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INSTITUTIONS AND INCENTIVES: THE PROSPECTS FOR RUSSIAN DEMOCRACY

Peter C. Ordeshook



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Abstract

The lament that Russia is at the mercy of powerful personalities contesting for the reigns of power may be accurate. But here we want to find a way out of this condition. We begin by noting that more than mere lip-service needs to be paid to the idea that the two dimensions of reform – economic and political – are fused and that one cannot be attacked without attacking the other. Just as economic policies are manipulated in accordance with the principle that socially desirable outcomes cannot be willed or wished into existence – they derive, if at all, from the ways in which government action and the structure of economic institutions channel individual self-interest – the same must be true of political reform. Tracing the interests established by Russia's current constitutional order with respect to representation and elections, though, we conclude that that order and those interests almost certainly preordain executive-legislative conflict. Focusing, then, on those things that can be changed without constitutional amendment, we suggest a set of electoral reforms that promise to alleviate at least this problem and that allow for presidential leadership rather than the mere administration of authority and power.

INSTITUTIONS AND INCENTIVES: THE PROSPECTS FOR RUSSIAN DEMOCRACY¹

Peter C. Ordeshook

Can Russia become a stable democracy, protective of individual rights? Are there ways to end the conflicts that seem a permanent feature of her politics? Will the new constitution bring order to presidential-legislative relations and to the process of making law? Is Russia destined to repeat its historical experience with political reform, to be driven again into the arms of authoritarian rule and possibly even dismemberment?

Presently, pessimistic answers to all of these questions seem more viable than optimistic ones. Democratic reformers scurry about in disarray, stunned by their dismal performance in the December 1993 parliamentary elections, while nationalists and fascists marshal their forces so as to seize power through Russia's infant democratic institutions. Political maneuver continues to be characterized by minimal adherence to the law, and even otherwise staunch defenders of democracy are willing to resort to undemocratic actions when it serves their purposes. No longer are people concerned with lofty Marxist or Democratic ideals: Their primary concern is mere survival, while those in a position to do so act to strip the society of whatever they can to ensure their own prosperity. Anarchy in day-to-day business ventures is tempered only by mafia clans, whose ability to enforce contracts is unchallenged by the state. And with plummeting industrial production and portents of soaring unemployment as backdrops for ever-increasing demands for subsidies to inefficient agriculture and industry, comparisons with Weimar Germany do not stretch the bounds of credulity.

When looking, then, at the outcome of the December elections it would seem that we should not ask why democratic reformers fared so poorly and why a fascist, Vladimir Zhirinovsky, fared so well, but why reformers received as many votes as they did and why fascists, extreme nationalists, or those who simply prefer to halt reform failed to secure outright control of the parliament.²

¹ Preliminary versions of this paper were presented at the Conference on Economic Reform, Moscow, May 1994, sponsored by the University of Maryland's IRIS Center in collaboration with the Institute for Economic Transition, and at the Summer Training Workshop, Toronto, June 1994, sponsored by the Social Science Research Council and the Center for Russian and East European Studies of the University of Toronto.

² If we look only at those seats in the Duma (lower legislative chamber) filled by national party-list proportional representation, Zhirinovsky's party, in combination with the Communists and

It serves little purpose, though, to compile lists of problems that confront Russia (and the other successor states of the USSR). Instead, we should ask whether these states are trapped in some terrible equilibrium that can be escaped only by greater and more dangerous political turmoil and by a retreat from the principles of liberal democracy. In this essay, we want to find a way out of this condition - reforms or a perspective on reform that leads to more optimistic answers to our initial questions.

We begin by noting the schizophrenia about reform that is common to most ex-Soviet states, Russia in particular. Reform has two dimensions -- an economic one and a political one. And although lip-service is paid to the proposition that these two dimensions are fused and that one cannot be attacked without attacking the other, they are approached as though different principles guide each. In fact, the same basic principle ought to direct our confrontation of both.

The strategies of the economic reformer are stated in terms of laws on private property, banking, and contracts, and take the form of government policies on tariffs, taxes, privatization, borrowing, and subsidies. Regardless of the "school of thought" to which a reformer adheres, it is understood that these laws and policies need to be manipulated in accordance with a common principle -- that socially desirable outcomes cannot be willed or wished into existence; they derive, if at all, from the ways in which government action and the structure of economic institutions channel individual self-interest. People cannot be made to work, save, invest, or invent through mere hortatory. As with Adam Smith's invisible hand, people must be given the incentives to do these things in natural and self-sustaining ways. Thus, by manipulating government policies and by nurturing the development of appropriate economic institutions and processes, reform must make working, saving, investing, and inventing in people's immediate self-interest.

