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Putin's federal reforms and the consolidation of federalism in Russia: one step forward, two steps back!

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Abstract

This paper provides a detailed analysis of Putin's radical overhaul of the Russian federal system and its impact on federalism and democratisation. Whilst not all of Putin's reforms have been implemented fully, the reorganisation of the Federation Council, his usurpation of unilateral powers to dismiss regional assemblies and chief executives, combined with his creation of seven federal districts, make a mockery of federalism. There are real worries that Putin's quest for a 'dictatorship of law' will be bought at the cost of civil liberties and the consolidation of democracy. At present it would appear that Putin is willing to sacrifice democracy in order to win unity. However, his attack on the sovereignty claims of the ethnic republics are surely just as likely to stir up nationalist sentiments as to quell them.

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Introduction

Since the inauguration of Vladimir Putin as Russian President in March 2000, Russia's federal system has been torn apart, and the President by his actions has shown that he has no real commitment to the principles of federalism. Indeed, as I shall show in this article, Putin's reforms make a mockery of federalism, and there must now be serious concerns about his commitment to constitutionalism and democracy.

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Federalism and federations

Following Watts, it is important to distinguish between: ‘federalism’, ‘federal political systems’, and ‘federations’. Federalism is a normative concept, an ideology which advocates, ‘multi-tiered government combining elements of shared-rule and regional self-rule (Watts, 1999, p. 6).’ Federal political systems, on the other hand, are descriptive terms referring to a broad category of non-unitary states ranging from quasi-federations to confederacies. Federations, as Watts notes, are thus but one species of the genus ‘federal political system’. In federations according to Watt’s classic definition:

- 1) neither the federal nor the constituent units of government are constitutionally subordinate to the other, i.e., each has sovereign powers derived from the constitution rather than another level of government; 2) each is empowered to deal directly with its citizens in the exercise of legislative, executive and taxing powers; and 3) each is directly elected by its citizens (Watts, 1999, p. 7).

Structural prerequisites for federations

How can we test if a country is a federation or not? In light of the above discussion, scholars of federalism (Elazar, 1987, 1991; Lijphart, 1999; Requejo, 2001; Watts, 1999) have put forward the following structural prerequisites which states must meet before they can be classified as federations:

1. The existence of at least two-tiers of government, both tiers of which have a formal constitutional distribution of legislative, executive and judicial powers and fiscal autonomy;
2. Some form of voluntary covenant or contract among the components — normally a written constitution (not unilaterally amendable and requiring for amendment the consent of a significant proportion of the constituent units);
3. Mechanisms to channel the participation of the federated units in decision-making processes at the federal level. This usually involves the creation of a bicameral legislature in which one chamber represents the people at large and the other the component units of the federation;
4. Some kind of institutional arbiter, or umpire, usually a Supreme Court or a Constitutional Court to settle disputes between the different levels of government;
5. Mechanisms to facilitate intergovernmental collaboration in those areas where governmental powers are shared or inevitably overlap.¹

¹ D. Kempton also adds five ‘beneficial conditions for the maintenance of federalism’: (1) symmetry among the components; (2) decentralised federal political parties; (3) a noncentralised bureaucracy; (4) democracy; and (5) economic coordination. See, D. Kempton, ‘Russian federalism: continuing myth or political salvation’, *Demokratizatsiya*, 9:2 (Spring 2001), p. 231.

Structure, process and culture

Another important distinction to be made is that between ‘structure’ and ‘process’. Here we refer to the formal structural features of federations, as defined above, and the actual operational procedures put into practice by federal governments. As Elazar stresses, “the structure of federalism is meaningful only in polities whose processes of government reflect the federal principle (Elazar, 1987, p. 67)”. In other words, federal structures may be in place in a polity, and federal principles may be enshrined in a country’s constitution, but there may still be no federalism in operation, as was the case, for example, in the Soviet Union. Here, we need to add a cultural dimension to the five structural definitions provided above. A democratic and legalistic culture is required for a democratic federation. As Watts notes:

a recognition of the supremacy of the constitution over all orders of government and a political culture emphasising the fundamental importance of respect for constitutionality are therefore prerequisites for the effective operation of a federation (Watts, 1999, p. 99).

As I shall demonstrate below, Russia has adopted all of the key structural trappings of a federation, and the Constitution does indeed enshrine many of the key principles of federalism and democracy, but in practice, neither the federal authorities nor the federal subjects have fully lived up to these federal principles. A democratic federal state based on the principles of federalism has not yet been consolidated in Russia.

Putin’s calls for a ‘dictatorship of law’

It was Putin’s election victories in 1999 and 2000, which paved the way for his audacious assault on the powers of the regional governors and his radical reform of the federal system. Armed with a democratic mandate from his impressive victory in the 2000 Presidential elections, coupled with the surprise success of his presidential party (Unity) in the December 1999 Duma elections, Putin was able to persuade a now ‘tame parliament’ that a radical overhaul of the federal system was essential if Russia was not to collapse into anarchy and ethnic turmoil. Moreover, Putin was able to win over key oligarchs to his view that the only way to bolster Russia’s flagging economy was to reduce the anarchic powers of the governors and to strengthen ‘the power-vertical’. As Putin stated in his message to the Federal Assembly,

It’s a scandalous thing when a fifth of the legal acts adopted in the regions contradict the country’s Basic Law, when republic constitutions and province charters are at odds with the Russian Constitution, and when trade barriers, or even worse, border demarcation posts are set up between Russia’s territories and provinces (Putin, 2000a, p. 3).

