

# Managed Parliamentary Democracy in Russia\*

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Just about a decade ago, a new Russian parliament and a new constitution were introduced, in the wake of a decade of tension and instability, which, in 1993, culminated in a direct confrontation between the legislature and the executive, with tanks firing at the Russian White House.

Russia's ten-year-old experiment in parliamentary democracy has been like driving an erratic car right from the beginning - lurching down a bumpy road and occasionally stopping to search for missing parts and extra energy, yet never being abandoned by the passengers; moving tenaciously, though slowly, forward. It may now be a good time to look back and assess the road already traversed; and look to the side to compare the legislature with that of East European countries; and forward to where the road might lead. Leaving the second question in the hands of other observers, this paper will summarily touch on the first question and hint at the third.

All these years Russia has been in the process of nation rebuilding, i.e., institutionalizing its political, economic and social systems, and re-establishing its own national identity. If there are any functions necessary to be performed by the Russian parliament, it is essential to see how viable and stable this particular institution is in terms of its contribution to these ends. It may be true that even in democratic countries, we are confronted with the perpetual problem, as Giovanni Sartori<sup>1)</sup> states, of combining effective parliamentary control with efficient government. Given the nature of the political system we have, our interests would naturally be about the extent of the legislature's contribution to political integration, political education for political actors and the general public at large, and most importantly, to the mobilization of the public for promoting transition. We are equally concerned with the legislature's political process that implies the articulation of interests among the participating political groups as well as monitoring governmental implementation of parliamentary resolutions.

The size of this paper does not permit us to cover all of these questions extensively, but will summarily examine under what conditions the Russian legislature has fulfilled its functions which, largely, are those related to law making, and monitoring, that is, the function of 'checks and balances'. The functioning of the legislature is a test of

Russian democracy, and perhaps more of Russian statehood. The performance may be drawn forth by examining its structure and political processes.

#### Parliamentary democracy constitutionally constrained

Many political scientists tend to analyze parliamentary activities within the democratic conceptual framework. It has been pointed out by some Russian political scientists that the hasty introduction of democratic institutions on Russian soil in the transitional period can hamper the functioning of the political system.<sup>2)</sup> The Yeltsin constitution does not thus ensure the essence of parliamentary democratic process by which the elected representatives directly choose or unmake a government, consisting of a cabinet and ministers, to serve as the executive arm of the regime. The Russian electorate cannot anticipate through party competition what different parties will or will not do when they are in the government.

The Russian semi-presidential system combines presidential with parliamentary forms of executive power. The government must answer to both the president and the legislature. Although the legislature is the only legislative body, the president also exercises quasi-legislative functions. The federal government treats presidential decrees with almost the same legal status as federal laws, although the president can issue decrees only within the parameters of statutory laws and the Russian constitution. A rationale for the presidential powers to issue decrees could have been that in the circumstances of that time, the decision was necessary and the only practical step available to curb the influence of the Communists. Emergency situations can sometimes justify certain deviations from constitutional procedures if the measure is necessary as well as appropriate to the circumstances. The only difference with the pre-perestroika past is that decrees may not amend an existing law, but they may supplement existing law and also the constitution. Because the constitution does not contain an exhaustive list of questions, which only may be regulated by law, the decreeing power of the president may be interpreted 'sufficiently broadly'. The president may deem himself still empowered to issue current decrees as long as a law is not adopted, or if the question is or should be regulated in a law. The president can instruct the government to prepare draft laws based on the decrees; therefore the decrees will remain in force, as far as they relate to the competence of the federal legislature, until the concerned federal laws have been adopted. In any case, it is clear that the president deems himself always empowered to issue a decree. Sometimes the decree is only a policy decree, proposing to change

existing law as often exercised by President Yeltsin.

The president has the right to dissolve the legislature and the right to appoint the prime minister (the State Duma only has the right to grant its consent to this appointment according to article 111 of the constitution). Nonetheless, the Russian constitution ensures the accountability of the government or the executive to the State Duma in a legislative motion of confidence (or non-confidence) in the government, or of impeachment of the president. During the Yeltsin period, the Communists tabled votes of non-confidence bills at the State Duma several times. These attempts failed to lead either to the resignation of the government or to the dissolution of the State Duma, although on one occasion the bill was passed by the State Duma.<sup>3)</sup> Since Putin came to power, the Communists have tabled a vote of non-confidence in the government only once. The Communists received altogether just 126 votes, far short of the simple majority of 226 votes.<sup>4)</sup> Although the Communists wanted to show that they are still a political force to be reckoned with, the vote turned out to be a demonstration of power that quickly fizzled out. The impeachment of President Yeltsin tabled by left-wing factions in May 1999 (the Communists, the Agrarians, and People's Power) created a lot of publicity, as constitutional formalities require complex processes.<sup>5)</sup> Although none of the five motions related to the impeachment bill carried through the State Duma, it appeared that the bill made the president aware of his political responsibility to the people. The Communists however failed to fully capitalize on this political demonstration in the following Duma election in December 1999. The Yeltsin executive by and large managed to curtail the inflated expectations of opposing faction groups by political maneuvering.<sup>6)</sup>

