Russia on the edge of change

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All Russian leaders have declared their loyalty to the 1993 constitution, but their commitment to the spirit of constitutionalism is less clear. Structures and rules do not always provide a framework for order; and instead political actors and economic entrepreneurs subvert structures and rules, and at the same time create new ones to sustain the regime while bypassing the formal constitutional order. The rush to the market in the 1990s entailed a high degree of 'institutional nihilism', and this allowed the development of what Dmitry Medvedev in 2008 called 'legal nihilism'. It also transformed Russia in a historically unprecedented short period of time into a market economy, but one with certain distinctive features.

Dualism and stalemate

A dual system has taken shape in Russia in which the formal procedures of the constitutional state, together with the political practices of public competition between parties and other representatives of society, is balanced by the shadowy and opaque structures of the administrative regime, populated by various factions and operating according to the practices of Byzantine court politics. Since the Yukos affair of 2003 a rough parity has been established between the two systems, and thus Russia today finds itself in a deeply entrenched stalemate. The tension between the two systems is the characteristic feature of Russian politics today. This is more than a hybrid system but one in which there is a continuing struggle between the two orders to shape the future of the country.

The contrast between an administrative and a constitutional state provides the key to interpreting developments in post-communist Russia. The fundamental legitimacy of the regime is derived from being embedded in a constitutional order to which it constantly proclaims its allegiance. However, elements of the prerogative state have emerged. Thus the interaction between the constitutional and administrative states in Russia has become the defining feature of the regime. This dynamic tension precludes assigning Russia simply to the camp of authoritarian states, as so much simplistic commentary does, but it also means that Russia's democracy is flawed, above all because of abuses in the rule of law and the lack of political competition conducted on a level playing field. It is for this reason that as Russia enters a new electoral cycle there are demands, including from leading ministers, for the elections to be held in a free and fair manner.

Although the rule of law in Russia remains fragile and is susceptible to manipulation by the political authorities, no fully-fledged prerogative state has emerged. Neither, however, has a fully-fledged rule of law state, and thus Russia remains trapped in the grey area between an administrative regime and a genuine constitutional state.

Two political systems operate in parallel. On the one hand, there is the system of open public politics, with all of the relevant institutions described in the constitution and conducted with pedantic regulation in formal terms. At this level parties are formed, elections fought and parliamentary politics conducted. However, at another level a second para-political world exists based on informal groups, factions, and operating within the framework of the inner court of the presidency. This Byzantine level never openly challenges the leader, but seeks to influence the decisions of the supreme ruler. This second level is more than simply 'virtual' politics, the attempt to manipulate public opinion and shape electoral outcomes through the pure exercise of manipulative techniques, but lacks the efficacy that, however limited, is one of the characteristics of modern democracies. The suffocation of public politics intensifies factional processes within the regime and corruption in society as a whole.

Two types of domination, or rule, identified by Max Weber as 'patrimonial' and 'legal-rational', generate two distinctive political orders, which in turn have given rise to the 'dual state'. The neo-patrimonial elements generate systemic insecurity about which rules will apply at any particular time and thus actors have recourse to a range of informal behaviours to reduce risk, but this only generates further systemic insecurity and undermines the consolidation of the formal constitutional rule-bound political order. Formal and informal rules operate at the same time, reproducing dualism at all levels and allowing actors to operate elements of either, but undermining the inherent internal logic of both.

This has provoked the systemic stalemate in which Russia now finds itself. This is more than the 'hybridity' characteristic of regimes in post-Soviet Eurasia

but represents a historical conjuncture of extended developmental stasis. Historical experience suggests that such a blockage is overcome by either revolution or collapse. However, the peculiar nature of Russia's dual state may allow an evolutionary transcendence of the developmental stalemate.

Models of modernisation

The modernisation agenda advanced by President Medvedev is an attempt to break out of this developmental impasse, and represents recognition of the fundamental challenges facing the country. However, the debates over what precisely 'modernisation' should consist of reflects the lack of consensus on the form that Russia's redevelopment should take. For some the emphasis should be on technological development and competitiveness, with the focus on narrowly economic issues. There is an alternative school of thought, however, which suggests that any top-down programme will be doomed to failure, just like so many of Russia's previous attempts at modernisation. For them, only the release of initiative from below will allow Russia to join the ranks of the dynamic societies with which it is associated as an 'emerging market', notably the other BRICS countries of Brazil, India, China and South Africa.

These two approaches, which roughly correspond to those who place the emphasis on economic issues and those who prioritise political reform, have their own logic and rationale. However, the experience of the chaotic years of perestroika followed by the rush to the market in the 1990s, with all of its attendant pathologies and corruption, suggests that a rapid decompression of politics and the introduction of unchecked pluralism can threaten the integrity of the state and governance.