In order, to ‘restore an effective vertical chain of authority’ and to implement a uniform policy, Putin called for a ‘dictatorship of law’. Every citizen, whether in Moscow or ‘the most remote backwoods of Russia’, was henceforth to be guaranteed the same rights, and federal legislation was to be ‘understood and enforced’ in a uniform manner throughout the length and breadth of the federation (Putin, 2000a, p. 3).

Putin’s primary objectives were to create a unified economic, legal and security space in the federation and to tighten the federal government’s controls over the regions. By stressing the need to strengthen what he called the ‘power vertical’, Putin’s reform agenda was very much in tune with many of the ideas which had recently been put forward by political parties in the run up to the 1999 Duma elections. Indeed, many of the same issues had already been raised by former Prime Minister, Yevgenii Primakov. On coming to power in the autumn of 1998 Primakov had warned the country that the federation was in danger of splitting up into separate parts. And, in January 1999, he called for a “restoration of the vertical state power structure”, demanding that separatist trends “must be quelled, liquidated, and uprooted (Evangelista, 2000, p. 3)”. Primakov also sought to bring the governors under federal control by co-opting them into the Cabinet and Government Presidium.² Thus, for example, eight of the most powerful governors, each heading a regional economic association, were made members of the Presidium (Petrov, 1999, p. 4). After the anarchy of the Yeltsin years, when the regions had almost turned into the ‘personal fiefdoms’ of the governors, there was a general consensus that something radical had to be done to reinstate a single legal space in Russia.

Governors and presidential representatives under Yeltsin

In August 1991 Yeltsin created two new administrative bodies to keep the regions in check: presidential representatives and regional governors. Between 1991 and 1996 Yeltsin was able to maintain control over the governors through his powers of appointment. However, once Yeltsin permitted the governors to come to power via the ballot box, he was forced to turn to his presidential representatives to keep a watchful eye on the regions.

One of the major powers of the governors was their control over the appointment of the heads of federal bodies situated in their territories. By controlling the appointment of such powerful officials (for example, heads of the tax inspectorate, financial oversight bodies, customs officers, the judiciary, procuracy, central electoral commissions and others), the governors were able to undermine the authority of the federal government and to thwart the implementation of federal policies. In some regions, (for example, in Stavropol’) governors were even able to appoint their own

² Thus for example, Vladimir Gustov was appointed First Deputy Prime Minister in charge of regional issues. Primakov also established a new Ministry of Regional Policy headed by Viktor Kirpichnikov, the leader of the Union of Russian Cities.

regional security councils thus giving them a significant degree of leverage over the 'power ministries' (security, internal affairs) in their territories.

According to Yeltsin's Presidential Decree of the 24 August 1991, 'On Representatives of the President of the RSFSR in Krai and Oblasts of the RSFSR', the presidential representatives were charged with overseeing the work of the governors and federal agencies. However, as it became clear that the presidential representatives were no match for the regional governors, Yeltsin was forced to adopt a further three decrees in an unsuccessful attempt to raise their status. In the last of these decrees, promulgated in July 1997, the presidential representatives were given increased powers to monitor the implementation of federal programmes and to coordinate the activities of the myriad of federal bureaucracies situated in the regions.³ But even this latter decree failed to give the presidential representatives sufficient powers and resources to challenge the authority of the popularly elected governors and to stand up to the representatives of federal bureaucracies.

Many of the envoys appointed by Yeltsin had strong ties with their regions, and they soon turned 'native', by representing the interests of those whom they were supposed to be controlling. In a number of regions the governors were even granted the right to appoint their own presidential representatives or to approve presidential nominees. Indeed, in some cases presidential representatives were actually high ranking members of regional elites. Thus, for example, in Stavropol' Krai we had the absurd situation whereby the presidential representative simultaneously held the post of deputy governor of the region. In 1994 Yeltsin was forced to bow to the will of the Primorskii Krai regional administration which demanded that he sack his presidential representative (Kirkow, 1998, p. 123).

Other loyal lieutenants of the President simply did not have sufficient authority or resources to stand up to the might of the governors. The representatives relied on the regional administrations to supply them with housing, office space, transportation and other administrative supports. The governors also controlled access to the best schools and hospitals, and other local services for the families of the envoys. As Hyde noted, by the mid-1990s, "some representatives came to fulfill a function better described as representative of the regions to the center" (Hyde, 2001, p. 722; see also Busygina, 1997; Clark, 1998). Indeed, in 1997 the situation was so bad that the Kremlin was forced to replace 60% of its representatives because of fears that "their loyalty had been co-opted by the regional power elites" (Helmer, 1997, p. 2). We should also note that the legislation setting up the presidential representatives was aimed primarily at the regions and not the 21 ethnic republics, many of which have been able to escape the imposition of Yeltsin's envoys.

³ Presidential Decree No. 696, 9 July 1997, 'O polnomochnom predstavitele Prezidenta Rossiiskoi Federatsii v regione Rossiiskoi Federatsii', *Sobranie Zakonodatel'stva Rossiiskoi Federatsii*, 28 (1997), p. 3421.