Although the ways in which the principle of self-interest is best applied in economics to achieve certain ends are only imperfectly understood, its applicability with respect to the second dimension of reform, the political one, is even less well appreciated. But appreciated or not, the transition to democracy also consists of the design and manipulation of institutions -- in this instance, of schemes of legislative representation, election laws, and constitutional allocations of power -- that render certain types of actions and the pursuit of certain classes of outcomes in people's self-interest. And if a democracy is to be stable, then those institutions must be crafted so that they occasion the incentive among people with the power to abolish those institutions, to refrain from doing so.

Americans looking for applications of this principle of self-interest need look no further than the crafting of their own constitution. Although the circumstances they confronted were profoundly

Agrarians, secured 43% of the vote whereas the reformist parties Russia's Choice, Yabloko (Yavlinski), Democratic Reform (which failed to surpass the 5% threshold) and Russian Unity and Concord received 34%.

different from those of present-day Russia, the parallelism of economic and political reform was well understood by the framers of the U.S. Constitution. For example, when debating the method whereby judges ought to be selected, Benjamin Franklin sought to inspire a fuller consideration of the alternatives among the delegates to the Philadelphia Convention by relating a Scottish method "in which the nomination proceeded from the lawyers, who always selected the ablest of the profession in order to get rid of him and share his practice among themselves." Applied to the protections democracy provides against tyranny, James Madison generalized the principle Franklin illustrated when he wrote: "the great security against the gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and **the personal motives** to resist encroachments of the others ... Ambition must be made to counter ambition" (*Federalist*, no. 51, emphasis added).

It is this principle that Russia has not yet applied with any great consistency in its approach to political reform. Perhaps we should not be surprised. The discovered laws of economics that derive from the principle of self-interest -- the laws of supply and demand, of rational expectations, of market efficiency and of market failure -- compel us to a daily appreciation of their relevance in the economic activities of the individual and the state. In addition, the comparative prosperity of "the West" forced an understanding of the imperatives of the principle of self-interest and those laws not only on the elites within the Soviet orbit, but on the population in general. Unfortunately, fewer such laws have revealed themselves in politics. Economic errors allow for continuous refinement and adaptation of policies and theory, whereas political ones often are revealed too late or in too complex a circumstance to allow for learning and correction.

This fact, coupled with the baggage of a past that denied the universal relevance of the principle of self-interest and the ideals of liberal democracy, yields a circumstance in which political reform is not always viewed from the same perspectives as economic reform. It is viewed instead through the old lens of command and control -- of the need to manipulate the traditional means of exercising control through crude instruments of power and allocations of authority. Rather than pay heed to the complex (and imperfectly understood) ways in which democratic institutions shape incentives and sustain themselves, it is only the outer shell of those institutions that are manipulated. And with people's perceptions of the future obscuring by the uncertainties of transition, and with those in power sharing an understandable reluctance to relinquish their authority, those manipulations are motivated less by a search for a stable democratic order than they are by the singular goal of securing immediate political advantage.

The common lament in Russia that all politics are the politics of personalities and power may be an apt summary of the current situation. But we need to understand that this situation is itself less

a cause of anything than it is a manifestation of the failure to appreciate that the basic principle of political reform is identical to that of economic reform. Describing the situation thus and searching for a cadre of new, more enlightened leaders, can only yield disappointment and cannot contribute to the task of ensuring a democratic Russia. If the principle of self-interest is universally valid, then the actions of any new cadre of political elites will be dictated by the same incentives that guide the actions of the current ones. It is as though the solution to market failure were assumed to be the replacement of one set of CEO's with another set. This assumption is silly in economics, and it is equally silly in politics. Once again, Madison summarizes the matter: "If men were angels, no government would be necessary ... In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself (*Federalist*, no. 51).

Meaningful political reform, then, requires that we look to those things that determine incentives, especially of those who hold the coercive reins of government in their hands. And indeed, it is the failure to do these things carefully that now bedevils Russia's transition to democracy. Specifically, this failure is revealed in at least these three ways:

- the way in which the new Russian constitution tries to shape presidential-legislative relations;
- in the general approach to federalism and the way in which Moscow tries to meet the demands for regional autonomy; and
- in the failure to understand the determinants of political party structures, the role of parties in facilitating the resolution of political conflict, and the relationship between parties and interest groups.

