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## Disciplining human rights organisations through an accounting regulation: A case of the 'foreign agents' law in Russia

Galina Goncharenko <sup>a,\*</sup>, Iqbal Khadaroo <sup>b</sup><sup>a</sup> Department of Accounting and Finance, University of Sussex Business School, University of Sussex, Brighton BN1 9SL, United Kingdom<sup>b</sup> College of Business and Economics, United Arab Emirates University, Al Maqam Campus, Abu Dhabi, United Arab Emirates

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### ABSTRACT

Governments in certain countries have directly and indirectly influenced the activism of non-governmental organisations (NGOs). This study extends prior studies on NGO accountability by showing the potency of accounting in enabling governments to use the pretext of visibility to indirectly achieve an outcome – curbing activism – similar to that resulting from the direct prohibition of foreign funding. It examines how an accounting regulation was utilised to discipline human rights organisations (HROs) and their members of staff by using the case of the 'foreign agents' law in Russia. This accounting regulation abruptly changed accounting for foreign funding to stigmatise HROs and influence their political activism. More specifically, the 'foreign agents' law: created a new group of governable objects by labelling them as 'NGOs performing the functions of a foreign agent' to distinguish them from other types of NGOs; encumbered NGOs with costly reporting requirements; and empowered government authorities to discipline 'deviant NGOs' and their employees. The threat of inspections, penalties, damaged reputations and spoiled identities through public shaming campaigns and negative publicity not only resulted in a substantial reduction in human rights activism but also led to the demise of Russian HROs and human rights defenders.

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### 1. Introduction

In July 2012, two Russian non-governmental organisations (NGOs) – Moscow Helsinki Group and For Human Rights – asked the president of the United States to answer on their behalf as to whether or not they are US agents:

We ask you, Mr. President, to give an answer to the question whether Moscow Helsinki Group [MHG] and For Human Rights are U.S. agents in the standard sense of this word, i.e. whether MHG and For Human Rights are authorized to carry out the instructions of the U.S. government, whether the U.S. government influences, directly or indirectly, the work of our organizations. . . Our organizations can be put by the authorities on a list of foreign agents because we are actively involved in forming public opinion with the aim to influence the government decision-making in the interests of Russian citizens. . . Our organizations almost fully operate on grants from U.S. foundations, including the National Endowment for Democracy (NED) which is financed by U.S. taxpayers. So under the new law, we will have to . . . get

\* Corresponding author.

E-mail address: [g.goncharenko@sussex.ac.uk](mailto:g.goncharenko@sussex.ac.uk) (G. Goncharenko).

registered as ‘an NGO performing the functions of a foreign agent,’ in this particular instance, as an agent of the U.S. which acts as the principal.<sup>1</sup>

NGOs actively pursue laudable causes to improve the lives of citizens in society and in so doing play an influential role in forming public opinion, which may conflict with the agendas of governments and the profit maximisation objectives of corporations (O'Dwyer & Boomsma, 2015; O'Dwyer & Unerman, 2008). As such, governments and corporations have attempted to curb the power of NGOs by direct and indirect means. Governments are often the target of NGO activism that critiques rights violations and restrictions (Frankental, 2011; O'Dwyer & Unerman, 2008).

Governments have directly attempted to restrict the funding NGOs receive, with the impact being more prominent in emerging and developing economies, such as China, India, Pakistan, Ethiopia, Egypt, Ecuador and Venezuela (Christensen & Weinstein, 2013), as compared to countries that have elaborate welfare systems, such as Canada, the UK and Israel (Dupuy, Ron, & Prakash, 2016). For example, in Ethiopia the rule of law prohibits specific types of NGOs from receiving more than 10 per cent of foreign funding; in Belarus NGOs are required to obtain prior approval from the government when receiving foreign funding; and in Ecuador all foreign-funded NGOs were closed down (Christensen & Weinstein, 2013). In some countries, such as India, Uruguay and Russia (Dupuy et al., 2016), governments indirectly restrict foreign funding through accounting regulation that dictates how NGOs can receive and use funding and outlines detailed control and reporting requirements.

Prior studies on NGOs published in major accounting journals have focused on examining upward accountability to donors and downward accountability to beneficiaries and proposed the development of holistic accountability systems to meet the expectations of stakeholders (Agyemang, Awumbila, Unerman, & O'Dwyer, 2009; O'Dwyer & Unerman, 2008; O'Leary, 2017), but they have not engaged to a large extent with the examination of the influence of governments in shaping NGO accountability structures to influence NGO activism (Boomsma & O'Dwyer, 2019; Yasmin & Ghafan, 2019). For example, O'Dwyer and Unerman (2008, p. 802) highlighted that “the... dominance of upward hierarchical accountability to donors at the possible expense of more holistic accountability to a broader range of stakeholders, especially beneficiaries, has created concerns that NGOs' accountability priorities are being distorted”. Whilst governments support NGOs by providing grants (O'Dwyer & Boomsma, 2015) and collaborate with them in development activities (O'Leary, 2017), they also regulate these organisations. This study makes a contribution to the literature by analysing how the government may use accounting regulation to disrupt and distort the accountabilities of NGOs, influence funding structures and change accounting practices. It shows that the government can indirectly restrict funding by using accounting regulation to achieve the objective of reducing human rights activism (Christensen & Weinstein, 2013; Dupuy et al., 2016).

The case of the Russian ‘foreign agents’ law that came into force in 2012 to target NGOs is used to illustrate the potency and implications of this accounting regulation. The case provides an opportunity to enrich our understanding of the influence of accounting in a social setting and its impact in actuating disciplinary power. More specifically, it shows that accounting regulation was used to achieve a similar outcome to that resulting from a direct ban on foreign funding, and describes the consequences of an abrupt change in accounting practices on the operation fundraising, accountability and reputation of Russian NGOs.

This law enabled the government to target NGOs involved in political activism, which included human rights organisations (HROs) and advocacy and empowering NGOs. It labelled NGOs as engaged in ‘political activism’ and ‘funded by foreign donors’ by forcing them to be registered as ‘NGOs performing the functions of a foreign agent’. It targeted them with disciplinary mechanisms such as the imposition of stringent bookkeeping, reporting and inspection requirements, and subjected them to significant penalties for non-compliance. The studied case shows how accounting regulation was applied to discipline and govern a sub-population of human rights NGOs (Boomsma & O'Dwyer, 2019) and to stigmatise non-docile behaviour at organisational and individual levels by mobilising the strong negative connotation of the ‘foreign agent’ label, individual and collective penalties and negative publicity that covered both organisations and their leaders.

To frame our analysis of how accounting regulation is used to restrict NGO funding and influence human rights activism, we draw on Foucault's work on disciplinary power (Foucault, 1991, 2001, 2007, 2008). A Foucauldian analytical framework has been adopted because it is helpful in providing insights into the influence of accounting regulation on administering discipline in a social setting. The literature suggests that accounting regulation creates discipline by identifying, classifying, categorising, ordering, judging (Neu & Graham, 2004), labelling, marking, blaming and stigmatising (Guénin-Paracini & Gendron, 2010; Skærbæk & Christensen, 2015; Walker, 2008).

The remainder of this paper is structured as follows. The next section draws on the literature to examine the government's restriction of foreign funding and how disciplinary power is actuated through individualisation, observation and normalisation. The third section explains this study's research methods. The fourth section presents the findings by analysing the inception and implementation of the ‘foreign agents’ law and discussing its instruments of disciplinary power and their consequences for human rights activism in Russia. The final section concludes the paper.

<sup>1</sup> Extract of a letter written by Russian human rights activists to Obama, 25 July 2012, Russia Beyond The Headlines RBTH, Interfax, Source: [http://rbth.com/articles/2012/07/25/russian\\_human\\_rights\\_activists\\_write\\_letter\\_to\\_obama\\_16664.html](http://rbth.com/articles/2012/07/25/russian_human_rights_activists_write_letter_to_obama_16664.html). Accessed 21 March 2017.

## 2. Government's exercise of disciplinary power over NGOs

### 2.1. Government's restriction of foreign funding

Governments shape beliefs, conduct and identities of individuals and organisations in society by deploying various techniques, procedures and strategies (Walker, 2010). In this respect Foucault (1982, p. 790) states that "government' did not refer only to political structures or to the management of states; rather, it designated the way in which the conduct of individuals or of groups might be directed – the government of children, of souls, of communities, of the sick... To govern, in this sense, is to control the possible field of action of others".

Governments induce docility and obedience from individuals and organisations by using mundane governance mechanisms that are based on the principle of the panopticon.<sup>2</sup> Foucault (1991, p. 187) states that whilst, traditionally, the subjects on whom power was exercised could remain in shade (e.g. imprisoned in dark dungeons), "disciplinary power, on the other hand, is exercised through its invisibility; at the same time it imposes on those whom it subjects a principle of compulsory visibility". The principle of visibility that underlies governments' regulatory mechanisms may thus be conceived as a trap (Foucault, 1991). Surveillance instruments that are based on the principle of the panopticon enable the government to exercise disciplinary power by making activities of individuals and organisations visible, knowable and subject to scrutiny, and by instilling the fear that they are constantly being watched, although they may not actually be watched all the time. The major effect of the panopticon, as stated by Foucault (1991, p. 201), is "to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power" whilst "the perfection of power should tend to render its actual exercise unnecessary". It is an almost "perfect disciplinary apparatus" that enables "a single gaze to see everything constantly" without necessarily being seen (Foucault, 1991, p. 173).