Putin's reform agenda

There were six major strands to Putin's federal reforms: (1) the creation of seven new federal super-districts; (2) a reform of the Federation Council; (3) the creation of a new State Council; (4) the granting of new powers to the President to dismiss regional governors and dissolve regional assemblies; (5) new rights for regional governors to dismiss municipal officials; and (6) a major campaign to bring regional charters and republican constitutions into line with the Russian Constitution. Below we examine each one of these reforms in turn.

The creation of seven new federal super-districts

If Putin's major aim was to reassert federal authority over the regions then something had to be done to improve the work of the presidential representatives and to remove them from the clutches of the regional governors. And, even more importantly, Putin had to recapture control over the work of the myriad of federal agencies which were situated in the regions and which had also fallen under the sway of governors and republican presidents. Thus, on the 13 May 2000 Putin adopted what was to be the first of a package of decrees whose key aim was to rein in the power of the governors and to "strengthen the unity of the state".⁴

In this first major reform of the federal system, Putin divided the country into seven super-districts, each of which contained a dozen or more federal subjects, and he appointed a plenipotentiary representative (*polpredy*) to each new district. Putin deftly sidestepped calls to format the new districts in conformity with the contours of Russia's eight interregional associations or 11 socio-economic regions. Instead, the new federal districts were drawn up to closely match Russia's military districts, thus giving the envoys (most of whom had a background in the military or security organs) direct access to the command and control networks of the military garrisons situated in their districts. And in a blow against the sovereignty claims of the ethnic republics, Putin drew up the boundaries of the new federal districts in such a way that each district would include a mixture of ethnic republics and territorially defined regions. And none of the capital cities of the federal districts were situated in an ethnic republic. This has led some commentators to speculate that the creation of the federal districts was but the first step in Putin's program of levelling down the status of the republics to that of the regions.

Putin's creation of the seven federal districts and the appointment of the *polpredy* fully complied with article 83 of the Russian Constitution, which simply stated that the President, "appoints and removes plenipotentiary representatives of the President of the Russian Federation". As Oracheva notes, "the Constitution does not specify in what particular form this institution exists, what functions presidential representatives

⁴ See, Presidential Decree, No. 849, 13 May 2000, 'O Polnomochnom Predstavitele Prezidenta Rossiiskoi Federatsii v Federal'nom Okruge', and the accompanying Resolution, 'O Polnomochnom Prestavitele Prezidenta Rossiiskoi Federatsii v Federal'nom Okruge.' Published in *Rossiskaya gazeta* (13 May 2001).

perform, and how many representatives may be appointed” (Oracheva, 2001, p. 11). Thus, Putin can argue that the changes brought about by the May 13 decree were simply changes in his presidential administration, and not constitutional changes to the federation itself.

However, as discussed below, Putin’s federal reforms undoubtedly represent an assault on the federal idea, and they certainly violate the spirit of the Constitution, if not the actual Constitution itself.

The administrations of the federal districts

Five of the seven polpredy have a background in the army or security services. Of the two civilians, only one (Sergei Kirienko the former Russian Prime Minister) has had experience working in politics at the national level, and the other was a former diplomat (see Sakwa, 2002; Teague, 2002). In terms of responsibilities, their rank is somewhere between deputy chief of staff of the Presidential Administration and Deputy Prime Minister.

The high status of the polpredy is also reflected in their membership of the Russian Security Council, and their right to attend Cabinet meetings of the Federal Government. In fact, the decree setting up the federal districts was drafted by the Security Council. The status of the polpredy is also reflected in their regular meetings with the President. To prevent the polpredy going ‘native’ the Presidential Administration will fund them directly.

The polpredy also have a sizeable bureaucracy to assist them in their duties. In each of the seven federal districts there are approximately 100 members of staff. In addition, in each district there are also five deputy polpredy, and a chief federal inspector. There is also a federal inspector appointed to each of the regions situated within the federal districts. Many of the major ministries have begun to restructure their administrations bringing them into line with the new federal districts. Thus, each of the federal districts now has a deputy prosecutor general and each district has a department for combating organized crime under the dual subordination of the polpredy and the Russian Minister of Internal Affairs. In addition the Ministry of Justice also recently created branches in each of the seven districts and the Ministry of Finance, and the Tax Inspectorate have likewise begun to restructure their administrations in line with the reforms.

Power and responsibilities of the polpredy

The powers and responsibilities of the polpredy, at least on paper, are very impressive. Their key tasks are: (1) to monitor the regions’ compliance with the Russian Constitution, federal laws and presidential decrees; (2) to oversee the selection and placement of personnel in the regional branches of the federal bureaucracy; (3) to protect the national security interests of the regions; and (4) to set up and coordinate within their districts interregional economic programmes (see Hyde, 2001; Teague, 2002).⁵ They also have the power to recommend to the President that he

⁵ The duties of the polpredy were further outlined in Putin’s Presidential Decree of 30 January 2001, No 97, ‘O Vnesenii dopolneniya i izmeneniya v polozhenie o polnomochnom predstavitele Prezidenta

suspend specific local laws or decrees when they contradict federal laws and to call for the dismissal of governors and the dissolution of regional assemblies if they adopt decrees or laws which violate federal laws (see below).

