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Jeff Kahn

Putin's Federal Reforms – A Legal-Institutional Perspective

*Happy families are all alike;
every unhappy family is unhappy in its own way.*

Leo Tolstoy, Anna Karenina

*No one argues that Russian executive power
must be enforced, but what does that have to do
with the rights of the regions? It is impossible
to form a strong family by force; one can do so only
with consent and mutual affection.*

*Farit Mukhametshin, Chairman,
Tatar State Council, 3 August 2000¹*

On the eve of the new millennium, Tolstoy's description of the state of affairs at Oblonsky's house seemed an accurate pronouncement on Boris Yeltsin's federal relationships: everything was in confusion.² Federal authority was as often openly flaunted as resentfully acknowledged. The eighty-nine presidential envoys that Yeltsin dispatched to the regions in 1997 to enforce federal law were easily corrupted by the regional authorities on whom they and their

families depended for housing, education and even their own offices. By 1999, they had been all but forgotten by the federal centre. Yeltsin's regional policy had regressed from one of hesitant negotiation with a few regional powers to incessant deal-making. With each new bilateral deal, Moscow weakened its power to enforce its will, and muddied the constitutional authority to assert its rights. The Federation was held together by two unstable forces: personal agreements between elites (many of whom were in power since Soviet times), and the economic necessity born of desperate times.

The inauguration of Vladimir Putin led almost immediately to substantial changes for Russian federalism, though no one at the time predicted the reforms that would spring from the colourless *chekist* who replaced Sergei Stepashin as Prime Minister in Fall 1999. Prior to Yeltsin's surprise New Year's Eve resignation, Putin's regional politics extended to the brutal war he had restarted in Chechnya. The first year of Putin's presidency, however, proved to be the most concerted and fundamental shake-up of federal relations in Russia since the 1993 Constitution.

This paper examines this transition in detail, focusing attention on the legal-institutional aspects of this dramatic shift in policy. First, the end of Yeltsin's 'parade' – of sovereignties, bilateral treaties and special agreements – is examined. Next, attention is paid to Putin's early decrees: 'positive' decrees creating the seven federal districts and federal envoys, and 'negative' decrees that annulled regional laws and legal acts judged by him not to be in conformity with federal law. Finally, I explore Putin's legislative reforms – a three-part package of bills that altered the composition of the upper chamber of the federal parliament, the Federation Council (hereafter FC), and the relationship of its former members to the federal president.

Requiem for the Bilateral Treaty Process

Throughout the Yeltsin administration, bilateral treaties (*dogovory*) and agreements (*soglasheniia*), from negotiation to signature, were an exclusively executive branch activity. Federal and regional legislatures were neither required nor invited to participate at any stage of the process. Only the signature of presidents and prime ministers appeared at the bottom of these documents, without any process of legislative ratification. This omission was deliberate. Struggling to control both the federal parliament and the regions, Yeltsin's super-presidential powers could only weaken by adding more players to the negotiation game. For regional executives, many of whom held their parliaments under thumb,

ratification by another branch of government was either superfluous or an unnecessary risk. Past practice in Soviet patron-client relations, in which all of the participants had received their political schooling, further encouraged the personalisation – rather than the institutionalisation – of federal-regional politics.

Resort to the old patron-client politics, however, placed treaties and agreements in an ambiguous legal position. Certainly, these documents did not have the status of federal constitutional law, or even federal law, having completely circumvented the Federal Assembly. What standing such documents had in regional law was equally unclear given the absence of any legislative approval in regional parliaments. Nor could they be considered the equivalent of federal or regional presidential decrees (*ukazy*), as these acquire legal force through official publication, a requirement never established for bilateral arrangements. Indeed, throughout the 'Parade of Treaties,' popular wisdom held that the most sensitive (and lucrative) deals were purposely kept hidden from scrutiny.

The highly personalized manner in which treaties and agreements were concluded created political problems. All forty-seven treaties agreed between 1994 and 1998 were signed by Boris Yeltsin. The vast majority of names on the other side of the page were those of regional elites who were still in office in 1999. What would happen to these documents when one or both men (and they were all men) left office? Would they still be accorded the force of law?

Too late, Yeltsin attempted to reform this system. On 30 July 1999, a new federal law came into force to regulate the bilateral treaty process.³ Prima facie, this law seemed to institutionalise mechanisms for wider participation in the passage of federal laws dividing issues of joint competency between the Federation and the regions. The law re-emphasized the supremacy of federal laws and the RF Constitution in the hierarchy of laws (Art. 3, § 1; Art. 4). The principle of glasnost in drafting and promulgating treaties was also categorically asserted (Art. 10). Regions were given three years to bring existing treaties and agreements into conformity with federal law (Art. 32, § 2). Of course, after years spent disregarding similar passages in the Federation Treaty, Constitution and countless federal pronouncements, these old mantras had a hollow ring. There was no rush to reform.

The empty repetition of fundamental principles belied a more serious lacuna in the law. A fundamental shortcoming of the new law was the absence of a stronger role for the Federal Assembly and regional legislatures in the treaty-making process. The 1999 law did not require the ratification of treaties by federal and regional legislatures, only examination (*rassmotreniia*) (Art. 23, §§

2–4).⁴ Lacking any right of refusal, or even redaction, legislatures were children at the negotiating table – best seen, but not heard.⁵

Time showed the change to be a superficial one. Yeltsin never signed another treaty, and Putin, in the first year of his presidency, radically changed the rules of the federal game with his sweeping package of reforms – a future the benefactors of this personality-driven process had always feared. From June 1998 through November 2001, no new bilateral treaties or agreements were signed and no existing ones renewed as deadlines passed.⁶ In a speech to the nation in May 2000, Putin declared, ‘I am addressing the lawmakers once again. Once again I would like to stress that the period of forced compromises leading to instability is over.’⁷ Yeltsin’s law on the bilateral treaty process, like the treaties and agreements that were its target, was left to wither on the vine.

‘The Dictatorship of Law’

Early in his presidential campaign, Vladimir Putin introduced a strange phrase into the political lexicon: ‘the dictatorship of law.’ Putin’s speeches and writings on democracy and law were at once encouraging and chilling. His use of democratic concepts often left unclear in what manner he thought them best applied:

In a non-law-governed, i. e. weak, state the individual is defenceless and not free. The stronger the state, the freer the individual. In a democracy, your and my rights are limited only by the same rights enjoyed by other people. It is on recognising this simple truth that the law is based, the law that is to be followed by all – from an authority figure to a simple citizen. But democracy is the dictatorship of the law – not of those placed in an official position to defend that law. ... I know there are many now that are afraid of order. But order is nothing more than rules. And let those who are currently engaged in substituting concepts for one another, trying to pass off the absence of order for genuine democracy – let them, I say, stop looking for hidden dirty tricks and trying to scare us with the past. ‘Our land is rich, but there is no order in it’, they used to say in Russia. Nobody will ever say such things about us in future.⁸

Such statements sent shockwaves through Russia’s weak democratic opposition.⁹ Did the Russian president mean the ‘Rule of Law,’ or a more frightening, bureaucratised rule through laws? Was Putin’s oxymoronic linkage of dictatorship and law compatible with the tremendous act of self-restraint that is government *under* law?¹⁰ Transition away from authoritarianism, as well as the development of stable federal relations, hinged on that choice.

Vladimir Putin's reforms can be divided into three categories. The first reform, the establishment of federal districts and presidential envoys, reshaped the geographic space of federal politics. The second reform was in fact a reassertion of existing powers: Putin seized on presidential authority, left virtually unused by Yeltsin, to suspend the decrees of five regional executives and place Chechnya under direct presidential control. At the same time – some have suggested operating under political pressure – the Constitutional Court issued two sweeping rulings that re-stated its deeply pro-centralising philosophy of federalism and declared the constitutions of seven republics to be riddled with fundamental violations of the federal Constitution. Putin commenced a program, more stick than carrot, of establishing his executive 'power vertical' over the regions, demanding the 'harmonisation' of their laws and constitutions with federal law and the federal constitution. His disinterest in revisiting bilateral treaties was palpable. Third, Putin successfully reshaped the FC and strengthened his 'executive vertical' powers with a summer legislative package.

Presidential Envoys and Federal districts

The first salvo in Putin's federal reforms was fired less than a week after Putin swore his oath of office. On 13 May 2000, Putin signed a presidential decree on 'The Plenipotentiary Representative of the President in a Federal District.'¹¹ The decree and accompanying regulations (*polozhenie*) divided Russia into seven federal districts. These districts coincided with existing military districts. Yeltsin's eighty-nine presidential representatives – one for each subject of the Federation – were replaced by the heads of these new districts; officially termed 'plenipotentiaries' (*polnomochnyye predstaviteli*, or *polpredy* for short), they were more commonly called 'presidential envoys,' or less favorably, '*namestniki*,' referring to the tsarist 'governors-general' established by Catherine the Great.¹² According to the decree, these *polpredy* were officially part of the Administration of the President (the Main Control Directorate – GKU), and charged with overseeing the President's constitutional authority in the districts. The presidential decree and resolution were cryptically vague regarding specific duties, powers and limitations of this new office.¹³

District capitals were chosen to deflate the leadership pretensions of the most powerful regions. In the Volga district, which included such powerhouses as Tatarstan and Bashkortostan, the seat of power became Nizhnii Novgorod (not Kazan or Ufa, the respective capitals of these republics), the power base of its first plenipotentiary, Sergei Kirienko. In no case was a district capital located in

a republic. While Moscow, St. Petersburg and Ekaterinburg seemed inevitable choices, Khabarovsk, Rostov on Don and Novosibirsk appeared to be chosen to reshape the balance of power.