NGOs often receive substantial funding from overseas donors, which they use to deliver public services, enhance democracy and root out corruption and human rights violations. Whilst governments generally welcome aid and the activities of NGOs aimed at improving the well-being of the population, governments also feel threatened because NGOs may interfere with sovereignty and indiscriminately name and shame when malpractices occur (Dupuy et al., 2016). Governments do not welcome NGO activities that challenge their decisions or lead to the empowerment of certain groups, such as political opponents (Clark, 1995). The international trend of government restrictions on accepting and using foreign funding (primarily, monies coming from the US and Western Europe) by local NGOs in Asia, Africa, South America and post-Soviet states shows that "fully authoritarian regimes often openly repress independent NGOs... hybrid or democratizing regimes, however, often permit freedom of speech and association while finding other, more subtle ways to limit the scope and scale of independent groups" (Christensen & Weinstein, 2013, p. 80).

The dilemma faced by cash-strapped governments who are willing to introduce disciplinary measures to subjugate NGOs can be attributable to their desire to maintain political control and sovereignty. They often view foreign aid as threatening their grip on power and supporting opposing political parties, which may inculcate new ways of thinking and doing things, such as fostering liberal values, civil society and democratic ideals, which may clash with existing socio-cultural and politico-economic structures and values.

## 3. Disciplinary mechanisms to restrict funding

Governments may influence the behaviour of NGOs through a combination of direct and indirect mechanisms to avoid the erosion of their sovereignty over the territory and population they rule and to curb transnational power over domestic politics (Foucault, 2007). Governments may directly prohibit foreign funding or restrict the amount of foreign funding by enacting laws, although they acknowledge that these laws may harm their international reputation for supporting the development of democracy and civil society, and may result in disciplinary measures from donors, governments and organisations. Alternatively, as this study shows, governments may indirectly restrict funding by using accounting mechanisms to individualise, observe and normalise conduct in their attempt to discipline and stigmatise NGOs and their members of staff in order to reduce their activism.

Legal and accounting institutions function like panoptic machineries that enable the government to gaze on the activities of citizens and organisations, and exercise discipline, by making activities knowable and subject to intervention. The disciplinary power of institutional structures, such as accounting regulation, can be both indiscreet and discreet. It is 'indiscreet' to the extent that its effect can be observed or felt everywhere as it constantly supervises subjects and leaves no zone of shade; and 'discreet' to the extent that it operates permanently and in silence (Foucault, 1991). Depending on the objective, accounting regulation and procedures could be mobilised as a 'ritual of degradation' (Walker, 2008) or for blame allocation (Skærnbæk & Christensen, 2015).

<sup>2</sup> The design of the panopticon prison is largely credited to Jeremy Bentham (Bowring, 1843), although the idea of the panopticon came from his younger brother Samuel Bentham who was working in Russia in the 1780s and designed a 'central inspection system' whereby a relatively unskilled workforce would sit around experienced craftsmen who would supervise and train them (Thomas, 2004). This centralised arrangement shed light on the work of subjects and prevented them from hiding. It reverses two main functions of the dungeon of depriving light and enabling subjects to hide, but preserves the principle of enclosing subjects (in a physical or virtual setting). Full lighting, transparency and the eye of a supervisor capture better than darkness, which ultimately protects.

The exercise of disciplinary power requires individualisation of subjects from the masses: “instead of bending all its subjects into a single uniform mass, it separates, analyses, differentiates, carries its procedures of decomposition to the point of necessary and sufficient single units” (Foucault, 1991, p. 170). The process of individualisation might be applied to individuals, groups and organisations as collectives of individuals or sub-populations (Boomsma & O’Dwyer, 2019; Duval, Gendron, & Roux-Dufort, 2015) with the purpose of constructing a ‘governable reporting entity’ (Mennicken & Miller, 2012; van Zijl & Maroun, 2017) and direct “the behaviour and actions of individuals, groups or organisations, such as NGOs, in ways deemed desirable by governors” (Boomsma & O’Dwyer, 2019, p. 4). Governable entities are expected to internalise and regulate conduct of the self and others, promote conformity and enable identification and suppression of deviance from societal norms.

In addition to individualisation, according to Foucault (1991, p. 170), disciplinary power is exercised “by the use of simple instruments; hierarchical observation, normalizing judgement, and their combination in a procedure that is specific to it, the examination”. Hierarchical observation by authorities is a ceremony of the objectification of subjects and represents the technique through which disciplinary power manifests its potency and renders subjects calculable and accountable. Normalising judgement involves establishing ‘norms’ or standards of conduct with the aim of rewarding or penalising subjects for good or poor conduct to condition behaviour. Normalising judgement “compares, differentiates, hierarchizes, homogenizes and excludes individuals and groups” (Foucault, 1991, p. 183).

Governments have the power to decide what should or should not be made visible (Duval et al., 2015; Foucault, 2007). They may selectively highlight and regulate economic and social activities. Governments may institutionalise new disciplinary structures to create new visibilities by intermingling existing visibilities to increase legitimisation and the acceptance of new visibilities, as well as shadowing and masking the desired outcomes (Davie, 2005; Funnell, 1998). The disciplinary effect of a mechanism is multiplied when surveillance is not only applied to the main targets of control (e.g. governable objects such as NGOs), but is also spread over the broader population by creating “social observatories... disseminated throughout society” (Foucault, 1991, pp. 211-212). On an individual level this disciplinary effect is strengthened by “the informing character of being ‘with’ relationship... the contingencies of being seen ‘with’ particular others” (Goffman, 1990, p. 64).

As a result of the interaction of disciplinary power rituals, normality is classified and distinguished from abnormality, and those who are labelled ‘abnormal’, in addition to facing disciplinary consequences, might end up being a subject of stigmatisation and spoiled identity (Hannem & Bruckert, 2012). Society tends to apply extensive control mechanisms on those with socially constructed stigmas in the name of social risk minimisation (Graham & Grisard, 2019; Walker, 2008). In contrast to a symbolic stigma that results in visible discrimination (Goffman, 1990), “structural [also referred to as ‘achieved’ or ‘organised’] stigma... is the result of a carefully calculated decision at an institutional or bureaucratic level to manage the risk that a particular population is perceived to present” (Hannem & Bruckert, 2012; Walker, 2008).

The origins of stigma (or according to Goffman (1990, p. 14), “an undesired differentness”) are contextualised within social perceptions of abnormality and discrediting attributes that might be shaped by those who hold disciplinary power (Hacking, 2004; Hannem & Bruckert, 2012). Disciplinary mechanisms and the visibilities they render are never neutral and the criteria of (ab)normality are in most cases pre-settled (Carnegie & Napier, 1996; Lehman, Hammond, & Agyemang, 2018; Papi, Bigoni, Gagliardo, & Funnell, 2019). Subjective judgements and “the polarisation of identities by discouraging ambivalent labelling” (Walker, 2008, p. 460) form the basis for legitimising class differences, bestowing privileges and justifying inequalities, stigmatisation and discrimination (Brivot & Gendron, 2011; Walker, 2010). This links the complementary visions of “Goffman’s qualitative descriptions of individual struggles of identity management and shame... [and Foucauldian] genealogy of the social structures of normalcy and difference that create generalised stigma and attributes of prejudice” (Hannem & Bruckert, 2012; Walker, 2008).

Individuals with identities spoiled by socially constructed stigmas are vulnerable to negative publicity, scapegoating (Hannem & Bruckert, 2012; Lauwo, Kyriacou, & Otusanya, 2019; Parker & Aggleton, 2003) and systematic blame (Skærbæk & Christensen, 2015). For example, Guénin-Paracini and Gendron (2010) refer to auditors as ‘modern pharmakoi’, who frequently attract blame and are sacrificed in the era of contemporary financial scandals and have to deal “biographically with an event constructed by the media as a professional failure” (Gendron & Spira, 2010, p. 276). Individuals affected by organisational structural stigmas have to go through the process of identity reconstruction to find an approach to manage their stigmas (Gendron & Spira, 2010) by “managing information about... [their] failing” (Goffman, 1990, p. 57). They have to adapt to the fact that “documented information relating to a stigmatised... may be... transmitted legitimately through inter-agency exchanges, unofficially ‘leaked’ or illicitly obtained... worse, ... could be rendered public... through media reporting... or... disclosure” (Walker, 2008, p. 463).

In short, in the case of the Russian ‘foreign agents’ law, we mobilise the Foucauldian framework of disciplinary mechanisms and Goffman’s individual stigma management to answer the research question of how accounting regulation has been constructed to discipline the non-profit sector, confirm social deviance and produce stigma-generating routines to control the governed population. We structure our analysis around three mechanisms of disciplinary power: individualisation, hierarchical observation and normalising judgement. In addition, we empirically illustrate how the enforcement of disciplinary power and the visibility it created manifested itself in the structural stigmatisation of Russian HROs, and, thereby, in the development of three coping (stigma management) strategies, namely dormancy, docility and deviation. Our analysis aims to extend insights into the ability of accounting regulation to control political and human

rights activism and achieve desired outcomes from governable objects while ascribing stigmatising labels. Prior to presenting the case of the 'foreign agents' law, the next section outlines the research methods the study mobilised.

#### 4. Research methods

This study examines how accounting is implicated in establishing and enforcing the 'foreign agents' law with the objective of reducing human rights activism, and discusses the implications of funding restrictions on NGOs. Because of the politically sensitive nature of the issues studied and the peculiarities of the Russian context, this study mainly uses information such as documents, archival records and media. The case under study has received extensive media coverage both in Russia and abroad.

The first author, who is fluent in the Russian language, has followed the case development over a period of seven years (2011–2018), collecting and analysing data from legislation and normative acts, expert and analytical reports and various document artefacts that were created by the case participants in newspapers, press releases, online media, TV and radio, social networking platforms and webpages (see [Table 1](#)). She translated the relevant documents into English for the purpose of analysis. The data collected covered the main stages of the legislative process, from the initial discourse surrounding the establishment of the new law to its actual inception, enactment and implementation.

