

# Central Weakness and Provincial Autonomy: The Process of Devolution in Russia

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The most recent round of financial and political crises in Russia serve to underscore the growing power shift between the federal government in Moscow and the 89 units that comprise the Russian Federation.

What follows is a brief examination of the formal and informal processes through which expanding spheres of political and economic autonomy have devolved to the Russian provinces. While these mechanisms include bilateral negotiations and the signing of bilateral treaties and agreements with the center, a rather striking amount of the autonomy gained by the provinces over the last several years has been simply taken rather than negotiated and delegated by Moscow. The weakness of the federal government under Yevgeniy Primakov presents a new opportunity for regional governments to reassert themselves politically and economically. After discussing how regions have gained increased autonomy in recent years, I conclude by outlining some of the possible consequences for Russian state integration, and future political and economic development.

## **Negotiated Autonomy: The Bilateral Treaty Process**

Conflicts in center-periphery relations in Russia arose early in the reform process. The legislatures created through popular election in 1990 introduced the notion of accountability to local politics. If regional legislators were to be held responsible by constituents for the political and economic conditions of their regions, then they wanted more control over key policy instruments. This period was punctuated by the frequent practice of regional governments withholding tax revenues from federal authorities, and periodic refusals on the part of some regions to follow central policy prescriptions in areas such as privatization.

Initial steps toward negotiated autonomy included the three federative agreements of 1992 (which were long on promise, but short on meaningful transfer of power from center to periphery), and then to an initial set of bilateral treaties in 1994. These included the treaty between Moscow and the Republic of Tatarstan in January 1994, and similar treaties between Moscow and six other republics by the end of the same year. Eventually, the central government signed treaties with thirty-three other constituent units of the federation in 1996 and 1997. More are in draft form and 47 have been signed in total at the time of writing (November 1998).

Tatarstan, as the first region to sign a bilateral treaty, established its relationship with Moscow on a "contractual" rather than constitutional basis. The Tatarstan treaty set a dangerous precedent by

raising the status of one member of the federation, even though the 1993 Constitution of the Russian Federation explicitly states that all members are of equal status (article 5, point 4).

Naturally, other regions sought to rectify this situation--it is here that we see the center becoming more reactive than proactive in its relations with many of the eighty-nine regions of Russia. The treaties [dogovora] are relatively general statements regarding the nature of the division of powers and shared powers. Each treaty differs slightly from the others, although they contain some common elements. They are accompanied by a series of agreements [soglasheniye], which can be signed any time after the conclusion of the treaties.

The agreements are far more detailed than the treaties and are, therefore, rather wildly different for each region depending on its particular policy concerns and resource endowments. Sverdlovsk, for example, signed eighteen agreements ranging from the region's investment policy, to use of natural resources, to health and cultural policies, in addition to its original treaty. In contrast, Kaliningrad signed only three agreements: one on education and science, another on cultural questions and the third on maintaining law and order in the region.

Further, regions may propose additional agreements. Many, but not all, of the agreements were made for a set period of time (generally two-to-five years). Their terms allow for cancellation by either party (the region or Moscow) provided that each side notifies the other of their intent at least six months prior to the expiration of the agreement. If no such notice is provided, the agreements are automatically renewed for an additional two-to-five years. According to the Presidential Decree (No. 370) of March 12, 1996, the treaties and accompanying agreements are not to violate the constitution of the Russian Federation and must respect its supremacy; cannot change the status of a subject of the Federation; and cannot add to or change what is enumerated in articles 71 and 72 of the constitution (that assign federal and joint jurisdiction respectively).