The decree surprised analysts and regional elites alike.¹⁴ No one expected federal reform to be Putin's first project. Putin asserted that his decree, designed to strengthen state unity, was supported by 'governors, deputies and all citizens of Russia. It is possible to say, that in the country, for the first time, there is no disagreement about the question of principle.'¹⁵ His hyperbole could be excused. Few openly challenged the new president, who rode a wave of popularity not possessed by a high federal official since the early 1990s. Governors publicly endorsed the decree, though many no doubt grumbled in private.¹⁶ By announcing the creation of districts without announcing who would be envoys, Putin left governors in a tactical dilemma: wondering whether they themselves or officials they controlled might be appointed (or at least host the district capital), his critics bit their tongues.¹⁷ Pointing to the legal anarchy that had been the method and the misery of Yeltsin's presidency, Putin declared, 'It is seemingly isolated instances like these, drop by drop, that give rise to separatism, which sometimes becomes the springboard for an even more dangerous evil – international terrorism.'¹⁸ Who dared oppose such logic behind the 'dictatorship of law'?

Boris Nemtsov, a former governor and leader of the Union of Right Forces, was among the first to recognise the key to the decrees: '[E]verything namely depends on which figures appear in these posts. It may be that they are just run-of-the-mill bureaucrats, and then the whole new system you will call none other than decorative.'¹⁹ Putin's choices indicated his resolve: five of the seven *polpredy* held the rank of general in the armed forces.²⁰ Who *polpredy* appointed as deputies was almost as telling as the selection by Putin of the *polpredy* themselves. It was, perhaps, predictable that the civilian-politicians would gather different types of deputies than their colleagues plucked from military positions. The entourage of Sergei Kirienko, undoubtedly, was the most professionally trained, including such well-known and respected advisors as Vladimir Zorin.²¹

The first few months under the new system of federal districts led some to suspect that the *polpredy*, like Yeltsin's envoys, were paper tigers. The combative governor of Sverdlovsk Oblast, Eduard Rossel, defiantly went on vacation rather than greet Petr Latyshev, arriving in Ekaterinburg to introduce himself to the governors of his district. Some *polpredy* found it difficult to acquire offices or even living space.²² Although numerous press conferences and considerable media exposure were given to the seven *polpredy*, work on the ground appeared to be no more substantial than under the previous system. Criticism grew that the reform was in fact illusory: just another layer of federal bureaucracy.

By Fall 2000, however, there were increasing indications that the reform might have a bite to match its bark. *Polpredy* were made full members of the Security Council. Julie A. Corwin, analyzing reports from several newspapers, noted that *polpredy* topped the pay scale of federal officials, earning more than four times the salary of Putin himself!²³ According to Sergei Samoilov, then chief of the Main Territorial Department of the Administration of the President, *polpredy* ranked close to a deputy prime minister in the hierarchy of power.²⁴ As *polpredy* and their federal inspectors set to the task of creating a 'unified legal space' in the federation, scouring regional constitutions, bilateral treaties and laws for conformity or violation of federal norms, Putin strengthened their political power by tasking them with the creation of a 'single information space' as well. A presidential *ukaz* in late September stripped regional elites of the right to nominate regional directors of Russian state-owned radio and television stations. From now on, his envoys would make the recommendations.²⁵ In the Southern Federal District, Viktor Kazantsev established what most observers called a 'District Government,' a Territorial Collegium bringing together district representatives of all federal ministries and agencies (excepting the federal procuracy).²⁶ All districts soon followed such developments with the creation of 'security councils' comprised of the regional executives in each district, mirroring the larger State Council that Putin had decreed at the federal level to win regional acquiescence to his reform of the FC. Circumstantial proof of the increasing anxiety of governors about the strengthening of *polpredy* was the proposal of Egor Stroev, Speaker in the FC and Governor of Orenburg Oblast, for a law that would delimit the role and powers of *polpredy*.²⁷ Conflicts between the Main Territorial Department and the *polpredy* led Putin to trim the powers of both sides in late December (the former appeared to lose considerable power over regional staff and access to the president), subordinate *polpredy* to the control of Aleksandr Voloshin, Chief of the Presidential Administration, with an *ukaz* at the end of January 2001, and dismiss Samoilov in February.²⁸ Eight months later, in October, the Ministry for Federation Affairs, Nationality, and Migration Policy was abolished and its head, Aleksandr Blokhin, dismissed. Few analysts doubted that Putin had accomplished what Yeltsin could not: for the first time since the 'War of Laws' had begun, the federal government had the clear upper hand.

The Quasi-Judicial Power of Presidential Decrees

Although the federal districts signaled the groundbreaking stage of Putin's efforts at federal reform, it was not the first stage. 'Above everything else, the state is the law,' Putin exclaimed in his address to the nation introducing his reforms. Putin claimed that more than 20% of regional legislation was unconstitutional – and swore to combat it.²⁹

Eight days prior to naming his *polpredy*, Putin, by his own decree, suspended the legal force of a decree made by the president of Ingushetia, Ruslan Aushev, and a resolution by the Ingush Government.³⁰ The Ingush president's decree, nearly 2½ years old, improved collection of gas and electric payments in the republic; the government resolution, executing a nearly three-year-old decree of the Ingush president, involved licenses to foreign workers. These regional acts, Putin's decree asserted, violated the Constitution, federal law and the federal tax code. That same day, Putin issued another decree suspending a nearly year-old resolution by the governor of Amur Oblast that permitted Russian citizens access to a bordering Chinese trading complex.³¹ ITAR-TASS reported that an additional fifteen such decrees were expected soon, on advice from the Procurator-General.³² Two days after his decree on the new federal districts, Putin decreed the suspension of a two-year-old resolution made by the governor of Smolensk Oblast that established levies for transport-related environmental contamination.³³ According to Putin's decree, this contradicted two federal laws and a resolution of the federal government. More decrees suspending regional legal acts soon followed: against Adygeia, on 7 June; Tver on 12 June; Tula on 12 August; Ingushetia on 1 September; and Adygeia again on 9 September.³⁴

This was Putin's first expression of the refrain of his federal reforms, the strengthening of the president's 'vertical powers' in the Federation. Putin based these powers on four articles of the federal Constitution. Article 90 gives the president expansive powers to enact gap-filling decrees and orders (*rasporiazheniia*) on any subject not otherwise prohibited by or contradicting the Constitution and/or federal law.³⁵ Putin's decrees, however, were of a special type made in reliance on a relatively untested article of the Constitution: Article 85, § 2. Pending ultimate resolution of the issue by an appropriate court, the federal executive has the power to suspend the acts of executive organs of state power on all levels of government for violation of the Constitution, federal law or presidential decrees.³⁶ This quasi-judicial power is the practical expression of the authority expressed in two other articles: Article 77, § 2 and Article 80, § 2. The former provides the specific philosophical backing for the 'vertical power,' providing that 'federal organs of executive power and the organs of executive

power of the subjects of the RF *shall form a unified system of executive power* in the Russian Federation.' The latter article names the president as 'guarantor of the Constitution of the RF.' Neither the legislative nor the judicial branch of the federal government is given that powerfully symbolic – and vague – authority.

Together, these articles give the president extraordinary implicit powers well beyond those powers specifically enumerated in the Constitution, and which have led some political scientists to label the Russian system one of 'super-presidentialism.' As Danilenko and Burnham, two respected legal scholars, have noted, 'Although the Constitution does not place the President above the three main branches of government, some commentators argue that he may act (as the French President does) as 'an arbiter' among the legislative, executive and judicial branches of government.'³⁷

Although the Constitutional Court has ruled that the President has the constitutional power to issue temporary decrees to fill gaps in federal law, the opinion was not unanimous.³⁸ As Justice Luchin noted in a powerful dissent:

This 'self-regulation,' not knowing any kind of limitation, is dangerous and incompatible with the principle of the division of powers and other values of a rule-of-law state. The President may not decide any kind of questions if they do not flow from his authority as provided in the Constitution. He is not able to lean on his so-called 'latent (implied)' authorities. Use of them in the absence of a stable constitutional legal order or legality is fraught with negative consequences: the weakening of the mechanism of checks and balances, the strengthening of one branch of power at the expense of another, the beginning of confrontation between them.³⁹

While lacunae in federal law are a serious problem and revision of certain parts of the federal constitution is obviously important, caution must be taken not to further aggravate existing problems. The federal executive's power to suspend acts of regional executive branches is an extraordinary encroachment on two core features of federal government. First, it fundamentally weakens the distinction between federal and regional government. No proponent of sustainable federal government in Russia could sensibly advocate further decentralisation of authority, but care must be taken not to fall victim to the dangers of over-centralisation of power in Russia in response to this debilitating deflation of federal power. This is precisely the view Putin advocates in his appeal for the 'strengthening of the vertical' of executive power. All executive branches, at every level of government, would fall subject to the will of the federal executive branch. Second, having weakened the separation of powers between federal government and the constituent subjects of the federation, Article 85 encroaches

on the division of powers between the executive branch and the judicial branch of government, on all levels. The president, by suspending the legal force of a decree or resolution of a different executive authority, undertakes an act of legal judgement that the Russian Constitution accords, rightly, the judicial branch. While suspensive decrees may ultimately be overruled by 'an appropriate court,' the initial judgement of (and penalty for) unconstitutionality is made, not by the court, but by the executive. That judgement, lodged in tersely worded decrees is extremely conclusory: no explanation or rationale is provided. Even the institution of the procuracy does not have the authority to pronounce on the constitutionality of an act before resolution in the courts.

