Turning on the lights? Publicity and defensive legal mobilization in protest-related trials in Russia

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Abstract

How and to what extent do defense actors use publicity in trials of protesters in contemporary Russia? Why do they fight over strategic uses of publicity if "everything is decided in advance"? Drawing on original ethnographic research, this article finds, first, that publicity accompanies legal resistance to politicized prosecutions and is inventively used by the defense. Second, mobilization of publicity creates opportunities for the defense to bargain with and keep the prosecution in check. Third, the relationship between publicity and legal resistance in repressive settings is ambiguous. Some human rights lawyers embrace publicity and others avoid it. I argue that this divergence should be interpreted in relation to lawyers' embeddedness in different professional ecologies. At the same time, lawyers' publicity strategies are altered by the interactional dimension of the trial. The latter manifests itself on two levels: at the micro-level of a courtroom and in the public sphere where different publics engage in debates that interfere with lawyers' defense strategies. This paper has broader implications for the analysis of defensive legal mobilization in dual legal systems beyond the Russian case.

INTRODUCTION

A post on the Facebook public page "Kanskoe delo" ("the Kansk affair") devoted to the criminal case on terrorism from August 12, 2021, states that the solidarity campaign has not been receiving any information from the relatives and the defenders about the progress of the case. "We have learnt from journalists of the Siberia.Realities website that the defense has decided against publicizing the content of the hearings up until the verdict. The campaign team thinks that publicity in politically motivated cases increases the level of public support and [positively] influences the severity of the verdict. We don't endorse the choice of keeping this trial private, but we are obliged to continue the information campaign while relying only on publicly available sources."

Post-Soviet judicial reforms and the introduction of mandatory public access to court hearings have made controversial trials in Russia accessible to the public eye. These trials are photographed, liveblogged on Twitter, narrated, and discussed in the news media.[1] Crowds and lines outside Moscow courts have become a new social phenomenon. Courthouses are thus not only sites of repression, but also "strategic arenas" for social movements and activists around which one may find a burgeoning field of lawyers ready to fight back (Doherty & Hayes, 2015; van der Vet, 2018, 2020). However, there are important tensions among them on the matter of publicizing legal cases.

How do human rights defense attorneys use publicity in protest-related trials in the aftermath of opposition rallies in contemporary Russia? Why do they fight over strategic and tactical uses of publicity if "everything is decided in advance"? What does this tell us more generally about the inner workings of political trials in dual legal systems "in which the courts can be relied on to handle mundane cases, but are likely to bow to the will of the powerful in touchier cases" (Hendley, 2009b, p. 340)? To answer these questions, this paper draws on original ethnographic research focusing on defense actors involved in the Bolotnaya Square trial, which occurred in the aftermath of an opposition rally on May 6, 2012, and the series of trials following the anti-corruption protests in March–June 2017. This article builds upon sociolegal scholarship on cause lawyering, legal mobilization, and criminal prosecution of protesters. It bypasses debates about what constitutes a political trial (Meierhenrich & Pendas, 2017) and follows the characterization of "political trials" given by Vanessa Codaccioni (2013, p. 8): "the result of a State's will to punish opponents and the outcome of strategies of politization of the law, of courts and trials by oppressed activists," adopting an analytical perspective where the "political" nature of a trial is not an inherent feature, but rather, a trial is constructed as "political" by a range of diverse actors. As for "publicity," this paper understands it as both a structural feature of a trial that allows access to the trial for spectators who are not directly connected to legal proceedings (unlike defendants, victims, and witnesses) and a dynamic feature referring to tactical moves by the prosecution and/or defense within and beyond the courtroom.

The inquiry into defensive uses of publicity in politicized cases in Russia contributes to our understanding of the relationship between publicity and legal resistance in authoritarian contexts with only a partially monopolized public sphere, which allows criticism of authorities and judiciary in the media as well as through institutionalized mechanisms for civil society oversight (McCarthy et al., 2020). This article brings a new case study to the comparative dialogue on "cause lawyering" and "human rights lawyering" in authoritarian and repressive contexts by contrasting new empirical data to these ideal types (Cheesman & Kyaw Min San, 2013; Liu & Halliday, 2016; Sarat & Scheingold, 1998, 2006; van der Vet, 2018, 2020). Zooming in on the relational configuration of trials of opposition protesters and the inventiveness of actors with little room to maneuver, it furthers scholarly reflection on law and resistance in repressive settings and under authoritarianism (Abel, 1995; Chua, 2014, 2019; Israël, 2005; Moustafa, 2007; Stern, 2013; van der Vet, 2018, 2020).

The analysis draws three primary conclusions. First, in a situation where the regime actively vilifies protesters, mobilization of publicity accompanies legal resistance to political prosecutions and is used by the defense as much as by the authorities. Second, the defense actors believe that publicity creates opportunities for the defense to bargain with pre-trial investigators and keep the prosecutor and/or judge in check during the trial. Publicity may thus help balance power relations between the prosecution and the defense, the latter known to be structurally weak in Russian criminal procedure (Khodzhaeva & Rabovski, 2016). Third, the relationship between publicity and legal resistance in repressive settings is ambiguous. Contrary to the idea of coordinated "campaigns," human rights

[1]Whereas pro-government media follow controversial legal cases mainly to portray opposition activists in a negative light, online liberal-leaning media offer a thorough media coverage. Mediazona, created by members of Pussy Riot, covers news from courthouses and is famous for inventing the new journalistic genre of "an online"—a real time report from a courtroom hearing. OVD-info, a human rights project under the auspices of the Memorial Human Rights Center, covers specifically politicized legal prosecutions. Liberal nonspecialized media (Meduza, The Insider, Novaya Gazeta, TV Rain, Echo of Moscow radio) closely follow the cases, some of them even coming up with investigative pieces. Business-related media (RBK, Vedomosti, Kommersant) follow major developments in the case in a neutral fact-based tonality. Facebook, Twitter, Instagram accounts, and Telegram channels also function as personal media for journalists, public intellectuals, and activists who follow politics in the courtroom. Echoes of this coverage often reach international media.

lawyers have heterogeneous attitudes toward publicity. I argue that this divergence should be interpreted in relation to individuals' structural positions within their primary professional ecology (human rights activism or legal profession). At the same time, lawyers' publicity strategies are altered by the interactional dimension of the trial. The latter manifests itself on two levels: at the micro-level of the courtroom and in the public sphere, where different publics engage in debates and lawyers thus lose control over "their" case.

I begin by discussing scholarship on protest-related trials and cause lawyering and by suggesting a framework of *defensive legal mobilization*, that is, active use of law and rights claims in order to fight back in politicized prosecutions, as a concept that enables adequate consideration of full-blown collective mobilizations against legal repression. After presenting the two cases at the core of my fieldwork, I analyze how political and legal authorities use publicity in protest-related trials. Then, I show how human rights defense attorneys use or avoid publicity, examining their divergent positions on the idea of "going public." Finally, I discuss how publicity ambiguously intervenes in defensive legal mobilization in such cases—on the levels of both the courtroom and the public sphere.

PROTESTERS ON TRIAL: POLITICAL JUSTICE, LAWYERS, AND PUBLICITY

Political trials, cause lawyering and defensive legal mobilization

The cause lawyering model, describing a lawyer guided by moral and political concerns, using his or her competences and resources in favor of a cause, is the dominant view of how lawyers engage in politics (Sarat & Scheingold, 1998). They are free to "pick" their cause, and they do so according to their background, political views, and moral aspirations and in relation to socio-political contexts.