### Organizational development

The Russian federal parliament is bicameral, each with different numbers of seats, different means of election, and without common leadership or executive committee. The State Duma (lower chamber) consists of 450 seats. Half of them are elected by popular vote in single-member-districts. The other half are filled by proportional representation from candidates elected on party lists, subject to the requirement of at least five percent of the party-list vote. The Federation Council (upper chamber) is composed of two representatives from each of Russia's 89 territorial subjects of the Russian Federation (its representatives of 1994-95 were directly elected in each of 89 federal subjects; its 1996-99 members are composed of the executive and legislative heads of each subject; and its 2002 - members are nominated from each subject's

government and legislature). Any institution that is required to fulfill given functions must be equipped with corresponding organizational strength: financial backing, a set of rules of procedure, operational space and facilities, capable leadership, and sufficient and efficient manpower. Whether its in-group leadership and manpower are capable or not can only be appraised empirically.

A large influx of new deputies of both chambers after December 1993 elections, together with one third of deputies who were members of previous Congress of People's Deputies, has exasperated the problem of creating and recreating institutions.

The deputies have retained, modified, or rejected old legislative practice giving serious consideration to changes in constitution and institutional environment. They have adopted complex packages of rules. Many rules concern rights of participation in decision-making, and other rules concern the allocation of resources. Some rights are allocated by stage in the legislative process, and others are allocated by policy jurisdiction.

On procedural questions, the first session of the Russian legislature in January 1994 has laid down the foundation in many respects for the convocations followed up to present. The Russian legislature made a good start, having adopted the rules for procedures, appointment to key posts, factions, standing committees, and councils of chambers. This should not give any impression that every plenary session has gone smoothly.

As for the question of required number of faction membership, neither a minimum of 50 deputies nor a minimum of 20 won the necessary number of votes for approval.

After nearly six hours of agonizing effort, they agreed on a minimum of 35 deputies.

In the end, nine State Duma factions who satisfied that numerical requirement made their official registration; the Yabloko Group and Women of Russia did not have the required number of 35, but after the election in December 1993, these two groups were granted proportional representative votes in excess of the five percent barrier, and were thus eligible to register as official factions. In each session of the State Duma, if its council deems it necessary, factions are to be reregistered. As a result, some factions appear and others disappear. Of the nine groups officially registered as factions, it was surprising to see that the New Regional Policies faction created after the election, by and large consisting of nonparty affiliated deputies, surpassed the Liberal Democratic Party of Russia (LDPR-63 seats) in its number of supporters, becoming the second largest faction (65 seats) in the State Duma after ruling party faction, Russia's Choice (76 seats).

The rule of a minimum of 35 deputies set at the outset is now, however, causing certain discrepancies. Deputies elected from single-member-districts and outside any faction are at the greatest disadvantage: no chance to bid on leadership posts, no right to a voice on the council of the State Duma, and no privileged floor rights and other privileges of faction status. Thus, they tend to associate with nonparty factions. The Russia's Regions faction, for instance, was formed after the December 1999 Duma election, consisting of 41 nonparty affiliated deputies, though this faction has existed since January 1996 as the succeeding faction of New Regional Policies. This faction occupies chair or deputy chair posts in key standing committees which status-wise are much higher, or in terms of number, more than those of Yabloko (21 seats) and LDPR (16 seats) which received proportional representative votes in excess of the five percent barrier, whereas Russia's Regions faction did not. This institutional arrangement was made out of the strength of numbers in each faction. Proportional distribution of committee chairs did ensure members of nonparty factions (registered groups) would not to be disadvantaged, regardless of electoral category and party affiliation. One could question indeed the merit of the five percent barrier of proportional representative votes. Another instance of discrepancies is apparent in the case of the factional identity of deputies elected from proportional representative tickets. Questions arise when a deputy who holds key positions in standing committees (as chair or deputy chair) leaves his or her faction during the term. There have been cases where these deputies continue to hold onto key positions even after they withdraw their factional identity, as happened with 'Our Home is Russia' deputy, L.Ya. Rokhlin (Chair of the Defense Committee, 1996-1999) and 'the Communists' deputy, E.V. Marchenko (Deputy Chair of the Budget Committee, 2000-2003). Although such behavior is not permitted under inter-factional arrangement, it has occasionally been met with disregard.

