

Conclusions

Article 1 of the Russian Constitution states that the Russian Federation 'is a democratic federative rule of law state with a republican form of government'. However, as this study has shown, whilst many of the structural prerequisites of a federal state have undoubtedly been formed, a federal and democratic culture has still to emerge. Thus, as Kempton notes, 'although Russia inherited a federal structure, it did not inherit a federal tradition'.¹ Centre-periphery relations in Russia have been determined principally by political and economic factors rather than constitutional norms.

The difficulties of creating a democratic federation in Russia have undoubtedly been made much more problematic by the nature of its origins as a quasi-federation within the USSR. One of the most destructive legacies which Russia inherited from the Soviet Union was its ethno-territorial form of federalism. The 'dual nature' of Russian federalism, which grants different constitutional rights and powers to different subjects of the federation, has from the outset created major tensions and divisions between federal subjects. Indeed, the demands for legal separatism and the development of bilateralism can be seen as logical responses to the constitutional inequalities inherent in the system.

The foundations of Russia's constitutional order

The manner by which Russia's constitutional foundations were laid down have also had a major impact on its transition. As we have seen the foundations of Russia's constitutional order were born out of conflict and coercion rather than dialogue and consensus. And the Constitution was largely imposed from above on a weak society, which was still suffering from the after-shocks of Yeltsin's violent assault and dissolution of the Russian parliament.

Moreover, Yeltsin's victory over the parliament was a pyrrhic victory. For although a 'presidential Constitution' was officially ratified in

December 1993, the Constitution was fundamentally weakened by questions over its legitimacy. As we discussed in chapter 1, one of the central preconditions for a democratic federation is the voluntary membership of its subjects. But in December 1993, forty-two subjects out of eighty-nine failed to ratify the Constitution. And many of those ethnic republics which had rejected the Constitution soon went a step further, and declared that their own constitutions were to take precedence over the Russian one. Chechnya demanded outright secession and Tatarstan declared that it was only an 'associate member' of the federation. Others republics, such as Bashkortostan, Kalmykiya, Sakha and Tyva were able to forge confederal relations with the centre.

Since December 1993, federal relations in Russia have largely been determined by a 'war of laws'. There was no 'elite pact' or 'elite settlement' in Russia. Nor was there a post-revolutionary 'circulation of elites' as happened in many of the states of Eastern Europe in 1989. Russia's 'revolution' was both a 'revolution from within' and 'from above', whereby members of the Russian 'nomenklatura' largely took over the reigns of power from members of the Soviet nomenklatura. And elite continuity rather than elite circulation was even more the norm in Russia's twenty-one ethnic republics. Former Communist leaders here were able to swap their 'Communist spots' for nationalist ones.

Over the period 1991–93 there was a fierce struggle for power between the Russian parliament and President, which soon gravitated, downwards to the republics and regions. And in 1992 Yeltsin was forced to concede major powers to the federal subjects in the Federal Treaty. Yeltsin needed the support of the regions in his struggle with the Russian parliament. In the period between the signing of the Federal Treaty in March 1992 and the adoption of the Russian Constitution in December 1993 the republics were able to make the most of the political impasse in Moscow. Thus, the constitutional foundations, that were to determine the future direction of these republics for many years to come, were laid down during a time of great turmoil and uncertainty, and before the Russian Constitution was formally adopted. During this period of weak and divided central powers, the republics were able to carve out for themselves ever-greater amounts of national autonomy.

Problems over the legitimacy of the federal Constitution weakened the authority of the federal government and the status of federal laws in the federal subjects. And, as we discussed in chapter 3, Yeltsin further undermined the authority of the Constitution by signing forty-six bilateral treaties with the regions. Before long there was a 'war of laws' between federal and republican constitutions. Indeed, federal relations have been regulated by five competing and contradictory sources of law: (1) the federal Constitution, (2) the Federal Treaty, (3) federal laws, (4) bilateral treaties, and, (5) the constitutions and charters of the republics and

regions.² Thus, unity and diversity both exist in Russia but in contradiction rather than harmony. Indeed, there would appear to be as many kinds of federal relations as there are subjects of the federation.

From ethnic to legal and economic secessionism

Fearing that demands for secession would spread from Chechnya to other parts of the federation, Yeltsin tolerated a high degree of regional autonomy in the ethnic republics. By backing moderate nationalist leaders and promoting bilateral treaties with the most troublesome regions, Yeltsin was able to marginalise the more radical nationalists and bring the 'parade of sovereignties' to an end.