One month after Putin's initial reform package, the federal Constitutional Court issued an opinion (*opredelenie*) on the constitutions of Adygeia, Bashkortostan, Ingushetia, Komi, North Ossetia and Tatarstan that further strengthened the president's 'power vertical.'⁴⁰ This highly critical document rejected the claims to sovereignty (several of which bordered on the doctrine of nullification) repeatedly made by these republics. The supremacy of the federal Constitution was (again) reasserted over all other constitutions and charters, including those predating the 1993 federal Constitution.⁴¹ The 'treaty-constitutional' federalism favoured by the regions was categorically rejected. This opinion specifically noted that subjects of the Federation

... may not change the priorities established by the Constitution of the Russian Federation for the action of laws and other federal normative legal acts, limit their application, suspend their activity, or introduce any kind of procedures or mechanisms for the settlement of legal conflicts that constrain the action of these acts that is not foreseen by the Constitution of the Russian Federation or by federal laws.⁴²

In other words, while the Federal President possessed the power to suspend regional executive acts deemed by him to conflict with the federal Constitution *prior to any judicial determination of that fact*, regional elites did not possess a parallel power to suspend federal acts deemed by them to be in conflict with the federal Constitution. For those who saw executive political pressure behind pronouncements of the Court,⁴³ this opinion signalled that a battle of decrees would not be tolerated. Only the federal president had that power.

Another Constitutional Court decision (*postanovlenie*) against the Republic of Altai, announced a few days earlier, held that republic's constitution to be riddled with violations of federal law, especially regarding sovereignty. According to the Court:

The Constitution of the Russian Federation binds the sovereignty of the Russian Federation, its constitutional-legal status and authority, and also the constitutional-legal status and authority of the republics that compose the Russian Federation, not by their will on the basis of a treaty, but by the will of the multi-national Russian people – the carriers and sole source of power in the Russian Federation, which, realising the principles of equality under the law and the self-determination of peoples, constitutes the rebirth of Russia's sovereign statehood as a historically fully developed state entity in its present federal structure [...] Recognition then of sovereignty for republics, when all other subjects of the Russian Federation do not possess it, would violate the constitutional equality under the law of subjects of the Russian Federation; its realisation is made impossible in principle, in so far as subjects of the Russian Federation, not possessing sovereignty, by their own status may not be equal under the law with sovereign states.⁴⁴

Large portions of this ruling were reprinted verbatim in the Constitutional Court's opinion later that month. It foreshadowed with one republic the sweeping denunciation of regional claims to sovereignty made subsequently against six others and, by implication, all republics. The rulings of the Court – a court of discretionary jurisdiction – at such a charged moment in Russian federal politics was considered by some to be more political warning than legal ruling. Putin's representative to the Court, Mikhail Mitiukov, asserted that the Altai decision

gives a juridical stamp to the initiatives of the President ... [for] the strengthening of a federal state and guarantees of the conformity of regional legislation to federal law. ... The essence of this document, in my view, is that it puts an end to the so-called ideology of sovereignisation of the subjects of the Federation. Their sovereignty is not boundless.⁴⁵

Not all regional observers shared this view. A senior official of the Permanent Mission of the Republic of Bashkortostan in Moscow observed shortly after the decision: 'In Russia, the political process is more important than the law itself. So the agreements of our president with the RF president are more important than the law. The Constitutional Court of Russia is just a body, highly respected, but just a body of the RF. It has nothing to do with the Republic of Bashkortostan – we have our own Constitutional Court.'⁴⁶ In Tatarstan, Tatar nationalists presented that republic's parliament and president with a bill declaring the decision invalid on its territory.⁴⁷

That attitude would radically change as the presidential envoys flexed their muscles and Putin's other proposals became federal law. Putin's decrees quickly captured the attention of regional executives, who leapt to amend controverted laws and decrees and, in some cases, even constitutions. Days after the opinion

of the Constitutional Court was delivered, the republic of Tuva, neither named in the cases before the Constitutional Court nor targeted by Putin's executive decrees, announced the completion of a massive amendment of its constitution.⁴⁸ In Kalmykia, President Kirsan Iliumzhinov announced the total compliance of his republic with federal law.⁴⁹

In less than two months, Putin and the Court had threatened the constitutionality of legal activity in a dozen subjects of the Federation, eight of which were republics.⁵⁰ Extension of the 'executive power vertical' would not stop there. In conjunction with Putin's next wave of legislative reforms, soon all the republics and regions of the RF would be pressed by Putin's presidential envoys, the federal inspectors they appointed, and the procuracy and Ministry of Justice to bring their laws and government activity into conformity with federal norms. In September 2001, a new federal presidential commission charged with the (seemingly perennial) task of demarcating federal and regional authority, intensified scrutiny of bilateral treaties. With over two score treaties and more than 500 agreements still considered valid by at least one of the signatory-governments to them, the Kremlin announced a deadline: there would be a 'unified constitutional space' in the RF by 24 July 2002.⁵¹ Just how bilateral treaties, which had taken years to negotiate, would be unraveled in a few months was not clear. Since treaties had never been ratified, one Kremlin official declared them to occupy the bottom rung of the hierarchy of law; presumably, there would be no problem, then, in discarding them.⁵² This was, of course, always the great risk carried by these documents, the product of highly personalised political relations unsupported by ratification or other procedures that would have strengthened their legal force.

There is, however, some risk to the steady stream of cancelled decrees, judicial determinations, sabre-rattling commissions and strict deadlines. To be sure, from the point of view of a transition to democracy, many of the regional decrees that Putin suspended were clear abuses of power. Many of these presidents and governors have had little interest in the development of democratic structures beyond the Potemkin villages they construct in (often futile) attempts to attract investment. But, from the point of view of federal development, Putin's cure seemed at times to risk side-effects as unappealing as the disease. In an attempt to deal with long-term violations of the law, Putin sought to solve the problem through his 'dictatorship of law.' But would his dictatorship know when to stop? Or, a victim of their own successes, would federal authorities continue to strengthen the 'executive vertical' with ever increasing centralisation of authority?

Putin's Legislative Reforms

Having established his federal districts in mid-May, sweeping legislative reforms followed in June. Putin sought the following: first, to oust regional executives and parliament chairmen from their dual positions as members of the upper chamber of the Federal Assembly, the FC; and second, having weakened their influence on federal lawmaking (and removed their senatorial immunity from prosecution), to force regional laws and lawmakers into conformity with federal norms by threat of dismissal from their regional positions for repeated malfeasance.⁵³ The FC, predictably, refused to drink the hemlock that Putin offered. Nor was it willing to permit federal condemnation of regional politicians (who, if the first reform succeeded in removing their immunity as senators, could well include themselves). While, in the latter case, the Duma was able to override (with the required two-thirds majority) the upper chamber's veto, a special conciliation commission had to be established to pass a substantially amended FC reform: the hemlock was sweetened and its drinking postponed. Putin achieved his objectives through a combination of strong political pressure (his public approval ratings were at record levels) and a willingness to offer the occasional political compromise. A third 'reform' – extending to regional elites a power to dismiss local self-government officials that paralleled the power Putin would hold over regional executives and legislatures – provoked comparatively less controversy. It was, and was widely held to be, a sop to regional power aimed to make passage of Putin's other reforms more palatable. Putin's new power to dismiss regional executives and legislatures was circumscribed in most cases by the multi-staged involvement of the judiciary. When the dust had cleared, however, Putin's presidential powers had grown significantly and federal authority, if not immediately strengthened, had been positioned to reassert itself on a new political playing field.

Putin understood that his fundamental changes could not be enacted by presidential decree. At the very least, these reforms required legislative action. Some critics argued that even promulgation as federal laws was inadequate for the scale of the reforms proposed – constitutional amendment was needed. In the end, Putin succeeded in winning support in the legislative branch both for the substance of his reforms and for the sufficiency of ordinary law for their adoption.

Putin's apparent victory in the Federal Assembly presents serious problems of executive overreach, threatening an already fragile balance of powers (not only between branches of government but also between federal and regional

levels of government). On the eve of the introduction of his reforms, Putin shared his objectives on national television: 'The general aim of these draft laws is to make both the executive and legislative power really work, bring a true meaning to the constitutional principle of division between the two branches of power and consolidate the vertical structure of executive power.'⁵⁴ Putin's Orwellian 'true meaning' of the separation of powers meant 'consolidation' and a 'vertical' executive power extending from the Moscow Kremlin to local organs of self-government! As one respected legal scholar observed, Putin's federal reforms 'unwittingly unleashed a war,' the resolution of which would neither be quick or predictable.⁵⁵

Reform No 1: Perestroika at the FC

The first and most dramatic reform on Putin's agenda was the perestroika (restructuring) of the upper chamber of the Federal Assembly, the FC. The Russian parliament is a bicameral legislature: 450 deputies sit in the lower chamber (the Duma); in the upper chamber (the FC) sit 178 senators. Virtually all federal systems operate bicameral systems,⁵⁶ and it is not difficult to understand why. The sometimes competing, sometimes complementary impulses of federalism in a polity naturally suggest more than one collection of lawmakers who, although chosen according to different principles of representation, are united under one legislative roof. Both houses are required to make law. Madison famously outlined the benefits of an upper chamber in *The Federalist Papers*, N.62: as an 'impediment ... against improper acts of legislation' by passing bills twice through deliberative bodies organized to represent different interests; the senate also acts as a shield against 'the impulse of sudden and violent passions, ... seduced by factious leaders into intemperate and pernicious resolutions.' A bicameral legislature acts as a bulwark against what Tsebelis and Money have described as three tyrannies: Publius' classic protection against a 'tyranny of the majority' in the veto one chamber holds vis-à-vis the other; protection against a 'tyranny of the minority' by demanding a more complex assent to legislation than a simple, unicameral majority;⁵⁷ finally, protection against the 'tyranny of the individual,' who by the power to set an agenda can control the outcome, made more difficult because of the plurality of agendas.⁵⁸

Since 1995, the Council had been comprised of senators sitting *ex officio*: the respective head of the executive branch (president or governor) and legislative branch (speaker or chairman) of each region.⁵⁹ This was not always the case. The RF's first legislature was the Supreme Soviet, a holdover from the