The analysis of the documentary artefacts enabled the researchers to obtain insights into the cultural settings of the organisations, meanings ascribed to specific situations and interactions among participants, and concerns and grievances raised on aspects of particular significance ([Creswell, 2013](#)). The longitudinal analysis of media enabled the authors to follow up the dynamic processes and consequences of the case.

Social media provided those affected by the new regulation with an arena in which to express their opinions relatively freely in a virtual setting, and enabled the creation of a virtual version of the social reality they were actually experiencing ([Atkinson & Coffey, 2004](#); [Bellucci & Manetti, 2017](#); [She & Michelin, 2019](#)). Examination of social media made it possible for the researchers to observe how certain discourses emerged over time and what kind of public reactions, opinions and contradictions they generated. In contrast with other qualitative methods such as interviews, the analysis of social media and documentary artefacts provided an opportunity to analyse a contentious case study setting where a large number of participants utilised virtual settings to engage in a discursive debate and freely express their opinions without much direction and control from or fear of authorities ([Goncharenko, 2019](#); [Manetti & Bellucci, 2016](#); [Neu, Saxton, Rahaman, & Everett, 2019](#)). The research approach helped avoid the interviewer effect and enabled the researchers to obtain the sentiments of participants on a particular issue of concern to them ([Kozinets, 2015](#)).

Documentary evidence collected from various sources was contextualised in relation to the 'foreign agents' law and was corroborated from other sources to ascertain the reliability and credibility of the claims made ([Islam & van Staden, 2018](#); [Tharenou, Donohue, & Cooper, 2007](#)). More specifically, the following process was followed when collecting and analysing the data. First, each piece of information (documentary artefact) was treated separately and analysed with the intention of searching for themes and patterns, and subsequently for sub-themes and thematic clusters, such as visibility, docility, reputational issues, accountability, fundraising and reporting. The authors then compared and contrasted the information from different media and documentary sources. Finally, the data were contextualised and examined within the broad socio-political context of the 'foreign agents' law.

Because the established regulation ('foreign agents' law) faced controversial reactions and provoked the creation of 'camps' of supporters aligned against opponents, public debates and discourses, the document analysis allowed examination of the contrasting viewpoints from various sources and enabled the highlighting of controversies. Unsurprisingly, the official rhetoric and supporters of the legislation concentrated on making positive comments on the outcomes of the regulation and its impact. They emphasised the increased transparency and accountability of the non-profit sector and the protection of the state's sovereignty. In contrast, opponents to the law (NGOs, civil society activists and former foreign donors) focused on commenting on the negative outcomes such as fund restrictions, field transformation and the reduction of human rights activism. In such a controversy-laden context, the applied methodology permitted a rich exploration of a broad spectrum of contrasting opinions in a complex and dynamic field.

#### 5. Findings: The 'foreign agents' law, disciplinary mechanisms and consequences

This section analyses the inception and implementation of the 'foreign agents' law, and discusses its instruments of disciplinary power and their consequences for HROs, their members of staff and human rights activism in Russia. The 'foreign agents' law, which was established in 2012 and enforced in 2013, is a significant attempt by the Russian government to interfere in and govern the non-profit sector by creating new instruments for identifying, labelling and segregating different types of NGOs (e.g. by using a 'foreign agents' register), and degrading and stigmatising them via inspections, fines, juridical procedures and reputational damage. The law rewards docile NGOs that adhere to disciplinary measures by, for example, providing them with government grants and enabling them to opt out from the 'foreign agents' register once they stop receiving foreign funding. The 'foreign agents' law creates knowledge about deviant Russian NGOs and their foreign funders through the application of bureaucratic surveillance routines and rituals such as inspections and 'naming and shaming' media campaigns, to enable the exercise of disciplinary power.

**Table 1**

Data collection: Legislation, press and social media monitoring.

Source of data
<ol style="list-style-type: none"> <li>1. Russian legislation: <ul style="list-style-type: none"> <li>- Constitution of the Russian Federation</li> <li>- The Civil, Criminal and Tax Codes and the Code of Administrative Offences</li> <li>- Federal Law 7-FZ On Non-profit Organisations</li> <li>- Federal Law 402-FZ On Accounting</li> <li>- Russian Law 121-FZ On Amendments to Legislative Acts of the Russian Federation regarding the Regulation of the Activities of Non-profit Organisations Performing the Functions of a Foreign Agent (2012)</li> <li>- Federal Law 134-FZ On Amendments to Certain Legislative Acts of the Russian Federation Aimed to Counter Illegal Financial Operations</li> </ul> </li> <li>2. A register of the non-profit organisation performing the functions of a foreign agents (the 'foreign agents' register) <a href="http://www.unro.minjust.ru/NKOForeignAgents.aspx">www.unro.minjust.ru/NKOForeignAgents.aspx</a></li> <li>3. NGOs' webpages and analytical reports, including but not limited to: <ul style="list-style-type: none"> <li>- Moscow Helsinki Group (<a href="http://www.mhg.ru">www.mhg.ru</a>)</li> <li>- Agora (<a href="http://www.en.agora.legal/">www.en.agora.legal/</a>)</li> <li>- Memorial (<a href="http://www.memo.ru/eng/memhrc/index.shtml">www.memo.ru/eng/memhrc/index.shtml</a>)</li> <li>- Golos (<a href="http://www.archive.golos.org/">www.archive.golos.org/</a>)</li> <li>- Transparency International (Russia) (<a href="http://www.transparency.org/country/RUS">www.transparency.org/country/RUS</a>)</li> <li>- Amnesty International (Russia) (<a href="http://www.amnesty.org.ru/">www.amnesty.org.ru/</a>)</li> <li>- Human Rights Watch (Russia) (<a href="http://www.hrw.org/ru">www.hrw.org/ru</a>)</li> <li>- Committee for the Prevention of Torture (Russia) (<a href="http://www.pytkam.net/eng">www.pytkam.net/eng</a>)</li> <li>- Glasnost Defense Foundation (<a href="http://www.gdf.ru">www.gdf.ru</a>)</li> <li>- Sakharov Center (<a href="http://www.sakharov-center.ru">www.sakharov-center.ru</a>)</li> <li>- The Bellona Foundation (<a href="http://www.bellona.org">www.bellona.org</a>)</li> </ul> </li> <li>4. News, media and analytical press: <ul style="list-style-type: none"> <li>- TVRain (<a href="http://www.tvrain.ru">www.tvrain.ru</a>)</li> <li>- Echo of Moscow (<a href="http://www.echo.msk.ru">www.echo.msk.ru</a>)</li> <li>- Radio Svoboda (<a href="http://www.svoboda.org">www.svoboda.org</a>)</li> <li>- Open Russia (<a href="http://www.openrussia.org">www.openrussia.org</a>)</li> <li>- Vedomosti newspaper (<a href="http://www.vedomosti.ru">www.vedomosti.ru</a>)</li> <li>- Novaya Gazeta (<a href="http://www.novayagazeta.ru">www.novayagazeta.ru</a>)</li> <li>- The New Times (<a href="http://www.newtimes.ru">www.newtimes.ru</a>)</li> <li>- NTV (<a href="http://www.ntv.ru">www.ntv.ru</a>)</li> <li>- CNN (<a href="http://www.edition.cnn.com">www.edition.cnn.com</a>)</li> </ul> </li> <li>5. Social media: <ul style="list-style-type: none"> <li>- Facebook</li> <li>- Twitter</li> </ul> </li> </ol>

### 5.1. The case of the 'foreign agents' law

NGOs promote the well-being of citizens in civil societies and attempt to hold governments and businesses accountable for human rights violations (Gaer, 1995), but they have met with varying degree of successes due to differences in institutional and political contexts that influence activism and affect the level of respect for human rights (Cingranelli & Richards, 2001). In Russia, NGOs may be classified within three broad categories: government affiliates or puppets (which actively support the state's agenda and are funded from the state budget); grass roots organisations (which are apolitical and focused on satisfying the needs of the members or the local community); and HROs and independent professional advocacy and empowering NGOs (Cook & Vinogradova, 2006; Crotty, 2009). The third category of NGOs has grown from a former dissident movement, has broad international connections, and is strongly reliant on overseas funding. These organisations generally oppose the Russian government's policies and demand political and social change.

Following the collapse of the Soviet Union in 1991, the former dissident movement created a substantial number of HROs. Funding for HROs comes mostly from large institutional donors, such as the European Commission and United Nations Voluntary Fund, and US foundations (e.g. Ford Foundation, National Endowment for Democracy, MacArthur Foundation, and Open Society Foundations) for the implementation and support of concrete human rights projects. National human rights NGOs worldwide are usually unsuccessful in conducting in-country fundraising because of public scepticism towards HROs and lack of philanthropic traditions and because the beneficiaries of HROs are generally not wealthy (Ron, Pandya, & Crow, 2016). Moreover, in Russia, HROs bear the socially constructed structural stigmas of Soviet dissidents, usually portrayed as foreign spies in opposition to the regime and the interests of the public majority (Fireside, 1989; Kowalewski, 1987).

The newly established freedom of speech accompanied by access to foreign funding and connections developed with international HROs abroad determined the gradual increase in the power of HROs from the 1990s. HROs were able to initiate public control over government that gave them access to governmental bodies, institutions and document archives and an opportunity to analyse the population and to report publicly on abuse, political murders and human rights violations (Jakobson, Mersiyanova, & Efremov, 2012). Moreover, HROs and their international funders were named among the facilitators of so-called 'colour revolutions' in post-Soviet neighbouring countries, such as Georgia, Ukraine

and Kyrgyzstan (Gorburnova & Baranov, 2013; Skibo, 2017). As such, over the past 15 years the Russian government has attempted to control HROs and tighten their operational and financial activities through regulatory instruments (see Fig. 1).