2. Executive-Legislative Relations

As written, the new Russian constitution, ratified by popular referendum at the same time as the 1993 parliamentary election, gives every indication of extending the conflict between president and parliament that precipitated Yeltsin's coup against the old parliament. Parliament legislates but the president can also make law (by decree insofar as the law is silent); the president can veto acts of parliament, but the parliament can veto decrees (by passing contrary laws and, if necessary, by overriding presidential vetoes of those laws); and the president can hire and fire ministers, whereas the parliament can vote no confidence in the government and compel the president to choose between replacing his ministers and scheduling new parliamentary elections. Thus, the new constitution adheres to only the most superficial notion of a separation of powers, and, aside from those special

powers that give the president the upper hand in any dispute (to dismiss parliament, to call referenda, to suspend local acts and laws, and to interpret the constitution in his role as "protector of the constitution"), it places the president and parliament in direct opposition to each other. In a state with strong democratic traditions, such institutional entanglements might compel compromise, as when President Mitterand and Prime Minister Chirac resolved the problem of cohabitation, or when executive and legislative branches of a government allow the third branch, the court, to resolve disputes between them.³ But the likelihood of compromise depends not only on necessity, but also on the incentives to do so. That is, the likelihood that Russia will choose the compromises that characterize stable democracies versus the conflicts and instability that characterize an unstable one depends largely on whether political elites believe that their individual objectives are best served by compromise or by conflict.

In attempting to trace the incentives of any president and deputies to parliament, it is not unreasonable to begin with the assumption that, whether patriotic or venal, the goals of political elites can be expressed in terms of the quest for power and for the authority to manipulate governmental policy and outcomes. But regardless of the ultimate ends to which power and authority are to be directed, we should also assume that, insofar as the Russian constitution outlines the rules under which they must operate (otherwise, a discussion of the prospects for democracy is mute), the ability of people to achieve these ends will depend on the likelihood that they can secure the support of those who would directly or indirectly confirm their appointment to public office -- the people. It is this relationship that determines the fates of those who fill these offices in a constitutional democracy, and it is this relationship that determines the consequences for those elites of alternative compromises as well as the failure to compromise. Unfortunately, it is here that those Russians who have filled in the details of the relationship between public office-holders and the people by law, decree or constitutional provision, have undermined the prospects for compromise and democratic stability.

Although the rules for presidential selection are not yet set in statutory concrete, it is almost certain that the next president will be directly elected using a simple majority-with-runoff procedure. That is, if no one receives a majority of the vote on the first ballot, a runoff election will be conducted between the two strongest candidates, and the winner of that contest will become Russia's next president. We have no quarrel with direct presidential elections (although later we argue against this specific implementation of that idea). We do want to emphasize, though, that if Yeltsin could successfully claim a national mandate on the basis of questionable referenda, then a new president,

³ See, for example, the discussion in Matthew S. Shugart and John M. Carey, *Presidents and Assemblies*, Cambridge: Cambridge University Press, 1992.

directly elected and guaranteed a majority vote on either the first or second ballot, will be able to claim the same mandate on an even firmer footing. Indeed, requiring that the eventual winner secure a majority of the votes cast at some point in the process (as opposed to, say, electing the simple plurality winner) is intended to ensure a mandate.

Mandates are valuable commodities for anyone choosing to exert presidential leadership and it is imperative that, given his constitutional powers, he be given the opportunity to lead. But set in the context of the constitutional powers of the president versus parliament and combined with the specific method Russians have chosen for electing deputies to the Duma (lower legislative chamber), we find that direct election of president implements a constitutional system that virtually guarantees executive-legislative deadlock.

The problem here originates not with direct election of the president, but with the electoral system used for the Duma elections. The next Duma election, scheduled for December 1995, six months prior to the next presidential election in June 1996, will most likely use the same procedure as was used for electing the first Duma -- half in single member constituencies and half by national party-list proportional representation. This procedure was implemented to facilitate the formation of national parties and to ensure against the election of those opponents of reform that could marshal strong local electoral support. What was forgotten, though, were the incentives among deputies that party list PR establishes and how those incentives might engender conflict with any president, reformist or otherwise. Specifically, with candidates for the Duma competing through national party lists, and with parliamentary elections occurring before and independent of the presidential contest, any majority coalition within the Duma can assert the same mandate claimed by the president -- a mandate that Zhirinovskiy claimed with only 23 percent of the vote and which someone with any larger percentage is certain to argue is his.

Thus, with both the president and one or more parties in parliament claiming the same thing -- possession of a mandate to lead -- and with the new constitution confusing the issue of "who is in charge," the stage is set for conflict and crisis of precisely the same sort that characterize the early stages of Russian democracy.