As the Federation Council is composed of two representatives from each of Russia's eighty-nine territorial subjects of the Russian Federation, its institutional arrangement has been by and large made up of regional interests. Although the members of its transitory period of 1994 and 95 were elected, 145 out of 178 deputies were not affiliated with any party. Most of them have so far been guided in chamber voting not by the abstract 'future of Russia', despite the fact that some of them are affiliated with particular political groups, but by the concrete interests of their own regions, which may not coincide with those of Moscow. However, since they are at the same time pragmatists, they have been willing to engage in dialogue with the central

authorities. At one time, a territorially based political group such as the 'Deputies of the Urals' was created in February 1994 in the upper chamber. Other regions are not, however, hastening to form such alliances in the upper chamber, which is indicative of the difficulties concerned with the articulation of regional interests. Lately, an informal political group called 'Federation' was created in the upper chamber (it appeared to be endorsed by President Putin) composed of 119 deputies<sup>7)</sup>, though the upper chamber has later prohibited the deputies from forming a political group. It remains to be seen nonetheless whether such an informal group will become a catalyst in reforming the upper chamber from protector of regional interests to a Moscow controlled chamber.

Each chamber speaker has been elected based on the preferences of simple majority. The first deputy speaker (State Duma only) and deputy speaker of the chambers, have been elected under the arrangements reflecting proportionality among the regions (upper chamber) or factions (lower chamber) for managing the flow of legislative administration, namely, based on inter-regional collective control of the Federation Council, and based on inter-factional collective control of the State Duma. The speakers (deputy speakers occasionally acting for the speakers) have the right to chair chamber councils, manage central staff, oversee the budget and material resources of the Russian parliament, and chair plenary sessions of the legislature.<sup>8)</sup> This arrangement makes the chamber speakers, who just happen so far to have been relatively considerate persons without much in the way of political resources (upper chamber speakers: V.F. Shmeiko 1994-95, E.S. Stroev 1996-2000, S. Mironov 2002-; lower chamber speakers: I.P. Rypkin 1994-95, G.N. Seleznev 1996-2003), to be by and large moderate and cooperative, regardless of their party affiliation (in particular, Rypkin - Agrarian party, and Seleznev - Communist party); in effect, they are lenient with the executive. These speakers have oriented themselves toward a search for acceptable compromises shown in a number of instances by a majority of legislative representatives.

It was decided to set up a council in the State Duma comprised of the speaker and deputy speakers (including first deputy speaker) of the State Duma, the heads of registered factions, and also the chairs of the standing committees (without voting rights). The council of the Federation Council was comprised of the speaker and deputy speakers of the chamber, and the chairs of the standing committees. Each chamber council serves the chamber's executive committee. The councils are the so-called 'collegial leadership of the chambers'. They have adopted an intra-chamber

system of checks and balances in order to provide maximum insurance against dominance by one bloc or another. This rule has been applied as well to the chairs and deputy chairs of the chambers and the standing committees. One of the important functions the council has is to determine the daily and longer-term agendas for plenary sessions. It also has power to assign legislative issues to particular committees, resolve disputes arising from the interpretation of standing orders, and negotiate compromise agreements on controversial legislative issues.

The Russian legislature has a system of standing committees. The Federation Council has 12 standing committees, and the State Duma has 23 to 28 standing committees depending on the convocations. Electoral, policy and partisan interests are reflected in the formation of these committees. Generally speaking, legislative and professional matters on assigned policy jurisdiction are the prerogative of the committees, though in actual legislative processes their behavior could be political, taking into consideration of the electoral, policy and partisan interests concerned. My empirical studies<sup>9)</sup> indicate that a large number of deputies already had a good experience within the committee system in the Supreme Soviet before January 1994.

By now almost all deputies are familiar with scheduling and floor procedures associated with committee legislation. The key posts (chair and deputy chair) of the standing committees are by and large qualified professionally. For instance, legal specialists or legal practitioners hold such positions in the legislative committee, educators in the education, science, culture committees, and agronomists in the agriculture committee. Key posts in the standing committees are selected, with due consideration given, as a rule, to the numerical strength of the factions in the State Duma, and the strength of the regional associations within the Federation Council; these also are used to work out an agreement on a 'package' method of nominating and electing candidates to the key posts. At the same time, this rule is reflected at any given time in the real correlation of forces taking shape in each chamber.

As to the question of financial allowance given to the deputies, it appears that quite a sum of money has now been appropriated from the budget for the running of parliament: as of January 2000, the State Duma's budget was 1,060 million rubles, and the Federation Council-436 million rubles,<sup>10)</sup> including deputies' operational expenses that give them financial and amenity incentives which add to their social status. Each deputy can employ up to five assistants within the limits of a given allowance. The legislature confers financial and amenity privilege upon deputies, though conditions vary according to parliamentary posts such as chair and deputy chair of the chambers

and standing committees.