(then still existing) Soviet Union. This body was constituted from a much larger Congress of People's Deputies, directly elected for the first time in March 1990. Boris Yeltsin was elected chairman of the new Parliament and quickly fostered its self-image as a populist body demanding ever-increasing powers from Gorbachev's central authority. A year later, when Yeltsin traded his post as head of the legislative branch to become Russia's first President, he was himself forced to confront the riotous legislature he had created. A paralysing conflict between Yeltsin and the Supreme Soviet resulted in the October 1993 storming of the White House, the Parliament's home, and adoption of Yeltsin's new Constitution, which established a bicameral legislature. The FC was directly elected in its entirety in 1993, with two seats chosen (and rarely more than two or three candidates to choose from) on a first-past-the-post basis for each of the eighty-nine constituencies. Interestingly, however, Yeltsin's Constitution did not explicitly demand election of the upper chamber, as it did for the lower chamber (the Duma) of the Federal Assembly. The 'manner of formation' of the FC was left to be established by federal law.⁶⁰ With much effort, and only after the Duma overrode the veto of its sister chamber, a new law established the *ex officio* scheme of appointment employed from 1995 until 2000.⁶¹

Initially, the bargain must have seemed irresistible to Yeltsin. Having forcefully dispatched his enemies in the old parliament, Yeltsin's new law filled the upper chamber with a majority of men who owed their regional positions to appointment by him. He also hoped for a less cantankerous body of lawmakers, who by the very nature of their dual appointment would behave more like a part-time legislature. The perks of office (e.g. apartments in Moscow) controlled by the Kremlin's state property administration further ensured a more passive upper chamber. As Yeltsin soon learned, however, he could not buy the love of the FC. As more and more governors and republican presidents won election to their regional executive positions, their allegiance to Yeltsin waned. Local constituencies gave regional elites the luxury of characterising the centre as stingy adversary, in much the same manner that Yeltsin had attacked Gorbachev. No longer beholden to their patron, governors and presidents took seriously their roles as senators, sometimes to the visible frustration of President Yeltsin.

Putin immediately recognized the problem such a chamber posed for his efforts to strengthen federal executive power. Any attempt to weaken regional autonomy or limit regional jurisdiction would be opposed by senators whose personal power was decreased. Efforts to force out of office the most recalcitrant and rebellious governors and presidents would be stymied by the senatorial immunity from prosecution regional executives enjoyed. Reform would have to be multi-staged, beginning with a change of faces.⁶²

The initial proposal from the Kremlin was draconian: senators were to be elected by each region's legislature. Although the regional executive had the power to nominate his representative, the advice and consent of the regional legislature was required for both senatorial appointments. The post of senator was explicitly defined as a 'professional-permanent' position, which meant that members of the Federal Duma, regional legislatures, and local self-government, elected state or municipal officials and 'category A' state officials were expressly prohibited from service. Election of new senators to the reformed upper chamber would be completed no later than 1 April 2001. Regional heads of executive and legislative branches would enjoy, at most, a nine-month grace period of immunities and privileges.

As expected, the FC expressed strong opposition, voting 129–13 against reform.⁶³ The Duma, therefore, became a critical player, where 300 votes (out of 450 deputies) would be required to override the upper chamber's veto.⁶⁴ Although Putin had achieved this support in the Duma's first three votes, his margin was extremely narrow. He was quick to signal that his bill was not written in stone; he was willing to compromise.⁶⁵ Senators could remain in office for the full length of their terms – January 1, 2002 at the very latest – in what was termed a 'soft rotation' from power. A joint conciliatory commission of senators and Duma deputies hammered out further compromises, though it worked under the shadow of the Duma's override powers.⁶⁶ Under pressure, the commission took less than a fortnight to arrive at a compromise: senatorial appointments by regional executives would stand unless their legislatures rejected the candidate by a special majority. Regional executives could, with the same limitation, recall their representative. With these additional amendments, and the Duma's super-majority a sword of Damocles hanging over their heads, the Senators accepted the reform as a *fait accompli*.⁶⁷

From the point of view of Putin's efforts to strengthen federal authority, reform of the FC was obviously important. Most crucially, Putin removed regional elites from their dual posts as federal senators without serious revolt, stripping them in the process both of immunity against federal prosecution and influence over federal policy-making. Many observers feared that this was only the first step in a process that would strip the Council of its competences, reducing an important check on both the executive branch and the lower chamber of the Parliament as well. Some, viewing Putin's reforms as a complete package, saw sinister connections between the reformation of the upper chamber and the creation of governors-general, transforming federal governance into an executive capped pyramid.⁶⁸ Egor Stroeve, Chairman of the FC, expressed his fear that Putin's so-called reform was the first stage in the 'dismantling' of the upper chamber; the result, he warned,

would weaken the parliament as a federal representative organ for regional interests, and thus, the prospects for federalism and democracy in Russia: 'there will result a serious weakening of the federal bases of Russian statehood, for a democratic federation with a unicameral parliament is nonsense.'⁶⁹ One outspoken critic of the reform in the FC, President of Chuvashia Nikolai Fedorov, threatened to challenge the reform in the Constitutional Court, contending that 'all honest lawyers admit that these reforms and laws are essentially revising the existing constitutional structure of the RF ...'⁷⁰

In an effort to appease the soon-to-be ex-senators, Putin created a new forum in which they could sit. In early September 2000, as he had hinted throughout the summer, Putin formed a 'State Council.'⁷¹ This body was directly subordinated to the executive branch, having been created by presidential decree.⁷² Its composition included all eighty-nine regional executives. A smaller presidium comprised of the seven regional executives chosen by the President on a six-month rotating basis, ensured that the reform would be tempered with the promise of the president's ear.⁷³ At its first meeting the Presidium established for itself monthly meetings with the president, while the Council would meet in plenary sessions only four times a year. While Putin made assurances that the State Council was merely an advisory body (though given the president's extensive decree powers, such a role was not to be downplayed) some suggested that its establishment presaged a transfer of competence from the FC, a move that virtually all critical analysts agreed would require constitutional amendment.⁷⁴

Beyond the substantive questions of competences and personnel, reform of the FC raised procedural questions that touched not only on federal development, but on the transition from authoritarianism. An optimist would contend that Russia's constitutional system had functioned well: following the legitimate legislative initiative of a new president, disagreement in the legislative branch was expeditiously resolved in a conciliatory commission, compromise legislation worked out, and a law passed by large majorities in both houses. Threats to take the political battle to the Constitutional Court quickly lost support.⁷⁵ On the other hand, the pressure placed on the FC, operating under the shadow of the Duma's super-majority and the untested rule-of-law credentials of Vladimir Putin, meant that conciliation on such an issue was hardly genuine. Senators accepted the reforms grudgingly, still under the threat of a Duma override, and with the feeling that they had little choice but to accede to the demands of a powerful new president.

Implementation of the reform of the FC moved slowly. Under the compromise known as the 'soft rotation,' regional executives and chairs of regional

legislatures sitting *ex officio* in the FC had until 1 January 2002 to comply with the new law. According to the FC website, as of 2 November 2001, only 85 senators (of 178) were working in the FC on a 'permanent' basis, as prescribed by the new law.⁷⁶ Only fifteen of these new members were from republics.⁷⁷ In nine republics, no changeover had been accomplished at all. In only three republics (Marii El, Udmurtia, and Khakassia) had both senators been newly selected according to the law.

Reform No 2: Federal Influence over Regional Legislatures and Executives

Regional executive and legislative branches of government were also targets of reform from above. Putin wanted to install the mechanisms that would give him real power according to his formula for 'strengthening of the executive vertical.' His draft legislation amended a 1999 law that had attempted to standardise baseline principles for regional legislative and executive structures (e.g. maximum lengths of legislative terms, deputies' immunities, use of official seals, procedural regularity, etc.), often merely by repetition or elaboration of principles set in the Constitution (e.g. elections, jurisdictional competences, guarantee of control by legislatures of expenses required for their operation, etc.).⁷⁸ Among its most significant provisions, Yeltsin's old law appears to have outlawed the not uncommon republican practice of permitting members of republican legislatures simultaneously to hold official positions as executive heads of local administrations (a post akin to mayor of a district) – though this prohibition has been observed mainly in the breach by the republics.⁷⁹

Putin amended this law to give the federal executive the power to dismiss regional legislatures and executives for extended and/or gross violations of federal law. The actual legislation, however, was less extreme than what had been imagined, thanks mainly to the cumbersome and lengthy procedure through which this power could be realised. Although the law gave the president a considerable power to threaten regional politicians with dismissal, the law's procedures – if followed as outlined in the law – provided numerous opportunities over a long period of time and multiple stages of action by which those threatened could avoid fulfilment of the threat. Legislatures and executives were given six months to put their legal houses in order, after which time normative legal acts recognised by courts to contradict federal law would be susceptible to the provisions of the new law.⁸⁰

The involvement of multiple authorities and deliberately long periods for compliance limit the severity of this reform. The strongest potential bulwark against abuse of this new power, however, is the involvement of the judicial branch at the initial stages of the process. The judiciary has a role to play as shield against the executive's sword and against the legislature's purse, and is an invaluable institution of the rule-of-law for democracies. The authority of the court to demand the rational use of power – to demand reasons behind executive action – and to command adherence by political actors to legal principles (in other words, to establish and protect Cass Sunstein's 'republic of reasons' in a deliberative democracy) is extraordinarily important. Though predictions are always hazardous, the role of the judiciary in this process may well turn out to be what preserves the legal integrity – and prevents the capricious use of – this new law.