However, cause lawyering in repressive settings shows us different patterns of involvement. As they resist the repressive moves of their governments, cause lawyers in diverse declinations of this ideal type across contexts—political pro-Communist lawyers during the French-Algerian war in France (Codaccioni, 2013), "critical *weiquan* lawyers" (Fu & Cullen, 2008; Pils, 2014) or "die-hard lawyers" (Liu & Halliday, 2016) in China, and human rights lawyers in Russia after the repressive turn of 2012–2014 (van der Vet, 2018, 2020)—are called on not to file lawsuits and bring challenges at supreme courts, but to defend someone who is being prosecuted. Several studies draw attention to social movements that use the law as a shield (Sarat & Scheingold, 2006), pointing out the crucial dichotomy between "defensive" and "offensive" cause lawyering—whether during the direct-action phase of the US civil rights movement (Barkan, 1985; Hilbink, 2006) and the anti–Vietnam War protests in the US, whose legal consequences have been thoroughly analyzed as American political trials (Barkan, 1985; Belknap, 1981), or more recent events such as the Gezi Park protests in Turkey (Elveriş, 2016) and the Maidan events in Ukraine (Wilson, 2017). In these ad hoc situations, lawyers coming to the rescue appear to be a very heterogenous group and even more than usual "are not necessarily those who consciously and deliberately orient their lives toward promoting [a] cause" (Shamir & Chinski, 1998, p. 231). They may "discover" themselves as lawyers for a cause gradually or may only be vaguely aware of being so (ibid).

The cause lawyering literature is mostly focused on lawyers and defense attorneys as key actors of legal resistance. But cases of political prosecutions cannot be fully understood by considering only individual lawyering, because other actors mobilize alongside them and shape the defense. The legal mobilization scholarship is in this respect more inclusive, considering the dynamic of interaction between legal professionals and social movements, media, and activists. In order to better capture the relationship between publicity and legal resistance in protest-related trials, this article further develops the concept of legal mobilization, since there is a growing need to better adapt it to authoritarian and repressive contexts.

The classic understanding of legal mobilization refers to the strategic and proactive use of law to bring about social change through, for example, courtroom litigation and/or filing of claims through

pseudo-judicial and administrative legal procedures (Lehoucq & Taylor, 2020; McCann, 1994). The NAACP's seminal victory in *Brown v. Board of Education* is an emblematic example. The litigation-centered understanding of legal mobilization, first developed in US-based scholarship, is deeply rooted in the mechanics of the common law system, relying on legal precedents and landmark decisions of appellate courts. However, as Andrews and Jowers (2018, p. 13) rightly argue in their study of the civil rights movement in Mississippi, "movements are often drawn into the courtroom or forced to engage in some sort of legal activity by countermovements." While they suggest resolving this problem by differentiating between "conventional legal mobilization" and "embedded legal activity" within a social movement (Andrews & Jowers, 2018, p. 11), I argue that we should not simply forfeit the concept of legal mobilization per se. It is not a coincidence that several researchers working on repressive contexts refer to this concept when they deal with legal defense rather than litigation, that is, when lawyers do not engage in strategic litigation or file lawsuits but come to assist those charged with a crime or infraction. For example, we encounter reference to "legal mobilization" in the study of Russian human rights lawyers defending people in treason trials (van der Vet, 2018), as well as in research on lawyers providing legal aid to protesters during the Maidan Revolution in Ukraine (Wilson, 2017). I argue that the unorthodox use of this concept is more than mere concept stretching. Even if these uses derive from the classic definition of legal mobilization, research in authoritarian or repressive settings needs its own distinctive concept in order to empirically grasp collective mobilizations waging a fervent defense against politicized legal prosecutions. This also allows us to shift the focus from social movements which mobilize around litigation (Boutcher & Stobaugh, 2013; Levitsky, 2015; McCann, 2006) to heterogenous actors who mobilize around prosecutions. I will thus differentiate between *proactive* and *defensive legal mobilization*.

Understanding uses of publicity in legal disputes

During proactive legal mobilization, lawyers and activists use publicity alongside litigation and plaintiff mobilizations to win public support for new rights claims, such as pay equity or LGBT rights (Chua, 2014; McCann, 1994), to accompany specific cases and complaints, such as those of leprosy survivors or labor dispute plaintiffs (Arrington, 2014; Gallagher, 2006), or to impose new normative frames on subjects such as the tobacco industry or same-sex relationship (Barclay & Fisher, 2006; Mather, 1998). Publicizing both legal victories and hostile court decisions is beneficial as it enables them to dramatize ongoing injustices or the possibility of social change (McCann, 1994).

In defensive legal mobilization in repressive environments, defense actors use various publicity strategies as well, from Jacques Vergès's radical "rupture defense" strategy (*défense de rupture*) (Copello, 2019) to more subtle and less politicized interventions such as live broadcasting of court hearings on social media (Liu & Halliday, 2016) or the publicizing of information about abusive police practices (Hajjar, 1997). Leveraging publicity allows to "push cases into a larger field of power" (Cheesman & Kyaw Min San, 2013, p. 722), connecting the specific debate in the courtroom to larger societal, political, and partisan struggles. It almost inevitably leads to politicization. Publicity strategies are often aimed at a jury, or more broadly at public opinion (Barkan, 1983; Borisova, 2016; Brady, 1983). For example, while anti-Vietnam war activists pursued a political defense aimed at a jury in Chicago, civil rights activists opted for a nonpolitical proceduralist defense in the face of an all-white jury in the South (Barkan, 1985). If for defenders of lawbreakers "winning the case may seem more important than the particular argument used for the victory" (Minow, 1990, p. 747), this type of defense may be disappointing to social movements.

The characteristics of the case can greatly influence the strategic and tactical uses of publicity. For instance, in the Russian context, in trials on charges of treason, lawyers actively employ public outreach strategies in order to break through the secrecy surrounding the investigation (van der Vet, 2018). By contrast, in cases where authorities engage in public vilification campaigns, such as those against independent NGOs, lawyers choose to evade media attention in order "not to force

authorities to take a special interest in the case" (ibid, p. 325). In the Chinese context, lawyers, and bar associations rely on the media and social media to expose cases of prosecution of their colleagues (Liu & Halliday, 2016). Publicity might also be employed more expressively, rather than strategically, especially in "hopeless" cases like that of the Falun Gong followers, when there is no expectation that "the evidence, or procedure, or whatever happens in court" will affect the final verdict. Thus, lawyers approach the trials as an opportunity to "to tell the public what has happened" (ibid, p. 101).

Although lawyers who work with politicized cases are expected to embrace publicity, there are important internal divergences even within these groups. I argue that relational theories of social space (Abbott, 2005; Bourdieu, 1996; Liu & Emirbayer, 2016) should allow better understanding of defensive legal mobilization, and of publicity strategies in particular, by questioning the structural homology between defense actors' position-taking and their objective positions within relevant social spaces (Bourdieu, 1998). Russian human rights lawyers represent a clear case of overlapping ecologies (Liu, 2017)—that is, distinct social spaces that "overlap and interpenetrate each other" (ibid, p. 215)—of human rights activism[2] and the legal profession. The ways in which they use publicity should be understood in relation to lawyers' embeddedness in different professional ecologies.

Politicized prosecutions in Russia and publicity of proceedings as "room for maneuver"?

In sociolegal scholarship on Russia, there are different approaches to understanding politicized justice. Some scholars suggest that Russia has an important tradition of "telephone justice," inherited from Soviet times, in which judges are subject to informal influence and pressure (Ledeneva, 2008). For others, judicial independence is "due more to politicians' indifference toward the courts than to their inability to interfere," pointing to the fact that the relative absence of political competition in Russia actually results in less intervention (Popova, 2012, p. 172). Another scholarly perspective states that Russia has a dual legal system[3] in which the vast majority of mundane cases are resolved in a fairly normal way and in only a minority of high-profile political cases is the law used as a weapon of the regime and the outcome manipulated (Hendley, 2009a; Hendley, 2017). Whereas the "telephone justice" perspective does not leave much room for legal defense, the "dual legal system" perspective holds the possibility for agency on the part of legal professionals. Even if most Russian lawyers are risk averse and prefer to stay away from political cases (Hendley, 2020), there are lawyers motivated to fight back against repressive legislation, controversial legal prosecutions, and state surveillance (van der Vet, 2018, 2020). Human rights NGOs have been actively building networks of lawyers to provide legal defense to civil society activists and to litigate before the ECHR (Sundstrom, 2014; van der Vet, 2012). In this sense, human rights actors are no exception to the larger trends in Russian society—growing interest in the opportunities offered by the use of law, and a movement away from legal nihilism (Hendley, 2017).