### A viable parliamentary ruling party

In a semi-presidential system like Russia, working parliamentary democracy hinges very much on the party affiliation of the president and whether or not clearly identifiable ruling or opposition parties exist. During his reign, Yeltsin was never formally affiliated with any particular political party, though ruling parties were always identifiable. Politically speaking, this form of institutional set-up suited Yeltsin in shifting the responsibility of policy failure onto the government, be it the Chernomyrgin government, Kilienko government or Primakov government.

A ruling party has never survived beyond the term of convocation in the State Duma; namely, Russia's Choice existed only for what is called the transitory period of 1994-1995, and Our Home is Russia, for 1996-1999. A "party of power" loyal to President Yeltsin and also with a majority in the State Duma failed, partly because of the idiosyncrasies of Yeltsin's personality (such as four prime ministers appointed in the Yeltsin's final 18 months), and partly because Yeltsin himself did not assume a direct leadership role.<sup>11)</sup> The fact is that no ruling party have had a sustainable majority in the State Duma during these years due perhaps to the failure to develop an institutional mechanism for parliamentary parties. The legislative decisions were usually compromises that involved complicated combinations of interests and concessions. During the transitory period (1994-95) in particular, the re-grouping of political factions was an almost constant phenomenon. The blocs, which were formed quickly, have never been monolithic. Internal differences have been suppressed for the sake of immediate tactical advantages, but never silenced for long. The passage of any controversial draft law or resolution is frequently a matter of chance, and lengthy and complicated efforts to reach agreement between blocs are required; often it is intermediate, nonparty affiliated factions such as New Regional Policies (1994-95), Russia's Regions (1996-99; 2000-2003), and People's Deputies (2000-2003), which are the ones that often determine the outcome of a vote.

Yet some factions are more cohesive than others. When the State Duma took a vote on the law "On the Elections of Deputies of the State Duma," on May 11, 1995, voting took place four times within a day. The following table shows the percentage of each faction members who cast votes following each faction leader's voting. It also indicates the strength of the organizational discipline; trust in the faction leader, and leadership. Factions whose leadership did not garner more than 50 percent of their



members' support in the votes disappeared after the Duma December 1995 election, and failed to clear the five percent barrier set on proportional representation. Thus, only the Liberal Democratic Party of Russia led by Zhirinovskii who collected 72 percent of the support of his members, the Communist Party of the Russian Federation led by Ziuganov (85%), and the Yabloko Group led by Yavlinskii (71%) survived the 1995 Duma election.

TABLE: FACTION LEADER'S VOTING: Law on Elections of the State Duma Deputies

Name :	Faction Name	1	2	3	4	Member	Voted	%
<i>Gaidar, E.T.</i>	VR	F	F	F	Y	70	4	6%
<i>Medvedev, V.S.</i>	NRP	N	Y	N	N	63	22	35%
<i>Zhirinovskii, V.V.</i>	LDPR	Y	N	Y	Y	64	46	72%
<i>Lapshin, M.I.</i>	APR	Y	N	Y	Y	54	18	33%
<i>Ziuganov, G.I.</i>	KPRF	Y	N	Y	Y	46	39	85%
<i>Shakhrai, S.M.</i>	PRES	F	F	F	F	31	14	45%
<i>Yavlinskii, G.A.</i>	YaBL	Y	N	Y	Y	28	20	71%
<i>Lakhova, E.F.</i>	WR	Y	N	Y	Y	23	10	43%
<i>Govorukhin, S.S.</i>	DPR	Y	F	Y	Y	13	5	38%
<i>Braginskii, A.P.</i>	D12	F	F	F	F	21	10	48%
<i>Baburin, S.N.</i>	RP	Y	N	Y	Y	12	5	42%
Nonpartisan						25		
Total Member						450		

Y-affirmation; N-negation; A-abstention; and F-failed to vote

Notes on four voting:

Voting No.1: On the law concerned, in its previous edition (rejected twice by the upper house) 11h/10m/35s

Voting No.2: In its revised version proposed by the conciliatory commission. 11h/12m/59s

Voting No.3: In its previous edition (repeat). 11h/15m/04s

Voting No.4: In its previous edition (final: 302 voted for it, 73 against, 6 abstained). 11h/46m/23s

Notes on faction ID:

VR-Russia's Choice; NRP-New Regional Policies; LDPR-Liberal Democratic Party of Russia; APR-Agrarian Party of Russia; KPRF-Communist Party of the Russian Federation;

PRES-Party of Russian Unity and Accord; YaBL-Yavlinsky/Boldyrev/Lukin Group;

RP-Russian Way; WR-Women of Russia; DPR-Democratic Party of Russia; D12-

### December 12 Alliance

Many of these splits in parties and factions have raised problems regarding concurrent positions held in the Cabinet. This has inevitably evoked fierce fighting among them. At the same time, if the corporative interests of political factions and groups are represented in the form of ministerial portfolios, this might lead to the establishment of structured corruption in the government. Under such an institutional set-up, the principle of 'checks and balances' are hardly operative. At the same time, the leaders of political parties can use the legislature to prepare for the presidential election, as they did in 1996, in which they intended to run for office.