Nevertheless, a grant of power to the federal executive to initiate a process of dismissal of popularly elected officials and even whole legislatures for derogation from the constitutional order is an extraordinary authority in a federal system. By 'strengthening the vertical of executive power,' this law emasculates the separation of powers between the federal and regional governments. Regional executives receive their mandate to govern in popular elections, not by commission from the federal executive. To subject them to discharge – either by the initiative of a federal executive ukaz or, worse, on the mere accusation (not, it must be emphasised, upon conviction) by the federal Procurator-General – is as much a threat to the separation between regional and federal administration as it is to the political life of the official. Regional legislatures also receive, collectively, an electoral mandate that is entirely separate from that of the federal legislature that is now empowered to dissolve them, impliedly on a theory of collective culpability of all deputies for violating as a body the constitutional order. Those deputies who vote 'correctly' are not saved from the fate that awaits their stubborn colleagues.

This is not to say that violation of the supremacy of the federal Constitution or federal law is tolerable;⁸¹ nor does it diminish the flagrant disregard for federal legal authority that has been the rule and not the exception in post-Soviet Russia. These dangers (in the form of philosophies of state sovereignty and 'treaty-constitutional' conceptions of the federal compact, support for the principle of nullification, secessionism, or simple nonfeasance) have been recurring themes of post-Soviet regional politics. But the powers granted the federal authorities by this reform are so extreme on the continuum of federal systems as to be virtually off the register.

An underlying acceptance of the role of the rule of law (and by extension courts in general) as a neutral arbiter, rather than political weapon, is profoundly lacking in Putin's reforms. The destructive double legacy of Soviet conceptions of law as a political tool or weapon and federalism as a mere administrative device for centralisation, is glaringly apparent in the perceived need for federal dismissal of regionally elected officials and legislatures. The experience of other federations has generally led to an acceptance, even in the most politically charged moments, of the rule of law (interpreted by courts of law) as the unshakeable bedrock for the 'rules of the game.' In the United States, for example, dismissal of state officials by federal authorities (either executive or legislative) for violation of the federal constitution is simply unimaginable.⁸² While it was conceivable that a federal executive could enforce Supreme Court-ordered integration of public schools in the 1950s, for example, there could be no serious discussion of a federally-sponsored eviction of elected state governors who, in every imaginable way, sought to defy the Court, the Congress and the President.⁸³ Nor was there room to imagine that the angry legislative resolutions passed by many southern states reacting against the opinion of the Court could be grounds for federally ordered dissolution of those elected bodies. The Court, and the country as a federal system, relied on the authority of the judiciary (remarkably, even when federal relations were at their most strained) to declare the rule for all and leave to the executive branch its enforcement.

There are still other considerable grounds for serious concerns about abuse of presidential discretion. The rather vague power of the President to temporarily discharge regional executives is extremely severe.⁸⁴ Only an accusation (not a conviction, or even a scheduled trial) is required for exercise of this power. An order by an 'appropriate' court is not required at any stage of its use. Nothing is said about what stage in the criminal investigative process the 'temporary' discharge terminates. Given that the period of time between accusation and trial can extend to years (and that, even following an acquittal, re-investigation and re-trial is permitted by the Constitution), a regional executive may be confronted with an interminable 'temporary' suspension from office. Furthermore, no limitations are put on the exercise of this power, for example, in the final days of a gubernatorial election, or even to disqualify an incumbent executive as a candidate in the next elections. The new law does not specify what constitutes a 'grave' or 'especially grave' crime. There is also no built-in waiting period for the exercise of this power, as adopted for the other mechanisms for dismissal provided in this law. This is the power that regional executives truly feared,⁸⁵ especially as their senatorial immunities were taken away by the law on the Federal Assembly.⁸⁶

Reform No 3: Federal Influence over Local Self-Government

As noted above, Yeltsin rapidly lost the power to appoint and dismiss regional executives as increasing numbers of regional politicians won popular mandates in open (if not always contested) elections. This was not the case for the relationship between regional executives and the heads of local self-government, the lowest level of government in the regions. In many cases, heads of local self-government were appointed by the executive, responsive (because responsible) to their political patrons rather than to political parties or the electorate. Oftentimes, heads of local executive administrations served *ex officio* as deputies in regional legislatures, according to the same formula by which the FC had formerly been composed. When these local executives owed their posts to the governor or president of the region, the result was a flagrant violation of the principle of separation of powers. As noted above, this practice was outlawed in the Yeltsin administration, though compliance seems to have been negligible in the absence of strong enforcement.

Putin sought to change this practice, again by submitting a Yeltsin-era law to amendment.⁸⁷ These amendments did to local self-government what Putin's strengthening of the executive vertical did to the relationship between the federal executive branch and the executive and legislative branches of regional governments.⁸⁸ Upon a finding by a court (*which* court is unspecified) that a normative legal act promulgated by a local representative or administrative body contradicts either federal or regional laws, or otherwise amounts to a 'violation (disparagement)' of human or civil rights 'or offensive of another injury,' those organs are required to revoke the act and publish the ruling of the court. In the event of non-compliance with the judicial order, the representative organ is subject to dismissal and the head of the administrative body subject to early discharge from duty. The procedure for discharge is also similar, although the required preliminary written warning could come either from the initiative of the regional legislature (to warn the local representative organ), or by the regional executive (to warn both the representative and executive local organs). Following issuance of the warning, the local organs at risk of dismissal have one month to comply with the original court order; after that time, but within six months of the court order, the local representative body may be dismissed by the regional legislature (by passage of a law), and the local executive body may be dismissed by the regional executive (by issuance of an ukaz). If the regional power lay dormant, three months after the court order the President of the RF may introduce legislation to the State Duma to dismiss the representative organ, and on his own authority dismiss the local executive. New

elections would be triggered immediately by any dismissals.⁸⁹ As before, courts have the ultimate authority to review dismissals (where citizens who could claim that the dismissal worked a violation of their rights or legal interests would have standing to appeal dismissals). A six-month grace period was established, as in the other reform, before retroactive enforcement of decisions by courts on existing violations would commence.

While bracing the procedure for dismissal with judicial orders on either side could potentially de-politicise disputes by maintaining rule-of-law standards for judgement of local authorities and abuses of administrative discretion, the new procedure presents several problems as well. The same criticism of Russia's courts, slowly emerging from their traditional place under the thumb of political powers, could be laid before this 'reform.' In other governmental systems, violations of the law by officials of the executive branch result in orders to comply with law or be impeached. In the United States, impeachment has predominantly settled on the removal of corrupt judges, although in its original conception (deeply influenced by the English common law tradition) impeachment was put forward also as a means to restrain abuses of power by the chief executive and his appointed officials.⁹⁰ Usually, impeachment is by a legislature (or some part of it) sitting as a court of impeachment. The point is that the procedure is a judicial one, with all the attendant safeguards and rules of evidence. Under Putin's law, impeachment is by decree of the next higher executive in the chain of command.

Another problem is the use of a power to dissolve legislatures as an impeaching device. 'Aggrandisement of the legislative at the expense of the other departments' was a serious enough concern for James Madison to devote several articles of *The Federalist Papers* to its attention.⁹¹ But his solutions – bicameralism, an executive veto, and the competing interests of different constituencies in a 'compound republic,' i.e. federalism itself – did not include the power of the executive and judicial branches to discharge the legislative branch from power.⁹² The legislature, as a body, was not subject to discharge by the executive, even if it passed legislation declared by the Supreme Court to be in flagrant and gross violation of the Constitution. The solution to the problem of how to deal with a recalcitrant parliament that persisted in passing unconstitutional legislation was either to rely on popular displeasure at election time or to rely on the executive branch to refuse to implement the law declared by the judiciary to be unconstitutional.

The Russian tradition has pointed in the opposite direction, and it is to this legacy that the source of the idea of prorogation-as-impeachment might be attributed. One of the most debilitating legacies of the Soviet era has been the

continued approach to law as a political weapon rather than as an administrative tool: law is a means to crush opponents when in power, to weaken them when in opposition. Yeltsin's baptism by parliamentary fire in 1992–1993 showed the depths to which such thinking could sink. The remedy there was executive dissolution of the Parliament,⁹³ followed by the use of the military to shell parliamentary opponents (who themselves had declared the executive power null and void due to misuse) into submission. Putin has characterised his own 'reforms' as restoration of the vertical executive power, indicating that for him, autonomy from central control is an aberration to be corrected.⁹⁴

Putin's reforms were, more than anything else, a reaction to Yeltsin's federal legacy of weak federal institutions and lack of consensus on basic questions of sovereignty and intergovernmental relations in a federal state. Writing while Putin was still acting president, Vladimir Lysenko, the Deputy Chairman of the Duma's Committee on Federal and Regional Policies, described a model of centralisation he called

guided democracy, or a soft authoritarian regime – an attempt to consolidate power for the completion of economic reforms in the country by way of the creation of a regime of personal power of the president of the country and the limitation of a number of democratic institutions and procedures.⁹⁵

In many ways, Lysenko's program presaged Putin's federal reforms, including reform of the FC, reform of the system of presidential representatives, and strengthening (i.e. centralisation) of the power to enforce the supremacy of federal legal and economic (including budget and tax) systems. This approach, Lysenko asserted, was already slowly beginning to operate in Russia and should be encouraged: centralisation of federal power and an even stronger president were prerequisites for a 'developed democracy,' only after which could there be a return to decentralised federalism.⁹⁶

Neither Lysenko nor Putin could provide satisfactory assurances that 'soft authoritarianism' (in Lysenko's phrase) or 'the dictatorship of law' and the 'strengthening of the vertical of executive federal power' (in Putin's words) would not be medicine worse than the disease. Is Russia doomed to decide between an increasingly centralized federal system and a system increasingly at risk of disintegration, as Riker predicted for all federal systems? On a more nuanced continuum of federal systems, which direction does Russia face?