In reality however, a number of the treaties and agreements either contradict the constitution or go beyond what was envisioned in articles 71 and 72. For example, areas that in the Constitution of the Russian Federation are ascribed to the Federal government exclusively (art. 71) appear as areas of joint authority in many treaties and agreements. This type of constitutional violation appears in the treaties of North Ossetiya, Kabardino-Balkariya, Tatarstan, and Bashkortostan, where the treaties grant these regions the right to defend state and territorial integrity. Another notable example is the authority both Sverdlovsk and Udmurtiya gained in their treaties over the functioning of enterprises in the defense complex. In some agreements, regions have authority to establish relations and conduct agreements with foreign states.

Areas identified in the constitutions as spheres of joint jurisdiction are in some treaties the exclusive authority of regions, including the defense of citizens' rights and formation and use of republican precious metals and stones funds. In sum, despite central government intentions, the treaties and agreements are not always based on the constitution and in accordance with the supremacy of federal law. They have augmented freedom of action for the subjects of the Federation far more than the drafters of the 1993 constitution had intended.

There is also evidence that the treaties and agreements are themselves examples of autonomy taken by the regions rather than autonomy granted by Moscow. For example, in some important

ways the 1994 treaty with Tatarstan and the accompanying twelve agreements codify what was already in place in the republic. In the area of foreign trade and external ties, Tatarstan had begun to carve out its own policies before the republic gained the right to do so in its treaty. In addition, the republic embarked on an ambitious need-based social assistance program as early as 1993--well before the authority to do so was codified in the treaty.

The 1996 Sverdlovsk treaty and accompanying agreements borrow from the Constitution of the short-lived Urals Republic (in existence officially November 1-10, 1993) and serve to codify many of its rather ambitious provisions regarding relations with the center. These include the establishment of the region's own civil service (outside of the provisions in article 72 of the constitution), and the right to establish internal legal regulation of areas of joint regional and central jurisdiction. Perhaps most striking, however, is the treaty's provision (article 8) allowing the oblast to suspend the normative acts of ministries and departments of the federal government.

Although the treaties may have served to calm the more rebellious and demanding regions of Russia (Tatarstan and Sverdlovsk chief among them), this has come at considerable cost to the federal government. The treaties may have helped preserve the Russian Federation in some ways (it does not appear to be in danger of disintegrating as it did in the early 1990s before the treaty process began), but the evidence indicates that for the most part the treaty signing process has worked more to the advantage of the regions than the center. Additionally, in some areas of joint competency enumerated in a number of the treaties and agreements and in article 72 of the constitution, no federal law exists (for example, private ownership of farmland). The result then is that many regions through their treaties and agreements now have the legal authority to act unfettered by any central regulation or oversight whatsoever in these policy areas. In sum, rather than taking the lead in defining and limiting what regions have the right to do, the center has simply reacted to what regions demand. The treaties and agreements themselves amount to a rather inconsistent and vague regional policy, conditioned more by demands placed on the central government than any cohesive federal strategy to contain the most rebellious regions.

### **Expanding Spheres of Regional Autonomy**

It is also important to note that many regions exercise autonomy beyond what is provided for in the bilateral agreements, the constitution, or existing federal law. If the treaties are a federal strategy intended to restrain regional autonomy, or to place center-periphery relations on a predictable footing, then the strategy has failed.

De facto autonomy has arisen in large measure because the center has defaulted on many of its jurisdictional responsibilities, leaving regions to fill the empty policy space as best they can. Others cannot afford to implement central policy and so have carved out for themselves a different sort of autonomy--the freedom to do nothing. One notable example is the continuing problem of wage arrears, which persists in many regions despite central government avowals to end such practices. Earlier in the reform process, many regions refused to free the prices of basic consumer goods, delayed the implementation of the state privatization program, and continue to hamper small business development.

