



The Show Trial of Mikhail Khodorkovsky

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Moscow

The surreal "trial" of Mikhail Khodorkovsky is a politico-prosecutorial embarrassment for the Kremlin. The word "trial" must be used in quote marks to denote the absurdity of the proceedings at Moscow's Khamovnichesky Court. To protest the latest absurdity—the decision to extend his Russian 'legal nihilism' is on display in the case of Russia's most famous political prisoner.

strict regime of incarceration into the summer, which ignores the legal reforms signed in April by President Dmitry Medvedev that eliminated pre-trial arrest for such cases—Mr. Khodorkovsky this week went on a two-day hunger strike that he ended only after public assurances that the Supreme Court and the president himself were examining the matter.

Russia's most famous political prisoner was forced into such a desperate act in order to call attention to how those pulling the strings of his persecution are powerful enough to sabotage even the president's will.

First, let's look at the prima facie farce of the accusations themselves. The centerpiece of the indictment is the charge that Mr. Khodorkovsky and his partners stole some 350 million metric tons of crude oil between 1998 and 2003. The problem for a "bona fide" prosecution is that nothing

has gone missing. What's more, the defendants' company, Yukos Oil, did not even produce that much crude during that period. Concurrently, the Kremlin itself is asserting in a separate case at the European Court of Human Rights in Strasbourg that Yukos sold the oil but did not pay taxes on it.

So which is it? Was the oil embezzled, or sold without paying taxes? The Kremlin can't have it both ways. In fact, the retroactive tax claims that sank Yukos were so bogus that in some years, the company's tax bill exceeded its total revenue. The objective was to force it into bankruptcy so that it could be taken over by state-controlled Rosneft and, effectively, by top government officials. Having taxed Yukos into oblivion, the authorities now look for new ways to keep Mr. Khodorkovsky in jail, by absurdly asserting that he in fact stole all of the oil that was just so heavily taxed.

This new trial against Mr. Khodorkovsky started a year ago, and has demonstrated the lengths to which the Kremlin will go to lock in a predetermined guilty verdict—a political fatwah from the top of the Russian state. Mr. Khodorkovsky himself told the court on his first day of defense that the whole process was one of "corruption and politics" because "certain people who took over the assets of my company are afraid of my freedom."

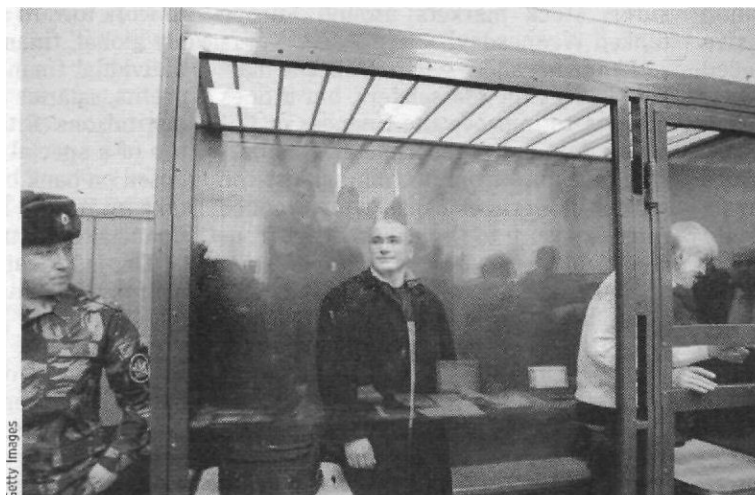
There have been numerous violations of any semblance of a fair trial, including the prosecution's failure to explain the charges, exclusion of exculpatory evidence,

falsification and obstruction of access to evidence, misrepresentation of evidence and, as if the rest was not bad enough, mysteriously vanishing and incomplete evidence. Prosecutors have paraded more than 50 witnesses through the courtroom, but not one of them actually provided testimony supporting the charges. Some even contradicted them.

In the absence of any appearance of due process, the Kremlin has tried to apply a patina of fairness and reasonableness to the procedures. These accoutrements range from the irrelevant (calling witnesses who have nothing to say), to the duplicitous (assigning a respected judge who has no power to decide the case without political orders from the top), to the laughably absurd (the 188-volume case file that, instead of demonstrating thorough and careful research, includes such crucial discoveries as laundry cleaning receipts).

This sham process is the very model of the "legal nihilism" Dmitri Medvedev decries in our country. François Zimeray, the French Ambassador for Human Rights who visited the court last month, observed that "Mikhail Khodorkovsky's resistance to being broken by the system has made him an icon for defenders of human rights." He concluded that not just one man, but rather Russia's future, is on trial.

Mr. Schmidt is a Russian human rights lawyer who represents Mr. Khodorkovsky.



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