Despite the introduction of key elements of an independent judicial system in the early 1990s (Solomon & Foglesong, 2000), defense attorneys in criminal procedure are structurally weak due to a power balance in favor of the accusatorial party, and a more generally imperfect institutional environment (Bocharov & Moiseeva, 2017; Kazun & Yakovlev, 2017). In the face of a systemic problem of "accusatorial bias" (Solomon, 2015) resulting from the system of performance evaluation of law enforcement agents that punishes failure to convict (McCarthy, 2015; Paneyakh, 2014), defense

[2]This article uses the term "human rights defense" as a translation for "*pravozashchita*," meaning literally "rights defense." More than a particular type of activism, it refers to a specific social universe, united by a common symbolic heritage of direct descent or ties with Soviet dissidents as well as by sharing similar Western understandings of liberal "human rights" (freedom of speech, assembly, and opinion more than economic and social rights). The symbolic threshold to enter this universe is very high, and the boundaries are highly policed: there are "real" "human rights defenders" and those less worthy of carrying this name. For simplicity, I will use the term "human rights activism" as equivalent to "human rights defense."

[3]Rachel Stern similarly describes the Russian, Chinese and Singaporean legal systems as "bifurcated" (Stern, 2013, pp. 229–230).

attorneys' strategies in criminal bench trials have been analyzed as "strategies of the weak" (Khodzhaeva & Rabovski, 2016) and appealing to public opinion is one of the possible tactical moves for a defense attorney choosing a noncooperative defense.

RESEARCH STRATEGIES AND METHODS

Empirically, I focus on two criminal judicial proceedings referred to as major "political trials" by human rights defenders. Both were initiated in the aftermath of major opposition protest actions. The first is the Bolotnaya Square case,[4] which unfolded after the protest march on May 6, 2012, the day before Putin's inauguration for his new presidential term, a culminating point in the wave of 2011–2012 protests for fair elections. The second is the March 26–June 12 case arising from protest actions in March and June 2017 that followed the release on YouTube of an investigation accusing Prime Minister Medvedev of corruption. The video was made by Alexei Navalny, the current Russian opposition leader.

Following an inductive approach in which analytic categories "emerge" from deep engagement with observational data, I let the field dynamics shape the research rather than follow a theoretical question set in advance. My initial intuitions emerged from preliminary fieldwork in 2015 at the offices of the Memorial Human Rights Center, where I conducted 16 interviews with human rights activists, seeking to understand the procedures and protocols through which a prosecution ends up being categorized as "political" (Mustafina, 2020). This fieldwork exposed me to the emblematic character of the Bolotnaya Square case: taking place after the largest-ever wave of mass mobilization in 2011–2012, it was not only a case of extreme repression against opposition protesters, but also a pivotal moment in the development of post-protest legal aid within the Russian human rights field.

The protests in Spring 2017 showed a re-emergence of public unrest, and the criminal case opened in the aftermath was the first major protest-related case since Bolotnaya. It was initially presented by the media as the "Second Bolotnaya" (BBC News Russian service, 2017) and led to the mobilization of human rights organizations and Bolotnaya-era activists to defend the arrestees. The similarity of legal charges ("participation in mass riots"[5] and "use of violence against a representative of the state") and the overlap in defense actors offered important methodological advantages for this research, inviting me to analyze the way defensive legal mobilization evolved across two temporal sequences. Thus, as opposed to a realist perspective where casing is done "for the purpose of understanding a larger class of (similar) units" (Gerring, 2004, p. 342), that is, political trials or human rights lawyers, I followed a nominal approach to casing (Soss, 2021) where I came to analyze both sequences of protest-related prosecutions as cases of defensive legal mobilization in Russian politicized trials. Here I focus specifically on the defense actors' uses of publicity. I am less interested in the publicity per se, but rather in using it as a lens to examine the tension between law and politics in the courtroom. In accordance with the interpretivist legal mobilization approach, I aim to analyze "how people struggle in diverse ways to make sense of things, to formulate strategies of action, and to construct tactics from common conventions in highly constrained, often confusing situations" (McCann, 1994, p. 466) rather than to draw causal inferences about the effects of publicity in politicized cases.

The focus on these specific cases determined the choice of interviewees—defense actors involved in one or both cases. Throughout my three field trips, totaling 13 months, I conducted 59 in-depth semi-structured interviews with defense attorneys, lay defenders, and other actors constituting the defense group (human rights activists, journalists, and relatives). Interviews lasted between 1 h 10 min and 4 h 30 min, but several of them were repeated or continued in the form of regular

[4]There were several groups of defendants in the Bolotnaya Square case: here, I only focus on cases of protesters, and not alleged "organizers of mass riots."

[5]There was a rumor about the possibility of these charges in the 2017 cases as well, but in the end, the majority of the defendants were prosecuted under charges of use of violence against police officers.

informal communication. In most cases I had been introduced to my interlocutors before the interviews or met them in court; however, some interviews were "one-off," scheduled via Facebook or phone. Additionally, for the Bolotnaya Square case I conducted interviews with eight former Bolotnaya defendants and observations at the School of the Lay Defender where the case was constantly discussed both as a model and as a set of mistakes not to be repeated, collected publicly available Facebook posts and videos on YouTube by defense actors, and read transcripts of the hearings. I also rely on observations made during the trial of the penultimate defendant in the Bolotnaya Square case in August–October 2017 at the Zamoskvoretsky District Court. For the 2017 cases, I benefited from routine presence at the Tverskoy Court in May–November 2017 and followed six criminal cases. I combined observations of hearings with debriefings after the hearings and longer interviews later on.

The courthouses were a specific social setting, a space of co-presence that lies at the intersection of several settings (Weber, 2001, p. 485). Thus, this research goes beyond their physical location and into the relational field of actors. The ethnographic work presupposes that "the persons studied are in relationship with one another, that they know one another at least by reputation" (Weber, 2001, p. 481). In this sense, this fieldwork is less defined by moments of intense co-presence but informed by long-time immersion in the milieu of mutual acquaintance of diverse nonstate actors dealing with politicized prosecutions.

In this paper, I rely on the 23 recorded interviews with criminal defense attorneys, two interviews with lay defenders and more informal conversations with several of them,[6] and my observations of more than 15 courtroom criminal justice hearings. A series of in-depth interviews helped me to gain knowledge of defense attorneys' life and career trajectories, their belongings to and circulations between diverse social settings, their self-perception, and their views on Russian politics, law, and criminal procedure. Observations of micro-processes in the courtroom helped me enrich the interviews and invite interviewees to comment on and discuss specific situations. At the same time, long presence in the field allowed me to situate the collected verbal accounts in relation to observed interactions (Jerolmack & Khan, 2014), making it possible to relativize the social significance of certain assertions.

All the interviews with defense attorneys and activists were recorded with the permission of interviewees and fully transcribed. Court hearings can be audio-recorded without any specific permission from the judge. The courthouse and courtroom observations were manually written down on a smartphone and sometimes complemented with the use of audio recordings. The identification and organization of emergent themes in the analysis was done manually by working with printed interviews and field notes. I began data analysis after my first trip and benefited from constant iterative movement between fieldwork and data analysis.

DEFEATING THE "REVOLUTIONARY THREAT": THE STATE'S USE OF PUBLICITY

Before delving into the ways in which defense actors relate to publicity, I investigate how publicity is used by the political and legal authorities who master the powerful narrative that criminalizes protesters. Contrary to the idea of "show trials" where the prosecution perfectly controls the stage without looking back at the defense actors, the authorities manage the publicity of these controversial cases while constantly taking into account defensive legal mobilization.