Putin has been at pains to stress that the primary role of the *polpredy* was not to supplant the role of the elected governors but rather to coordinate the work of the federal agencies in the their districts. According to Putin:

The authorized representatives, needless to say, will help in effectively solving the problems in their regions. But they do not have the right to interfere in areas under the jurisdiction of the elected heads of the regions (Putin, 2000a, p. 7).

This statement reminds one of pronouncements made during the Soviet era about the proper role of the party and state bodies. The party was charged with ‘leading and guiding’ the work of state bodies, but not ‘supplanting’ them. Of course, what happened in practice, was quite the opposite: party bodies did meddle in the affairs of state bodies, often hindering, rather than helping them to carry out their administrative functions. It would appear that the *polpredy* might face a similar dilemma in their relations with the governors and federal bureaucracies.

One of the most important and controversial powers of the *polpredy* is that of the selection and placement of personnel. As presidential representative to the Volga district, Kirienko noted that:

In essence, the presidential representatives will oversee personnel policy for the president and will approve all appointments and promotions. The representatives will also maintain a reserve of personnel for all federal agencies (*Nezavisimaya gazeta*, 25 October 2000, p. 3).

These powers will bring the *polpredy* into direct conflict with the governors who can cite article 72 of the Russian Constitution to defend their right to be consulted over such appointments, especially with regard to the judiciary and law enforcement bodies.

There is also some confusion over what controls the *polpredy* will be given in the economic sphere. Whilst they will not have direct control over the purse strings they are nonetheless charged with monitoring all the federal funds which come into their districts and overseeing the collection and transfer of taxes to the federal budget. Kirienko has stated that the districts will not have their own budgets. However, he did confirm that they would have their own socio-economic development plans, and thus, the ability to exercise some influence over economic policy-making in the regions.

Thus, Putin’s appointed *polpredy*, at least on paper, have been granted consider-

Rossiiskoi Federatsii v federal’nom okruge, utverzhdennoe ukazom Prezidenta Rossiiskoi Federatsii ot 13 Maya 2000 No 849,’ published in *Rossiskaya gazeta* (30 January 2001). According to this decree the presidential envoys were directly subordinate to the head of the Presidential Administration.

able powers over the internal politics of federal subjects and their democratically elected representatives. And it is difficult to imagine how these new federal representatives will be able to carry out their functions without infringing on the constitutionally guaranteed rights of the federal subjects.

The creation of seven quasi-states

However, whilst the powers of the polpredy are impressive on paper it remains to be seen how effective they will be in practice.

Given the fact that each presidential representative will have to take charge of a dozen or so regions (whose administrative centers may be hundreds of miles apart), and the fact that every region has between forty and fifty federal agencies operating on its territory, this means that each representative will have to coordinate and control the work of approximately 400–600 agencies. In some of the very large districts it is difficult to see how the envoys will be able to exercise control over such vast territories and/or populations. Moreover, the formation of the new federal districts has made the federation even more asymmetrical. Thus, for example, almost half of the Russian population is situated in just two of the federal districts: the Central district and the Volga district.

Putin's reforms may simply have created seven powerful quasi-regional states. Already the polpredy have begun to create the institutions necessary to turn their districts into mini-regional states. Thus, for example, we are beginning to see the development in the federal districts of councils of the heads of regional legislative and executive bodies (mini-federal councils), councils of regional governors (mini-state councils), councils for local self government, and expert consultative and scientific research councils (Badovskii, 2001, p. 5). Thus, for example, Poltavchenko has created a council in his Federal District (the Central District) which includes all the chief executives of the 18 regions under his jurisdiction (Slabov, 2001, p. 2). The council will deal with all aspects of economic development. The new council would also appear to usurp the role of the Black Earth and Central Russian interregional economic associations.

In the Volga District Kirienko has created a coordinating council for regional legislative chairmen. The aim of the council is to develop a united approach for drafting regional legislation and bringing regional laws into line with federal norms. These new mini-councils will soon co-exist next to a series of new district-level banks and financial bodies.

Emboldened by their new powers to appoint leaders of the regional branches of the All Union Television and Radio Company the polpredy have also been actively promoting the development of a 'single information space' in each of their federal districts. To this end they have also set up district-wide mass media councils. Now the press will not only come under the control of the governors, but also of the polpredy, hardly a recipe for the creation of a vibrant and open 'civil society' in Russia.

There is also a danger that the polpredy may simply build up personal fiefdoms of their own or they may at times act in concert with regional elites creating yet another layer of bureaucracy between the President and the regions. As Badovskii

notes, in some regions the polpredy have acted as a powerful force limiting the powers of the regional governors. But, in many regions, “the apparatus of the polpredy is created from the governor’s people, is quickly integrated and absorbed by the local elites, and we see the merging or joining of federal and regional bureaucracies — eventually creating a highly effective system of regional lobbying (Badovskii, 2001, p. 6).”

The relationship between governors, presidential representatives, and federal bureaucrats is still unclear and will undoubtedly vary from district to district. As Orttung and Reddaway note:

Rather than creating a stronger vertical hierarchy of authority leading from the central government to the regions, Putin has created a triangle, with the ministries, the presidential representatives, and the regions making up the triangle’s three points (Orttung and Reddaway, 2001, p. 100).