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¹ Goble (2000). Mukhametshin was speaking at a conference in Ufa, Bashkortostan, as reported by the RFE/RL Tatar-Bashkir Service.

² In an unpublished paper written in February 2000 for working groups in the Duma and FC, Vladimir N. Lysenko, Deputy Chairman of the Duma Committee on Federal and Regional Policy, wrote: 'In the 1990s, there took shape in Russia a super-presidential regime with a mono-subjective power, a weakly federal state (with elements of both unitarism and confederalism), a quasi-multi-party structure, burdened by a nomenklatura-clan type of management, a corrupted ruling class and, to all intents and purposes, the absence of local self-government.' Lysenko (2000a).

³ *Zakon* N.26, 28 June 1999. See also Sadchikov (1999), 2.

⁴ A more sympathetic analysis of the law would argue that, by definition, ratification of these documents was unnecessary. Agreements (*soglasheniia*) are defined by the law to be 'the legal form of transfer by federal organs of executive power and organs of executive power of subjects of the Russian Federation between one another for the realisation of part of their authority' (Art. 2, § 7). To the extent that treaties (*dogovory*) are made between organs of state power (Art. 2, § 6), their subject matter is merely the 'concretisation, ... conditions and manner of transfer, ... [and] forms of co-operation and collaboration ...' (Art. 17) of jurisdiction and authority already established in the federal Constitution, which itself establishes no ratification requirement for such arrangements. However such an reading leaves unsolved the federal problems the law ostensibly was designed to ameliorate.

⁵ Buried in the text of a law passed in October 1999 is a clause asserting the authority of the subject of the Russian Federation with regard to treaties. Article 5, § 2, part '3' of the federal law 'On general principles of organisation of the legislative (representative) and executive organs of state power of the subjects of the Russian Federation' states that 'By law of the subject of the Russian Federation the conclusion and cancellation of treaties of the subject of the Russian Federation are confirmed.' However, what is meant by 'confirm' is far from clear and, although Article 5 deals with the authority of the legislative branch, it is unclear what role for that branch is implied by the phrase 'by law:' the authority to confirm itself, or the authority to make a law regarding confirmation? In any event, this unheralded clause seems to have had even less impact on the bilateral treaty process than Yeltsin's law of late June. See *Zakon* N.184-FZ, 18 October 1999.

⁶ Treaties (*dogovory*) – general statements of principle and jurisdiction – generally were not subject to time limits or mandatory renegotiation at set intervals. Agreements (*soglasheniia*) – detailed, concrete arrangements for specific problems – generally expired after five years. Of potential interest, however, is the very recent signing of *soglasheniia* with (by some accounts nine) regions in the Far East Federal District. Chernyshev (2001), 2; Goble (2001). Under the watchful eye of Presidential Envoy Konstantin Pulikovskii, Justice Minister Yuri Chaika signed agreements outlining steps to be taken in the process of bringing regional constitutions and laws into conformity with federal law. However, these *soglasheniia* would appear to be different in kind from the bilateral agreements made in the Yeltsin era. Whereas savvy regional negotiators of Yeltsin-era agreements focused primarily on extracting as much regional control over natural resources, industry, and other economic

issues from the federal centre as possible, these new agreements seem in part a federal response to frustration over inadequate tax collection and the perennial goal of conforming regional laws to federal standards. They are, in other words, about establishing greater *federal* control, quite the opposite of earlier regional objectives. Also of interest, are reports that the only region in the Far Eastern District not to sign an agreement was the only republic in the District, Sakha-Yakutia.

⁷ *Russian Public TV*, Moscow 17 May 2000. Reported by BBC Monitoring. Reprinted in *Rossiiskaya gazeta*, 19 May 2000, 3.

⁸ 'Open Letter to Russian Voters,' 25 February 2000. Campaign website: <http://putin2000.ru/07/05.html>. Emphasis in the original.

⁹ Contrary to the assertion by Peter Rutland that this phrase was a 'throw-away remark that Putin made while talking to journalists,' Putin has repeatedly expressed (on national television) his well-known maxim of government. In a televised address to the nation on the eve of his reform package, Putin linked the phrase to his 'strengthening of the vertical of executive power, saying: 'This is what the dictatorship of law means. It would mean we are living in one strong country, one single state called Russia.' *Russian Public TV*, Moscow, in Russian 1700 gmt 17 May 2000, reported by *BBC Monitoring*. For the text of this speech, see also Putin (2000), 3. In another televised speech on 8 July 2000 before both houses of the Federal Assembly, Putin managed to give a fundamental concept of civil law – the importance of maintaining a space outside the domain of public law – an ominous tinge: 'That is why we insist on just one dictatorship – the dictatorship of the law, although I know that many people dislike the expression. That is why it is so important to indicate the boundaries of the domain where the state is full and only master, to state precisely where it is final arbiter and to define those spheres where it should not meddle.' One is left to wonder what size such a non-state sphere could have in Putin's Russia. Rutland (2000), 345; *Russia Public TV*, Moscow, in Russian 1800 gmt, 8 July 2000; *Russian Public TV*, Moscow in Russian 1700 gmt 17 May 2000.

¹⁰ At least two distinguished scholars have noted that Putin purposefully seemed to contrast his dictatorship of law with the Bolshevik slogan 'dictatorship of the proletariat.' See Rutland (2000), 345; Sharlet (2001), 204. As Professor Sharlet observes, 'These casual, metaphoric usages seem to have evoked little or no noticeable reaction in a country where the word 'dictatorship' has long held a privileged place in official discourse to mean the highest and ultimate authority, as well as its unrestricted dominion over polity and society.' However, that is precisely the reason human rights observers both within and outside Russia were so concerned: a society too used to dictatorship and too unfamiliar with law, like its president, risked erring on the side of *too much* law. As Bernard Rudden noted, for example, 'there is a precious sphere of non-law' in the development of private civil law and, by extension, civil society.' Rudden (1994), 60.

¹¹ *Ukaz* N. 849, 13 May 2000. See also *Rossiiskaia gazeta*, 16 May 2000, 5.

¹² The decree annulled Yeltsin's decree of 9 July 1997, which established the post of presidential plenipotentiary for each of the eighty-nine subjects of the Federation. *Ukaz* N. 696, 9 July 1997.

¹³ Two exceptions to this norm were that, 1. *polpredy* were given extensive control over federal cadre policy in the districts, and 2. *polpredy* were given general rights of access and participation not only in federal organs operating in the district, but also organs of state

power of the regions themselves and their organs of local self-government. Even these assertions of authority, however, could be interpreted in both power-generating and power-deflating ways.

¹⁴ According to Michael Wines, 'Mr. Putin is said to have sprung the plan on top governors last week in a meeting that ran so long that the president's next appointment – his new prime minister, Mikhail Kasyanov – cooled his heels for more than an hour.' Wines (2000), A3. See also 'Russia's Putin discusses government structure with Premier Kasyanov,' ITAR-TASS news agency, Moscow, in English 1526 gmt 17 May 2000, *BBC Monitoring*.

¹⁵ Putin (2000), 3. The speech was given on Russian television on 17 May.

¹⁶ The day after the decree, television station NTV aired the positive remarks of Samara Governor Konstantin Titov, Voronezh region head Ivan Shabanov, Saratov Governor Dmitri Ayatskov, and others. NTV International, Moscow in Russian 1200 gmt 14 May 2000, reported by *BBC Monitoring*. Among those few analysts and politicians who made early criticisms of the reforms are Radio Free Europe Editor Paul Goble and Chuvash President Nikolai Fedorov, who became the unofficial opposition spokesman to Putin's reforms.

¹⁷ Liz Fuller has suggested that this is precisely what initially led Tatarstan's Mintimer Shaimiev to endorse the reform. Fuller (2000).

¹⁸ *Rossiiskaia gazeta*, 19 May 2000, 3.

¹⁹ *Segodnia*, 16 May 2000, 4.

²⁰ General G.S. Poltavchenko, Lt. Gen. V.V. Cherkesov, Gen. V.G. Kazantsev, Col. Gen. P.M. Latyshev, Lt. Gen. K.B. Pulikovskii. S.V. Kirienko and L.V. Drachevskii hold no military rank. See *The Economist*, 11 November 2000, 61; *Current Digest of the Post-Soviet Press* (2000), 52(20), 2–4; *Rossiiskaia gazeta*, 20 May 2000, 3; *Segodnia*, 31 May 2000, 1–2.

²¹ For Kirienko, see <http://www.pfo.ru/>, the official website. For Latyshev, see <http://www.uralfo.ru/>, the official website. For Drachevskii, see <http://www.sfo.nsk.su/>, the official website.

²² See *East West Institute Russian Regional Report*, 26 July 2000, 5, 29. Two months following his appointment, Konstantin Pulikovskii was still living in a hotel in Khabarovsk. In Ekaterinburg, Petr Latyshev found himself the victim of dirty tricks: accepting an offer by oblast' authorities to set up offices in an old Pioneers' Palace, Latyshev found himself the centre of scandal, accused of displacing the children who had previously been granted its use. Natalya Mints, 'Latyshev Steps Up Activities in Urals Federal District,' See *EastWest Institute Russian Regional Report*, 27 September 2000, 5, 35.

²³ Corwin (2001).

²⁴ Quoted in Rutland (2000), 348.

²⁵ *Nezavisimaia gazeta*, 27 October 2000, translated by *BBC Monitoring*. The decree met with only moderate success, as some regions reorganized media holdings to circumvent federal control.

²⁶ Miroschnichenko (2000).

²⁷ FC Head Calls for Law on Presidential Representatives. *RFE/RL Russian Federation Report*, 1 November 2000, 2, 40.