The "March of the Millions" protest on May 6, 2012—which went from the metro station Oktyabrskaya to Bolotnaya Square—was authorized by the Moscow local authorities and was

[6]All the interviewees are anonymized. I warned all the research participants that this anonymity is partial: their names will not be "Googlable," but those who know the cases are likely to recognize them. Interestingly, the majority of my interviewees were not concerned about anonymization, so the choice to anonymize is mostly mine.

supposed to transform into a rally when the participants arrived at the square. However, the participants had difficulty accessing the square because of a traffic jam caused by the chains of riot police controlling the influx of people. After various forms of protest (from a sit-in to an attempt to break through the police chains), clashes between the police and the protesters began. Charges were brought against more than 30 people and were related to "participation in mass riots" (Article 212 of the Russian Criminal Code) and the "use of violence against a representative of the state," that is against the police and the special police units' officers (Article 318 of the Russian Criminal Code). The initiation of the criminal case was accompanied by a legal, media, and political offensive by the regime. The case was placed under the Prosecutor General's personal control and "special control" by the Prosecutor General's office. The media offensive framed the protests as "provocations" and "aggression toward the police". On the evening of May 6, the First Channel—a major state-owned Russian TV outlet—finished its daily news report with the conclusion that "the representatives of the radical opposition crossed the line (1tv.ru, 2012)."

The series *Anatomy of a Protest* (*Anatomiia protesta*), aired on the federal channel NTV, is a peak of the controversial media coverage of protest events. The first part (broadcast on March 15, 2012) suggests that demonstrators were paid by the opposition to protest and that these movements were backed and financed by the United States. The second part (broadcast on October 5, 2012, after the beginning of the judicial proceedings) emphasizes the danger of a color revolution in Russia and the preparation of a *coup d'état* by the leader of the Left Front Sergei Udaltsov and his companions. Soon after the film aired on NTV, Udaltsov, and his companions were arrested on charges of "organization of mass riots." Their case was subsequently separated from the general case and received a separate investigation and trial from the cases I study here.

On the website of the Russian Committee of Investigation in the side navigation bar one can find an icon labeled "High-profile cases" (*Rezonansnye dela*). If one scrolls down this page, one will find there the text: "Riots (*besporjadki*) at the opposition rally on Bolotnaya Square in Moscow on the 6th of May 2012" with 87 news posts. The interest that both high-ranking law enforcement officials and pro-government media took in this case demonstrates the stakes of publicity for the prosecution. It also indicates the defense's need to constantly fight in the public sphere for a counter framing of these events: "radical opposition" versus "peaceful protesters," or "mass riots" versus "police provocation and brutality." Consequently, the trial was no longer restricted to courtroom proceedings. Judicial authorities, however, did try to respond to the high demands of publicity. The trial started in the Zamoskvoretskij District Court in Moscow, but later was moved to a more spacious Moscow city court hall "for high-profile cases" (Pravo.ru, 2011), the "biggest courtroom in Europe, with a maximum capacity of 150 people and equipped with a balcony for representatives of mass media" (Mosgorsud, 2017).

In the case of the protest events of March 26, 2017, the Moscow authorities did not authorize the rally in the center of the city, and then suggested some remote and less symbolically important places. Thus, Alexei Navalny called on Moscow citizens to "take a walk" on Tverskaya Street at the heart of the city. At least 1043 people were arrested in Moscow on this day (OVD-info, 2017a), and photos of police brutality were circulated in the media and on the Internet. As the protests continued on June 12, 679 people were arrested in Moscow (OVD-info, 2017b). Both after March 26 and after June 12, four people were arrested on criminal charges (as opposed to administrative offenses).

Although all of the former four were arrested at the end of March, there was no press release about their arrests until April 13. This was interpreted by both human rights defenders and defense attorneys as an attempt to hide arrestees. The government had learned its lesson from the Bolotnaya Square case: going public about arrests helps the defendants. As soon as information was available on the criminal case, human rights defenders sought to contact defendants' relatives and started mobilizing their networks, from attorneys to friendly members of the Civic Supervising Commission who had access to prisons. In the end, this mobilization helped the defendants to regain control over

their case, to seek support and advice, and most importantly, to exchange the defense attorney appointed by the state for a hired defense attorney. In the 2017 cases, this period of "silence" before the official press release was crucial for the investigation[7] to obtain guilty pleas and defendants' consent for "special procedures"—a Russian type of plea bargaining that involves the accused waiving an evidentiary trial review as well as the right to appeal based on the facts of the case (Solomon, 2012).

Whereas the Bolotnaya Square trial was collective, the March 26–June 12 trials were individual. In the former, 12 persons of different ages, professions, appearances, and styles of self-representation, later dubbed *bolotniki*, came together in one glass cage (called an "aquarium"[8]) to proclaim their innocence to the court, journalists, and wider public. In the latter, a series of disparate individual trials with different defense positions ensued. This individualization of criminal prosecution and the divergence in defense positions is crucial to note in comparison with the Bolotnaya Square case. Even if there were important attempts by human rights defenders and journalists to frame these trials as a series of coherent political prosecutions and construct it as a "Second Bolotnaya," (bbc.com 2017), they mainly echoed within the human rights milieu and among actors sympathetic to contentious politics in Russia.

The interplay between the state's uses of publicity and the defensive legal mobilization invites us to switch focus to the defense actors, especially human rights attorneys defending protesters, as key actors in defensive legal mobilization. How do human rights defense attorneys conceptualize publicity in relation to protest-related trials? What are they trying to achieve while using or avoiding it?

LAWYERS' PERSPECTIVES ON USEFUL AND DANGEROUS PUBLICITY

Per scholarship on political trials, one expects human rights lawyers who defend opposition protesters in court to consciously embrace strategies of public outreach. This section shows that defense attorneys find publicity helpful in balancing their power relations with the investigation and the court (5.1). It then directs attention to defense attorneys' divergent attitudes to publicity (5.2), shaped by their embeddedness in different professional ecologies. Finally, it explains how the Bolotnaya Square case brought them together and re-shuffled the very category of "human rights defense attorneys" (5.3).

Leveraging publicity to keep the investigation in check

All the defense attorneys interviewed agree that publicity can be a helpful tool that allows for some public oversight of legal proceedings. Leonid Pashin, a criminal defense attorney in his early 40s who has been practicing for 10 years, working in an upscale business-center defending both public officials and opposition activists, makes a case for a virtuoso use of public and media attention, making publicity a full companion to his legal defense. He specializes in legal support for businesses during commercial disputes but has been regularly taking politicized cases since the Bolotnaya Square case. Leonid explained:

> Sometimes you've got cases where at the beginning you enter and you solve one problem and the mass media are actively writing about it, and then, logically, the wave of coverage is going up, and then the case itself is getting out of view. In any case…first the parabola goes up [the interviewee is drawing a parabola on a piece of paper], here is

[7]I will use the word "investigation" for *sledstvie*, that is, an investigative body that works on the case, in the same way that we sometimes use the words "prosecution" and "court" to refer to specific actors and agencies.

[8]In Russia, defendants who are detained in a pre-trial facility are placed in the "aquarium" during the trial proceedings. Defendants under house arrest or travel restrictions are seated freely in the courtroom next to their attorneys.

> maximal interest, and then everything goes down, and this moment is precisely the one that makes it very comfortable to work with the investigation. Because the investigation gets relaxed and thinks that nobody will disturb it, but it understands perfectly well that skillful interaction with the media … can always bring this information flow back. (Second interview, November 23, 2017).