The first substantial complication in the registration and reporting of HROs appeared in 2006 when, simultaneously with the 'colour revolutions' in post-Soviet territories (Jakobson, Mersiyanova, & Efremov, 2012), the Russian government introduced legislation that was intended to curb the power of HROs and increase control over the non-profit sector. In 2012, the government consolidated its power over NGOs by introducing a regulation entitled On Amendments to Legislative Acts of the Russian Federation regarding the Regulation of the Activities of Non-profit Organisations Performing the Functions of a Foreign Agent (121-FZ). This notorious law, labelled a 'foreign agents' law by the media, targeted NGOs that received foreign funding and were involved in broadly defined political activism or represented units of international HROs operating in Russia (Gorburnova & Baranov, 2013). The government legitimised the inception of the 'foreign agents' law under the guise of two international trends aimed at increasing NGO accountability: first, it aimed to increase the transparency and disclosure of NGOs (Schmitz, Raggo, & Bruno-van Vijfeijken, 2012; Verbruggen, Christiaens, & Milis, 2011); and second, it controlled the foreign and cross-border funding that NGOs received (Christensen & Weinstein, 2013).

This law stipulated that materials published by NGOs, including press and Internet releases, had to contain a notice that these materials were produced by an 'NGO performing the functions of a foreign agent' (Gorburnova & Baranov, 2013). This requirement resulted in NGOs being labelled as 'foreign agents'. As Russia has largely inherited the former Soviet Union's traditions in public discourse and rhetoric, the 'foreign agents' label had a strong negative connotation with the Cold War era's espionage suspicions and propaganda, reviving memories of the times when "the United States was spending millions to try and observe its Soviet 'enemy'" (Lomas & Murphy, 2019) by "relying on well-placed agents within the enemy's camp" (Johnson, 2010, p. 309). These discourses cultivate public perceptions that covert political actions of inimical intelligence agencies can "involve efforts to undermine the government of a country, leading to its removal and replacement with a more favourable regime, [by providing] the covert supply of financial support to a preferred political party or [organisation] in a foreign county" (Lomas & Murphy, 2019). As such discourses are still alive in Russian media and public debates, former dissidents who had largely formed the Russian human rights movement considered the government effort to label them as 'foreign agents' an act of personal humiliation aimed to spoil (or even spoof) their public identity and reputation (Podrabinek, 2013).

Although the 'foreign agents' law was formally established as an accounting and financial reporting regulation, it contained multiple components, including bookkeeping, reporting of finance and activities, accountability and government inspections. Table 2 highlights the changes in bookkeeping, accountability, reporting and control brought about by the 'foreign agents' law.

The new regulatory concept of 'non-profit organisations performing the functions of a foreign agent' was integrated with routinised accounting practices and concepts such as 'annual financial statement' and 'audit'. For example, clause 5a of Article 2 stated that:

Annual accounting (financial) statements of a non-profit organisation performing the functions of a foreign agent, and... annual accounting (financial) statements of the structural unit of foreign non-profit organisation shall be subject to an obligatory audit.

Clause 5 m of Article 2 gave the government the power to counteract NGOs' ability to launder and legalise incomes from crime-related activities and to finance terrorism. Clause 2 of Article 2 defined political activism as "involvement in organising and conducting political activities in order to influence decision-making of public authorities... as well as in shaping public opinion for the specified purposes", whilst Article 3 dealt with sanctions and legal penalties for "creating a religious or voluntary association whose activities involved violation against citizens or... causing harm to their health".

The government legitimised the disciplinary elements of the 'foreign agents' law by mixing routine accounting practices and concepts with newly established concepts of 'NGOs performing the functions of a foreign agent', 'NGOs involved in

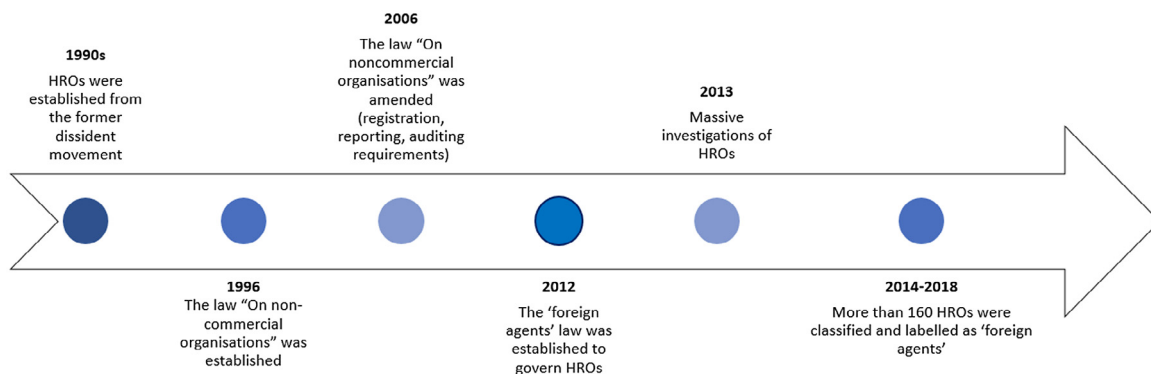


Fig. 1. Governmental control over HROs in Russia.

**Table 2**

Accounting changes brought by the 'foreign agents' law.

Before	After
<p>1. Financial reporting</p> <p>Russian accounting system consists of two different types of accounting for all groups of organisations: tax accounting and bookkeeping accounting</p> <p>In addition to the general financial statements, NGOs submit separate reports on funding sources and expenditures to the Tax Authority and the Ministry of Justice</p> <p>NGOs report to each donor separately according to the reporting forms provided by the donors.</p>	<p>New additional forms of financial reporting.</p> <p>For HROs: more frequent reporting (report on the management team and activities – every half year; expenditure reports every three months) and inspections. Other types of NGOs that stay beyond the coverage of the new law have to submit these reports once a year.</p> <p>Conduct a compulsory annual audit.<sup>1</sup></p>
<p>2. Bookkeeping</p>	<p>Separate bookkeeping for expenditures of funds received from foreign donors and from the Russian donors.</p>
<p>3. Accountability</p> <p>Project accountability to the institutional donors, which constantly affects the resource inflows</p> <p>An opportunity for HROs to influence their accountability reporting and to negotiate with the partners/donors</p>	<p>Extremely high level of financial vulnerability due to the significant revenue cut and elimination of existing funding sources.<sup>2</sup></p> <p>New types of stakeholders (individual donors), new users' needs</p> <p>Lack of accountability tools</p> <p>Lack of possibilities for HROs to influence their accountability reporting</p>
<p>4. Inspections and organisational and individual penalties</p> <p>Inspections by governmental authorities once in three years</p>	<p>High level of accountability to the government</p> <p>For HROs, annual inspections by governmental authorities; plus practice of 'unannounced' inspections. For other NGOs, inspections once in three years</p> <p>Failure to comply with the 'foreign agents' law (such as failure to submit activity report on time or to declare 'foreign agents' status in published materials) penalised by administrative fine approx. equivalent to 5000 euros for HROs and personal administrative and criminal responsibility for HRO employees – from the fine approx. equivalent to 5,000 euros<sup>3</sup> (or two years' personal income) to up to two-year prison sentence</p>

Source: Based on materials of Russian Law No. 121-FZ; translated by the first author.

<sup>1</sup> This innovation could be considered as positive; however, in fact, auditing services are expensive in Russia, and the audit requirement leads to significant resource outflows from the limited resources of Russian HROs.

<sup>2</sup> The vulnerability was caused by a number of factors. The sector tended to rely on foreign funding (mostly institutional long-term partners) since its emergence in 1990 s. In addition, the lack of transition period, an absence of appropriate in-country funding alternatives and the stigma of 'foreign agents' made it impossible to adapt to the new situation and develop alternative funding options.

<sup>3</sup> Euro equivalent on 18 July 2019.

political activism', 'NGOs involved in money laundering and financing terrorism', and 'NGOs created with the purpose of violation against citizens'. This enabled the government to strategically create a negative connotation that NGOs' advocacy, empowerment and human rights activities could be potentially related to money laundering, violations and harm to the well-being of citizens and national security.

## 5.2. Instruments of disciplinary power of the 'foreign agents' law

This sub-section identifies the disciplinary mechanisms of the 'foreign agents' law and discusses the implications for human rights activism in relation to Foucault's disciplinary instruments of individualisation, hierarchical observation and normalising judgement.

### 5.2.1. Individualisation, differentiation, labelling and classification

NGOs engaged in political activism (i.e. HROs and empowering and advocacy NGOs) were individualised and differentiated from the masses of NGOs to enable the government to intervene and exercise disciplinary power. The targeted organisations were grouped into a new type of governable object called 'NGOs performing the functions of a foreign agent' in the law or in short, 'foreign agents', as media tend to call them (Skibo, 2017). The law bestowed the power on enforcers to selectively attach the label of 'foreign agents' to HROs and empowering and advocacy NGOs receiving any financial support from abroad, including awards and prizes (Gorbunova & Baranov, 2013). According to the 'foreign agents' law, the following organisations were excluded from its scope: religious NGOs, NGOs established or affiliated with the government and NGOs working in the area of science, culture, art, health, volunteering and social security.

The establishment of the 'foreign agents' law disrupted accounting and accountability practices. For example, prior to the law's establishment, Russian HROs transparently and voluntarily disclosed their overseas funding and international cooperation activities in their financial reports and on webpages (Jakobson, Mersiyanova, & Efremov, 2012; Podrabinek, 2013). When the 'foreign agents' law came into being, HROs reduced their voluntary disclosures. However, the



information disclosed previously has permitted government and interested parties to easily identify and target them. In 2012, the witch-hunting of foreign agents resulted in backlash and the posting of graffiti entitled 'Foreign Agent! ♥ USA' on the offices of three Russian HROs in Moscow and the display of a banner entitled 'Foreign Agent Sits Here' atop the Moscow HQ of Russian HRO 'Memorial' (Sevortian, 2013).