It is also becoming apparent that such power relations will be worked out on the ground and cannot be planned and mapped out by Putin at the center.

Reform of the Federation Council

In a second major initiative Putin stripped the governors and chairs of regional assemblies of their ex officio right to sit in the upper chamber of the parliament.⁶ They were to be replaced (from January 2002), with ‘delegates’ chosen by the regional assemblies and chief executives. More specifically, the governors had the right to appoint and dismiss their delegates as long as their choice of candidates was not vetoed by a vote of two-thirds of the members of their regional parliaments. And the regional assemblies appoint and dismiss their delegates according to their own voting procedures.

For a number of commentators, such changes would inevitably lead to a decline in the powers of the upper chamber and perhaps even in the long run to a situation whereby the upper house may be dispensed with altogether. On the other hand, as Putin himself has stressed, the new body will now meet full time, and not, as in the past, just for a few days a month. This will give the new members, who are totally reliant on their masters in the regions, far greater opportunities to scrutinize legislation coming from the Duma and presidency. And we will no longer have the spectacle of members of regional executive bodies sitting in a legislative chamber thereby making a mockery of the principle of the separation of executive and legislative powers. More worrying for the governors was the fact that when they are denied membership of the upper chamber they would automatically lose their right to immunity from criminal prosecution. And they will no longer have a direct say in

⁶ See, the Federal Law, No. 113-F3, 5 August 2000, ‘O Poryadke Formirovaniya Soveta Federatsiya Federal’novo Sobraniya Rossiiskoi Federatsii.’ Adopted by the State Duma 19 July 2000 and ratified by the Federation Council 26 July, 2000, *Rossiskaya gazeta* (5 August 2000).

the ratification of top posts to the judiciary and procuracy (although this will fall to their delegates). Putin will now be able to use the threat of prosecution to keep the chief executives in line.

As regards the appointment of new delegates, in a surely unforeseen scenario we have witnessed the selection of outgoing governors to represent incoming governors,⁷ or the choice of deputy governors. Legislative chairs have also selected former high ranking members of their assemblies as their delegates.⁸ Thus, by the end of January 2002, 23 former governors and 15 former regional speakers had been appointed to the Council. And in other cases, regions have chosen Moscow insiders or high ranking entrepreneurs.⁹ Overall, of the total of 166 delegates appointed to the Federation Council by the end of January 2002, 71 were permanent residents of Moscow. As Orttung notes, as a result of these new appointments, “many of the members have closer ties to the federal government and capital-based big business than to the regions they are supposed to represent” (Orttung, 2002, p. 4). Such developments have undermined one of the basic prerequisites for a federation, namely what Preston King calls ‘the legislative entrenchment’ of federal subjects in central decision making (King, 1993, p. 93). The formation of a powerful pro-Putin group, *Federatsiya* in the Council, and the election on 5 December 2001 of Putin’s choice of speaker (Sergei Mironov) and the Kremlin’s influence over the election of the Council’s deputy speakers have seriously weakened the powers and independence of the upper chamber.¹⁰

The State Council

To sweeten the pill and to partially compensate the regional elite for their loss of membership in the upper chamber, Putin on 1 September 2000 created a new presi-

⁷ The Governor of Kaluga, Vyacheslav Parinov appointed his predecessor Valerii Sudarenko; Chukotka Governor Roman Abramovich appointed former Governor Aleksandr Nazarov. In Altai Krai, Governor Aleksandr Surikov named Vladimir Germanenko, a Deputy Governor in the Krai; Andrei Chirkin, the First Deputy Governor of Khabarovsk Krai, will represent the Krai Administration. And Viktor Stepanov, former head of Kareliya was selected to represent that Republic’s Presidential Administration. See, J. A. Corwin, RFE/RL Federation Report, (16 December 2001), 2.

⁸ The legislature in Buryatiya selected Vladimir Bavlov, Deputy Chair of Buryatiya’s Committee on Natural Resources; Legislators in Amur Oblast selected Galina Buslova, General Director of the Aviation Agency ‘Aviatrast’; Deputies in Khabarovsk Krai’s Legislature confirmed the selection of the former Chair of the Krai Legislature, Viktor Ozerov as their representative. See, J. A. Corwin, RFE/RL Russian Federation Report, (16 December 2001), 2.

⁹ The head of ‘Transaero’, Aleksandr Pleshakov was nominated by the Governor of Penza oblast; Sergei Bekov, Vice President of the Russian Union of Industrialists and Entrepreneurs (Ingushetiya); Leonid Binder, a Norilsk Nickel Executive (Taimyr AO); Ilya Lomakin-Rumyantsev, a former Federal Finance Ministry official (Marii-El), and Oleg Deripasta, the Head of ‘Siberian Aluminium’ (Nizhnii Novgorod). See, J. A. Corwin, RFE/RL Russian Federation Report, 3:12 (4 April, 2001), 2–3.

¹⁰ As Orttung notes, former officials in the seven federal districts are also well represented in the new Council. Thus, for example, the Volga district “sent two deputies and one chief federal inspector; the Siberian Federal District, two chief federal inspectors, and the Northwest Federal District one staff member”. R. Orttung, *EWI Russian Regional Report* 7:5 (6 February 2002), p. 12.

dential advisory body — the State Council.¹¹ The new body which is made up of all of the chief executives from the regions meets once every 3 months and is chaired by the President. There is also an inner Presidium made up of seven governors (one from each of the federal districts), whose membership rotates each 6 months. The members of the Presidium meet with the President once every month.