Artur Karpov, a criminal defense attorney in his mid-thirties with a law degree from a provincial university, has been socialized into the legal practice by intensively cooperating with a human rights organization, and now has his own small law firm. Artur, who took part in the defense in the March 26 case, shares Leonid's definition of publicity as a way to police and discipline law enforcement agents:

> In general, journalists and media coverage of criminal cases are important. Why? Because it is always easier for the judge, for the investigation, when nobody knows about the case, and they do it quietly … ssshhhh … and they settle everything on their own. When you drag them into the light, anyway they feel … not ashamed [hesitates] … ashamed … They know they are being watched, being judged; the same is true of judges. Well, maybe it doesn't influence [the outcome] that much, but it is important and maybe it does work to some extent. (Interview, October 16, 2017)

Interacting with the media, and, in general, with actors beyond the boundaries of the courtroom, is presented by both lawyers as a tool to control the investigation and, later, the judge in order to show them that they are being watched and their actions are under public review. The attorneys present publicization of unlawful moves—from putting pressure on defendants to obtain evidence during the pre-trial investigation to refusing to hear defense witnesses in a hearing—as a way to "embarrass" the investigation or the court. Ilyas Ozdoyev, a criminal defense attorney in his 40s famous for his defense against charges of economic crime, took part in the June 12 case and continued working on protesters' cases afterward:

> With a political case, experience tells us that a big uproar lightens the defendant's fate and slightly restricts arbitrary conduct on the part of the law enforcement agencies. An uproar opens up an opportunity to ask questions on the subject at some press conference and put them in an awkward position. (Interview, August 21, 2019)

The defense attorneys discursively conceptualize publicity as helpful leverage for breaking the investigation's and the court's routine, which is shaped by their internal systems of evaluation motivating them to "push" the case through to the next stage of the processing chain (McCarthy, 2015; Paneyakh, 2014). However, all the attorneys agree that "there is no one common pill for every case" and that publicity is to be avoided when the client is guilty or there is strong evidence against them in the case file.

Even if law enforcement agents are not accessible for this type of research, numerous anecdotes from the field are emblematic of the law enforcement agents' anxiety at the very idea of having to work on a case under the observation of journalists and higher officials. As for observation and commentary by the defense attorneys involved in the case, one of the defense attorneys in the Bolotnaya Square case discovered that the youngest investigator from the investigative group was appointed to monitor social networks such as Facebook and Twitter to follow them and their communication on the subject. This anxiety over social media debates is consistent with the anecdotes of media coverage repercussions on the careers of investigators—from personal reprimands to termination of employment—shared with me by several general practitioners regarding their nonpoliticized cases.

In the interviews defense attorneys all portray publicity as leverage allowing for a balancing of power relations between the investigation and the defense. However, self-reports are challenging to use as a proxy for social action (Jerolmack & Khan, 2014), and my ethnographic data highlights the divergence in the attorneys' work styles. To illustrate it, I will focus on the portraits of two defense attorneys—Marina

and Rodion—who will allow us to get a closer look at different styles of defense work with publicity "that go together with certain understandings of legal care and professionalism" (Scheffer, 2007, p. 59).

Activist defense attorney versus general practitioner: Going public or staying quiet?

Marina Travkina is a criminal defense attorney in her 50s with more than 10 years in practice. She is well known in activist circles and has been a longtime associate of a human rights organization. She participated in many of the big political trials of the 2000s and the 2010s (defense of anti-fascists, activists prosecuted for "extremism," and protesters), but she also regularly takes cases she calls "commercial" (financial crime, drugs, legal support in the penitentiary system). Marina is critical toward the current regime without any clear partisanship. For Marina, the Bolotnaya Square case is a "put-up job to cow street protesters into obedience,"[9] and in general she admits that she "expects nothing good from our courts." She took on several cases in the Bolotnaya Square investigation and refers to the Bolotnaya Square cases, which have lasted for several years, as "very dramatic." Despite everything, she wants "justice to triumph," but believes that we have been witnessing, since the late 2000s, the end of the "vegetarian years." She jokingly uses the metaphor coined by political activists, comparing the times when political activism was more tolerated ("vegetarian" times) and those of a greater penalization of opposition-related activity. She generally thinks of publicity as beneficial; however, after a case on extremism in a provincial town where the investigator told her, "If you keep silent and you bring me any expert conclusion, I'll drop the case," she admits being cautious about publicity and carefully leverages this tool, especially at the pre-trial investigation stage ("you must dose appropriately").

In court, when she meets human rights activists who regularly attend politicized trials, they greet each other with hugs and sit together exchanging news while waiting for the hearing to start. In a courtroom in the March 26 case, she does not prevent her defendant placed in the "aquarium" from speaking to a journalist from the activist media website Grani.ru, who starts a spontaneous interview, recording the defendant, and asking him why he first accepted the "special procedure."[10] She herself talks to several representatives of the media about the fact that her defendant had renounced the public defender and was asking the investigator to let him call a human rights organization. In another hearing, when the same journalist is chased out of the courtroom after asking the police officer "Did you at least receive a bonus for [giving testimony to incriminate] Toporov [another defendant in the case]?"[11] she puts this quote on her Facebook page, and in general, she does not have the habit of disciplining the court-goers who laugh or comment on the prosecution. She routinely goes through the media scrum in front of the courthouse and when journalists of the liberal media approach her for interviews, she rarely refuses them.

Rodion Mokhov's style is different from Marina's. A criminal defense attorney in his 40s, he is a general practitioner—working across a wide range of cases from civil law to major economic crimes. He had never worked with human rights organizations in his career and ended up on the Bolotnaya Square case "by accident."[12] Despite agreeing that this case is "a tool of intimidation," he states that "the case in itself was quite clean" in terms of the legal proceedings. While sympathizing with the lay defenders and activists involved in the defensive legal mobilization, he refused interviews and public appearances and paid attention to the strict division of labor, letting others "do the talking." "I never considered myself a public person," says Rodion, offering me an example of a colleague he admires who would rather work on the documents than give commentaries. "You know, there is a proverb: there are two types of attorneys – with one you can go to prison loudly (*gromko sest'*), with the other you can get out of it quietly (*tixo vyjti*)," where he places himself in the second category. Rodion is

[9]Unless otherwise stated, all the quotes are from the interview with Marina Travkina, February 9, 2017.
[10]Field notes, Tverskoy District Court, May 29, 2017.
[11]Field notes, Zamoskvoretsky District Court, September 6, 2017.
[12]Unless otherwise stated, all quotes are from the interview with Rodion Mokhov, January 14, 2019.

considerate toward investigators ("He is a party to proceedings and the interaction with him is indispensable (…) the investigator is the person who makes certain decisions"), prosecutors and judges, always seeking to establish rapport with them. He jokes that "all the shouting about the bloody regime" does not help the defendants and points out the fact that protest-related cases are still criminal cases. "Let's stick to the charge brought against you; you are not being accused of being a member of the opposition and not loving Putin, are you?" he asks. "Do we have any mitigating circumstances if you're a dissident [*oppozicioner*] in the Russian Criminal Code? No. Then why bother?" While participating in a trial, he demonstrated his respect for the prosecution and the judge and observed his defendants' behavior. While in a different case on domestic terrorism he "doesn't see any other option" than embracing publicity, he insists on the need for "humanizing the case instead of politicizing it,"[13] and reaches out to pro-government journalists. For him, "politicization of the case is almost always harmful," as he writes publicly in his Telegram channel, which is followed by many Moscow-based lawyers and journalists: "they are not political prisoners, but, as in the song by Vysotsky [Soviet singer-songwriter], they are unjustly convicted."[14] Rodion continued to provide legal aid after the protest actions and has joined the pool of defense attorneys working with major politicized cases.

These two portraits reveal divergent perspectives on the danger or usefulness of publicity and different ways of working in a public setting. They also reveal a tension between "good" publicity—consisting of keeping eyes on the investigation—and "bad" publicity, that is, politicization of the case. They are also emblematic of these defense attorneys' embeddedness in distinct professional ecologies—despite their common denomination as "human rights defense attorneys." The Bolotnaya Square case led to the major re-shuffling of this latter category.

