITZ, Amanda. “Facebook groups pivot to attacks on Black Lives Matter”, *AP NEWS* (5 July 2020). [Available online](#).
- 66 — BECKETT, Lois. “Nearly all Black Lives Matter protests are peaceful despite Trump narrative, report finds”, *The Guardian* (5 September 2020). [Available online](#).
CONFLICT LOCATION & EVENT DATA PROJECT. “Demonstrations & Political Violence in America: New Data for Summer 2020”, *ACLEDA* (3 September 2020). [Available online](#).
- 67 — GABBATT, Adam. “Felony charges against BLM protesters are ‘suppression tactic’, experts say”, *The Guardian* (16 August 2020). [Available online](#).
- 68 — Center for Constitutional Rights (CCR) & International Federation for Human Rights (FIDH). “USA – No to the Instrumentalization of the Legal System against Two Black Lives Matters Protesters”. [Available online](#).
- 69 — LEVIN, Sam & SINGH, Maanvi. “America’s Protest Crackdown: Five Months after George Floyd, Hundreds Face Trials and Prison”, *The Guardian* (27 October 2020). [Available online](#).

- 70 — Executive Order on Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence.
- 71 — The New York Times, “Russian Historian Who Found Stalin-Era Graves Is Convicted”. [Available online](#).
- 72 — On June 22, the Second West Territory’s Military Court sentenced Viktor Filinkov to 7 years and Yury Boyarshinov to 5 1/2 years in prison in a case opposition figures and rights defenders have called “fabricated. RADIO FREE EUROPE/RADIO LIBERTY. “Two Defendants In Russian ‘Network’ Case Receive Lengthy Prison Terms”. [Available online](#).



Jimena Reyes

Jimena Reyes is the Director for the Americas at International Federation for Human Rights (FIDH). Since 2003, she has investigated human rights violations and public policies in 17 countries in Latin America and Northern America and contributed to the drafting of more than 30 reports on human rights issues. She advocated at international, regional and national level: she represented victims from Chile and Honduras in front of the Inter-American system of human rights and coordinated national litigation in France, Belgium and Spain. She has also drafted and presented International Criminal Court communications on Colombia, Honduras and Mexico. She is co-author of several books, articles and reports, such as *Europe, Diplomacy and Development* (2001), "United States-Mexico Walls, Abuses, and Deaths at the borders" (2008), "L'Amérique Latine et l'obligation de juger ou d'extrader les responsables de crimes contre l'humanité" (2011) or "La Corte Penal Internacional y sus primeros 10 años: un enfoque práctico" (2012).



Ilya Nuzov

Ilya Nuzov is Eastern Europe and Central Asia Desk Director at the International Federation for Human Rights (FIDH) and PhD candidate at the Faculty of Law of the University of Geneva. He is Teaching Assistant in International Humanitarian Law and International Human Rights Law at the Geneva Academy of International Humanitarian Law and Human Rights (ADH). His main research areas include the legal aspects of Transitional Justice, especially in Russia and Ukraine. He authored several publications and academic papers: some of his latest works are "Post-Conflict Justice: Extending International Criminal Responsibility to Non-State Entities" (2020) and "Freedom of Symbolic Speech in the Context of Memory Wars in Eastern Europe" (2019).

**Hugo Gabbero**

Hugo Gabbero is the Director of the Human Rights Defenders Protection Desk at the International Federation for Human Rights (FIDH), from where he works in the implementation of human rights defenders protection strategies and activities worldwide in cooperation with FIDH thematic and regional desks, international and executive board members, as well as member organisations and partners on the ground. Over the past years, he has carried out a number of field missions on the situation of human rights defenders, such as in Bangladesh, Azerbaijan, Belarus, and the Philippines. He also drafted and coordinated a range of thematic and country studies concerning legal frameworks and practical restrictions affecting civil society worldwide, following-up on fact-finding missions, trial observations and advocacy trips. He is in daily contact with human rights defenders in danger from around the world, and is in charge of assistance, capacity-building and mobilisation programmes to support those most at risk. He also regularly interacts with institutional stakeholders dedicated to the protection of human rights defenders, at the global and regional levels.