Pro-government media targeted 'foreign agents' (both the organisations and the human rights activists who are working for them) with extensive negative coverage to damage their reputation when NGOs disclosed the foreign funding they received, either voluntarily in accounting reports or when legally forced to do so (Gorbunova & Baranov, 2013). Negative publicity was built around a sub-population of human rights defenders who cooperate with foreign funders. They were blamed for promoting 'foreign values' and identified as being non-patriotic and working against their fellow citizens. In this respect, the liberal media stressed a strong connotation between the 'foreign agent' label and the Cold War, and its negative effect on citizens' perceptions of HROs:

Receiving 'foreign agent' status led [to]... a whole... set of consequences outside the legal framework. According to surveys conducted by the Russian Public Opinion Research Centre in 2012 or Levada Centre in 2017, Russian citizens surveyed view the term 'foreign agents' negatively. For the majority, this phrase was associated with 'spies', 'representatives of foreign security services', 'undercover agents' and the 'fifth column' (Skibo, 2017).

With its MI6 and James Bond undertones, many NGOs also find the 'foreign agent' label ethically unacceptable (Sevortian, 2013).

In addition to the discrimination the 'foreign agents' face on the organisational level, individuals who were working for 'NGOs performing the functions of a foreign agent' reported that they had to exercise more conscious and self-censoring behaviour to avoid additional damage to their organisations. For example, Daria Skibo, a research fellow at the Centre for Independent Social Research in Saint Petersburg, explained in her essay 'Being the Foreign Agent: How to survive under the pressure of the law':

One more aspect that I would like to highlight is related to my personal status... I work for an 'NGO performing the functions of a foreign agent' that received a fine of 325,000 roubles [4,500<sup>3</sup> euros]... According to the [foreign agents] law, every lecture and presentation, as well as any publicly distributed materials, created by a 'foreign agent', have to be marked by a special warning about their origination. Therefore, I consider it to be my obligation to disclose this fact directly in the text of this essay. If I do not do so, there is always a probability that [my] organisation... will be fined again (Skibo, 2016, pp. 13-14; translated from Russian by the first author).

Individualisation and a 'foreign agent' labelling have led, therefore, to the segregation of HROs from other types of Russian NGOs, as well as dissociation and polarisation of the whole sector. Pro-government media has been used as an instrument of blame allocation and stigmatisation by utilising Cold War era rhetoric and witch-hunting in public discourse. However, to achieve the consciousness and docility of the human rights defenders, the law enforcement had to reach managers and employees, who demonstrated their strong association with the organisations they were working for and thus belonged to a sub-population of foreign agents.

### 5.2.2. Hierarchical observation

The 'foreign agents' law empowered government authorities (i.e. Russian Ministry of Justice, Interior Ministry, General Prosecutor's Office, Tax authority, Federal Security Service, civil servants and state bureaucrats) to hierarchically observe and examine not only NGOs, but also NGOs' employees and civic activists. The invasive and pervasive inspection rituals empowered authorities to make visible the activities of human rights NGOs (Rozin, 2013; Sevortian, 2013). Within the first year of the law's enforcement, the Ministry of Justice conducted over 300 inspections of Russian NGOs. The threat of inspections, reinforced by penalties for non-compliance, stigmatised NGOs, which were under the impression that they were under continuous surveillance:

There is only one topic of conversation in Russia's voluntary sector these days – who has been [investigated]... and who not. Those who haven't yet had an inspection are preparing for one; those who have, for another one. In these circumstances it is very difficult to actually get on with the work the organisation was set up for in the first place (Sevortian, 2013).

The Russian non-profit sector, human rights watchdogs and liberal media criticised the 'foreign agents' law for its opacity, obscurity and broad scope, which led to selective and discriminatory implementation (Gorbunova & Baranov, 2013). The Open Democracy media platform reported on a number of cases illustrating the opaque nature of inspections:

At the St Petersburg Human Rights Resource Centre employees were asked about their rubbish disposal arrangements, and at the NGO Development Centre the inspectors assiduously photographed the spines of all books with titles in foreign languages... In the second phase of its inspection, [leading Russian HRO] 'Memorial' was asked to produce, in the space of 24 hours, documents adding up to 8766 pages (Sevortian, 2013).

<sup>3</sup> As on 4 July 2019.

A Human Rights Watch report stated that “the inspections were highly extensive, disruptive, and invasive, and seemed aimed at intimidating NGOs” (Gorbunova & Baranov, 2013). Even though the ‘foreign agents’ law had formally targeted NGOs, the individual members of staff had to experience brutal personal consequences of the observations that took place. For example, in June 2013 during the inspection, law enforcement agents used disproportional physical force to evict eight members of staff (including 72-years old Lev Ponomarev) from the office of a leading Russian HRO, For Human Rights. Seven members of staff reported injuries and had to ask for medical help. In his interview for Interfax, the head of For Human Rights NGO, Lev Ponomarev, reported:

There were only eight staff members in the office. OMON [riot police task force] broke in and acted hideously brutally. . . The OMON members dragged me down the stairs, and people in civilian clothing kicked me. They didn’t even try to be nice either with me. . . The first priority now is to evacuate our belongings from the office, as there is a lot of equipment there (Rozin, 2013).

The situation was aggravated when the state inspections groups began to ally with pro-government media. The inspection rituals, reinforced and justified by negative media rhetoric in the public discourse, constructed a structural stigma on those engaged in human rights and political activism (both individual activists and organisations and their members of staff). For instance, Elder (2013), in an article for *The Guardian*, reported on such an ‘alliance’ during an inspection of the Moscow HQ of Human Rights Watch (HRW):

The tax inspector and three officials from Russia’s prosecutors office that visited HRW’s office on Wednesday were accompanied by a camera crew from NTV, a state-run television channel owned by the gas giant Gazprom that has aired regular propaganda films accusing Russian human rights workers and opposition activists of acting on orders from Washington. NTV ran similar footage of a raid on Ponomarev’s [For Human Rights] group earlier this week.

In addition to the power for hierarchical observation, the ‘foreign agents’ law resulted in a new accounting record and an instrument for the public disclosure of the discredited ‘foreign agent’ status – a ‘foreign agents’ register (Fig. 2). The purpose of the register was to create knowledge about subjects to govern them by moulding their subjectivity and disciplining behaviour. All results of inspections were documented in inspection reports that described, analysed and classified the new group of governable objects in a register (see also, Walker’s [2010] discussion of a Child Accounting Register, and Walker’s [2008] discussion of mobilisation of accounting registers under The Poor Law Amendment Act, which were both used to govern the population).

Initially, the ‘foreign agents’ law required NGOs that received foreign funding and were involved in political activism to voluntarily register themselves as ‘NGOs performing the functions of a foreign agent’. However, the perverse consequences and backlash associated with being perceived as a foreign agent resulted in (unsurprisingly) no Russian NGOs putting their names on the register (Skibo, 2017). In response, the government amended the law to empower the Ministry of Justice to compulsorily register NGOs that were found to be engaging in political activism and to be receiving foreign funding, following the results of inspections (Sevortian, 2013).

Name	Address	Supervisor	PSRN	Accounting. No.	Register. No.	Inclusion in the register	Registry Exception	Reason for exclusion	Structure	Sources	Spending	Business objectives	Types of activities
Penza Regional Public Charitable Fund "Civil Union"	440600, Penza region, Penza g. Urtskogo st., 62, 2026		1025800003350	5812030037	358190008	05/15/2019							
Ingush Republican Branch of the All-Russian Public Organization "Russian Red Cross"	386101, Republic of Ingushetia, Nazran, st. Moscow, d. 35		1020600000728	06120145	306190006	04/19/2019							
Public Organization "Saratov Regional Jewish Charity Center" Khashey Yerahelaim * (Charity)	410005, Saratov, st. Universitetskaya, d. 65/73		1026403683833	6412011203	364190005	03/12/2019							
Private Institution "Media Support and Development Center"	101000, Moscow, per. Archers, d.7 / 4, p. 5, room 24, room 1		1157700002030	7714042706	677190004	02/19/2019							
Regional Public Organization for the Promotion of Human Rights "Hotline"	127994, Moscow, st. Kalanchevskaya, house 47		1037739135026	77120114892	377190003	02/13/2019							
Nonprofit Organization Foundation "In Defense of the Rights of Prisoners"	128090, Moscow, st. Kalanchevskaya, d. 47		1057749410553	7714011821	677190002	02/13/2019							
All-Russian Public Movement for the Protection of Human Rights "For Human Rights"	127994, Moscow, st. Kalanchevskaya, d. 47		1037739134432	0012020099	199190001	02/12/2019							

Fig. 2. The ‘foreign agents’ register (<http://unro.minjust.ru/NKOForeignAgent.aspx>).

The 'foreign agents' register is maintained by the Ministry of Justice and accumulates extensive and continuous record of NGOs 'performing the functions of a foreign agent', including names, addresses, details of activities, donors, managers and governance structure. It is publicly available and can be accessed online. The register is interactive and any interested user is able to access information not only about NGOs considered to be 'performing the functions of a foreign agent', but also about their foreign donors. By doing so, the register is potentially violating the privacy of donors and HRO managers, which could lead to possible misuse of information about them. For example, Fig. 3 shows the list of foreign funders for a specific NGO, the Interregional Public Organisation Human Rights Centre 'Memorial', which can be accessed by clicking on the hyperlink in the register.