De facto policy autonomy is also particularly evident in the area of social welfare--a sphere of utmost importance in a country whose economy has all but collapsed. According to article 72, point j of the constitution, social welfare is under the joint jurisdiction of the regions and the federal government. Before it concluded its bilateral treaty with Moscow, Tatarstan embarked independently on its own need-based set of social assistance programs. Social assistance at the federal level is not yet need-based--that is, certain categories of citizens receive assistance from the state regardless of whether they actually have a financial need for this assistance (e.g., single-parent families). According to the officials in Tatarstan's Ministry of Social Welfare, however, national policy in this regard was essentially unimplementable since the federal government was not providing sufficient funds to support such an approach to social assistance. Tatarstan's approach then, was to simply seize the initiative and adopt a need-based system regardless of central policy dictates at the time.

Tatarstan's relatively positive results are more the exception than the rule. The sad consequences of central government default are clear in much poorer regions--Kostroma and Ivanovo. Central inaction forces these regions to assume responsibilities regardless of whether they have the legal authority or economic capacity to do so effectively. In Ivanovo oblast, for example, the Head of the Department of Social Welfare was more pointed in her criticism of Moscow: "We get no money, no information ...nobody comes here and teaches our staff [about new federal legislation or normative acts]...We have been forgotten and deserted...We do not even receive anything apart from the occasional brochure on recent legislative innovations."

Frequently regional governments simply do not have the funds to implement federal law but are still held accountable by constituents. In Kostroma, for example, the Head of the Department of Social Welfare explained, "we are sued several times a month for not implementing federal law. Pensioners do not sue the President or the Chairman of the State Duma, they all come here and sue our department...So far the law making activity of the federal center is aimed at making politically popular statements and has nothing to do with the real situation in the country."

In the face of this kind of pressure from constituents and an absence of federal leadership in implementing the law, regional governments often take drastic measures. In Kostroma, officials have resorted to creative ways of financing social assistance programs. One official described the following example:

We made an agreement with a car manufacturer that produces specially equipped cars for invalids. It agreed to provide us with vehicles we need if we paid its energy debt to Mosenergo. It was obvious that we could not pay it, and so we were left with no cars for our disabled...So we looked for other possibilities and discovered them. We made agreements with plants that supply the car manufacturer with parts. We came up with 760 million rubles a month in spare parts [which we sold to the auto producer in return for a few cars].

In Ivanovo, the oblast struggles to provide social assistance guaranteed by federal law, with what help it can squeeze from local enterprises and its own limited budget. Without federal funds, however, federal law often goes unimplemented. Policy autonomy amounts in these cases, then, to the freedom to opt out of central policy initiatives altogether.

Finally, regions continue to carve out more de facto autonomy through their legislative efforts. Izvestiya recently reported that the Justice Ministry examined 44,000 regional legal acts and found that nearly half were incompatible with the constitution. For example, North Ossetiya, Voronezh, Samara, Arkhangelsk, Irkutsk, Tyumen' and Omsk have passed legislation restructuring their judiciaries, a right exclusively reserved to the federal government. Altay Kray and Sverdlovsk Oblast, among others, have passed hard currency, credit and customs laws in violation of the constitution. Other regions have even introduced illegal taxes (Kareliya, Volgograd and Nizhnyi Novgorod).

In a recent meeting, Governor Mikhail Prusak of Novgorod Oblast explained in detail how his region carves out its own policy autonomy in order to attract increased foreign investment. Prusak explained: "We understood that to wait for ideal laws in the near future in Russia was hopeless." As a result, Novgorod established its own land code, leasing land to foreign investors for a period of 49 years. Prusak noted, "we hope that when that period is up, a Russian land code will be in place." Prusak and other governors (both progressive and conservative) agree that, "Russia's movement forward today comes from what is happening in the regions. It is not the center making demands on the regions, but regions demanding decisions from the federal government."

All of this is not to argue that the center is utterly powerless vis-à-vis Russia's regions. Nonetheless, the center's ability to enforce its authority and implement its policies is extremely weak, and it is outpaced by regional governments in multiple policy areas. Regional governments can and sometimes do take on policy responsibility and act autonomously, often without any federally recognized legal authority to do so and, for the most part, with impunity. The overall decentralization process has been led in large part by regional forces, and the practice of regions assuming more de facto autonomy is likely to continue. Why is this the case and what are the consequences?