My findings, however, indicate that one should not overestimate the significance of party or factional discipline except on vital legislative bills such as the impeachment of the president or a vote of non-confidence in the government at least until the end of the Yeltsin era. Factional discipline depends ultimately on personal conscience. 'Bloc' discipline is not an exotic notion for deputies. Deputies' behavior can be volatile and unpredictable as noted above, in due consideration of 2003 general elections. This is why opponents of the proportional electoral system have gained constant support in favor of the argument that political parties and society are not ready for elections with party lists.

The Federation Council adopted a federal law on political parties introduced by the Central Election Commission on 11 July 2001. It is broadly recognized that Russia needs to develop a stable nationwide political party system, but with fewer parties. Under this law, all political parties that want to run for the State Duma must re-register within two years, showing that they have a nationwide organization of at least 10,000 members and branches with at least 100 members each in 45 of Russia's 89 regions.<sup>12)</sup> It is to be expected then that many regionally based parties (largely located inside the Moscow Beltway) will merge into nationwide political parties or simply disappear. According to amendments made to the Duma electoral legislation,<sup>13)</sup> the latter raises the qualifying barrier for getting seats in the State Duma from 5 percent to 7 percent, but only from the 2007 elections on. The new law also contains a clause guaranteeing that at least four parties must be in the State Duma. If less than four parties manage to clear the new 7 percent threshold, the numbers will be made up by the parties who came closest to reaching it. Though not knowing the real reason behind, the executive may have preferred not to take the risk too soon and held the Duma election (December 2003) under the old rules, as the Communists was still dominant party right through the country.

Ever since the political party Unity (Yedinstvo), was formed in September 1999, Putin, as premier, acting president, and then president, has been closely associated with it, although he only formally endorsed it in November 1999. As Putin has become increasingly popular, Unity has gained strength accordingly. After the 1999 Duma election, many independent deputies from the single-seat mandates joined the Unity faction in the State Duma. On Duma organizational matters (particularly appointment of standing committee chairs) Unity then skillfully allied itself with the Communists, alienating briefly other centrist factions, such as Fatherland (Otechestvo) and All Russia (Vsyia Rossiia) known as OVR, the Union of Right Forces (SPS) and Yabloko. When the honeymoon period was over with the Communists, Unity and OVR merged to form a single 'party of power' - the All-Russian Party of Unity and Fatherland, simply called United Russia, in February 2002.<sup>14)</sup> Thus, the pro-Putin centrists have joined forces with the right-wing factions, becoming the largest faction in the State Duma, clipping the left wings.<sup>15)</sup> Yet, United Russia alone cannot command a majority in the State Duma, without making alliances with other centrist factions. Prior to this merger, Unity, OVR, Russia's Regions, and People's Deputies formed a loose pro-Putin coalition, then making up 231 seats altogether.<sup>16)</sup> This allowed the executive a simple majority to support its policy proposals, if not sufficient to override the veto of the Federation Council that requires a two-third majority. Having skillfully co-opted forces from the left and right of the political spectrum, and enforcing tight discipline in its ranks (through its official representative in the Duma or telephoning instructions to Unity leaders<sup>17)</sup>) and following the presidential line,<sup>18)</sup> Unity has repeatedly commanded a majority to get necessary legislation passed. Since three Communist deputies, Gennazy Seleznev (Duma speaker), Nikolai Gubenko (chair of the Culture and Tourism Committee), and Svetlana Goriacheva (chair of the Women, Family and Youth Affairs Committee) were expelled from the Communist party due to their refusal to quit key posts in the State Duma, the power balance has shifted towards pro-Putin centrists. As a result of the realignment of power configuration in the State Duma, chair posts held by Communists have been reduced from 9 to 2.<sup>19)</sup> Lately, President Putin has been sponsoring an alternative left-wing party, Russia's Renaissance (led by Duma speaker Gennady Seleznev),<sup>20)</sup> although there is no guarantee that it will be able to skim off many more of the Communists. At least President Putin may meet with fewer problems than Yeltsin in getting reform legislation through the State Duma - although even President Putin may have to make some amendments (concessions) to satisfy the parliamentary opposition.

Nonetheless, the contrast with Yeltsin is striking.