The 'foreign agents' regulation enabled and incentivised members of the general public to raise their concerns about the activities and funding of any NGO and to inform the relevant authority to undertake investigations and disciplinary actions. In this respect, upon receiving a complaint from a Russian citizen about an alleged 'foreign agent', the General Prosecutor's Office was empowered to inspect that particular NGO and request relevant documentation. For example, in 2017, a denunciation of the Russian Diabetics' Rights Group as a 'foreign agent' by a pro-government youth activist resulted in the General Prosecutor's Office undertaking an investigation and placing the Russian Diabetics' Rights Group on the 'foreign agents' register (Shevchenko & Coalson, 2018).

According to the report produced by the Council of Europe's Commissioner on Human Rights, the 'foreign agents' register facilitated public surveillance, contributed to the personal attacks and stigmatisation of human rights defenders and abolished the possibility of obscuring a discredited social identity:

There have been media smear campaigns... against NGOs based on their status as 'foreign agents'... By way of example, a correspondent of a national-coverage channel was shown on television pointing out the door of the apartment of Nadezhda Kutepova, director of [a 'foreign agent' NGO] Planet of Hope'... and asserting that her organisation was engaged in 'industrial espionage funded by US money'. As a result of repeated accusations... as well as threats against her and her children, Ms Kutepova had to flee the Russian Federation... In the Rostov region... the chairperson of [a 'foreign agent' NGO] Women of Don was verbally attacked twice in July 2016 by activists of the [pro-government radical organisation] NOD movement... for allegedly serving anti-Russian interests of the USA.<sup>4</sup>

The register opened up HROs' activities to public scrutiny and ascribed stigmatising identities that resulted in blacklisting and public backlash. It provided a public signal of the HROs' controllability, a factor that potentially impacted polarisation of Russian civil society (Gorbunova & Baranov, 2013; Skibo, 2016). Transparency in the form of accounting disclosures has been used as justification for the restriction of fundamental freedoms and has eliminated the ability of HROs' employees to control their visibility and manage their stigmatised identities.

### 5.2.3. Normalising judgement: Consequences on activism and 'foreign agent' stigma management

To 'normalise' activism, the 'foreign agents' law contained mechanisms to punish and reward behaviour. The government's regulation enforced by stigmatising labelling, invasive inspections, media smear campaigns and witch-hunting, as illustrated in the previous sections, motivated NGOs to substantially decrease international collaborations, renounce foreign funding and reduce human rights and opposition activism.

Initially, Russian HROs and their foreign donors were not prepared to deal with the dramatic change and implications of the new regulation on their activities (Podrabinek, 2013). The law was enforced in a period of less than a year from the moment the government's initiative was announced, despite strong resistance from the sector claiming that the law would restrict civic space and violate fundamental freedoms of expression, association and assembly (Gorbunova & Baranov, 2013; Jakobson, Mersyanova, & Efremov, 2012). Moreover, the 'foreign agents' law did not allow a transition period, with the consequence that the long-term projects undertaken by Russian HROs financed by overseas donors had to be stopped immediately (Skibo, 2016, 2017). In addition, the largest foreign sponsor of Russian NGOs, the United States Agency for International Development (USAID), was asked by the Russian government to end all activities within Russian territory promptly on 1 October 2012, as "some of the agency's programs, such as... human rights groups and election monitoring, have undermined Russia's sovereignty" (Rojansky, 2012). Prior to that, USAID had worked in Russia for 20 years, spending around \$2.7 billion in grants of which democracy support programmes had accounted for about a third.<sup>5</sup>

Rebellion: The law not only instituted accounting and reporting complexities, but also bestowed the much dreaded and despised 'foreign agents' status. Unsurprisingly, HROs resisted the new law, and none of the HROs voluntarily accepted the 'foreign agent' label.<sup>6</sup> A research and analytical think-tank, the Institute of Modern Russia, reported that:

The [Moscow] Helsinki Group's chair, Lyudmila Alekseeva, proudly declared that her organization would never register as a 'foreign agent' – by renouncing its foreign funding. One can put a brave face on a sorry business for as long as one wishes, but the fact remains: the Moscow Helsinki Group had to comply with an illicit legislation and accept the rules of the game imposed by the regime (Podrabinek, 2013).

<sup>4</sup> Source: <https://rm.coe.int/third-party-intervention-by-the-council-of-europe-commissioner-for-hum/1680731087>

<sup>5</sup> <https://www.usaid.gov/where-we-work/europe-and-eurasia/russia> Assessed 21.03.17

<sup>6</sup> As on 15 December 2018, «foreign agent» register includes 102 empowering and advocacy NGOs/HROs.

Interregional public organization Human Rights Center "Memorial"			
Information about foreign sources of receipt (planned receipt) of funds and other property.			
Foreign countries			
The state	Government body	Address	Solution details
Foreign organizations			
Foreign organization	The state	Solution details	
OSI ASSISTANCE FOUNDATION	The Republic of Austria		
EUROPEAN COMISSION	Kingdom of Belgium		
Branch of Heinrich Böhl Foundation	Federal Republic of Germany		
DEUTSCH-RUSSISCHER AUSTAUSCH EV	Federal Republic of Germany		
Embassy of the Republic of Korea in Russia	The Republic of Korea		
Embassy of the Kingdom of the Netherlands in Russia	Kingdom of the Netherlands		
DEN NORSKE HELSINGFORSKOMITE	Kingdom of Norway		
MIDDLESEX UNIVERSITY	United Kingdom of Great Britain and Northern Ireland		
Embassy of Great Britain in Russia	United Kingdom of Great Britain and Northern Ireland		
NATIONAL ENDOWMENT FOR DEMOCRACY	USA		
Embassy of France in Russia	French Republic		
CLOVEK V TISNI OPS	Czech Republic		
CIVIL RIGHTS DEFENDERS STORA	Kingdom of Sweden		
STIFTELSEN SVENSKA AMNESTYFONDEN A	Kingdom of Sweden		
Office of the United Nations High Commissioner for Refugees			
Foreign citizens			
Full Name	Citizenship	Requisites of the document	Solution details
Stateless persons			
Full Name	Requisites of the document		Solution details
Authorized persons			
Full Name	Citizenship	The entity in whose interests the person acts	Solution details
Russian legal entities			
Organization	OGRN	Head of	Solution details

Fig. 3. Who are the funders of a specific 'foreign agent'?

From 2013 until 2017, 66 Russian HROs complained to the European Court of Human Rights (ECHR) against the Russian regime and claimed that the 'foreign agents' law violated their rights to freedom of association and expression that are protected under the European Convention on Human Rights (Gorbunova & Baranov, 2013; Skibo, 2017). In 2017, the Institute of Law and Public Policy, which plays a third-party mediating role in the hearings on the complaint, claimed that the 'foreign agents' law "exceeds the limits of acceptable state involvement in the private lives of citizens".<sup>7</sup> Another third party in the hearings, the Council of Europe's Commissioner on Human Rights, asserted that:

[NGOs] should be free to solicit and receive funding not only from public bodies in their own state but also from institutional or individual donors, another state or multilateral agencies, subject only to the laws on customs, foreign exchange and money-laundering, as well as those on elections and funding of political parties. Reporting requirements should be set up on an equal and non-biased basis regardless of the sources of income.<sup>4</sup>

In addition, in its intervention to the ECHR, the Council referred the locutions 'NGOs performing the functions of a foreign agent' and 'foreign agent' used in the law to a linguistic expert at the Modern Russian Language Department at the V.V. Vinogradov Institute of the Russian Language of the Russian Academy of Sciences. The expert confirmed:

The locution 'foreign agents' was used repeatedly by the authorities and investigative bodies as a standard accusation against tens of thousands of [Russian] citizens during the political repressions of the 30 s and 40 s; this locution was

<sup>7</sup> <http://www.bearr.org/russian-response-to-echr-on-foreign-agents-law/>

fixed in the accusatory speeches of Soviet public prosecutors... court sentences... on the pages of Soviet newspapers... this locution entered the consciousness of native Russian speakers... as a synonym for an enemy spy or... someone who serves in the interests of an enemy... No reasoning... can rebut the strong connotation accompanying the phrase foreign agent: 'acting in the interests of... enemy state'.<sup>4</sup>

In response, the Russian Ministry of Justice sent the ECHR a memorandum defending the 'foreign agents' law and denying the law is excessive or restricts the activities of HROs. As of October 2019, the ECHR has not yet made any decision on this case.

**Compliance:** Despite the ongoing case at the ECHR, when the new regulation came into force, Russian HROs had to comply. The consequences surrounding the new legislation initially fostered a sense of self-discipline among HROs who officially declared that they would no longer accept foreign funding to avoid acquiring a 'foreign agent' label associated with reputational damage and spoiling organisational and professional identities (Gorbunova & Baranov, 2013; Sevortian, 2013). In addition, many HROs stopped disclosing information about their former foreign supporters on their webpages and documents. This led to a radical change in stakeholders and accountability relationships and created uncertainties in the financial sustainability of HROs.