Stable democracies avoid the potential for conflict Russia has built into its constitutional order in one of two ways. In presidential systems like the U.S., individual legislators typically are elected from narrowly drawn constituencies. Despite proclamations that legislators ought to represent the interests of the entire country (which they do whenever there is a near-consensus on matters and, thus, whenever the meaning of "national interest" is clear), this structure of representation dilutes the legislature's claim to a national mandate and give individual legislators a primary interest in satisfying

their more narrowly defined constituencies.⁴ Even if the legislature is controlled by a party other than the president's, a president who claims a national mandate need not find himself in opposition to the legislature. Compromises can be reached through the simple expedient of linking the president's national policy objectives to the specific interests of local constituencies through the processes of logrolling and vote trading that characterize the give and take of democratic politics.⁵

Parliamentary systems take a different approach. Regardless of the way in which parliament is elected, and regardless of what mandate parties may or may not claim, the president's powers (more generally, the chief of state, since we should not exclude constitutional monarchies from the discussion) are weakened and the executive branch is, by definition, made the creature of parliament. Thus, the authority to lead rests with the government as sanctioned by parliament. The government (prime minister) can claim a mandate, but only to the extent that it enjoys the support of parliament. And although a directly elected chief of state can also claim a mandate when, for instance, emergencies arise, conflict is avoided by a diminution of this office's ability to interfere in general executive and legislative functions.

This is neither the time nor the place to argue which of these two governmental forms is best for Russia. Some commentators argue that Russia's political traditions and contemporary circumstances require the strong, unitary leadership most compatible with a presidential system. Others argue that the potential for executive-legislative stalemate requires the fusion of executive and legislative branches that define a parliamentary system. However, Russia has adopted neither of these forms, or more confusingly, it has adopted both simultaneously. The powers of the presidency there are indeed exceptional, whereas the parliament, in addition to its normal legislative law-making function, is given control over whether the existing constitution should be treated as a transitional document, as well as the rules that govern the president's powers in an emergency, his authority to call referenda, and some control over the government itself.⁶ Thus, it has instead adopted a political structure that

⁴ The clearest expositions of this view are offered in David Mayhew, *Congress: The Electoral Connection*, New Haven: Yale University Press, 1974; and Morris P. Fiorina, *Congress: Keystone of the Washington Establishment*, New Haven: Yale University Press, 1977.

⁵ See, for example, John A. Ferejohn, *Pork Barrel Politics*, Palo Alto: Stanford University Press, 1974.

⁶ To potential for treating the new constitution as a transitional document is provided for in Articles 135 and 136, which specify procedures for amending the document. Article 136 describes a difficult process for amending the main body of the document that parallels the American procedure (approval of two thirds of the lower chamber, three fourths of the upper

closely parallels the one employed in Weimar Germany, with all of the dangers that that structure portends.⁷

2. Federal Relations

Aside from the conflict between the President and the Congress that characterized the first years of Russian democracy, no issue was of greater concern than that of federalism, especially the relationship of Russia's ethnic republics to Moscow. Who was to control Russia's vast natural resources, and who was to oversee the privatization of state property? Were the ethnic republic sovereign, could they conduct their own foreign policy, and could they secede from the Federation? What power did Moscow have over even the existence of regional Soviets that were the legislatures of Russia's federal subjects? Whose laws were supreme, and in what domains? Could regional governments be compelled to forward any portion of their tax revenues to Moscow? Should Russia's ethnic republics, which had historically enjoyed greater autonomy than the other parts of the Federation, be treated differently than those other parts?

We do not want to make judgements about the form of federalism Russia should choose. Instead, we merely want to make three observations about the constitutional bargain that was ultimately established during the constitutional debate. The first is that formal negotiations over this relationship with respect to Russia's ethnic republics focused on a Federal Treaty that consisted primarily of an enumeration of jurisdictions that belonged exclusively to Moscow (e.g., printing money, national defense) and jurisdictions to be shared by Moscow and the republic governments (e.g., regulation of the environment, administration of social welfare programs). Second, and as part of this negotiation, republics demanded that they be identified as "sovereign states," with the presumption that this label, combined with the terms of the Federal Treaty, would protect their autonomous rights. Finally, republics demanded that they retain the authority to renegotiate bilaterally the particulars of their relationship with Moscow, so that separate deals could be struck between regional and national governments over the disposition of joint jurisdictions.

one, and two thirds of all federal subjects). Article 135, though, allows parliament, three fifths in each chamber to call for a new Constituent Assembly that can approve of its own creation either with a two thirds vote or by securing its approval popular referendum.

⁷ To assess the relevance of the Weimar case see especially Carl Schmitt, *The Crisis of Parliamentary Democracy*, Translated from German by Ellen Kennedy, Cambridge (Mass.): MIT Press, 1985.

These observations occasion several questions about the extent to which an understanding of incentives played any role in the negotiations over Russia's federal form. First, was any mechanism envisioned for enforcing an agreement? Second, was any process identified for resolving the ambiguities inherent in a treaty that encompassed virtually all activities and responsibilities of the state? Finally, what consequences were envisioned for the creation of an asymmetric federation that treated republics differently than the predominantly Russian oblasts and krais?