However, neither the State Council nor its Presidium is likely to have real powers. The new body is purely consultative and has no law making functions. Moreover, as it was drawn up by presidential decree, it may similarly be dissolved by the President if it is not to his liking. The magazine *Itogy* has called the new council ‘the factory of governor’s dreams’ (Busygina, 1997, p. 8). Its main aim at present is to give the regional leaders a direct channel to the President and some limited input into policy making. However, there may be a more sinister motive behind the creation of the new Council. Putin may be planning in the future to replace the Federation Council with this much weaker rubber stamping body (see Teague, 2002).

Dismissal of governors and dissolution of regional legislatures

The third major reform struck at the very heart of the regions’ power structures — a new law giving Putin powers to dismiss popularly elected governors and to dissolve regional assemblies.¹² As Putin explains such legislation now makes it possible for federal intervention “in situations in which government bodies at the local level [have flouted] the Russian Constitution and federal laws, violating the uniform rights and freedoms of Russian citizens” (Putin, 2000b, p. 3). The new law gives both chambers of the Federal Assembly, the general procurator and the regional legislatures the right to recommend that a governor be removed. However, as Corwin notes, the process is so long and involved that regional leaders would have to demonstrate “unprecedented obstinacy, audacity, and even stupidity” before they could be fired. For a regional head to be dismissed,

One, he must on two different occasions ignore presidential decrees, two, allow the passage of two bills with provisions that violate federal laws, or three, make use on two different occasions of regional acts previously denounced by the president or the courts. And, in each of these cases, a court verdict is required ruling that these actions constitute violations of federal law (Corwin, 2000, p. 1).

The President can also temporarily remove a governor while criminal charges that have been filed against him are being studied. If the President removes a governor from office he appoints a temporary governor to replace him. However, it is interest-

¹¹ ‘Ukaz Prezidenta Rossiiskoi Federatsii’, No. 602, 1 September 2000, published in *Rossiiskaya Gazeta* (1 September 2000).

¹² The law on the removal of the governors and disbanding of legislatures takes the form of amendments to the Federal Law ‘Ob Obshchikh Printsipakh Organizatsii Zakonodatel’nykh (Predstavitel’nykh) i Iсполnitel’nykh Organov Gosudarstvennoi Vlasti Sub’ektov Rossiiskoi Federatsii’, which was ratified by the President on October 6, 1999 and Published in *Rossiiskaya gazeta* (19 October 1999).

ing to note that Putin did not use his new powers against the Governor of Primorskii Krai, Yevgenii Nazdratenko. Instead, Putin simply dismissed Nazdratenko and to keep him quiet, rewarded him with a ministerial post in Moscow. Moreover, as Orttung and Reddaway note: “even if the president does force a governor out of office, the region will hold new elections within six months, and there is no guarantee that the new governor will be any more pleasing to the federal government than the old one (Orttung and Reddaway, 2001, p. 98)”.

The law also calls for the dissolution of regional assemblies if they violate federal legislation. According to this legislation, regional assemblies have three months to amend any legislation that violates federal laws or legal proceedings may be enacted against them. However, the President must gain the approval of the State Duma before an assembly can be dissolved. Whilst it is certainly the case that regional assemblies do pass legislation that infringes the Constitution, it is highly questionable that Putin’s right to dissolve democratically elected assemblies is itself constitutional.

The Governors’ rights to dismiss lower level officials.

Putin also steered passage of a law through the Duma which gave the governors the right to dismiss lower level administrative heads (with the exception of the mayors of capital cities) within their regions. As Putin explained:

if under certain conditions, the head of a region can be removed from office by the country’s president, then the regional leader should have a similar right with respect to lower-ranking authorities (Putin, 2000a, p. 5).

Also to win over the governors’ support Putin promoted the so-called third-term law in the Duma. Under this law, the leaders of sixty nine Federation members will now be able to run for a third term and some even for a fourth even although such extensions to their tenure violate regional charters and republican constitutions (Kostyukov, 2001, p. 1).¹³

Bringing regional legislation into line with federal laws

One of the main aims of Putin’s reforms was to create a unified legal space in the Russian Federation. To this end therefore, the polpredy have been charged with overseeing the complex process of bringing republic constitutions and regional charters (and other local laws and decrees) into line with the federal constitution and federal laws. By 2001 the number of normative legal acts adopted by the regions and republics exceeded 300 000, and of these, just under a quarter (70 000) contradicted the federal constitution and federal laws (Vil’chek, 2001 p. 20).