²⁸ Samoilov was not left to wait out in the cold for long. By September 2001, he had been appointed secretary of a federal presidential commission for the demarcation of authority between the centre and the regions. Putin Clarifies Powers of Presidential Representatives. *EastWest Institute Russian Regional Report*, 10 January 2001, 6, 1; *Ukaz N. 97*, 30 January 2001.

²⁹'Above everything else, the state is the law. It stands for constitutional law and order and discipline. If these tools are weak, the state is also weak or simply nonexistent. ... It is outrageous that - think about this figure - one-fifth of the legal regulations adopted by the regions contradict the country's fundamental law, [...]' Russian Public TV, Moscow, in Russian 1700 gmt 17 May 2000, reported by *BBC Monitoring*. The text of the speech was also reprinted in Putin (2000), 3.

³⁰*Ukaz N. 790*, 5 May 2000; *Ukaz N. 791*, 5 May 2000. Two more Ingush decrees were later suspended by President Putin. See *Ukaz N. 132*, 7 February 2001.

³¹*Ukaz N. 800*, 5 May 2000.

³²'Russia's Putin suspends decrees by Ingush president, Amur Region governor,' ITAR-TASS news agency, Moscow, in English 1212 gmt 11 May 2000, reported by *BBC Monitoring*.

³³*Ukaz N. 851*, 15 May 2000. See also *Rossiiskaia gazeta*, 18 May 2000, 4.

³⁴*Ukaz N. 1055*, 7 June 2000. The Adygeia decrees enumerated state posts to be filled by the nomination of the President of Adygeia; *Ukaz N. 1101*, 12 June 2000. This decree established tariffs on electric energy for the population of the oblast; *Ukaz N. 1500*, 12 August 2000. This decree regulated licensing of the procurement, stock-piling and use of scrap ferrous & non-ferrous metals in the oblast. *Ukaz N. 1605*, 1 September 2000. This decree concerned migration and residency policies in the republic. *Ukaz N. 1620*, 9 September 2000. This decree concerned republican procedures for the acquisition of rights of residence in the republic.

³⁵*Konstitutsiia Rossiiskoi Federatsii*, Art. 90. Upon promulgation of a federal law previously subject to a presidential decree, the latter loses force to the former.

³⁶*Konstitutsiia Rossiiskoi Federatsii*, Art. 85, § 2: 'The president of the Russian Federation shall have the right to suspend the acts of organs of executive power of subjects of the Russian Federation in the case of conflict of these acts with the Constitution of the Russian Federation, federal laws, international responsibilities of the Russian Federation or violations of rights and freedoms of the person and citizen, pending resolution of this question by the appropriate court.'

³⁷Danilenko - Burnham (1999), 156.

³⁸*Vestnik Konstitutsionnogo Suda Rossiiskoi Federatsii*, no. 3 (1996), 15.

³⁹*Vestnik Konstitutsionnogo Suda Rossiiskoi Federatsii*, no. 3 (1996), p. 24.

⁴⁰Opredelenie Konstitutsionnogo Suda Rossiiskoi Federatsii po zaprosu gruppy deputatov Gosudarstvennoi Dumy o proverke sootvetstviia Konstitutsii Rossiiskoi Federatsii otdel'nykh polozhenii konstitutsii Respubliki Adygeia, Respubliki Bashkortostan, Respubliki Ingushetiia, Respubliki Komi, Respubliki Severnaia Osetiia-Alaniia i Respubliki Tatarstan, 27 June 2000. Opinions and decisions of the Court have slightly different values as precedent. With regard to the subjects discussed above, however, there seems to be little practical difference.

⁴¹See e.g., the Court's ruling, in the context of the 1992 Tatarstan referendum, that select provisions of the republic's constitution and declaration of sovereignty were unconstitutional they repudiated the supremacy of federal law. The ruling is translated into English in 'Decree of the Constitutional Court of the RSFSR, 13 March 1992,' *Statutes & Decisions: The Laws of the USSR and its Successor States*. (1994), 30, 3, 32-48. See also rulings against the republics of Komi in 1998: Postanovlenie Konstitutsionnogo Suda Rossiiskoi Federatsii po delu o proverke konstitutsionnosti statei 80, 92, 93 i 94 Konstitutsii Respubliki Komi i

stat'i 31 Zakona Respubliki Komi ot 31 oktiabria 1994 goda 'Ob organakh ispolnitel'noi vlasti v Respublike Komi,' *Rossiiskaia gazeta*, 31 January 1998, 4 (holding unconstitutional republican legislation subordinated heads of local administrations, i.e. local self-government, to the head of the republic (president), who appointed them virtually at will); and against Udmurtia in 1996: Postanovlenie Konstitutsionnogo Suda Rossiiskoi Federatsii po delu o proverke konstitutsionnosti Zakona Udmurtskoi Respubliki ot 17 aprelia 1996 goda 'O sisteme organov gosudarstvennoi vlasti v Udmurtskoi Respublike,' 24 January 1997, *Vestnik Konstitutsionnogo Suda Rossiiskoi Federatsii*, no. 1 (1997), 2 (holding unconstitutional the republican parliament's summary dissolution and subsequent subordination of local self-government units in the republic) among others.

⁴² *Opreделение Konstitutsionnogo Suda Rossiiskoi Federatsii*, 27 June 2000. The constitutional provisions of the republics of Komi and Adygeia were singled out for this violation.

⁴³ As Robert Sharlet reports, Chief Justice Marat Baglai 'enlisted enthusiastically in the campaign to control regional legal separatism.' There are many reasons why the Court, which has not always enjoyed cordial relations with the Executive Branch, found common cause with President Putin on federal questions. Indeed, the Court had consistently (but futilely) opposed doctrines of nullification, 'treaty-based' federalism and other forms of regional malfeasance. One reason worth noting, however, is the incentive provided by Putin's Kremlin, which pushed hard for the passage of a new law in early 2001 'extending court justices' term of office, as well as lifting the mandatory retirement age, [which] was tailored to fit Chief Justice Baglai, its chief near-term beneficiary.' Sharlet (2001), 220.

⁴⁴ *Rossiiskaia gazeta*, 21 June 2000, 5.

⁴⁵ Shinkin (2000), 3.

⁴⁶ Author's interview, Moscow, 14 July 2000. This view was supported at much higher levels as well. 'President Rakhimov referred to the determination as a political act, not a legal act. Ildus Adigamov, the president of the republic's constitutional court, stated that in the current situation the main task of his institution was to uphold the basic law of the republic.' Rabinovich (2000).

⁴⁷ Bronshtein (2000). See also Postnova (2000), 4.

⁴⁸ Akopov (2000), 2. Twenty-six amendments to fifteen articles of the Constitution were accepted. The most outrageous violation of federal law – Tyva's constitutional assertion of the right to secession – was left unchanged. Amendment of that article requires a referendum. Efforts continued to patch the old constitution, resulting in over sixty amendments. Finally, a referendum held 6 May 2001 led to the adoption of a new constitution.

⁴⁹ Andrusenko (2000), 3. Iliumzhinov announced at a press conference that this step was taken to demonstrate complete support for the President's reforms.

⁵⁰ The Constitutional Court continued to hear cases on these subjects in the first year of Putin's administration. In November 2000, the Court again held unconstitutional – as it had in the Udmurtia and Komi decisions (see above, footnote 44) – laws and constitutional clauses of the republic of Kabardino-Balkaria permitting the republic's president to appoint and dismiss heads of local administration (e.g. municipal and other forms of local self-government). *Vestnik Konstitutsionnogo Suda Rossiiskoi Federatsii*, N. 2 (2001), 20.

⁵¹ Zhdanova (2001), 2. It might have been hard for some regions to take this deadline seriously. Previous 'strict deadlines' had pockmarked the Yeltsin years. The Putin administration had already changed the deadline at least twice. Corwin (2001c).

⁵² Dmitrii Kozak, head of the presidential commission, declared the hierarchy to be: Federal Constitution, federal laws, presidential decrees, and resolutions of the government. By the time of his announcement, the deadline for legal conformity had again been moved forward. Corwin (2001d).

⁵³ Original proposals (*zakonoproekty*) were published in *Nezavisimaia gazeta*, 20 May 2000, 4–5.

⁵⁴ Russian Public TV, Moscow, in Russian 1700 gmt 17 May 2000, reported by *BBC Monitoring*. Reprinted in *Rossiiskaya gazeta*, 19 May 2000, 3.

⁵⁵ Vil'iam Viktorovich Smirnov, political scientist and academic lawyer, head of the Department of Political Science, Institute of State & Law of the Russian Academy of Sciences, Moscow. Author's interview, Moscow, 13 July 2000.

⁵⁶ Only the Federated States of Micronesia and the United Arab Emirates are federal systems with unicameral legislatures. The assertion of federalism in the U.A.E. – a loose collective of seven emirates with sultanistic governmental systems – is, at the very least, suspect. Tsebelis – Money (1997), 6.

⁵⁷ As Tsebelis and Money summarize this argument, 'majority rule in unicameral legislatures means that slightly more than one-quarter of the voters can prevail in having their preferences implemented – one-half of the representatives in the legislature, representing one-half of the voters in their constituencies. In bicameral systems, the presence of two legislative houses requires a broader constituency base to support any legislation.' Tsebelis – Money (1997), 36.

⁵⁸ By controlling the order of choices available on the legislative agenda, outcomes of voting can also be controlled. This device, as well as more complex 'vote cycling' (e.g. Condorcet's famous paradox) are both analyzed from the perspective of unicameral and bicameral legislatures by Tsebelis and Money.

⁵⁹ See White – Rose – McAllister (1997), 31, 107–109, 125–126.

⁶⁰ Article 96, § 2, *Konstitutsiia Rossiiskoi Federatsii* (1993).

⁶¹ *Zakon N. 50*, 11 December 1995.