In fact, little attention was paid to the institutional determinants of incentives, and little thought given to answering these questions. Instead, with eyes focused on political expediency, Yeltsin's first draft constitution, offered in April 1993 when the resolution of his conflict with the People's Congress remained in doubt, identified republics as sovereign entities, provided them with the authority to negotiate their relationship with Moscow on a bilateral basis, and, in a provision that could hardly be taken seriously by anyone interested in a system of balanced powers (keep in mind that the republics account for only fifteen percent of Russia's population), required that the representation of the republics in the upper legislative chamber, the Federation Council, be increased to whatever extent necessary to ensure their control of that chamber. All of these special provisions were dropped in the final version once Yeltsin no longer need the republics in his struggle against the Congress.

The final version of the constitution adhered to the idea of enumerated powers, and incorporated the long lists of exclusive and joint jurisdictions that were the core of the Federal Treaty (Articles 71 and 72). Whatever protection the constitution provides for federal subjects is contained in the structure and powers of the upper legislative chamber, the Federation Council. Briefly, the Council is much like the US Senate in form and function. With two deputies selected from each of Russia's 89 oblasts, krais, republics, and so on, the Council approves of any internal changes in borders, regulates the president's emergency powers, approves of the use of troops abroad and declarations of war, convict the president following impeachment by the Duma, and approves presidential nominations to the Constitutional Court. There are, though, two exceptions to the parallelism between the Council and U.S. Senate. The first is the Duma's ability to override (with a two thirds vote) a refusal by the Federation Council to approve of any law (Article 105). The second exception, which can be interpreted generously as a twist on the original provision of the U.S. Constitution that state legislatures determine the means of their state's representation in the Senate, is a vaguely worded requirement (Articles 95 and 96) that the Federation Council be "formed" from the executive and legislative branches of federal subjects. Although compatible with the idea that the chief executive (governor) and chief legislative officer of each region should be deputies to the Federation Council, until Parliament passes a constitutional law that provides details about the method of selection, the President can use his decree authority to establish any method he prefers.

The undifferentiated treatment of republics and other regions of the Federation suggests that Russia has opted for a symmetric federalism in which the autonomy and prerogatives of federal subjects are protected by their representation in an upper legislative chamber. But once again, because of the failure to consider incentives, on closer inspection we find no such guarantee.

That no such guarantee exists can be seen by examining the indirect as well as the direct mechanisms whereby states in the U.S. ensure their autonomy against the powers of the national government.⁸ Although that autonomy has been considerably eroded over two hundred years through increasingly liberal interpretations of constitutional commerce and equal protection provisions, states continue to enjoy a good deal more autonomy than is possessed by federal subjects of most other "federalisms." In fact, the use to which the commerce and equal protection provisions of the U.S. Constitution have been put demonstrates our ability to interpret and reinterpret constitutional clauses in ways that justify nearly anything with respect to the allocation of jurisdictions and responsibilities. And the American Civil War demonstrates that as long as the national government enjoys the support of the military, then in principle, states remain at the mercy of that government.

Thus, we must look beyond constitutional enumerations of jurisdictions and guarantees of autonomy in answering the question "what protects state autonomy?" We must look instead at the incentives of those who have the authority to change or reinterpret a constitution or to simply override its provisions through force.

In the case of the United States, the answer to our question lies not in any enumeration of powers. It lies elsewhere in the constitution -- in the requirement that individual states control the election of the members of both branches of Congress that represent them and their residents. This requirement does a simple thing: it ensures that political parties in the U.S., although operating under only the two labels Democrat and Republican, are primarily state and local organizations. Thus, the U.S. does not have two parties: it has at least a hundred of them -- fifty Democratic and fifty Republican ones. We can even argue that it has thousands to the extent that state parties are merely collections of local ones that cooperate to compete in state-wide or district-wide elections, and that organize on a national basis every four years to nominate and elect a president.

Thus, although it is the competition for the office of the presidency that dictates an equilibrium of two national coalitions and labels, it is a highly decentralized and localized party system that oversees the reelection prospects of individual members of the Senate and House of Representatives.

⁸ Our discussion here of the American case largely follows William H. Riker, *Federalism*, Boston: Little Brown, 1964.

A president may influence events at the margin by influencing public sentiment with respect to which party can take credit or receive blame for the state of the economy or which party is associated with the most recent foreign policy success or failure, but as more than one legislator has expressed the matter, in the U.S. at least, "all politics are local."