Within a matter of just a few months after his election to the Russian Presidency

¹³ This amends a previous law adopted in October 1999 which limited governors to two terms. The amendment counts the first term for a governor as the one starting after 16 October 1999.

in March 2000, Putin issued decrees demanding that the republics of Adygeya, Altai, Bashkortostan and Ingushetiya in addition to Amur, Smolensk and Tver oblasts, bring their regional laws into accordance with the Russian Constitution and federal legislation. Putin's decrees were backed up by two landmark decisions of the Constitutional Court (adopted on 7 June and 27 June 2000) which ruled that the republics' declarations of sovereignty were incompatible with the sovereignty of the Russian Federation.¹⁴

In August 2000 the Chief Procurator of the Russian Federation called for all regional laws to be brought into line with federal laws by 1 January 2001. And reporting back, in January 2001, the deputy head of the Presidential Administration, Dmitrii Kozak, boasted that about 80% of the regional laws checked by the administration had either already been brought into compliance with federal law, or were being considered in the courts (Corwin, 2001a, p. 2). In the same month Putin declared that 60 constitutions and regional charters, as well as over 2000 regional laws had been brought into compliance with the Constitution (Interfax, 11 January, 2001, p. 3). However, there would appear to be as many different figures about the number of laws which have been brought into line as there are members of the presidential administration, and as Orttung notes, there are good reasons to believe, "that the numbers they cite are probably about as meaningful as Soviet era crop statistics" (Orttung, 2001, p. 4).

In April 2001 the Justice Ministry reported that 23 regions continued to adopt laws which contradicted federal legislation (Corwin, 2001b, p. 1). And in the same month, in his address to the Russian Parliament, Putin declared that over 3500 normative acts adopted in the regions continued to contradict the Russian Constitution and Federal laws (Orttung, 2001, p. 2). Putin's efforts to rein in the regions has elicited a range of reactions from reluctant acquiescence to outright defiance. Many republics and regions have dragged their feet in implementing the reforms and/or they have steadfastly refused to renounce their sovereignty and their control over natural resources. Indeed, it is possible that the number of laws violating federal norms may actually have grown in number! For just as quickly as old legislation is being revised to conform to federal norms, regional and republican parliaments have been able to adopt new laws with new infringements. For example, more than two dozen amendments made to the Constitution of Khakasiya (in its revised edition of 21 November 2000) are in violation of federal laws (Shandarov, 2001, p. 5). Only under considerable pressure from the presidential representative in the Siberian district and threats that federal subsidies would be cut off, did Tyva finally adopt a new version of its Constitution on 6 May 2001. The previous version of the constitution gave the republic the right to secede from Russia and declared that only republican laws would be in effect during crises. However, there have been so many legal violations in the

¹⁴ Resolutions of the Constitutional Court of 7 June and 27 June 2000 repudiated the sovereignty of the republics as not in line with the Federal Constitution. See, M V. Baglai, *Konstitutsionnoe Pravo Rossiiskoi Federatsii* (Moscow: Norma, 2001), pp. 305, 338–339. This same resolution also noted that it was against the Constitution for regional organs of power to appoint officials of federal bureaucracies in the regions.

process of writing the new constitution that its legitimacy is now being challenged in the courts (*Kommersant Daily*, 8 May, 2001, p. 2).

In Bashkortostan, the new Constitution which was adopted in November 2000 is reported to contain almost as many violations as the old one! And whilst the new version:

places limits on the republic's sovereignty, no longer declares its laws above Russian laws, removes claims that the republic is a subject of international law, and introduces procedures for appointing judges and procurators in line with federal norms, it still includes the full text of the Republic's power-sharing treaty (Rabinovich, 2001, p. 10).

The Bashkortostan authorities have refused to recognise the rulings of the Russian Constitutional Court and continued to adopt legislation that violated federal laws (Rabinovich, 2001, p. 11). In December 2001, 72% of Bashkortostan's laws still violated federal norms, a figure which was actually higher than it was in May 2000 at the beginning of Putin's reforms (Rabinovich, 2001, p. 10).

The Tatarstan leadership has also steadfastly refused to renounce the Republic's sovereignty, and a Bilateral Commission set up to examine the Republic's Constitution also agreed to uphold the 1994 bilateral treaty, "even though it contradicts both the federal and republican constitutions in several places". Moreover, President Shaimiev has repeatedly called for the Russian Constitution to be brought into line with republican constitutions rather than vice versa.

Likewise in Sakha there has been strong opposition to Putin's reforms. Thus, for example, on 16 January 2001 the Sakha Republican Legislature rejected a law proposed by the Republican Procurator that would have renounced the Republic's sovereignty. Nineteen of the legislature's 32 members voted against it. And in March 2001, the legislators (in the lower house of the republican parliament) refused to make amendments to article 5 of the Republic's Constitution which gives it ownership over its land and natural resources. The Sakha Government had signed a 25 year agreement with the Alrosa diamond company on 11 January 2001, and it was in no mood to give up its control over such a lucrative source of income. Diamond production in the republic makes up 77% of the government's revenue (Yemelyanov, 2001, p. 3). However, the legislators did agree to remove from the Republic's Constitution 10 of the most serious violations of federal law, including a provision which allowed the republic to have its own army (*EWI Russian Regional Report*, 2001, p. 6). Little progress had been made in amending Sakha's Constitution by the summer of 2001. Thus, for example, on 3 May 2001, the Sakha Supreme Court declared that about half of the 144 articles in the republican constitution were unconstitutional (Ortung, 2001, p. 4).