However, as we discussed in chapter 4, the dangers of ethnic separatism spreading across the federation were never, in fact, very high. In only 7 of Russia's 21 republics does the indigenous population make up a majority. And of the 11 autonomous there are only 2 where the indigenous population predominates. Furthermore, in those 7 subjects where the indigenous population comprises a majority, 1 is landlocked and the remaining 6 are dependent on the centre for their economic survival.

It is the development of legal separatism, not ethnic secession, which has proved to be the greater threat. Over the period 1996–97 Yeltsin lost his control over the appointment of regional governors and his ability to control the federation Council was therefore also substantially weakened. And by 1997–98 many of Russia's governors and presidents had successfully carved out personal fiefdoms. Legal separatism was soon a *de facto* reality for many regions. Thus, as we noted in chapter 8, by 2001 just under a quarter of all legal acts adopted by the regions and republics contradicted the federal Constitution and federal laws. Regional governors and republican presidents were also able to capture control over the appointment of the heads of federal bureaucracies situated in their territories.

President Putin came to power with a mandate to win back power from the governors and to create a unified legal space across the federation. However, Putin's success has been only partial. In many regions and republics the number of laws which violate the Constitution have actually risen. As we noted in chapter 8, in December 2001, 72 per cent of Bashkortostan's laws still violated federal norms, a figure which was actually higher than it was in May 2000 at the beginning of Putin's reforms. Moreover, new constitutions adopted in Bashkortostan and Tatarstan still include the full texts of their bilateral treaties, many of whose provisions violate the Russian Constitution. And in defiance of a Constitutional court ruling, Bashkortostan, Sakha, Tatarstan and Tyva have all steadfastly refused to renounce their sovereignty claims.

Federalism and democratisation in Russia

As we discussed in chapter 1, scholars of federalism have stressed the positive relationship between federalism and democratisation. Thus, for example, Daniels argues that, 'by distributing power, federalism curbs arbitrary rule, both at the centre and locally. It decentralizes responsibility while providing a mechanism to restrain potential local conflicts and abuses. It provides a school of democracy, and it quite literally brings government closer to the people'.³ Similarly, for Elazar, 'Federalism by its very nature must be republican in the original sense of *res publica* – a public thing; a federal polity must belong to its public and not be the private possession of any person or segment of that public, and its governance therefore requires public participation'.⁴

And for Elazar, public participation is the key factor which distinguishes federalism from feudalism. Feudalism entails, 'a series of contracts among fiefdoms, in which authority is arranged hierarchically and power is usually organised oligarchically'. On the other hand, 'true federal arrangements must rest upon a popular base'.⁵ For King, as we have seen, federation and democracy are synonymous, and for true federalism to function relations between the centre and regions must be grounded in constitutional law and democratic representation. For King, only liberal democracies can be truly federal.⁶

Such theories are fine for liberal democracies, but what of transitional regimes such as Russia where federalism and democracy need to be constructed and consolidated simultaneously, and where constitutionalism and the rule of law are, as yet, only weakly developed in Russian society. The Russian federation's unique blend of constitutional, socio-economic, and political asymmetry, far from promoting democracy, has bolstered authoritarian regimes in the regions. High levels of regional autonomy have led the regions more often in the direction of dictatorship than democracy. The constitutions of the republics and the charters of the regions have been forged out of fire and the struggle for power between regional executive and legislative bodies of power. Whoever wins the struggle imposes their form of political system. Thus, we would appear to be in a conundrum, for federalism, it is argued, is impossible without democracy, but in Russia's multi-national state, democracy is impossible without federalism.

As the Russian proverb states 'the fish rots from the head down'. In a bid to bring in regional votes and to ensure tax returns and ethnic quiescence, Yeltsin often turned a blind eye to the development of authoritarian regimes in the regions. Likewise, Putin's reforms of the federal system have made a mockery of both federalism and democracy. The constitutional powers of the regions have been usurped by seven

unelected presidential representatives. And Putin's powers to dismiss popularly elected governors and assemblies is a highly retrograde step. Moreover, Putin's attack on the sovereignty claims of the ethnic republics may weaken the powers of moderate leaders in the republics and give greater degrees of popular support to more radical nationalists and separatist movements.

