

112TH CONGRESS  
1ST SESSION

# H. RES. 327

Expressing the sense of the House of Representatives that the trial and subsequent convictions of Mikhail Khodorkovsky and Platon Lebedev by the Government of the Russian Federation constitute a politically motivated case of selective arrest and prosecution which put in serious doubt the rule of law and the independence of Russia's judicial system.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 2011

Mr. MCGOVERN (for himself, Mr. HASTINGS of Florida, Mr. WOLF, Mr. PITTS, and Mrs. MYRICK) submitted the following resolution; which was referred to the Committee on Foreign Affairs

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## RESOLUTION

Expressing the sense of the House of Representatives that the trial and subsequent convictions of Mikhail Khodorkovsky and Platon Lebedev by the Government of the Russian Federation constitute a politically motivated case of selective arrest and prosecution which put in serious doubt the rule of law and the independence of Russia's judicial system.

Whereas, on April 1, 2009, President Obama and Russian President Medvedev issued a joint statement affirming that “[i]n our relations with each other, we also seek to be guided by the rule of law, respect for fundamental freedoms and human rights, and tolerance for different views”;

Whereas it has been the long-held position of the United States to support the development of democracy, rule of law, judicial independence, freedom, and respect for human rights in the Russian Federation;

Whereas President Medvedev decried an attitude of “legal nihilism” in Russian society and government and issued a new foreign policy doctrine citing “the supremacy of law in international relations” as one of Russia’s top priorities;

Whereas two of the most prominent cases of Russian abuse of civil liberties and injustice involve the Yukos Oil Company, its president, Mikhail Khodorkovsky and his business partner, Platon Lebedev, who were convicted and sentenced in May 2005 to serve nine years in a remote penal camp;

Whereas Russian authorities confiscated Yukos assets and assigned ownership to a state company that is chaired by an official in the Kremlin, harassed, exiled, persecuted, and imprisoned many Yukos officers and legal representatives, and issued a series of court rulings against Mr. Khodorkovsky and Mr. Lebedev that violate both Russian domestic law and international legal norms;

Whereas at a press conference in May 2005, President George W. Bush stated “it appeared to us, or at least people in my Administration, that it looked like [Mikhail Khodorkovsky] had been judged guilty prior to having a fair trial. In other words, he was put in prison, and then was tried”;

Whereas the 2005 United States Department of State Human Rights Report confirmed that “the arrest and conviction of Khodorkovsky raised concerns about the

rule of law, including the independence of the courts, the right to due process, the sanctity of contracts and property rights and the lack of a predictable tax regime”;

Whereas Amnesty International, Freedom House, and other prominent international human rights organizations have cited the conviction and imprisonment of Mr. Khodorkovsky as evidence of the arbitrary and political use of the legal system and the lack of a truly independent judiciary in today’s Russian Federation;

Whereas governments, courts, journalists, and human rights organizations around the world have expressed concern about the prosecution, trial, imprisonment, and treatment of the individuals in the Yukos case, and have called on President Medvedev to honor his pledge to end “legal nihilism” in his country;

Whereas, on February 5, 2007, on the eve of their eligibility for parole, Russian prosecutors brought new charges against Mr. Khodorkovsky and Mr. Lebedev, accusing them of embezzling \$20,000,000,000 in Yukos oil revenues;

Whereas in May 2007, the Prosecutor General in Moscow attempted to disbar Karrinna Moskalenko, one of Russia’s most distinguished and renowned human rights lawyers and defense counsel to Mr. Khodorkovsky, in apparent reprisal for actions she had taken on behalf of her client;

Whereas in August 2007, Switzerland’s highest court denied Russian authorities access to Yukos documents on the basis that the case against Yukos and its principal executives and core shareholders, specifically Mr. Khodorkovsky and Mr. Lebedev, had a “political and dis-

criminatory character . . . undermined by the infringement of human rights and the right to defense”;

Whereas courts in the United Kingdom, the Netherlands, Cyprus, Liechtenstein, Lithuania, and Switzerland have described the Yukos proceeding as politically motivated and have rejected motions from Russian prosecutors seeking the extradition of Yukos officials or materials for use in trials in Russia;

Whereas, on October 25, 2007, the European Court of Human Rights ruled that Mr. Lebedev’s rights to liberty and security were violated during his arrest and subsequent pretrial detention, and ordered Russia to pay him \$14,230 as compensation;

Whereas, on March 13, 2008, the European Parliament issued a resolution calling on the Russian President to “review the treatment of imprisoned public figures (among them Mikhail Khodorkovsky and Platon Lebedev), whose imprisonment has been assessed by most observers as having been politically motivated”;

