

112TH CONGRESS
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S. RES. 65

Expressing the sense of the Senate that the conviction by the Government of Russia of businessmen Mikhail Khodorkovsky and Platon Lebedev constitutes a politically motivated case of selective arrest and prosecution that flagrantly undermines the rule of law and independence of the judicial system of Russia.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2011

Mr. WICKER (for himself, Mr. CARDIN, and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Foreign Relations

RESOLUTION

Expressing the sense of the Senate that the conviction by the Government of Russia of businessmen Mikhail Khodorkovsky and Platon Lebedev constitutes a politically motivated case of selective arrest and prosecution that flagrantly undermines the rule of law and independence of the judicial system of Russia.

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, on April 1, 2009, President Barack Obama and President of Russia Dmitry 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 President Medvedev publicly stated that “Russia is a country of legal nihilism” and that “no European country can boast such a universal disregard for the rule of law” and declared his “main objective is to achieve independence for the judicial system” through “significant, maybe even radical changes”;

Whereas two prominent cases of “universal disregard for the rule of law” in Russia involve the president of the Yukos Oil Company, Mikhail Khodorkovsky, and his partner, Platon Lebedev, who were first convicted and sentenced in May 2005 to serve nine years in a remote penal camp for charges of tax evasion;

Whereas it is believed that Mr. Khodorkovsky was selectively targeted for prosecution because he supported and financed opposition political parties, among other reasons;

Whereas authorities in Russia subsequently expropriated Yukos assets and assigned ownership to a state company that is chaired by an official in the Kremlin;

Whereas courts around the world have described the Yukos proceedings as impartial and have rejected motions from prosecutors in Russia seeking extradition of Yukos officials or materials;

Whereas, on February 5, 2007, prosecutors in Russia suspiciously brought new charges against Mr. Khodorkovsky and Mr. Lebedev on the eve of their eligibility for parole, accusing them of embezzling the entire Yukos oil production for 6 years (1998 through 2003);

Whereas, on December 16, 2010, and just days before judge Viktor Danilkin's verdict, Prime Minister Vladimir Putin publicly called Mr. Khodorkovsky a "thief" who must "sit in jail," and stated that "we should presume that Mr. Khodorkovsky's crimes have been proven in court";

Whereas, on December 27, 2010, Mikhail Khodorkovsky and Platon Lebedev were convicted of embezzlement charges and sentenced to six additional years in prison;

Whereas the United States Department of State's 2009 Country Report on Human Rights Practices in Russia reported that "the arrest, conviction, and subsequent treatment of Khodorkovsky raised concerns about due process and the rule of law, including the independence of courts" and that Khodorkovsky was "selectively targeted for prosecution because of his political activities and as a warning to other oligarchs against involvement in political or civil society issues";

Whereas, following the 2010 conviction, the editorial boards of the New York Times, Washington Post, and Wall Street Journal stated respectively that the "latest prosecution suggests that Russia's judiciary is still under Mr. Putin's thumb and Mr. Medvedev's talk of reform is just talk," "Russia remains the country of Mr. Putin," and "the Kremlin again chose to flout the rule of law, the political opposition and human rights";

Whereas the Senate has consistently voiced concern about the impartial treatment of Mr. Khodorkovsky and Mr. Lebedev at the hands of the Government of Russia;

Whereas, on December 9, 2003, the Senate unanimously passed S. Res. 258 (108th Congress), calling on the authorities in Russia to "dispel growing international con-

cerns that the cases against Mikhail B. Khodorkovsky and other business leaders are politically motivated”; and

Whereas, on November 18, 2005, the Senate unanimously passed S. Res. 322 (109th Congress), expressing the sense that “the criminal justice system in Russia has not accorded Mikhail Khodorkovsky and Platon Lebedev fair, transparent, and impartial treatment under the laws of the Russian Federation”: Now, therefore, be it

1 *Resolved*, That it is the sense of the Senate that—

2 (1) in cases dealing with perceived threats to
3 authorities, the judiciary of Russia is frequently
4 used as an instrument of the Kremlin and is not
5 truly independent or fair;

6 (2) Mikhail Khodorkovsky and Platon Lebedev
7 are political prisoners who have been denied basic
8 due process rights under international law;

9 (3) in light of the record of selective prosecu-
10 tion, politicization, and abuse of process involved in
11 their cases, and as a demonstration of Russia’s com-
12 mitment to the rule of law, democracy, and human
13 rights, the 2010 conviction issued by authorities in
14 Russia against Mr. Khodorkovsky and Mr. Lebedev
15 should be overturned; and

16 (4) the Government of Russia is encouraged to
17 take these actions to uphold the rule of law, demo-
18 cratic principles, and human rights to further a
19 more positive relationship between the Governments

- 1 and people of the United States and Russia in a new
- 2 era of mutual cooperation.

