

We must presume innocence

Robert R Amsterdam

December 4, 2006 2:45 PM

He is not a sympathetic character. He may be hard to read. My conviction that he is leading Russia down the wrong path is shared by millions of people. However, the public excoriation we are witnessing in London about the leader of the Russian federation is not something anyone should join in with, much less a lawyer who believes in the foundations of modern law.

For three years now I have been confronted with the blatant illegalities of the Kremlin's campaign against Mikhail Khodorkovsky and Yukos. I have been advocating respect for fundamental principles of due process, fair trials, and the presumption of innocence. The universality of these principles means that there can be no shortcut to achieving the rule of law. Justice must be done, and justice must be seen to have been done.

In the past week comments have been widely circulating in the European press accusing the Russian president of involvement in the poisoning of former KGB officer Alexander Litvinenko. These comments are extraordinarily inflammatory and wrongheaded. In accusing Vladimir Putin personally, we do not advance the rule of law in Russia by one iota. Such accusations are giving in to hysteria and lowering ourselves below the standards of our own legal systems that we so cherish and promote worldwide.

Russia has been faced with mounting European criticism over its widespread human rights abuses and disrespect for fundamental principles of the rule of law and democratic processes. Yet pointing the finger at Vladimir Putin personally will rightly be seen in Russia as deeply hypocritical. Vladimir Putin has full rights to the presumption of innocence, just like anyone else.

All those suspected for responsibility behind this attack in London will face the full onslaught of a Scotland Yard investigation. Hasty assertions about Vladimir Putin's guilt are not only inappropriate, but may well backfire. These statements give great play to the arguments of Kremlin hardliners who have been telling Vladimir Putin that he cannot trust his European neighbours; that Europeans are deeply Russophobic; that he must stand apart as an independent centre of power in the world. Mr Putin may well be convinced that he has nothing left to lose in terms of his reputation in the west - and then matters will certainly take a turn for the worse.

In contrast to my views about the person of the Russian presidency, I do believe that there is a reverse onus on the Russian state to cooperate fully in disgorging information relevant to this case. In the court of public opinion there is a pervasive presumption of guilt weighing upon the Russian authorities. This is an unavoidable consequence of the brazen impunity with which the Russian authorities have flaunted law and due process in recent years. When state actions amount to grand-scale theft, when corruption is endemic, when opponents are locked away and when political legitimacy is maintained through near-total control over the press, the Kremlin should not be surprised to find that it has a tremendous credibility problem.

In respect, however, to the president of Russia, there is no such reverse onus. Vladimir Putin deserves the full shield of a wholehearted presumption of innocence. Taking that away from him is lowering ourselves to the same kind of demagoguery that we have been so vociferously opposing. In the meantime, speculation and oversimplified accusations will not help Scotland Yard to do its work.