To replace foreign funding, Russian HROs aimed to conduct crowdfunding campaigns to collect money from individual donors to enable them to operate their programmes and pursue their activities (Cukier, 2014; Podrabinek, 2013). However, they were not able to raise substantial funding nationally due to the lack of philanthropic traditions, an absence of incentives and legislative infrastructure in Russia (particularly in the human rights sector), ineffective accountability instruments, underdeveloped civil society, and a paucity of large institutional funds and corporate donors that support human rights activism (Jakobson, Mersiyanova, & Efremov, 2012). Negative connotations associated with locutions 'foreign agents' and 'political activism' and the discrediting impact of media campaigns have turned off potential Russian donors (Sevortian, 2013; Skibo, 2017). Russian donors generally avoid direct public affiliation with HROs or particular causes and prefer not to disclose donations made. However, they might support these organisations on an irregular basis by discretely providing cash donations and other types of support (e.g. in kind) that are difficult to trace (Gorbunova & Baranov, 2013). The 'foreign agents' law increased the visibility of donations by mobilising inspections, 'foreign agents' register and media disclosures and, in doing so, violated the privacy of donation acts and donors. This demonstrates both that the disciplinary effect of the 'foreign agents' law has widely spread through the population and that the decisions of potential donors not to support HROs may be attributed to the consequences of unwillingness to be seen with particular 'others' (in this case, with antagonists and 'enemies' of the Russian government).

**Coping strategies:** Table 3 outlines HROs' initial response to the regulation, the three main adaptive strategies mobilised by them (including those that had to bear the stigma attributed to the obtained 'foreign agent' status) to cope with the 'foreign agents' law, and the implications for their activities.

**Dormant NGOs:** The first adaptive strategy of '**sleeping mode**', involved HROs renouncing foreign funding, shutting down most of their programmes to cut costs and switching to volunteer labour instead of using paid professionals (Skibo, 2017). For example, during her interview with the National News Service in October 2014, the Moscow Helsinki Group's chair, Lyudmila Alekseeva, explained the consequences of adopting this survival strategy as follows:

We are just surviving at the moment... We have had to stop our most expensive awareness-raising programs... [MHG] used to hold summer schools and winter schools on human rights, which trained 340 people... We can't do that any longer... The monitoring programs, our primary activity, can be carried out by volunteers. Of course, volunteers work less effectively because they cannot dedicate themselves completely to the task (Cukier, 2014).

MHG stopped using foreign funding and relied heavily on national funding. Table 4 shows the changes in the list of funders between 2012 and 2013 prior to and after the 'foreign agents' law coming into force.<sup>8</sup>

The MHG renounced foreign funding to avoid coming under the scope of the jurisdiction of the new law and attempted to launch a crowdfunding campaign in 2013 to raise funding locally. However, it was only able to raise funding of about 60,000 euros towards its annual expenses of 970,000 euros, the remainder of which were covered by foreign funding reserves accumulated prior to 2013.<sup>9</sup> According to its 2014 annual report, the MHG was able to raise and spend about 210,000 euros (including two grants from Russian foundations),<sup>10</sup> but its scale of operation was about 4.5 times lower than in 2013 after the implementation of the 'foreign agents' law.

**Docile NGOs:** HROs that chose not to substantially reduce their activism followed a second adaptive strategy, which we term '**reorientation**', to seek funding from national sources to finance their activities. This (normal) behaviour, which was desired by the authorities, was rewarded in the form of presidential (i.e. government) grants, which were awarded via the Presidential Grants Foundation (Lutskova, 2017). However, the reorientation towards national sources and cooperation on government-approved projects resulted not only in compromising independence, but also in the annihilation of the

<sup>8</sup> <http://webcache.googleusercontent.com/search?q=cache:GYTOVRbRVDEJ:www.mhg.ru/english/190c97f+&cd=4&hl=ru&ct=clnk&gl=no;; http://www.mhg.ru/smi/13B6CFA2>. Accessed 21 March 17.

<sup>9</sup> <https://www.mhg.ru/sites/default/files/files/2013-mhg-ot.pdf>

<sup>10</sup> <https://www.mhg.ru/sites/default/files/files/2014-mhg-ot.pdf>

**Table 3**

Coping with the 'foreign agents' law.

HROs coping strategies	
Stage 1: Initial response	Do not accept any foreign money (including awards and prizes): self-discipline and self-censorship, i.e. be docile and conform to avoid reputation damage (spoiled identity).
Stage 2: Coping strategies I	<p><b>'Sleeping mode':</b> Significant reduction in activism (Dormant NGOs)</p> <p><b>Reorientation:</b> Accept national funding and government grants, which may compromise missions and reduce activism as the amount of national funding is significantly lower than that provided by foreign funders. (Docile NGOs)</p> <p><b>'Foreign agents':</b> as of 26 May 2018, 76<sup>1</sup>HROs have been placed in the 'foreign agents' register as a result of governmental investigations. Most HROs claim that they do not accept foreign funding; however, even the trace of prizes/premiums that supplement human rights awards can be classified as foreign funding (Deviant NGOs)</p>
Stage 2: Operational implications	For all three strategies, HROs' efforts to develop human rights philanthropy and crowdfunding in Russia have been hampered.
Stage 3: Disciplinary mechanisms (reporting, inspections and fines)	<p>Escape scope of legislation and disciplinary mechanisms.</p> <p>Escape scope of legislation and disciplinary mechanisms due to docility.</p> <p>Stringent reporting requirements, imposition of large fines, and reputational damage due to deviance.</p>
Stage 4: Result/Outcome	<p><b>Significant reduction in human rights activism</b> due to the lack of resources.</p> <p><b>Significant reduction in human rights activism</b> due to compromising missions and visions and the lack of resources.</p> <p><b>Significant reduction in human rights activism</b> due to bankruptcy and liquidation arising from inability to pay fines or through court proceedings.</p>

<sup>1</sup> The number of HROs registered as 'NGOs performing the functions of a foreign agent' in the 'foreign agent' register is decreasing due to the self-liquidation of HROs and an opportunity to opt out from the register if an organisation stops receiving foreign funding. However, more than 160 HROs have been declared 'foreign agents' during the period of the 'foreign agent' law's enforcement. Once labelled as a 'foreign agent', the name sticks as HRO is compelled to label all publicly released materials and is subject to negative media campaigning.

**Table 4**

The funding sources of the Moscow Helsinki Group (MHG).

2012 (before the 'foreign agents' law's enforcement)	2013 (after the 'foreign agents' law's enforcement)
European Commission	Mikhail Prokhorov (Russian businessman, no.12 in the Russian Forbes list)
Ford Foundation (USA)	Sergey Mitrokhin (leader of the opposition political party 'Yabloko')
MacArthur's Foundation (USA)	Individual donors who responded to the MHG's crowdfunding campaign
MATRA (Netherlands)	
National Endowment for Democracy (USA)	
Open Society Institute (Hungary)	
USAID	
Norwegian Helsinki Committee (Norway)	

network of foreign donors that had taken time to develop. Moreover, the level of funding from national sources is significantly lower than that provided previously by the foreign donors (Podrabinek, 2013).

Whilst the Presidential Grants Foundation provided funding of over 55 million euros in 2016 and 90 million euros in 2017 to Russian NGOs (Lutskova, 2017), less than 10 per cent of the applicants were successful (Ivanushkin, 2015). HROs face stiff competition from each other and from pro-governmental organisations. Table 5 shows the top five largest grants awarded in 2017.

The process of awarding presidential grants lacks transparency. There are no criteria provided to winners, whilst the Presidential Grants Foundation itself is politically connected with the government (Cukier, 2014; Podrabinek, 2013). The structure of the Presidential Grants Foundation permits Russia's presidential administration to be directly involved in the selection process and award grants to politically connected organisations (Kalikh, 2017). For example, the Russian president's favourite motorcycle association, the Night Wolves, has received over 850,000 euros since 2014 (Bennetts, 2017).

The presidential grants documentation explicitly prohibits the "financing of political parties, campaigns and actions, preparation and staging of manifestations and protests".<sup>11</sup> Kalikh (2017) found that although the applications for presidential grants submitted by 'foreign agents' in 2017 were strong, none of them passed the second round of review. Only a few independent HROs that avoided 'foreign agent' status were able to receive some presidential funding in 2017 (Lutskova, 2017). Moreover, both Russian and foreign media closely relate the grants with the name of the Russian president, which makes such source of funding inappropriate for certain activist groups (Bennetts, 2017).

Deviant NGOs: HROs that were not able to reorient their funding towards local sources, or that revealed traces of foreign funding in their accounting and financial documentation in the process of inspections, fell under the jurisdiction of the

<sup>11</sup> <https://xn-80afcdbalict6afooklqi5o.xn-p1ai/public/home/documents?tagId=9>

**Table 5**

The largest grants provided by the Presidential Grants Foundation in 2017.

NGO	Purpose	Grant (euros)
The Golden Mask Festival NGO	The theatre festival and 2017 Russian National Theatre Awards	Over 757,000
The Russian Red Cross	A nationwide programme promoting blood donations	Over 303,000
The Moscow Association of War Veterans Groups	An Internet project aimed at educating people about World War II and Russia's role in it	Over 212,000
The Association of Volunteer Centres	A plan to set up a federal centre with resources for various volunteer projects	Over 181,000
The School and Urban Sports League	An Urban Coach programme	Over 166,000

Source: authors, based on [Lutskova \(2017\)](#).

'foreign agents' law and were forced to register as '**foreign agents**'. Undesired ('abnormal') behaviour of these governable objects was penalised by the authorities ([Gorbunova & Baranov, 2013](#)). All HROs 'performing the functions of a foreign agent' had their rights restricted and were subject to significant reporting and scrutiny. According to Russian Law No. 121-FZ (the 'foreign agents' law), they were required to maintain separate bookkeeping for any funding received from abroad, undertake an annual paid audit and provide the Ministry of Justice with information about their activities and management control systems every six months and about their expenditures every quarter. HROs registered as 'foreign agents' experienced a shift in power relationship and distortion in accountability – from donors to regulators and empowered inspectors ([Rozin, 2013](#); [Skibo, 2017](#)).