With their political fortunes tied to local constituencies and party organizations, national legislators have an incentive, insofar as it matches the incentives of their constituencies, to resist the encroachments of national governmental power. Much of what legislators do in their representative roles is to balance national policy objectives against the authority of state and local governments. Legislative majorities that resist such encroachments, in turn, are supported by an incentive to protect the autonomy of each other's constituency since the protection of one is the protection of all.

Insofar as what it is that maintains this structure as an equilibrium -- the constitutional and statutory laws that govern legislative representation and election -- we need look no further than immediate legislative self-interest. Put simply, legislators have no incentive to change the rules of a game in which they are the winners. If changes are made (for example, "reforms" in campaign finance laws), they are made largely to benefit incumbent legislators rather than to make elections "more democratic." Thus, protection of state and local autonomy is provided by the connection between legislators and constituents and the indirect incentives this creates among legislators to represent their constituencies; this connection, in turn, is maintained by the unwillingness of legislators to change the game they are playing.

No such equilibrium is promised for Russia. First, because we are uncertain how the next president will be elected, we cannot know what role competition for that office will play in determining party organizations. Second, the same is true for selection of deputies to the Federation Council. Although the first session was filled by direct plurality voting, that procedure was a temporary measure dictated by Yeltsin's dissolution of regional Supreme Soviets. It remains an open question as to whether popular election will again be used or whether some type of appointment process, directed by Moscow or regional governments, will be used. Third, Yeltsin's election decree contained within it the framework for a general election law that established a Central Election Commission with broad authority to regulate election rules and procedures. Thus, there is no guarantee that Russia's regions will play any significant role in determining any important structural detail of the electoral process. Finally, we can assume that Russia will continue to employ a system in which half of the Duma is elected by party-list PR, thereby wholly undermining any tendency toward political party decentralization as well as any incentive on the part of Duma deputies to represent and be protective of local and regional autonomy.

Russia, then, has established a "federal" order that is most compatible with a unitary state. But when we combine this fact with the general weakness of the national government, and with the

natural incentives for regional governments to refuse to submit their legally mandated share of tax receipts to Moscow, to treat federal law a supreme, and to regard state property as belonging to them and not anyone else, we have the ingredients for ongoing conflict if not the ultimate dismemberment of the Federation.

3. The Political Party System

A common lament about Russia's transition to democracy is summarized by Yegor Gaidar's political advisor, Vladimir Mau, when he writes: "Economic interest groups are now the key players in Russian politics; political parties, by contrast, have been and remain weak and unstable. In the corridors of power, they wield much less influence than associations of managers and entrepreneurs."⁹ This description is accurate. However, it need not be permanent.

There is nothing special about Russia that dictates political parties of a particular number or type. It is true that in an unsettled social and economic climate, the usual political divide between left and right or between a preference for an activist state versus a laissez faire one that underlies party systems elsewhere is complicated by other issues, such as the nationalist sentiment that derives from the sense of lost glory and empire or the sense of regionalism that derives from decades if not centuries of indifferent dominance by Moscow. On the other hand, if election laws are such that they generate incentives for the formation and maintenance of only fragmented weak parties, then those laws will operate with added force in a society with incoherent or sharply conflicting interests.¹⁰ This is the situation in Russia.

Three features of Russia's political institutions contribute to the fragmentation and incoherence that characterizes parties presently:

- non-simultaneous presidential and parliamentary elections;
- the likely use of a majority runoff election procedure for the next presidential election; and

⁹ "The Assent of the Inflationists," *Journal of Democracy*, April 1994, pp. 32-35.

¹⁰ There is a large literature on this subject, much of which is summarized in Rein Taagepera and Matthew S. Shugart, *Seats and Votes*, New Haven: Yale University Press, 1989, and updated with particular attention paid to the interaction between election laws and social cleavages by Peter C. Ordeshook and Olga Shvetsova, "Ethnic Heterogeneity, District Magnitude, and the Number of Parties," *American Journal of Political Science*, 38, February 1994, pp. 100-23.

- the election of half the Duma by party-list proportional representation.

First, the failure to require simultaneous presidential and parliamentary elections stems, at least in part, from Yeltsin's apparent desire to fill an office that is somehow "above politics" and day-to-day administrative matters. But while this attitude may match the aspirations of an unelected Czar, disallowing simultaneous elections denies a president the opportunity to carry a workable legislative majority with him as a product of his personal appeal and campaign strategy. And when reenforced by an unwillingness to associate with any specific party, nonsimultaneous elections undermine the ability of presidential elections to become a focus for the formation of parties generally.