### **The Institutional Causes of Creeping Regional Autonomy**

A number of factors explain why the regions are determining the pace of decentralization in Russia.

#### *Democratization*

To a certain extent, the introduction of representative government and the election of governors, coupled with efforts to establish a market economy, clash with "federalism from above." Democratization naturally leads to some degree of decentralization. The election of governors across Russia in 1996-1997 means that they are now difficult for Moscow to discipline and remove. In addition, the disbanding of the command structure of the economy and the gradual establishment of even weak market relations in the Russian economy encourages increased devolution of power away from the federal government as private interests continue to grow.

#### *Parties*

In other national contexts, a strong party system is often a key element in maintaining a well-integrated and stable federal state. We usually focus on the ability of political parties to

aggregate social classes and interests, while overlooking the equally important integrative function of parties. It is important to remember that in a stable federal state, parties can often serve as instruments of control over local officials by central officials. A national party is able to rely on some basic level of programmatic discipline among its candidates and office holders. In this way, parties are often important ties that bind states together.

In the Russian case however, there is little evidence that those national political parties that exist are capable of performing such unifying functions. Most of the political parties running candidates in the 1993 and 1995 elections to the State Duma have little institutional presence outside of Moscow. The Communist Party of the Russian Federation (KPRF) is perhaps an exception, but even it appears unable to provide a great deal of assistance to local candidates, nor evoke strong programmatic support from candidates running under its banner. *Nezavisimaya gazeta* recently reported that even many governors who ran officially in 1996 as candidates from Our Home is Russia have since dropped their affiliations. Moreover, on both sides of the Russian political spectrum, one is hard pressed to find cases where leaders of supposedly national political parties in Moscow have influence on elected governors in the provinces.

Party presence in regional legislative elections appears to be even less. Generally, the representation of national parties in the provinces is comprised of two or three individuals, amounting to little more than "two sisters and Uncle Vanya." More often than not, candidates to regional legislatures either run (and win) without any party affiliation whatsoever, or run as part of a regional party that lacks national ties. Indeed, many (if not most) regional assemblies are populated by elected deputies with no party affiliations whatsoever.

This is unlikely to change in the immediate future given the degree of anti-party sentiment among provincial politicians. The lack of a national party system not only places the consolidation of Russian democracy in jeopardy, but it also hinders the development of a well-integrated Russian state.

#### *The Federation Council*

The upper house of the Russian Parliament, the Federation Council, is an increasingly powerful institutional stronghold of regional interests. As of 1995, regional governors and heads of regional legislatures automatically receive seats in the upper house. Granting regional government leaders roles as both national and local political actors was initially thought to be a way in which President Yeltsin could demobilize provincial voices in national politics since work in the Council would only be part time given representatives' duties and responsibilities back home. In fact, however, the Council seems poised to become an additional way in which provincial politicians can participate collectively in national government and further limit its incursions into provincial affairs. The Council, for example, has supported individual governors in disputes with Moscow with the most notorious case being that of Yevgeniy Nazdratenko in his struggle to retain his authority in Primorskiy Kray in 1997. It has also rejected a bill on local self-government that would have forced regional governments to share financial responsibility with city governments. Moreover, it will certainly continue to serve the interests of regional politicians over the federal government.

#### *The Constitutional Court*

The Constitutional Court, the legal body charged with adjudicating infringements of the 1993 constitution, has thus far not served as a strong check on the rising tide of regional autonomy. Russia suffers from the communist legacy of a weak legal system and low levels of legitimacy for legal institutions. The Constitutional Court was relatively active in adjudicating cases from 1991 through 1993, but its behavior under former Chair Valeriy Zorkin during Yeltsin's dispute with the old Russian Parliament served to discredit it as an impartial and effective arm of the state.