The Bolotnaya Square case as a turning point: The shifting normative horizon of a "good" lawyer

Since the late Soviet trials of dissidents and subsequently in post-Soviet Russia there has been an observable interaction between lawyers and human rights defenders, the latter not being a part of the legal profession, but rather constituting a distinct social space (see footnote 2; Kaminskaya, 1982; Markelov, 2010; Padva, 2011). Controversial legal cases and politicized legal prosecutions have historically constituted a task area in which both types of actors intervene and interact. Some human rights organizations also invested in legal aid for "politically motivated prosecutions" or specialized in providing legal aid to activists at the end of the 2000s, which intensified the interactions between licensed legal professionals and human rights defenders. Even if criminal attorneys have never been part of the permanent staff of human rights organizations and were hired on an ad hoc basis, these occasional interactions have allowed for the formation of a pool of defense attorneys whose primary professional niche has been human rights activism. These attorneys, like Marina, regularly worked among human rights defenders and political activists, going with them through the same chain of political and personal events, accompanying their militant and activist careers, ending up interiorizing and performing some activist normativities in their legal practice (where pleading guilty can be, for example, described as humiliation). They were ready to publicly follow through on their position both in the courtroom and beyond and to take up cases that were impossible to win.

By contrast with this period, the Bolotnaya Square case was a moment that opened up the human rights activism ecology to interactions with new groups of defense attorneys and further reshaped the category of "human rights defense attorney." The wave of arrests that followed the protest action on May 6, 2012, overwhelmed Moscow-based human rights defenders, as they quickly booked all their well-known and reliable attorneys. This resulted in the opening of the human rights

[13]Informal conversation with Rodion Mokhov, Paris, June 20, 2019.
[14]Telegram channel post from November 17, 2020.

activism ecology to newcomers. This ecology has never had a monopoly on attorneys who could be associated with human rights NGOs; however, with the surge of cases after the Bolotnaya Square protests new self-organized initiatives also developed. For example, Sergei Vlasov, an entrepreneur who actively participated in the protest mobilizations in 2011–2012 and ended up in short-term detention with Alexei Navalny, created a grassroots legal aid project called RosUznik to raise funds and look for lawyers beyond the established human rights organizations. Sergei Galushko, who was a journalist at Grani.ru (an online media outlet blocked in 2014 by the Russian watchdog institution Roskomnadzor) and a lay defender in the Bolotnaya Square case, recalls the somewhat chaotic search for defense attorneys through RosUznik which resulted in the arrival of "new" human rights defense attorneys:

> At the time of Bolotnaya, it was through RosUznik that we found attorneys. Most often these were already motivated… […] attorneys who had already worked with political cases before, but not only them. That was because we had to broaden things via connections and personal relations. For example, we found Rodion Mokhov, who defended Vadim. He is a very decent, very strong attorney. […] [We were looking among] people with whom we had at some point interacted to ensure that we found someone decent and professional… (Interview, August 25, 2017)

Who were the newcomers who, in Sergei's words, were not "already motivated"? These were general practitioners like Rodion, who worked in law firms according to market-driven rationales, dealing with legal support for businesses, white-collar crimes, fraud, malfeasance in public office, and commercial disputes. They came through personal invitation, through a colleague already enrolled in the case, and/or through RosUznik. They were unknown to Moscow human rights defenders and opposition activists, but some of them ended up, in Sergei's words, becoming "one of us" for the human rights milieu. Gradually becoming "one of us," these defense attorneys were also importing with them new ways of thinking about "political" cases and investing in defensive legal mobilization. Even if some of them openly voice criticism of the current political regime, their motto is "a criminal case is a criminal case."[15] This is a jurisdictional claim, and the negation of the distinction between "human rights" and "criminal" defense lawyering is indicative of boundary blurring (Liu, 2013), which lays the foundations for further expansion of the advisory jurisdiction of lawyers over human rights defenders (Abbott, 2014, pp. 75–76). But most importantly, the framing of political cases in terms of merely legal issues also results in a discursive shift within the human rights milieu: it is indeed impossible to win, but it is possible to do *something*, where "something" can be a requalification of initially incriminated charges, a suspended sentence, a house arrest, an open prison term, or even a guilty plea.

The normative horizon of a "good human rights lawyer" has thus been renegotiated since the Bolotnaya Square case and demonstrates the growing symbolic weight of these multi-tasking general practitioners within the human rights activism ecology. It is emblematic of the shift from a more political model of defense lawyering in the 2000s (noncooperative defense with legal accompaniment of clients' opinions) to the wider acceptability within the human rights milieu of the technical-legal model (defense privileging legal virtuosity over fiery speeches, integrating elements of cooperation with the investigation if needed) which was imported by the new criminal defense attorneys. In this sense, the "good human rights lawyer" is someone who is not only ready to take a political case, but also able to do something about it. Here, publicity comes into play, with some "new" lawyers considering it to be an obstacle to cooperative relations with the investigators and the productive resolution of legal disputes.

I have considered a structural element explaining uses of publicity in defensive legal mobilization, namely defense attorneys' structural embeddedness in diverse professional ecologies. However, defense attorneys cannot possibly be in total control of the publicity dynamics of their case. Courtrooms bring together not only the prosecution, the defendants, and their lawyers, but also the media,

[15]This belief is expressed in at least four interviews with male defense attorneys.

representatives of human rights NGOs and of government human rights institutions, opposition activists, and curious spectators. Different actors battle over the narration of protest events both within and beyond the courtroom. Thus, they sometimes unexpectedly intervene in the case and alter the choices made by the defense attorneys.

LETTING THE GENIE OUT OF THE BOTTLE? THE COURTROOM AND THE PUBLIC SPHERE

The gradual transformation of an "ordinary" criminal trial into an "affair" (Boltanski, 2012) is accompanied by the multiplication of actors beyond the investigators' bureau or the courtroom who may intervene in it, taking a stance of accusatory indignation (against the prosecutor as well as against the accused) or of simple curiosity. Defense attorneys feel like they are losing control over publicity dynamics in their case and are destabilized by these concomitant interactions with unexpected actors on the micro-level of the courtroom (6.1) and in the public sphere (6.2).

In the courtroom: When the public is scandalized

Anyone can get inside the court if space allows. The first step is to pass through a metal detector terminal and bag check by a bailiff. Then one needs to register with another bailiff using identification documents and indicate the courtroom one intends to visit. Some bailiffs get angry if anyone says "I'm going to see [defendant's surname]" referring to the name of the defendant in a controversial case instead of naming the judge or the hall number, resisting such exceptionalization; others just register the person without comment. The press, if equipped with photo and video cameras, is invited to enter the courtroom before other spectators. After several minutes of taking photos and video recordings, journalists with equipment are asked to leave. While audio recording is permitted during the hearings, photographs and videos are prohibited, and the bailiffs watch the courtroom closely, expelling anyone who tries to take a picture during the hearing. The hearings may have extra bailiffs if they are crowded.

Trials following protests usually serve as meeting places not only for defense attorneys and defendants' relatives, but also for journalists and regular spectators who have a certain biographical availability (McAdam, 1986, p. 70) for their regular attendance and perceive it as a meaningful pastime with an element of entertainment that comes from teasing and arguing with law enforcement agents or bailiffs. Defense attorneys, while looking favorably on journalists reporting hearings online, negotiate their position at a distance from crowds. A scene from after a hearing in the March 26 case in the Tverskoy Court shows the intensity of interactions between spectators and courthouse staff.

> [A young man in his thirties is accused of kicking a police officer in his thigh. This is the day of closing arguments. The prosecutor has just asked for two years of real prison time. The verdict is to be announced tomorrow.] The public starts leaving the courtroom, and several activists in their sixties who regularly come to court to support political prisoners are agitated and start insulting the prosecutor, a diligent woman in her forties ("You're going to burn in hell!"). She is hurrying to leave, making her way through the crowded and narrow corridor without looking at the shouting people. A judge's young intern assistant, on his way out of the courtroom, addresses the shouting activists: "You really should avoid getting personal; she is a good person […] She also has her own limits. The law is the law, so she can ask for 1.5 to 3.5 years and that's it! She simply comes to work and simply signs the documents."
> - Irina [~33 y.o., well-known activist]: "She can send the materials back [to the investigative body]!"
> - Intern [~25 y.o., tired young man wearing glasses]: "She needs to have grounds for that!"