Whereas in July 2008, President Medvedev said it was essential that Russia “take all necessary means to strengthen the independence of judges” since “it goes without saying that pressure is applied, influence is exerted, and direct bribery is often used”;

Whereas, on August 22, 2008, Mr. Khodorkovsky was denied parole on the grounds that he refused to take part in vocational training in sewing and for his alleged failure to keep his hands behind his back during a jail walk;

Whereas, on October 8, 2008, Mr. Khodorkovsky was placed in solitary confinement for 12 days for giving a written interview to the Russian edition of Esquire magazine, de-

spite the fact that the interview had previously been approved;

Whereas, on October 25, 2008, the United States Department of State issued a statement marking the fifth anniversary of Mr. Khodorkovsky's arrest, stating "the conduct of the cases against Khodorkovsky and his associates has eroded Russia's reputation and public confidence in Russian legal and judicial institutions";

Whereas, on December 22, 2008, the European Court of Human Rights ordered the release of the terminally ill former Yukos oil executive Vasily Aleksanyan, who had been held in detention since April 6, 2006, despite repeated orders by the European Court that Mr. Aleksanyan be treated in a humane fashion for cancer and AIDS;

Whereas in February 2009, Andrei Illarianov, former chief economic advisor to President Putin, stated that "[o]ne of the best known political prisoners is Mr. Khodorkovsky who has been sentenced to 9 years in the Siberian camp Krasnokamensk on the basis of purely fabricated case against him and his oil company Yukos";

Whereas, on February 24, 2009, human rights lawyer Karinna Moskalenko, said that "[a]ll verdicts are possible in this country. But for people like Khodorkovsky, everything is already planned out and decided as long as the political will does not change";

Whereas, on February 25, 2009, Olga Kudeshkina, former Moscow court judge who was dismissed from her duties in 2004, stated that Moscow City Court "has turned into an institution of settling political, commercial and other scores" and that "nobody can be sure that the

[Khodorkovsky] case will be resolved in accordance with the law”;

Whereas, on April 2, 2009, Senator Ben Cardin, chair of the Helsinki Commission, issued a statement in the United States Senate in which he noted that “the Council of Europe, Freedom House and Amnesty International, among others, have concluded that Mr. Khodorkovsky was charged and imprisoned in a process that did not follow the rule of law and was politically influenced . . .” that “the current charges . . . amount to legal hooliganism and highlight the petty meanness of the senior government officials behind this travesty of justice.” and “[the charges] should be dropped and the new trial should be abandoned”;

Whereas, on April 10, 2009, the New York Times wrote an editorial noting that the new charges and trial against Mr. Khodorkovsky “are for show, intended only to keep [him] and his colleague in prison forever”;

Whereas, on April 11, 2009, the Washington Post wrote, “If Mr. Medvedev allows [the Khodorkovsky trial] to go forward to its scripted conclusion—a lengthy extension of Mr. Khodorkovsky’s sentence to a Siberian prison camp—the point will be proved that Russia still has no rule of law but only a ruler”;

Whereas, on April 21, 2009, Freedom House, Amnesty International, Human Rights First, Human Rights Watch, the International League for Human Rights, the Lantos Foundation for Human Rights and Justice, and the Jacob Blaustein Institute for the Advancement of Human Rights joined in a letter to President Medvedev in which they noted “the serious human rights concerns raised by the case so far” and called on the Russian Government

to “ensure that international observers are allowed unhindered access to the courtroom” to monitor the trial, to “ensure that the rule of law is upheld” and that it “meets the standards of the Russian Constitution and international law.”;

Whereas, on May 21, 2009, the European Court on Human Rights declared admissible Mr. Khodorkovsky’s application, alleging that his arrest, detention, and prosecution were politically motivated as well as violations of the prohibition on torture, inhuman and degrading treatment, and the right to liberty and security;

Whereas Russian legal experts opined, in a October 2009 report prepared by the independent Center for Political Technologies in Moscow, that “The judiciary is perceived not to be independent, but entirely implanted into the state machine, ‘transparent’ for neither the civil society nor the mass media, or ‘ordinary people’” and they foresee that applications to the European Court will rise, as a result of citizens’ low confidence in their judicial system;

Whereas, on March 24, 2010, Lyudmila Alexeyeva, a prominent Russian human rights activist and founder of the Moscow Helsinki Group, lamented that Russian human rights workers and activists are in grave danger, and that the collaboration with international human rights entities is essential to their work;