⁶² Arguably, the governor of Primorskii Krai, Yevgenii Nazdratenko, was the first, albeit indirect, victim of this law. Nazdratenko, who defied Yeltsin's repeated efforts to remove him from his corrupt, personal fiefdom in the Far East, abruptly agreed to resign (despite recent statements to the contrary) following a phone call from Putin and a personal visit by the head of the Kremlin's Control Department (GKU), Yevgenii Lisov. What transpired in those conversations is unknown, but it is not unreasonable to speculate that the new consequences of remaining in office were made clear to the wayward governor. Corwin (2001b). A few weeks later, Putin appointed Nazdratenko Chairman of the Federal State Fisheries Committee, suggesting a carrot as well as stick approach. *EastWest Institute Russian Regional Report*, 28 February 2001, 6, 8.

⁶³ Criticism of the bill by senators was particularly harsh. Even Novgorod Governor Mikhail Prusak, described as 'slavishly supportive' of Putin, reminded the new president that he 'was elected with the governors' help' and should therefore avoid 'confrontation between the president and the governors.' Corwin (2000a). Republic of Chuvashia President Nikolai Fedorov (a former federal Minister of Justice) declared that the bill was no less than a 'destruction of the system of checks and balances, and is very dangerous for democracy.'

EastWest Institute Russian Regional Report, 26 July 2000, 5, 29.

⁶⁴ Article 105, § 5 of the Constitution requires a vote of 2/3 of the total number of Duma deputies to override a veto by the FC.

⁶⁵ Kozyreva (2000a), 1–2.

⁶⁶ Kozyreva (2000b), 1–2. One of the most contested amendments was to give regional executives the right to recall their representatives from the FC without the agreement of the regional legislature. Tropkina (2000a), 1. See also Sukhova (2000b), 1.

⁶⁷ In February 2001, Putin signed another law that received strong support in the FC, for obvious reasons: it lifted the limit on terms in office for regional governors and presidents, permitting an incumbent executive to run for a third term (and in some cases, even a fourth term). *Zakon N. 3-FZ* 12 February 2001.

⁶⁸ Kalashnikova – Sukhova (2000), 1.

⁶⁹ Stroev (2000), 1, 8.

⁷⁰ *RFE/RL Newslines*, 3 August 2000, 4, 148 (Part I). In the end, Fedorov's threatened appeal to the Constitutional Court was abandoned when the FC's Committee on Constitutional Legislation, with whom the appeal was jointly to be made, decided not to take up the case.

⁷¹ Speculation about the creation of (and strategic implications of creating) such a body in light of Putin's reforms began as early as May. See Sukhova (2000a), 1. Hints were also made that immunity might vest in membership (though ultimately this was not made part of Putin's *ukaz*). See Kalashnikova – Sukhova (2000), 1.

⁷² *Ukaz N.1602*, 1 September 2000.

⁷³ The members of the first Presidium were: Tyumen Oblast Governor Leonid Roketskii, Tomsk Oblast Governor Viktor Kress, Moscow Mayor Yurii Luzhkov, Khabarovsk Krai Governor Viktor Ishaev, Dagestan State Council Chairman Magomedali Magomedov, Tatarstan President Mintimer Shaimiev, and St. Petersburg Governor Vladimir Iakovlev. Each executive was chosen from a different federal district, as became the rule. Corwin (2000b).

⁷⁴ According to the powerful governor of St. Petersburg and a member of the new Presidium (and one of Putin's adversaries), Vladimir Iakovlev: 'Our conversations with Mr Putin have confirmed that in order for the State Council to be legitimate, we have to change the constitution. A number of the functions of the FC may be transferred to it.' Jack (2000).

⁷⁵ Tropkina (2000b), 3.

⁷⁶ See <http://www.council.gov.ru/sostav/members/spisok.htm>. Although not reported on the FC website (which proclaimed itself up-to-date) Radio Free Europe reported that the newest senator had been announced that very day: Gennadii Burbulis, who would replace the Governor of Novgorod Oblast, Mikhail Prusak. *RFE/RL Newslines*, 5 November 2001, 5, 210 (Part I).

⁷⁷ As of 2 November 2001, republican presidents Dzharimov (Adygeia), Rakhimov (Bashkortostan), Magomedov (Dagestan), Aushev (Ingushetia), Kokov (Kabardino-Balkaria), Ilumzhinov (Kalmykia), Semenov (Karachaevo-Cherkessia), Katanandov (Karelia), Merkushev (Mordovia), Nikolaev (Sakha-Yakutia), Dzasokhov (North Osetia-Alania) and Oorzhak (Tyva) continued to sit *ex officio* in the FC.

⁷⁸ *Zakon N.42*, 18 October 1999.

⁷⁹ See Article 12, § 1.

⁸⁰ Article 2 of federal law N. 106-FZ 29 July 2000.

⁸¹ Oliver Wendell Holmes' famous comment is *a propos*: 'I do not think the United States would come to an end if we lost our power to declare an Act of Congress void. I do think the Union would be imperiled if we could not make that declaration as to the laws of the several States.' Quoted in Gunther – Sullivan (1997), 65.

⁸² While impeachment has sometimes been used to remove executive officials from office, this function has been rare in the United States. Impeachment has predominantly been used to unseat judges. In either case, this is done by and at the behest of the legislature (not the executive) sitting as a *court* of impeachment (not, in principle, as a political body) to decide a violation of the law of its own jurisdiction (state or federal).

⁸³ Even when, in 1957, Arkansas Governor Orval E. Faubus openly defied court-ordered school desegregation with the use of Arkansas national guardsmen, his flagrantly unconstitutional act was not met by then President Eisenhower with efforts to seek his dismissal. Nor could this have been attempted by the federal Chief Executive against a state governor with an electoral mandate. Eisenhower responded by calling out U.S. soldiers, whose forceful presence was used to accomplish the federal courts' orders.

⁸⁴ Article 29, § 4 of the revised law, N. 184-FZ of 6 October 1999 (explicated in Art. 1, § 6 of Putin's reform legislation, N.106-FZ of 29 July 2000).

⁸⁵ The fear may well be justified. One week after the law entered into effect (a six month delay was built into the law signed 29 July 2000), Putin seemed to have won a prize that eluded his predecessor for years – the resignation of Primorskii Krai governor Evgenii Nazdratenko. Though it is unclear whether Putin specifically threatened the governor with use of *this* law, its sudden presence in Putin's arsenal of powers certainly was known to all parties. Filipov (2001), A9. According to Radio Free Europe, the day before Nazdratenko's resignation (for health reasons many disputed), Putin phoned Nazdratenko, and the head of the Kremlin's State Control Department, Yevgenii Lisov, personally visited Nazdratenko. Goble – Corwin (2001).

⁸⁶ Why wasn't a conciliation commission established to whittle away the harshest features of this reform, as had been accomplished with the reform of the FC itself? One factor may have been the different vote tallies in the Duma between the two pieces of legislation. Article 105, § 5 of the Russian Constitution grants the Duma the power to adopt a federal law over a FC veto by a vote of two-thirds the total number of the lower chamber's 450 deputies (i.e. 300 deputies). Whereas the third reading of the bill on the composition of the FC passed in the Duma with only 308 votes, and approval of its compromise version passed with only 307 votes, the Duma passed the bill on dismissal of regional executives and legislatures by a solid 361 votes, well over the margin necessary to defeat a veto by the upper chamber.

⁸⁷ That law was N.154-FZ, 28 August 1995, 'O obshchikh printsipakh organizatsii mestnogo samoupravleniia v Rossiiskoi Federatsii,' *Sobranie zakonodatel'stva Rossiiskoi Federatsii*, N.35 (1995), item 3506; with amendments found at N.12 (1997), item 1378.

⁸⁸ This reform was made law by N.107-FZ, 4 August 2000, 'O vnesenii izmenenii i dopolnenii v Federal'nyi zakon 'Ob obshchikh printsipakh organizatsii mestnogo samoupravleniia v Rossiiskoi Federatsii,' *Sobranie zakonodatel'stva Rossiiskoi Federatsii*, N. 32, 7 August 2000, item 3330, p. 6243.

⁸⁹ The treatment of heads of *municipal* administrative organs is exceptional. Regional executives and the RF President both have power to issue an *ukaz* of dismissal and to appoint temporary acting heads of those organs in the interim before elections, unless the charter

of the municipal prescribed a different procedure. Proposals for dismissal of such officials by the President of the Russian Federation may be introduced by the legislature of the region, the regional executive, the RF Government and the RF Procurator-General.

⁹⁰ Berger (1999), 4–5.

⁹¹ See, in particular, N.48, 49 and especially 51.

⁹² *The Federalist*, N.51.

⁹³ This was the infamous Ukaz N.1400, 21 September 1993.

⁹⁴ Addressing the nation on May 17, Putin expounded: 'If the head of a territory can be dismissed by the country's president under certain circumstances, he should have a similar right in regard to authorities subordinate to him. Today, this is not just a right thing to do, but simply necessary in order to restore the functional vertical structure of executive power in the country. For a long time now the federal parliament, the government and even the president have not been able to achieve even simple but absolutely necessary things because they lacked such tools: to observe the citizens' rights and implement Russian state legislation with equal precision throughout Russia, in its most remote parts as well as in Moscow. This is what the dictatorship of law means. It would mean we are living in one strong country, one single state called Russia.'

⁹⁵ This model was expounded as early as February 2000 in an unpublished paper prepared for Duma and FC working groups. The author is grateful to Mikhail Stolyarov for a copy of this document. The model was eventually published in early April. Lysenko (2000b), 8.

⁹⁶ Lysenko (2000b), 8. Lysenko argued that the strong president and centralized state he prescribed for Russia was of a 'European type,' resembling the personal power of Charles de Gaulle, not some 'central Asian despotic regime.'