Second, the use of a majority runoff election procedure for the next presidential election derives from tradition and, admittedly, from the arrogant belief in Moscow that alternative procedures such as preferential voting are beyond the comprehension of Russia's citizens. However, runoffs discourage uncompetitive parties from withdrawing in an election, especially those parties led by those who believe they can negotiate the party's support in a runoff. Thus, if the incentive is not to win but to block others from winning outright so as to trade an endorsement prior to the second ballot for ministerial positions or commitments to policy, then runoff elections can only exacerbate the problem to which Mau refers. Parties must find a constituency, and thus this procedure encourages small parties to act like economic interest groups and it encourages economic interests to act like parties.

Finally, electing half the Duma by party-list PR was intended, as we noted earlier, to stimulate the formation of national parties, as opposed to purely regional or even ethnic ones. Coupled with registration requirements that compelled parties to secure signatures beyond the immediate vicinity of Moscow, this procedure at first glance it appears to have succeeded in this objective. However, even aside from the fact that there were sharp regional differences in the support of the thirteen parties that competed in the first Duma elections, the extent to which even this objective was attained is subject to dispute. The party loyalty of many Duma deputies elected on party lists is questionable, whereas those elected in single-member constituencies have attachments that remain a source of considerable speculation, and some estimates label as many as one fifth of the deputies "independents."

The desire to see parties consolidate so as to present Russian voters with coherent and non-radical alternatives runs afoul of the incentives engendered by national party list PR. Certainly the five percent threshold is a disincentive to form a wholly uncompetitive party. But when combined with the failure to encourage the election of the president to coordinate factions and future aspirants to that office, national PR offers much incentive for the egos that currently cover the Russian landscape to use parliamentary elections as a soapbox for furthering their presidential aspirations.

If we take all features of the election system into account simultaneously, we see that the parliamentary election stage acts much like America's presidential primary elections. It is here that presidential aspirants can try to demonstrate or refine the attractiveness of their platforms prior to the presidential balloting that follows six months hence. In addition to the rewards from parliamentary representation afforded even small parties, the parliamentary stage of voting encourages the fragmentation within the party that does not presently control the Presidency that often characterizes American presidential primaries. However, unlike the American process, there is no stage in Russia, except at the very last ballot, whereby presidential aspirants qua parties are eliminated. Instead, a majority-with-runoff system merely encourages further the party fragmentation that follows from national party-list PR.

4. Reform

Nothing we have said implies the possibility of a quick fix for Russia's political ailments. Indeed, there is scant evidence that democratic process can be sustained in a society experiencing massive deindustrialization, declining population, declining living standards and declining life expectancy. Nevertheless, we should acknowledge the few positive developments in Russian politics. Most Russians appear to have been appalled by the sight of tanks firing on the White House, and most leaders appear willing, albeit for different reasons, to abide for a time by the restrictions set by the new constitution. Separatist sentiment among the subjects of the Federation has muted, at least as long as Moscow is unable to exert its will over them and as long as they, in turn, are able to pursue their own interests.

These developments hardly imply the inevitability of democratic stability. Opponents of reform, believing that Yeltsin has weakened himself beyond repair by his assault on the old Congress, can merely wait for the next round of elections before mounting any new attacks.¹¹ Authorities in the Kremlin persist in undermining the development of democratic process at the regional level by maintaining their control over regional executive authorities and by replacing city and regional governors who oppose their policies.¹² And Yeltsin continues to try to fashion a stable order through mere hortatory -- through the signing of "Civic Accords" that have no means of enforcement

¹¹ See Alexander Rahr, "Russia's Future: With or Without Yeltsin," *RFE/RL Research Report*, 3, 17 April 29, 1994, pp. 1-7.

¹² Julia Wishnevsky, "Problems of Russian Regional Leadership," *RFE/RL Research Report*, 3, 19 May 13, 1994, pp. 6-13.

and that fail to address the institutional deficiencies of Russian democracy.¹³ Nevertheless, none of this means that we should resist trying to fashion institutions that move things in the requisite direction, even if the outcomes we seek can be realized only with luck and in some "long run." To that end, then, we would make three suggestions, all pertaining to Russia's electoral processes, none of which require any change in the constitutional order.

The first change is to abandon any plan to use a majority-with-runoff in the next presidential election. Instead, following Costa Rica (whose stability stands out among Latin American states), a runoff should occur only if no one receives more than forty percent of the vote. One might object to a forty percent threshold with the argument that, although it promises to reduce the number of candidates and parties, it also reduces the likelihood that a victorious candidate can claim the thing that is most important in a nascent democratic state, a mandate to lead. In fact, precisely the opposite is true. The imposition of a fifty percent threshold almost guarantees that no one will surpass this hurdle on the first ballot, whereas the majority vote secured by the eventual winner on the second ballot is likely to be tainted by the bargains struck between the two ballots. However, by lowering the threshold to forty so as to give weak candidates and parties a stronger incentive to refrain from running or even forming, we make it more likely that some candidate will secure a majority on the first ballot. Thus, once we trace out incentives we see that a mandate to lead is more likely to exist if we do not force the system to it.