The creation of the Unity Party in September 1999, its strong showing in the December 1999 election, its dominant showing so far in the State Duma legislative voting, and its outright winner in the December 2003 Duma election may be a sign of the birth of a viable 'party of power' at last. Though this is by no means a guaranteed path, the new law on political parties may contribute to creating a favorable environment for such party development. It is quite understandable for the executive that it introduces the new law with a view to see Unity and now United Russia emerge as a ruling party.

#### Legislative draft bills examined

It is said that at every plenary session, the State Duma adopts, on average, seven resolutions.<sup>21)</sup> More than half of them concern on procedural and organizational questions. As many as 1,730 draft bills have been deliberated during the 305 plenary sessions convoked by the 2nd State Duma (1966-1999), which, 1,036 draft bills were adopted, and later 715 laws went into effect.<sup>22)</sup> Although the legislative infrastructure has gradually taken shape in the Russian legislature, it appears that most of the laws promulgated may have originally been proposed either by the government or by the president. Needless to say, the deputies of the State Duma and the Federation Council, and legislative organs of the federal subjects have the right to initiate draft bills as they please. In reality, the government or the president, which have rich legislative resources in terms of information and skilled manpower, attempted to draw up a legislative plan, and their proposed bills generally prevail over those proposed by the deputies.

Lately, the volume of draft bills to be deliberated has been growing convocation after convocation. For instance, according to the legislative plan for the spring session in 2003 alone, about 580 draft bills were to be examined. Of 100 draft bills, including administrative code, tax code, pension law, anti-terrorist law and also ratification of 26 international treaties which were given priority, 22 were proposed by the president, and 46 by the government.<sup>23)</sup>

As for the Federation Council, the shortage of media coverage of its legislative activities may well be indicative of its symbolic character as opposed to its functional character, despite the fact that its succeeding speakers, Vladimir Shmeiko, Egor Stroev, Sergei Mironov have repeatedly appealed for strengthening the powers of the upper chamber.<sup>24)</sup> As the members of the Federation Council were composed of the

executive and legislative heads of 89 federal subjects (1996-2001), it was indeed physically impossible for them to spare much time for legislative activities. This appears to have changed somewhat. Since regional leaders have been removed from the upper chamber and replaced by full-time legislative members, nominated by the regional executives and legislatures, members are said to become more professional. According to the current speaker, Sergei Mironov, the Federation Council, during spring session in 2002 alone, examined 111 federal laws, and 4 constitutional laws, organizing 7 public hearings, and 36 round table discussions, in which leading specialists participated.<sup>25)</sup> As they have dealt with draft bills in a professional manner in particular committee activities, the government has been able to carry out land reforms, judicial reforms and tax reforms, as President Putin himself has said.<sup>26)</sup> Although there is probably no way we can prove the truth of these allegations without going into in-depth studies of the activities and professional quality of the members, there appears to exist a certain logic to prove it, namely, that they have enough time to spend in a well-functioning legislative environment.

"Why do we have the Upper Chamber? If it disagrees with the Lower Chamber, it will become a useless institution. If it agrees with the Lower Chamber, it will be harmful to the state." (Emmanuel Joseph Sieyès, 1748-1836). The Russian Federation whose members were powerful regional leaders appears to have been a genuinely representative organ of regional interests, though physically a paper tiger. And paper tiger though it may have been, its members, particularly the governors or presidents of the federal subjects who enjoyed immunity and prestige, have an important meeting place and political ground for lobbying federal agencies and presidential administration. The Federation Council, taking into account the potential political clout the governors and presidents were perceived to wield, often played a role as a mediator, particularly under its former speaker, Egor Stroeve (January 1996-December 2001), between the disquiet Communists in the State Duma and the unpopular President Yeltsin. Since the *ex officio* representation in the upper chamber has now been abolished, the role of the Federation Council appears to have shifted from a political to a functional one.

*Presidential veto* Although the balance of power has shifted from the legislature to the executive under the new Russian constitution, the legislature can override a presidential veto (article 107, section 3), and it is much harder for the president to dissolve legislature (article 109). The legislature, for instance, has overturned the presidential veto twice (between March and July 1997) on the draft bill concerning

disapproval of the return of cultural war trophies. In the end, the decision of the Russian Constitutional Court obliged the president to sign this draft law<sup>27</sup>. The State Duma has never been so far dissolved during the four-year term by the president.