Lack of docility and deviant behaviour resulted in costly administrative reporting hurdles. The prominence of the 'foreign agents' law, the scope of what constitutes political activism, and the disciplinary consequences sent strong signals to civil society activists about the need to conform to the expectations of the regime and its supporters. More than 60 HROs had been fined a total of over 215,000 euros for performing the functions of a foreign agent without prior registration as 'foreign agents'; 33 HROs had been sanctioned for failure to submit financial and activity reports on time; and 27 HROs had been sanctioned for failure to display the 'foreign agent' status in their publications ([Mukhametshina & Churakova, 2016](#); [Skibo, 2017](#)). Moreover, 33 HROs had been liquidated because they were unable to pay their fines or comply with the legislation ([Skibo, 2017](#)).

The Ministry of Justice has the power to initiate the liquidation of deviant HROs. For example, in March 2016, Agora (an organisation of 35 lawyers that investigates power and human rights abuses) was liquidated by the Supreme Court in response to a request by the Ministry of Justice to apply the 'foreign agents' law ([Skibo, 2017](#)). Between 2014 and 2015, Agora experienced intensified tax inspections and was accused of tax evasion. Agora was given the 'foreign agent' label in 2014, together with 77 other HROs, as a result of the prosecutors' investigation, which claimed that Agora received funding from abroad and was involved in political activism ([Litvinova, 2015](#)). Agora appealed against the allegation, but the court rejected the appeal. In the same year, "the 'foreign agents' law precluded Agora from accepting the monetary contribution awarded as part of the Rafto Prize Foundation for human rights work".<sup>12</sup> Additional inspections of Agora led to a liquidation request by the Ministry of Justice on the grounds that Agora influenced public opinion and did not mark the materials it publishes with the 'foreign agent' label, and government inspectors were dissatisfied with Agora's quality of financial reporting and management control systems ([Litvinova, 2015](#)).

The discriminative character of the 'foreign agents' status had its ramifications beyond the 'foreign agents' law. New legislative initiatives explicitly imposed restrictions on and removed privileges from governable objects labelled as 'NGOs performing the functions of a foreign agents'. For example, the Ministry of Justice banned organisations that had been given 'foreign agents' status from taking part in the process of providing expert and independent anticorruption assessment of laws ([Grobman & Chernykh, 2018](#)). In addition, as a result of the discriminatory status, several HROs lost their strategic partners from the public and non-profit sectors, for whom 'being seen' in cooperation with 'foreign agent' NGOs became undesirable:

In March 2017, the Ministry of Education branch in the Sverdlovsk region advised local government entities and high schools against cooperating with the Ekaterinburg society 'Memorial', because it was registered as a 'foreign agent' and due to the potentially negative influence on young persons of its 'politicised actions'... [Local] charity foundations... [denied their financial support to another 'foreign agent' NGO, the Civil Assistance Committee], which became unable to carry out any further activity for the benefit of migrants' children.<sup>4</sup>

Although Russian HROs mobilised three main strategies to respond to the 'foreign agents' legislation, paradoxically all of them led to the broadly similar outcome of substantially reducing human rights activism. The government was able to use the 'foreign agents' law to achieve its covert agenda of transforming the operational setting of Russian HROs to quash human

<sup>12</sup> <https://s3-eu-west-1.amazonaws.com/rafto-documents/Letters/2016-02-15-LetterBrendonAgora.pdf>

rights activism. This success has motivated the government to broaden the scope of the legislation to discipline and stigmatise Russian divisions of international media and popular bloggers that are mostly critical of government. In 2017, the Russian parliament extended the scope of the 'foreign agents' law, which now requires international media operating in Russia to be registered as 'foreign agents' and subject to disciplinary measures and implications.

## 6. Conclusion

NGOs play a key role in mobilising the public to put pressure on corporations and governments to keep their power in check and make them accountable for human rights abuses and violations (Gallhofer, Haslam, & van der Walt, 2011; Gray & Gray, 2011). This study contributes to the literature that has called for an examination of ways in which accounting influences the accountability of organisations in various socio-cultural settings (Davie, 2005; Funnel, 1998; Neu, 2000) and in which accounting regulation is intentionally and unintentionally implicated in disciplining and generating structural stigmas of governable objects (Gendron & Spira, 2010; Walker, 2008). Whilst prior studies have called for the development of holistic accountability systems to meet the expectations of multiple stakeholders (Chen, Dyball, & Harrison, 2019; Frankental, 2011; O'Dwyer & Boomsma, 2015), our study illustrates how governments are able to disrupt accountability systems and dilute the power of NGOs by using accounting regulation and its disciplinary mechanisms.

This study has examined the potency of an accounting regulation in disciplining NGOs engaged in political activism in the context of Russia. It has shown how the 'foreign agents' law and its disciplinary mechanisms were used to govern the activities of (non-governmental) organisations (Boomsma & O'Dwyer, 2019; Duval et al., 2015; Foucault, 2007). In addition, the study identified and analysed the strategies taken by NGOs to comply with this regulation, which not only disrupted their activities but also resulted in stigmatisation, reputation damage and serious consequences for defiant 'foreign agents' (on both organisational and individual levels).

The outcomes desired by the government were achieved through the mobilisation of the identification of governable objects, negative labelling and blacklisting of HROs using the 'foreign agent' status, the extensive and demonstrative rituals of invasive inspections, penalising and liquidating the 'foreign agents', and rewarding the docile behaviour of the HROs that reoriented towards government funding. However, funding restrictions, inspections, reporting requirements and penalties for non-compliance have not only shifted accountability from donors to government but also reduced activism and compromised the mission and existence of HROs.

The official rhetoric of the Russian government emphasised that the primary aim of the legislative initiatives of government was to increase the transparency of NGOs and did not restrict the choice of funding strategies. However, the legislation contained a new concept termed 'NGOs performing the functions of a foreign agent', which seemed to have been carefully crafted and integrated with routinised accounting practices and concepts. The requirement for these types of NGOs to account for foreign funding aimed to promote "a new system of thought" (Miller & Power, 2013, p. 590) and achieve a high level of legitimisation of the regulatory actions by mobilising the "trust in the kind of objectivity [accounting regulation] produces" (Miller & Power, 2013, p. 591) as compared to the mechanisms of direct restrictions and bans pursued within other regimes (Christensen & Weinstein, 2013).

Whilst holistic NGO accountability has the potential to reconcile upward and downward accountability with mission and activities (O'Dwyer & Boomsma, 2015; O'Leary, 2017), government intervention may prioritise hierarchical accountability to the state and disrupt social and internal accountability. The findings suggest that in regimes where governments have significant power, NGOs have limited ability to develop accountability systems that prioritise their own mission and objectives, in contrast to the proposition that NGOs "must have the confidence to develop and debate a distinct and credible accountability regime that strengthens and defines the role of NGOs in society" (Dhanani & Connolly, 2015, p. 632).

The government transformed NGO accountability structures and agenda by shifting accountability centres and power-relationships from donors and beneficiaries to the government. Our analysis shows that shifts in accountability centres were achieved by institutionalising bureaucratic procedures, disincentivising foreign funding, empowering state actors to scrutinise NGOs, and curbing the power of foreign donors. Russian HROs have been shaped into governable objects and have lost the ability to promote their visions in their choice of financial supporters, relationships with stakeholders, and how they discharge accountability and making disclosures. In this respect, Dhanani and Connolly (2015) claimed that accounting and reporting regulation tend to have a "narrow... view of accountability... [and] does not address operational accountability holistically or emphasize sincerity" (p. 633).

HROs in Russia were particularly vulnerable because of the early stage of the sector's development, the strong reliance on foreign funding and paid employees, a lack of traditions of philanthropy, and the unsustainability of local funding from Russian donors that could support HROs. Our study showed that any strategy chosen by HROs within the new unfavourable regulatory environment created by the 'foreign agents' law led to substantial reduction in activism and increased vulnerability. The criteria ('political activism' and 'foreign funding') for identifying and segregating subjects from others not only disciplined the newly created group of governable objects, but also have ramifications on other factions, such as the media and bloggers, that play an important role in the development of civil society.

In relation to the role of accounting regulation in the stigmatisation of abnormalities (Walker, 2008) and its implications for spoiled identities (Guénin-Paracini & Gendron, 2010), while prior studies have shown instances of accounting being used



to stigmatise individual members of professional groups and organisational collectives in single events (Gendron & Spira, 2010), the case of the 'foreign agents' law has revealed how accounting regulations can be constructed to generate stigmas of organisational entities and their members of staff repeatedly and systematically. In contrast to auditors from the case analysed by Gendron and Spira (2010), who were able to manage their stigmas by distancing themselves from the collapsed stigmatised organisation in order to reshape their professional identity, Russian human rights defenders and their fund providers were not able to control information about their 'foreign agent' status, as the regulators were aiming to transmit it by utilising the 'foreign agents' register and smear campaigns in pro-government media. In addition, while the victims of structural stigmatisation in the cases in Gendron and Spira (2010) and Guénin-Paracini and Gendron (2010) have shown some acceptance of the rationale behind the stigmas they have received, Russian human rights defenders denied the grounds for stigmatisation as stigmas felt undeserved and were impossible to conceal.

Our study has concluded that the disciplining power of the 'foreign agents' law enforcement left very little space for HROs and their members of staff to manoeuvre. However, in order to avoid possible effects of our research project on the vulnerable position of Russian human rights defenders, we did not interview any HROs' members of staff. Instead, we built our analysis on the records, expressed in social media, press and the discussions undertaken on online social platforms with the corresponding limitations of our findings. It might be interesting for further research to explore the stigma management strategies and mechanisms that individuals might construct at the more personal level. As the findings of our paper provide a rich background for in-depth case studies of NGOs in Russia or other empirical settings, where the restrictions on foreign funding are legally enforced, further research might also be motivated to explore the margins of liberty that individuals maintain in restrictive settings created by accounting regulation.

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