It is these fears which have prompted the caution with which the political reform has been conducted over the last few years. Equally, technocratic economic reform on its own will do little to undermine the systemic corruption that is undermining the investment climate in the country and inhibiting the development of small and medium business, and which open up businesses of all size to 'raids' of various sorts, ranging from sanitary inspectors to business rivals who can enlist the support of officialdom in their attack. Despite President Medvedev making the fight against corruption one of the key planks of his policy, he is the first to admit that only limited headway has been made. This rather pessimistic evaluation is reflected in recent Transparency International rankings for 2010, which placed Russia jointly at 154 (out of 178), in the company of such countries as Cambodia and the Central African Republic, while China was placed at 78 on the list.

Although there are enormous opportunities for business in Russia, few would deny that the business climate is harsh. In addition, there are major questions over a stability that is accompanied by so many elements of stagnation, where the creative initiative of entrepreneurs and individuals is so often stifled by an unholy alliance of various layers of the bureaucracy.

Not only is the system stalemated, but also the ideas for reform are in an impasse. There is general recognition that independent courts must be at the centre of reform efforts, and while the legal-constitutional pillar has been reinforced in institutional terms, the independence of the judiciary is still undermined by the continued application of 'Basmanny justice' (the interference of officials in the judicial process) and numerous varieties of venal corruption, including the use of 'intermediaries' to help fix outcomes. The world of formal institutions is subverted by a range of informal practices, with the latter operating with semi-formalised rules of their own; and these practices have become a type of 'institution' in their own right. The two pillars of the dual state, consequently, cannot be simply ascribed to the formal and informal worlds. Although the two are analytically distinct, in practice they become mutually constitutive.

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President Medvedev and Prime Minister Putin

Photo: RIA Novosti

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The administrative regime remains relatively insulated from political movements and civic associations, but it has become prey to two processes: the importation into the regime in the form of factionalism of the political pluralism that it has suppressed in society; and the 'economisation' of its transactions. This economisation at the most basic level takes the form of venal corruption, which erodes the efficacy of governance in its entirety; but it is also accompanied by meta-corruption, where the logic of the market (in the form of powerful business-officialdom coalitions) undermines market competition, transparency and even the autonomy of politics.

On the edge of change: modernisation from the middle

The Russian administration claims to stand above the historic divisions of the modern era, and indeed, purposely seeks to reconcile the forces that had torn Russia apart in the twentieth century. The democratic process was managed by a force standing outside democracy, co-opting elements of political society willing to compromise and marginalising the rest. There are good reasons why the system evolved in the way that it has, given the endless crises and catastrophes that beset Russia in the twentieth century. However, this sort of 'recuperative' approach, while probably a necessary element of policy in the 2000s, has come to the end of its potential. A new politics of 'development' is required.

This is why the current electoral cycle is so important. The model of politics chosen in 2011/12 will set the tone for six years, and thus will be decisive for the second decade of the twenty-first century. The election of a new president is usually the occasion not only for personnel but also policy renewal. Given the powerful constraints attending Medvedev's election as president in 2008 and the creation of the 'tandem' form of rule, there has been limited renewal in staffing and even in policy terms. There has been an extraordinary 'stability of cadres', with not a single minister changed since 2008. Nevertheless, his presidency starkly exposed the contradictions of the dual state, and the developmental stalemate in which Russia finds itself as two political orders clashed.

The stalemate was exacerbated because of the fact that Medvedev was Putin's hand-picked successor. The aim was to ensure continuity in the succession, as well as finding someone who would continue to implement 'Putin's plan'. Medvedev was not a mere cipher for Putin, and he clearly has a political personality and views of his own, but at the same time hopes for a liberal 'thaw' were misplaced. Medvedev's election did not (and could not) represent a revolutionary break with Putin's Russia, but it did provide the opportunity for a modest rebalancing of the system and recognition of the modernising challenges facing the country.

Developmental strategies based on top-down or bottom-up changes are, in very different ways, in danger of fostering new problems, as outlined above. It is for this reason that a strategy based on modernisation from the middle makes a lot of sense. The tension between the two wings of the dual state has created a sphere in the middle in which the two orders meet. It is out of this creative tension that a new reform coalition can be built. It is in the middle that businesses seek to survive, drawing on informal and formal resources, but never quite knowing which order will be determinative at any specific time. Thus regularity and predictability is essential to create a more benign business and political environment.

This is unlikely to be achieved by a new 'revolution from below', since the destruction of the existing order would sweep away the many substantive achievements of the 1993 constitutional order. Equally, a continuation of the strategy of 'modernisation from above' is unlikely to be able to break the developmental stalemate or to resolve the problems of stagnation and corruption. Only by harnessing the power of the active middle – lawyers, teachers, businesspeople and all the great variety of contemporary Russian society – can the country truly modernise. The old model of a paternalistic tutelary state running the country manually has to give way to one in which the great professional and labouring classes of society are trusted, and power and responsibility are diffused to those who have a stake in society and its development. F

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