More recently, the court has adjudicated several disputes regarding constitutional infringements by the regions, but implementation of its decisions has been sporadic. A notorious example of such noncompliance was the fate of its decision regarding the constitutionality of the city of Moscow's residency permit (*propiska*) system. The Court twice ruled that requiring such a permit violated Russian citizens' constitutional right to freedom of movement. Moscow mayor Yuri Luzhkov (a contender for the Russian presidency in 2000), however, refused to accept and implement the ruling. In Udmurtiya, leaders refused to implement a court ruling striking down a law that would have enabled regional leaders to name heads of city and raion administrations, in place of popular elections. Udmurtiya relented only when President Yeltsin issued a decree ordering compliance with the court ruling. Most recently, the leader of the Republic of Komi, Yuri Spiridonov, refused to implement a ruling striking down provisions in Komi's constitution and law on appointing executive authorities. Spiridonov argued that "only the Komi legislature may decide whether republican laws should be changed."

While a legal culture that might support implementation of the Court's decisions may develop over time, for now the Court remains an ineffective body for reliably stemming the rising tide of regional autonomy.

### *The Presidential Representative*

In the face of legislative inertia, weak political parties and an ineffectual constitutional court, the federal executive has made several attempts to devise institutions to place center-regional relations on a more predictable footing. Foremost among these is the presidential representative. President Yeltsin's first attempt to introduce this institution at the local level was largely a failure. The role of the presidential representatives appointed to each region beginning in 1991 was to ensure that federal legislation was reliably implemented and to provide information about the political situation in each region. In reality, the office of presidential representative did not carry with it much influence in local affairs. To the extent that presidential representatives came to have any influence over politics in their provinces, it was due to personal ties they had with regional administrations.

Since the election of governors in the regions in 1996-97, Yeltsin has sought to recast and strengthen the role of presidential representative to maintain some degree of central influence over regional politics. In July 1997, a new regulation established the authority of presidential representatives in three areas: oversight of the fulfillment of the federal budget, use of federal property in the regions, and federal personnel at the regional level. In practice, this means that the presidential representative now is to oversee and coordinate the work of virtually all federal bureaucrats at the regional level (each region has, on average, between 30 and 50 federal government structures, employing hundreds of people). While this sweeping authority is

intended to serve as a counterweight to the sizable gubernatorial administrations in the regions, it is difficult to see how a single individual can effectively coordinate and control such a large number of bureaucrats in such a wide variety of policy areas. Nor is it clear why the leaders of federal organs in the regions would submit to the authority of the newly empowered presidential representative.

## Conclusions

Does it matter whether the devolution process is led by the regions versus the center? What are the implications of the under-institutionalization of center-periphery relations for the distribution of power across Russia, and for its continued political and economic development?

The process of devolution of authority may now be largely self-sustaining. Even if the center persists in attempting to slow or control provincial autonomy, the evidence indicates that many provincial leaders--in the face of weak and inconsistent central institutions that are incapable of imposing meaningful negative sanctions--will continue to act beyond their de jure rights when necessary. This will do little to strengthen the rule of law in the Russian Federation and could have very negative implications indeed for Russian state integration.

Perhaps more significant, however, are the dilemmas created for further political and economic development. Despite the centralization of authority at the top in Russia (even prior to this summer's financial and political crises), there remains a pervasive inability to implement central policy initiatives in the provinces, as well as a persistent inability to punish regions that do not comply with central policy. This indicates weak linkages between central ministries and local bureaucracies as well as between central and local political actors. For the success of social, political and economic transformation, and for the future shape of the Russian state, these weak linkages are particularly pressing and serious problems.

Many regional governors have taken advantage of the current crisis to gain more autonomous control over economic policy in the provinces. In light of this and the fact that events since August 17 have left the central state even further weakened vis-à-vis the provinces, it is difficult to see how Prime Minister Primakov can implement any economic reform.