The second change concerns the method of electing deputies to the Duma. Here we can offer at least two proposals. The first is to allow each federal subject -- each republic, oblast, krai, and autonomous region -- to determine the method of election of its own representatives. Abandoning proscription and regulation by Moscow in favor of decentralization strengthens Russia's federal structure, decreases incentives for party factionalism, and decreases the ability of parties within the legislature to claim a mandate that contravenes the president's.

The disadvantages of this suggestion, at least in the minds of Moscow's power brokers, is that it reduces central direction of things and arguably gives "reactionary forces" outside of Moscow greater opportunities to control Parliament. But the will of voters in a stable democracy cannot be thwarted by blatant manipulations. Nor can a state be federal without a meaningful decentralization of political authority. A critical problem with democratic reform thus far is that it has been mostly a "top-down" process, with little opportunity for democratic processes to become established at regional and local levels. Decentralization of representation and election laws establishes incentives for local political

¹³ Vera Tolz, "The Civic Accord: Contributing to Russia's Stability?" *REF/RL Research Report*, 3, 19, May 13, 1994, pp. 1-5.

elites to learn the rules of democracy and diminishes their incentive to maintain a "guerilla-war" relationship with Moscow.

An alternative to our suggestion is to move current procedures closer to the German model by dividing Russia into, say, ten election districts, and to require that parties submit regional lists of candidates. A party's seat allocation in the Duma would continue to depend on its share of the national vote, but it would be required to allocate its seats among its lists in accordance with how its vote is distributed across regions. This procedure, then, encourages national parties (since it is a party's national vote that determines its overall seat allocation), and it encourages decentralization within those parties (since parties should seek to field candidates in each region that attractive in that region). The disadvantages of this suggestion, though, are that, aside from the disputes that might arise over the identities of regions, it leaves in place some of the incentives for party factionalization as well as the source of executive-legislative disputes over mandates. Although the incentives for party factionalism are attenuated to the extent that it encourages parties to develop regional organizations that will support regional lists, legislative claims to a mandate remain viable and likely to disrupt executive-legislative relations. And this alternative has little effect on Russia's federal structure unless it is somehow accompanied by a decentralization of the administration of elections.

Innumerable alternatives lie between these two extremes, including allowing PR to operate only within each of the ten or so election districts formed under the second alternative or within each republic, oblast, and so on. As we move between these extremes we increase or decrease the incentives for a decentralized party system, for legislative claims to a national mandate, and for the degree of party fractionalization. All of these things need to be weighed in advancing any reform. However, regardless of the specifics of the proposal that is deemed more attractive, we should not forget that nearly anything is better than the current arrangement, which is nothing short of the world's largest experiment with national party-list proportional representation. Two things are certain about this experiment. First, it dooms Russia to an muddled party system, with all of the incoherence of parliamentary process such a system implies. And second, at least one party within the parliament if not the parliament as a whole will claim a mandate in opposition to the president. Finally, we should also not forget that Zhirinovskiy would have remained an minor and somewhat comical political figure had not national party list PR afforded him the opportunity to translate his skill at manipulating the media into 60 or so parliamentary seats.

Party factionalism would be reduced further still if presidential and parliamentary elections are held simultaneously. This change contravenes subsection 3 of the new constitution's transitional provisions, but such a violation should not cause any great disturbance in the constitutional order. More importantly, when combined with our other suggestions, simultaneous elections affords the president a better opportunity to do what is uncommon in ex-communist states -- to exert leadership.

Leadership, however vague and ill-defined, needs to be distinguished from simple political control. Throughout Russian history, those directing the state have relied on the most evident and extraordinary instruments of political power rather than on the democratic arts of persuasion, compromise, and the power that originates from being seen as the spokesman of the people. The lament that Russia is at the mercy of powerful personalities contesting for the reigns of power may be accurate. But simultaneity allows an escape from this dangerous equilibrium. Coupled with direct election, simultaneity allows a president to bargain away some of his formal authority and to look instead to an even more secure basis of power -- the people's mandate.

We appreciate, of course, that our suggested reforms cannot resolve all of what ails Russian democracy. Those ailments are both too complex and too pervasive to yield to any simple, short-term corrective. However, unlike mere exhortations to "behave better" or infeasible demands that this or that provision of the constitution be changed or abolished, these suggestions are enforceable and can be implemented without running afoul of any pre-existing self-interest. But regardless of the steps that are ultimately taken, it is imperative that political reform proceed in accordance with the principle of self-interest and with the understanding that the implications of reform cannot be ascertained without first tracing the incentives it creates or fails to create.