Whereas, on May 31, 2010, the Moscow Times published a letter, signed by prominent human rights activists such as former President of the Czech Republic Vaclav Havel and Nobel laureate Desmond Tutu, which questioned Russia’s commitment to protecting and fulfilling its human rights obligations and said that, “We ask [Presi-

dent] Medvedev and urge the Russian government to protect people in danger and to ensure quick and effective investigations into the murders of human rights activists, journalists and independent-minded jurists.”;

Whereas, on December 15, 2010, Judge Viktor Danilkin delayed the verdict in the Khodorkovsky case until December 27, 2010, without any explanation;

Whereas Prime Minister Putin appears to have interfered with the proceedings of the trial on numerous occasions, by publicly accusing Mr. Khodorkovsky of being a murderer and, on December 16, 2010, one day after the inexplicable postponement, by preempting the verdict saying that “a thief belongs in prison”;

Whereas, on December 27, 2010, two years after the start of the second trial, Mr. Khodorkovsky and Mr. Lebedev were found guilty of money laundering and embezzlement;

Whereas, on December 27, 2010, the White House issued a press release stating that, “We are troubled by the allegations of serious due process violations, and what appears to be an abusive use of the legal system for improper ends. The apparent selective application of the law to these individuals undermines Russia’s reputation as a country committed to deepening the rule of law.”;

Whereas, on December 30, 2010, Mr. Khodorkovsky and Mr. Lebedev were sentenced to a maximum of 14 years imprisonment, which conforms with the prosecutor’s demands, and which, dating from their first arrest in 2003, will extend their imprisonment until 2017;

Whereas, on New Year’s Eve 2010, during large rallies to peacefully protest restrictions on the freedom of assembly



and the court decision in the case against Mr. Khodorkovsky and Mr. Lebedev, the police detained some 130 people in Moscow and St. Petersburg, including prominent opposition leaders, some of whom were subsequently arrested and jailed;

Whereas, on February 14, 2011, an interview in Gazetta.ru with Natalya Vasilyeva, the former assistant to judge Viktor Danilkin, confirmed allegations of judicial interference and revealed that the judge was pressured in his deliberations and a verdict was imposed from above;

Whereas, on February 17, 2011, the United Nations High Commissioner for Human Rights, Navi Pillay observed that the “Rule of law, including accountability and protection of rights for all citizens and non-citizens on Russian territory, is an essential prerequisite for true democracy, peace and development.”;

Whereas, on March 10, 2011, Vice President Joe Biden delivered a speech in Moscow and stressed that the United States “will continue to object when we think human rights are violated or democracy and the rule of law is undermined.”;

Whereas an independent, impartial, accountable, and effective judicial system is fundamental to protecting and upholding the rights of Russian citizens;

Whereas Article 15(4) of the Russian Constitution provides that “. . . commonly recognized principles and norms of international law and the international treaties of the Russian Federation shall be a component part of its legal system. If an international treaty of the Russian Federation stipulates other rules than those stipulated by the law, the rules of the international treaty shall apply.”;

Whereas the Russian Federation has ratified the European Convention on Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment; and

Whereas the selective disregard for the rule of law by Russian officials undermines the standing and status of the Russian Federation among the democratic nations of the world: Now, therefore, be it

1       *Resolved*, That it is the sense of the House of Rep-  
2       resentatives that—

3               (1) Mikhail Khodorkovsky and Platon Lebedev  
4       are prisoners who have been denied basic due proc-  
5       ess rights under international law and the laws of  
6       the Russian Federation for political reasons;

7               (2) as a demonstration of Russia's commitment  
8       to democracy, human rights and the rule of law, the  
9       Prosecutor General should—

10              (A) conduct an official and impartial inves-  
11             tigation into the allegations of judicial inter-  
12             ference and misconduct;

13              (B) initiate criminal proceedings to bring  
14             violators to justice; and

15              (C) appeal the guilty verdict as delivered  
16             on December 27, 2010;

1           (3) the standing of the Russian Federation as  
2           a nation supporting democracy, freedom of expres-  
3           sion, an independent judiciary, human rights, and  
4           the rule of law would be validated by immediately  
5           overturning the convictions of Mikhail Khodorkovsky  
6           and Platon Lebedev, and securing their immediate  
7           release; and

8           (4) the Russian Federation is encouraged to  
9           take these actions to support democratic principles  
10          and human rights in furtherance of a new and more  
11          positive relationship between the United States and  
12          Russia and a new era of mutual cooperation.

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