- Irina: "The grounds are that the person [the defendant] was reacting appropriately to the crime taking place in front of his eyes [a person being unlawfully arrested at a protest] …"
- Mother of the defendant [well-dressed woman in her sixties, trembling voice]: "Like a normal person…"
- Someone from the crowd: "She is a criminal! Prosecutor-criminal!"
- Intern: "The system is complicated, I'm not debating that, but you shouldn't make it personal."
- Someone from the crowd: "She deserves it!"
- Irina [simultaneously]: "She will burn!"
- Intern [sarcastically]: "And I wish you good health too…" [leaves]. (Fieldnotes, December 7, 2017, Tverskoy District Court)

This observation is representative of micro-scandals arising in court corridors after trials, when spectators publicly articulate opprobrious discourse on the events in question (Thompson, 2000). Several defense attorneys, while sharing a common understanding of the importance of the public's presence during the hearings, as it secures the defense from violation of their procedural rights, point to the difficulties that arise in these specific interactions. Artur Karpov, while being a firm believer in the benefits of publicity, took a more critical stance when witnessing the scene described above:

> The judge is also a human being, after all. Despite the fact that he wears the gown… He, too, has his preferences […] When someone laughs in a courtroom, when someone expresses himself, it is certain that judges will not like it … Especially this [an episode in which spectators attacked the prosecutor]. "Don't you have better things to do? Why do you do these horrible things?" This is a court … The court decides on its own how to act. These excessive things, they prevent … first they prevent me from doing my work. Because for example, I'm conducting an interrogation. And there is someone that starts taking pictures. The judge interrupts, she interrupts me, she interrupts the interrogated person. I lose my train of thought. You see? All this, it influences all that stuff in a negative way, and when there are a bunch of activists who support the defendant—that is very good, but sit quietly and behave yourselves […] It only makes the situation worse. You don't have to irritate the judge. (Interview).

What Artur describes here is a discomfort with the very idea of being associated with these scandalized (and scandalizing) activists. Artur is concerned about how such associations might influence his relationship with the judge, who may seek "to get revenge in the verdict"[16] (*otygrat'sya v prigovore*). Artur, like other defense attorneys, depicts the judge as an autonomous figure who can freely navigate within the parameters of a guilty verdict. While he positions himself as a human rights defense attorney and simply tries to keep his distance from activists, some general practitioners may even approach them and ask them not to enter the courtroom.[17]

The evolution of defendants' postures in their interactions with the public during the trial is also worrisome for defense attorneys. Some defendants seem to want to correspond to the image of a "good" political prisoner and to the expectations of the public, which appreciates the defendants' active confrontation rather than passive following of his or her lawyers' advice. The presence and interest of the public, both the "visible" kind within the courtroom and the "invisible" kind in the letters they send to prisoners, has repercussions on the behavior of a defendant in the courtroom and can even influence the strategy chosen by the defense. Roman Bakhmin, a 30-year-old general

[16]This phrase is taken from an interview with an ex-justice of the peace, December 22, 2017, Moscow. He also introduced this concept during one of the sessions at the School of the Lay Defender. Several criminal defense attorneys spontaneously used this concept during interviews.
[17]Fieldnotes, informal conversation with Diana, an activist and diligent spectator at the Bolotnaya Square trials, October 16, 2017.

practitioner, specializing in criminal cases and arbitration courts but brought to the case by his relative who is a human rights activist, complained about this dynamic in one of his March 26 cases:

> Elena [legal aid coordinator in a human rights NGO] didn't try [to talk me out of the guilty plea] because I explained to her everything straightaway. She got it and she didn't have any questions. "Do what you believe is necessary." She is very reasonable in this respect. She doesn't have these weird things like "You have to fight no matter what" … It's already happened [the defendant made a plea deal before human rights defenders were able to contact him]. We did one more deposition [on top of the first deposition without my presence]. We already transferred the case file to the court, and he [the defendant] stayed a little bit in the SIZO [pre-trial detention prison], and there … well, he was receiving letters … and he started being like: "Oh, why have we done this, maybe we should have gone [for the full trial]?" … But are you crazy? Who are you listening to? If you want to say now during the trial "I'm against the special procedure," you'll get two years of prison and you'll go quietly [to prison] […] During the trial the judge asks him whether he insists on the special procedure and whether he pleads fully guilty. He says: "Yes, I accept, however I would like to specify that I didn't want to cause him any harm on purpose [to a member of the special police unit]. I think that I didn't cause him any harm." The judge says, "Do you refuse the special procedure?" [interviewee is annoyed] […] He liked it so much—the attention of the media … the support of the public … He felt inspired. (Interview, December 3, 2018)

The need to discipline the client is voiced by different attorneys and is observable in courtrooms, when some attorneys check their clients sharply. Some of them prepare in advance, coaching their client to behave in the trial. "To behave" means to be passive and avoid acting like unjustly arrested political prisoners. Rodion Mokhov, whom we already met earlier, shared his memories of the Bolotnaya Square case.

> I'll say honestly, before the Bolotnaya case we spoke with Vadim [one of the defendants], and I asked Vadim: "What's your goal? Become a popular hero (*narodnym geroem*) or get out [of jail] sooner?" He says, get out sooner. "So, before your interrogation you have four reactions. 'Yes,' 'no,' 'I support,' and 'I object.' If you want to stand out, you may say 'at the judge's discretion.' That's it, sit, do a crossword, read books—don't meddle in this business. When it gets to the police officers [victims' testimonies], then your time will come." (Interview)

What is appreciated by the public—for example, constant confrontation with the prosecution or the judge, sarcastic humor, provocative answers during the interrogation—may be seen as problematic by attorneys who work the trial. On the one hand, the public's attention is presented as an important condition that "preserves" respect for the rights of the defense, since the trial is taking place under the citizens' surveillance. On the other hand, the publicity of the trial also puts the defense attorney in a position in which the latter does not have control of the courtroom. Someone else may intervene in their work and reshape the dynamic of established relationships with the prosecution and the judge. Other actors beyond the courtroom can also intervene in the case by bringing it up in public settings.

The public sphere: When Putin is asked questions

Complaints to the country's highest-ranking officials have been a particular modality of critical and contentious interventions in the public sphere since late Soviet times (Bogdanova, 2014). Public meetings with the President—from the most publicized and formal ones like the "Direct Line" and the annual press conference to smaller-scale events like meetings with professional groups or ad hoc

meetings organized around Putin's arrival at a certain location—are an occasion for journalists, human rights defenders, and public intellectuals to bring controversial legal prosecutions to his attention, seeking to call on his authority for supervision. The Bolotnaya Square case was regularly brought to the President's attention by actors not directly connected to the legal proceedings.

Thus, in the early days of the case, during the meeting with the participants of the Seliger 2012 National Youth Forum education camp, organized by pro-Kremlin youth movements, a young man addressed the President, asking about the two men being prosecuted despite never having been present at the rally. Putin advised him to check this situation with the prosecutor's office: "Let the prosecutor's office check it, it's their duty" (Kremlin.ru, 2012). A week after this dialogue, the two young men were released on their own recognizance. Later that year, a journalist asked Putin at a press conference whether people should be put behind bars for participation in protests. Putin said no, but emphasized that "violence against representatives of the state" was, on the other hand, absolutely intolerable. One of the defendants, who had only been accused of "participation in mass riots," was additionally charged with "use of violence" the next day, which was interpreted in numerous media articles as a consequence of the press conference.