*Social accord* During the transitory period (1<sup>st</sup> State Duma: 1994-1995) no single faction, or even two factions combined, was able to make any kind of decision, even the simplest and most inoffensive. Under such a fragile political power configuration, reform oriented President Yeltsin was then able to seemingly achieve an accord among the society's political forces. For instance, "the Pact on Social Accord" signed by the key political forces from April through June 1994 (the Accord initially lasted for two years) tied their hands, since it was hardly likely that anyone would openly risk opposing the idea of social accord in the face of parliamentary elections scheduled for December 1995 and the presidential election in 1996. One might well argue that this accord in itself was merely a reconfirmation of the duties stipulated under the new constitution, and that Yeltsin simply wished to create a favorable environment for operating in the presidential office and perhaps even for running for re-election to the presidency. Although the Accord was not a product of the legislature, it was the latter which provided a strategic arena for building a consensus for signing the Accord. Priority issues such as the 1994 national budget, codification of civil laws, land laws, labor laws, and tax laws that should be passed by the federal legislature were listed in the Accord. The Accord thus played a part in placing these draft laws on the agenda for legislative debate.

*Budget laws* In case of the draft budget laws that must be adopted by the legislature every year, the draft budget becomes a focal point for the deputies and groups concerned. In accordance with the law 'On the Procedure of Examining and Approving the Annual Federal Budget adopted in mid-June by the State Duma, the draft budget is tabled by the government for no later than September 1. The State Duma, which has the right to prior deliberation, does usually four Readings (*chtenie*), i.e. deliberations, though this varies from year to year. Readings do not necessarily correspond with the number of plenary sessions. Approval of each draft budget bill (usually revised government proposals) at the plenary session counts as one Reading. Both chambers must ideally approve the final draft budget bill before the end of the budgetary year, i.e. December 31. During the Yeltsin period, there were only a few occasions where we saw this happened, whereas under Putin's leadership, all budget bills have so far been approved by the end of the fiscal year.

At the first plenary meeting, the State Duma decides the way the budget draft is to

be deliberated. At the first Reading, the chamber adopts the basic budget indices for expenditure, revenue, and maximum budget deficits (surpluses). Then, the chamber makes changes based on approved indices of itemized expenditures and revenues in accordance with the Duma's numerous specific wishes. The government presents a reworked draft budget for approving the basic budget indices. At the second Reading, the chamber approves the revised draft bill. These two Readings are the most crucial during the legislative budgetary process. Naturally, between these plenary sessions, a number of standing committee and sub-committee meetings and hearings are held. If the State Duma determines the draft budget to be defective, both the draft as such and the forecast underlying it, the State Duma votes to set up a conciliatory commission of parliamentary and government officials to revise revenue and expenditure figures and find ways of covering the deficit by an appointed time. The commission submits or resubmits the revised draft budget to the State Duma for approval. This time consuming procedure has in the past made the State Duma unable to pass the budget bill before the closure of the second session (usually towards the end of December). When this happens, the State Duma, meanwhile, passes a finance law to enable the government to spend a certain amount of money in the first quarter without a confirmed full budget. This amount will later be deducted when the final budget has been approved.

During Yeltsin's regime, an attempt was made to find reserves and increase necessary expenditures within the framework of the confirmed budget indices. The government considered a deficit higher than 10% of GDP one that would nullify all efforts to combat inflation. Legislative factions changed little, though some fluctuated in their attitudes toward the revised budget on the second Reading. What should be noted here is that factional discipline is very low, and one can talk about certain factions' "positions" only in a very theoretical way. A reform-oriented faction such as 'Yabloko', for instance, tends to adopt a policy of budgetary austerity, whereas a left-wing faction such as the Communists tends to propose expansive budgetary policy. Reform-oriented deputies tend either to vote against the bill that would involve (in their opinion) the danger of further inflation, abstain from voting, or not attend the session at all. The behavior of another left-wing faction, the Agrarian Party of Russia, however, is more volatile than that of the Communists. The Agrarians have often supported the budget bill if the government increases state subsidies to the farming industries. The final outcome of the voting is usually influenced by the attitude of the members of non-party affiliated faction, such as New Regional Policies (1994-95),

Russia's Region (1996-99, 2000-2003) and People's Deputies (2000-2003).

The budget bill is then sent to the Federation Council. As usual, the upper chamber is given little time to amend the draft bill. The Federation Council has often recommended (before the State Duma adopted its resolution on the draft budget at the second Reading) that the State Duma should increase appropriations for certain sectors of national economy, to the Duma's irritation. Although the State Duma usually meets some of its demands with the resolution on the second Reading, procedural defects are apparent every now and again. Anatoly Chubais, then the first deputy premier, self-critically admitted that the cabinet had made a mistake by adhering to the formal procedure of the budget's discussion: government - the State Duma - the Federation Council. In his opinion, the members of the Federation Council should have been enlisted in this process more actively and at an earlier stage.<sup>28)</sup> When the Federation Council approves the budget bill, the documents are attached to it calling for better account for regional interests, social protection of the population, reasonable taxation policy, and measures to produce additional revenues.

Thanks to higher energy prices in the world market and the devaluation of the ruble since 1998, there has been economic growth in Russia. Consequently the government has started to enjoy a budget surplus, coinciding with the advent of the Putin regime.