It is not only in the republics that such infringements of federal legislation have taken place. Thus, Latshev, the Presidential Representative to the Urals Federal District, in an examination of 1544 regional laws found that 306 violated the Russian Constitution and federal legislation. The study also revealed that 92% of municipal charters and 48 of the 67 agreements signed between federal agencies and regional

executive branch agencies in the federal district also violated federal laws (Pushkarev, 2001, pp. 4–5). Within the Urals Federal District, the governor of Sverdlovsk Oblast, Rossel, has been particularly defiant. An analysis of 157 regional laws in his region uncovered federal violations in 81. And by January 2001 the regional Duma had only amended 22 of these (EWI Russian Regional Report, 20 December, 2000, p. 5).

In the summer of 2001 Putin, realising that his reforms were being bogged down, announced a new initiative – the setting up of a commission to examine Russia's bilateral treaties. Addressing the first session of the commission, which took place on 17 July 2001, Putin admitted that adding yet another layer of bureaucracy to deal with the governors had been a failure. Regional leaders, he noted, had responded by building “a Great Wall of China” between themselves and the center (Corwin, 2001c, p. 2). The Commission also called for regions to unilaterally rescind their bilateral treaties. However, by September 2002 10 republics (including, Bashkortostan, Sakha and Tatarstan) continued to stress that their treaties were still operative.

Putin's federal reforms and democracy

There is a paradox at the heart of Putin's reforms — that is, they can be read as both promoting and restricting democracy. Bringing regional legislation into line with the Russian Constitution is absolutely essential for the consolidation of democracy, particularly in those ethnic republics which have deprived their citizens of universal democratic norms and human rights. Thus, for example, recent moves to bring Bashkortostan's law enforcement bodies into line has undoubtedly improved the human rights of citizens in the republic. In May 2001 under pressure from federal authorities Bashkortostan prosecutor, Yavdat Turumtaev, admitted that republican law enforcement agencies “grossly violated criminal procedure law” and that 50% of all arrests and detentions in the republic were illegal. Over two thousand individuals have recently filed suits claiming that they were arrested and detained illegally. By reasserting the rule of law and due process, Putin's reforms in Bashkortostan and many other republics were positive steps in creating equal rights for all citizens across the federation. However, on the other hand, Putin's new powers to sack democratically elected governors and to dissolve regional legislatures is a setback for the consolidation of democracy.

Whilst most students of Russian federalism support Putin in his quest to discipline unruly regional bosses, many have argued that the President's radical reform of the federal system may have ended up throwing the ‘baby out with the bath water’. Putin, it is argued, could have simply called for a more vigorous enforcement of existing executive powers.

There are real worries that Putin's quest for law and order will be bought at the expense of civil liberties and the consolidation of democracy. For Boris Berezovskii, Putin's reforms “will destroy the system of the balance of power, which is necessary for the normal functioning of any democratic government and market economy, significantly increase the authority of the executive branch of power at the expense of

the legislative and limit citizens' participation in the representative management of government" (Berezovskii, 2000, p. 1).

Putin's reforms also put into doubt his adherence to the principles of federalism as enshrined in the Russian Constitution. In his book, 'First Person' Putin stated that, "from the very beginning, Russia was created as a super centralised state. That's practically laid down in its genetic code, its traditions, and the mentality of its people" (Sakwa, 2002, pp. 182–183).

Putin's reorganisation of the Federation Council, his usurpation of unilateral powers to dismiss regional assemblies and chief executives, combined with his creation of the seven federal districts, make a mockery of federalism and democracy (for a discussion of federalism and democracy, see Ross, 2000). Moreover, as Chuvash President Nikolai Fedorov has pointed out, the people have no way to democratically check the activities of the seven unelected presidential representatives (Fedorov, 2000, p. 2).

Putin's reforms also "exploit the constitutional failure to clearly assign competencies to different levels of government and to create a transparent and accountable definition of exclusive federal, shared, divided and residual powers" (Heinemann-Gruder, 2002, p. 154). In federations, regional autonomy is constitutionally guaranteed and as Elazar states, the 'noncentralisation' of federations must be distinguished from the 'decentralisation' of unitary states. In other words, in federations there is a vertical separation of powers among federal and regional bodies of power, each of which have constitutionally guaranteed rights and powers (Elazar, 1987).

Furthermore, as Smirnyagin notes, each tier of government is "chosen at separate elections by the state's citizens, who give each its own legitimacy and make it independent of the others" (Smirnyagin, 2001, p. 3). Putin cannot legally centralise policy areas which come under the joint authority of the regions and the federal government (as outlined in article 72 of the Russian Constitution). And the federal government cannot simply ignore the rights of the federal subjects without itself violating the Constitution and undermining both federalism and democracy.

Moreover, Putin's claim that his reforms are wholly within the ambit of the Constitution is patently absurd. His attempts to justify his reforms by stating that they are reforms of his presidential administration and not of the country, remind us of Yeltsin's cynical manipulation of the Constitution and his penchant for ignoring federal laws whenever it suited him.

Finally, Putin faces the same dilemma as that of Gorbachev and Yeltsin before him, namely how to maintain the unity of the state without abandoning a commitment to democratisation. At present it would appear that Putin is willing to sacrifice democracy in order to win unity. However, his attacks on the sovereignty claims of the republics are surely just as likely to stir-up nationalist sentiments as to quell them. Putin will have to tread carefully if he does not want to lead Russia back to the chaotic days of the early 1990s and the time of the 'parade of sovereignties'.

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