The profound ambiguity of these interventions, the uncertainty over the consequences of the President's authoritative discourse in the courtroom, created a climate of constant anxiety over such unexpected "public opinion incidents" (Lei & Zhou, 2015) among defense attorneys and especially among the general practitioners who made the choice to "lay low" during the trial. Elizaveta Averina, a general practitioner with more than 15 years of legal practice (crimes against property, crimes against the person, and malfeasance in public office), became involved with the case after being personally requested by the mother of her defendant. She avoided publicity in many different ways, from avoiding routine hearing debriefings during media stakeouts to more tangible gestures of "clearing" her defendant of any history of political activism. When Sergei Shargunov, an acclaimed writer and MP in the State Duma of the Communist Party, asked Vladimir Putin about her defendant during his meeting with the Russian Literature Society, she was deeply shocked by his unexpected intervention:

> Shargunov: I got a letter from Nikolay [the defendant] […] who threw an unidentified yellow object, something like a lemon, into the chain of OMON [riot police]. While I'm saying it in a poetic way [referring to the rhyme between lemón and OMÓN in Russian], this is nonetheless a tragic thing. And he's been in prison for more than a year. But maybe we should revive the Commission for Pardoning by the President of Russia? […]
> Putin: […] Speaking about the man who was throwing some stuff at the police, some heavy objects, and who is at the same time a writer… We can say about him that indeed, he listens to his muse, but his common sense is of no use (*muzam slujit, a s golovoj ne drujit*). Because you can't throw heavy—or light—objects at the police. (Kremlin.ru, 2013)

Elizaveta took offense at this type of uncoordinated "meddling" in her case. She shared with me her indignation over Shargunov's intervention, which she was also able to voice to him in a court corridor when he came to one of the hearings:

> It was a grandiose variant of when the press stood in my way … and it was Sergei Shargunov. When […] he asked the President about Nikolay … and he says it with the following words, you know, he talks in rhyme: "He threw a lemon at the chain of OMON" … my hair stood on end. It hurt the defense and the specific circumstances [of the hearings] so much … And who he addresses it to … to the head of state, such a question … And then the President was quick with his repartee and responded in rhyme […] And after that I thought, 'That's the end, it'll be pure ***[bad situation], that's it!' […] As they say, what the President says is what must be made to happen (*eto k ispolneniu situacia*) … and I have to say that the court … overlooked this … But it required a tremendous effort of me." (Interview, November 17, 2017)

Interestingly, Elizaveta perceives the courtroom as a space where the President's authority is deployed as much as anywhere else. Even if we cannot make here a direct causal link between the President's authoritative speech and the course of the legal proceedings, her concerns echo academic analyses of the judicial professional culture in Russia. The way the President speaks about the case is of immediate relevance to judges who perceive themselves as state bureaucrats, and court chairs who are known to supervise the work of judges on less routine cases (Volkov et al., 2015). Interestingly, Elizaveta not only fears this influence, but also counts on it. On several occasions during the trial, Elizaveta wrote to the official Twitter account of the Russian President (@KremlinRussia), including through direct messages: "Vladimir Vladimirovich! I ask you to resolve the issue of the medical exam for defendant Kostev, 52 y.o. (Bolotnaya case)." These appeals to the President's authority, inviting his powerful figure to the camera-filled courtroom, show well that the President is always part of the public, maybe the most important part, in high-profile cases.

DISCUSSION AND CONCLUSION

This case study speaks to the larger debates on activist lawyering in the sociolegal scholarship. Tensions over publicizing legal disputes permeate diverse issue struggles and are not confined to authoritarian contexts. While US lawyers in cases on marriage equality engage in "multidimensional advocacy," putting "the best face on difficult situations by positive media messaging" (Cummings & NeJaime, 2010, p. 1311), some lawyers representing victims of police brutality are wary of drawing attention to pending cases as it may lessen the chances of settlement or indictment (Rose, 2000). While some "die-hard lawyers" in China actively draw attention to their cases, others prefer to work more discreetly with liberal-minded judges and state officials (Liu & Halliday, 2019). Lawyers and activists get to shatter the dominant public discourse both in the context of a relatively free media space (Barclay & Fisher, 2006; Mather, 1998) and in partially monopolized public spheres (Lei & Zhou, 2015). Judicial institutions pay attention to the uproar. Cases of police violence in the public eye are treated with "special care" in Argentina (Brinks, 2008). In a case involving state security forces in Turkey, public attention pushed the lower courts to unprecedented judicial activism (Tezcür, 2009). On the other hand, there is an ongoing tension between "the need of the criminal defendant for a fair trial and the tendency towards distortion and overexposure of an event inherent in extensive media coverage" (Wexler, 1995). This brings to the table classic debates about different ideals of legal professionalism—"client-centered lawyering" versus "movement lawyering" (Cummings, 2018), debates no less vivid in repressive settings. From the case study of lawyers publicizing the case or avoiding the buzz, we once again come to debating the ongoing tension around an "age-old problem: making law advance progressive politics, while simultaneously keeping politics out of law" (Cummings, 2018, p. 404).

Following the invitation to consider the relationship between legal repression and state cultural work (Shriver et al., 2018), the article begins by considering the state's framing of protesters as violent and driven by the West. It then looks into the uses of publicity by defense actors and finds that they find it helpful to balance power relations with the investigation. While some defense attorneys embrace publicity to a significant extent, others are more cautious about it. The paper claims that we can better understand defense attorneys' divergent understandings of the pros and cons of publicity by questioning the totalizing category of "human rights defense attorneys" and looking instead at the heterogeneous set of legal professionals positioned at the intersection of two ecologies: the legal profession and human rights activism. The latter has witnessed the rise of general practitioners who were not socialized to human rights struggles, are positioned at the conventional end of the cause lawyering continuum (Scheingold & Bloom, 1998), and have started to work with politicized cases only recently. They are constantly circulating between the two ecologies, taking up political cases just as they take "ordinary" ones, and they deny the former their specificity. They believe in law and its universality, and preach it to human rights activists, inviting them to "keep it legal." However, non-routine legal cases have their own life both in the courtroom and beyond, which intervenes in

lawyers' strategies. Publicity plays out differently in the courtroom and in the public sphere, which can pose both an opportunity and a constraint. In this way, the case being discussed by different publics may escape lawyers' control.

This paper has broader implications for analyzing the politics of law in Russia and beyond. Lawyers' understandings of publicity help us to better understand the Russian legal system as dual. The lawyers I interviewed care about regulating publicity because they believe that judges have discretion—*within* the guilty verdict. Even in "touchier cases," such as prosecutions of regime opponents, we witness growing ambiguity, where it is almost impossible to close a criminal case file related to opposition protesters, but on the other hand, legal virtuosity sometimes pays off. This ambiguity influences the professional rise of lawyers who act like managers of uncertainty. The growing importance of legal expertise among human rights activists in Russia is emblematic of their enchantment with the protective power of law and raises the classic question: what do cause lawyers do not only *for* but also *to* social movements (Sarat & Scheingold, 2006)? By washing away the "political" in these cases and constantly framing them in terms of legal technicalities, these lawyers participate in perpetuating the legal fiction of the State (Bourdieu, 2014), the very State that they are fighting off.

I believe that my analytical approach using the framework of defensive legal mobilization and methodological approach looking at trials of opponents of the regime "from below" can help scholars better understand and account for resistance to legal repression in authoritarian contexts beyond the Russian case. Shifting attention from trial outcomes to actors' room for maneuver and looking at specific strategies deployed by defense actors on the ground questions the conventional narrative on "show trials" which only accounts for the repressive aspect of the story. Considering the uses of publicity is one among many possible lenses to investigate actors' inventiveness—in these trials where you cannot win. By closely studying defensive legal mobilizations in situations of alleged "lawlessness," we take one step closer to embracing multiple narratives of law (Hendley, 2015) and accounting for the varieties of legal professionalism circulating among the bar in the context of authoritarian legality (Stern & Liu, 2019).

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