The development of such high levels of constitutional and political asymmetry in Russia has weakened the federal government's ability to protect and promote democracy across the federation. Paradoxically, it is in those subjects of the federation which have been granted the most autonomy, the ethnic republics, where we find the highest levels of authoritarianism. Presidential leaders in the ethnic republics have been able to use their considerable levels of political autonomy to carve out authoritarian regime. Thus, as Whitmore notes: 'Many of Russia's 89 regional executives have indeed become brazenly authoritarian, flaunting the law, ignoring the country's constitution, and routinely violating human rights and democratic norms. Regional leaders have fixed elections, emasculated parliaments, bribed the courts, strong-armed the media, and bullied opposition figures'.⁷

Such practices have enabled regional leaders to pack regional assemblies with their loyal supporters. And in many of the ethnic republics, assemblies are nothing more than an appendage of executive power. And by controlling the parliaments regional leaders have been able to control other key bodies such as the police, courts and electoral commission all of which are highly politicised.

There can be no consolidation of democracy in Russia without a nationwide consolidation of parties and the party system. The chronic weakness of political parties in regional assemblies has intensified the clientalistic and corporatist nature of politics in Russia and it has allowed regional governors to virtually rule alone without any effective opposition. And in the absence of parties and party competition regional assemblies have been swamped by economic and administrative elites.

Moreover, Putin's reform of the party system is yet a further blow to the development of local-level democracy. Regional parties will no longer be able to operate from 2003. The President's 'party of power' (Unity) will undoubtedly be one of the few beneficiaries of the new law on parties. And the centralisation of the party system will undoubtedly bolster Putin's quest to centralise power in the state and restore the 'power vertical'. Finally, as we have stressed in chapter 6, it is very difficult to consolidate parties in weak and fragmented federal systems, but it is doubly difficult to build federal systems in the absence of strong and territorially comprehensive parties.

Local democracy is also surely a necessary prerequisite for democratisation at the national level. And the provision of certain basic democratic

procedures should, in a democracy, be universally available to all citizens across the federation regardless of their place of residence. But, in Russia this has been far from the case, and there are wide regional variations in the development of civil society, electoral practices and adherence to constitutional norms and the exercise of human rights. Regional and republican parliaments have blatantly adopted legislation violating human rights and they have openly carried out policies which discriminate against the rights of ethnic minorities.

Whilst we have not conducted a systematic study of politics in all eighty-nine subjects of the federation it is clear from this study that, according to the definitions given by Dahl, O'Donnell and Beetham, (see chapter 1), very few, if any, of Russia's regions, and none of its ethnic republics qualify as democracies. Authoritarian regimes dominate Russia's regional landscape.

For Montesquieu, large states must choose between tyranny and federalism. But as Petrov stresses, 'True to its habit of choosing both evils, Russia has taken the path of building a "federation of tyrannies"'.⁸ In a vicious circle, authoritarianism at the centre has been nourished by authoritarianism in the regions and vice versa. To conclude, Yeltsin and Putin, unlike Gorbachev, may have succeeded in maintaining the unity of the state, but only by sacrificing Russia's democratic transition.

Notes

- 1 D. Kempton, 'Russian federalism: continuing myth or political salvation', *Demokratizatsiya*, 9:2 (2001), p. 202.
- 2 A. Umnova, *Konstitutsionnye Osnovy Sovremennogo Rossiiskogo Federalizma* (Moscow: Delo, 1998), p. 50.
- 3 R. V. Daniels, 'Democracy and federalism in the former Soviet Union and the Russian Federation', in P. J. Stavrakis, J. DeBardeleben and L. Black (eds), *Beyond the Monolith: The Emergence of Regionalism in Post-Soviet Russia* (Baltimore: Johns Hopkins University Press, 1997), p. 233.
- 4 D. Elazar, *Exploring Federalism* (Tuscaloosa and London: University of Alabama Press, 1987), p. 107.
- 5 D. Elazar, *Federalism and Political Integration* (Israel: Turtledove, 1979), p. 47.
- 6 P. King, *Federalism and Federation* (London: Croom Helm, 1982), p. 94. Cited in Burgess and Gagnon, *Comparative Federalism*, p. 5
- 7 B. Whitmore, 'Power plays in the provinces', *Transitions* (September, 1998), 72.
- 8 N. Petrov, 'Russia's regions or regions' Russia? prospective realignment of the nation's political subdivisions', Carnegie Institute, *Briefing Papers*, 3 (March, 1999), 1.