

Testimony to the Tom Lantos Human Rights Commission: U.S. Congress

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Three years ago tomorrow, on November 16, 2009, my Russian lawyer, Sergei Magnitsky was murdered in Moscow police custody. He had been held for 358 days without trial after having been arrested for uncovering and testifying about the largest known tax refund fraud in Russian history perpetrated by officials in the Russian government.

In Sergei's 358 days in state custody, he wrote 450 complaints detailing every aspect of how he was tortured by his captors to try to force him to change his testimony. Because of the record he created, combined with the official documents obtained through the Russian courts, his case has become the most well documented human rights abuse case coming out of Russia in the last twenty five years. There have been 37,000 articles in the Russian press mentioning Sergei's name and detailing the complicity of Russian government officials.

We had hoped that with such overwhelming evidence and public attention, the Russian government would prosecute the officials involved. We were wrong. Instead, they have circled the wagons. The Russian authorities have exonerated every one of the 60 people involved in his case, except for one lowly prison doctor who they have charged with negligence. Some of the most complicit officers have even been promoted and received state honors.

When it became clear that there was no possibility of justice in this case inside Russia, we looked for ways to get justice outside of Russia.

The murder of Sergei Magnitsky was not a crime motivated by ideology or religion. It was a crime of money. Specifically, it was a crime to cover up and silence a man who blew the whistle on those officials involved in the theft of \$230 million of tax money belonging to the Russian people.

What is also clear is that the officials who committed this crime, keep their money abroad, travel abroad, send their children to school abroad and know that their ill gotten gains are safe in the West. We have all seen them in New York, Miami and Los Angeles enjoying the finest things that this country has to offer.

Two and a half years ago, on May 6, 2010, I was invited to testify in front of this very same Commission and tell the story of Sergei Magnitsky. I came here after Senator Benjamin Cardin, Co-chair of the U.S. Helsinki Commission, proposed an initiative to withdraw the U.S. visas of 60 Russian officials identified as playing a role in the Magnitsky case. We couldn't necessarily force the Russian government to prosecute Magnitsky's killers, but we certainly didn't have to allow them to come here.

I spoke in this exact room ten days after Senator Cardin filed a formal request to Secretary of State Hillary Clinton to that effect. At the end of my testimony, I asked this Commission to support Senator Cardin's initiative. Representative Jim McGovern, the Co-Chairman of this Commission who sits here today, listened to my testimony and made a decision on the spot which will change history. At that hearing, he pledged to go further than just supporting a request of the State Department to ban visas of the Magnitsky killers. He announced that he would introduce new legislation called the Justice for Sergei Magnitsky Act, which would

ban visas and freeze assets of all the Russian officials who played a role in the false arrest, torture and death of Sergei Magnitsky or in the crimes that Sergei uncovered.

From that day on, this legislation has taken on a momentum of its own that nobody could have ever expected. Following his efforts, Senator Cardin introduced the same legislation in the Senate. The first reaction came from the scores of other victims of Russian human rights abuses. They both applauded the proposed legislation and asked Rep. McGovern and Senator Cardin to add the corrupt officials who had victimized their families to the legislation. The Act also energized all of Russian civil society who had endured years of impunity in their country as corruption spiraled out of control and destroyed so many people's lives. More and more people from both Russia and the US came to Washington to support this initiative. With such an obvious opportunity to solve a major human rights problem, the legislation was broadened to include all victims of human rights abuse in Russia, not just Sergei Magnitsky.

The initiative of Rep. McGovern and Senator Cardin then spread across the world. Several weeks ago, the European Parliament has passed a resolution calling on the EU to impose Magnitsky sanctions in Europe. The OSCE Parliamentary Assembly passed a resolution with an overwhelming majority this summer calling on all 56 OSCE member states to impose Magnitsky sanctions. The British and Dutch Parliaments both passed unanimous multi-party resolutions calling on their governments to implement Magnitsky sanctions. Ten other parliaments in Europe, plus Canada are at various stages of their own Magnitsky resolutions.

There is only one group in the world who is against this legislation and that is the Russian government. They are absolutely terrified that this could possibly come into force. Until now, they have lived in a world where they can commit human rights abuses with no consequences. Since they control their own justice system they know that they can torture and kill with full knowledge that nothing will happen to them. In many ways, they cannot control their own system if they cannot guarantee impunity to their foot soldiers when they commit human rights abuses.

All that has now changed and they are terrified. They are so terrified that three days after President Putin was inaugurated, he announced that his third most important foreign policy priority was to fight the Magnitsky sanctions. He assigned his foreign minister to publicly threaten any country that considered passing Magnitsky sanctions. Members of the Russian Parliament came to Washington to slander Sergei Magnitsky and talk Congress out of passing the Magnitsky Act.

And most unbelievably, the Russian government has announced that they intend to prosecute Sergei Magnitsky this year in the first even posthumous trial in the history of Russia.

Tomorrow there will be a vote on the Magnitsky Act. And tomorrow it will be three years from the day that Sergei Magnitsky was found dead on the floor of an isolation cell after being handcuffed and beaten by eight riot guards with rubber batons. He was only 37 year old, leaving a wife, two children.

I can't think of a more fitting tribute to Sergei's memory than to pass a piece of legislation with his name on it. We will never be able to bring Sergei back, but if through his death, his story can save the lives of others in similar situations, than his enormous sacrifice will at least not have been in vain.

God bless Sergei Magnitsky.