The main concern for the government is to ensure the size of the budget surplus so that it can meet some of the liabilities, and to keep the annual inflationary rate below 10 percent. Major procedural change occurred in 2002 for drafting 2003 budget, and this appears to be normal practice as it happened again in 2003. Over the summer recess of the legislature, before the formal presentation at the beginning of autumn session of the State Duma, the government draft bill was examined by both chambers, forming a tripartite committee. The tripartite committee in particular examined the basic budget indices for expenditure, revenue, and maximum budget surplus. In effect, the first Reading is already cleared together with the Federation Council's approval, before the formal presentation of the government draft bill. It is the Federation Council that has beneficially participated in drafting processes right from the beginning, acting as a catalyst for the promotion of regional interests, and drawing more attention to the development of social, cultural and manufacturing infrastructures in both rural and urban areas.<sup>29)</sup> By and large, one-third of the budget expenditure is allocated to defense, in particular reforms in the armed forces, another third to judicial, security and manufacturing sectors, and the final third, to the social service sector.



*Land Code* The State Duma deliberated the draft Land Code bill through three Readings and adopted it in its third Reading in September 2001. Land ownership is one of the lingering issues inherited from 70 years of Soviet history. The Land Code still excludes agricultural land from being sold; meaning under the new Code only two percent of the land is available for sale. That mere two percent of land is where, in fact, most of the population lives and most of the economic activity takes place. Agricultural land will be covered by future legislation, as will a law clarifying the rules for governmental compulsory purchases. In many ways, the Code will facilitate land privatization, as it sets out conditions for the sale of state-owned land to the private sector. The president will have to sign more than 20 draft laws in order to develop the Land Code over the next two years.<sup>30)</sup> The Land Code initially appeared to be, therefore, of less value than the paper it was written on. However, it clears away one of the big legal and psychological hurdles to investment in Russia. The passage of the Land Code has thus been seen as a symbol of irrevocable market reforms.<sup>31)</sup>

In the first of two extra weeks of the State Duma in July 2001, the government wanted to deliberate three bills, namely, the Labor Code, Money-Laundering Law and Land Code, though these bills were tabled by the government at the beginning of the 2001 spring session. Since President Putin came into power, it has become a familiar pattern to see acceleration in legislation. This frantic rush to pass these bills before the State Duma breaks for summer recess may be part of another agenda, i.e. to hustle legislation through in the general confusion at the end of a session. The Labor Code, which was a compromise between the government, Duma and unions, was passed before the summer recess, whereas the Land Code was carried over to the autumn session. As for the Law on Money Laundering, it was passed in July 2001 as an act of goodwill towards the West, even though it is supposed to be a weapon in the fight against the Mafia and corruption. The main source of conflict over the law was resolved after lengthy negotiations between the chair of the Duma financial committee, Alexandr Shokhin (People's Deputies faction) and first deputy prime minister Alexei Kudrin. As a result, customs and tax crimes, which would have fallen under the law's provisions in its draft, were removed. Nevertheless, a slightly more specific anti-money laundering bill was approved.

Russian citizens have been able to own land, at least according to federal law, since 1993, but no provisions exist allowing for its purchase and sale, except by presidential decree. Also, as is so often the case, federal and regional laws have often contradicted one another.<sup>32)</sup> It has been alleged that 63 percent of farmland is already owned

privately.<sup>33)</sup> From the onset of market reform, there has officially been the right for farmers to claim a portion of land and create private farms. But most have neither the money, qualifications nor desire to do so and, as a result, remain in their former collectives, now officially transformed into 'shareholding societies'.

The Communists and their allies the Agrarians opposed land privatization in fear of ruthless grabs for property and illegal appropriations for the enrichment of a few insiders; so, the Land Code tabled by the government was accommodated to establish some kind of viable mechanism for the oversight of any privatization process. In January 2001, President Putin met Duma speaker Gennady Seleznev and requested the latter deliberate on the Land Code to be tabled by the government, and reassured Seleznev that the new Code had nothing to do with agricultural land, which would require a separate law, and with the Code only extending trading rights to some two percent of Russia's territory.<sup>34)</sup> President Putin asked the Russian State Council composed of the executive heads of the Federal subjects and its Presidium to deliberate on land reform and suggested they give some leeway on the timing of the introduction of farm land ownership to each of the 89 federal subjects.<sup>35)</sup> President Putin directed the government to draft the Land Code in February 2001, and the latter submitted the draft bill to the State Duma on April 26, 2001. Immediately after submission, President Putin met with the Duma speaker again and also with the leader of the Agrarians faction, Nikolai Kharitonov, and requested that they take into consideration of importance of the Land Code. It should be remembered that about this time, four centrist Duma faction groups (Unity, Fatherland and All Russia, Russia's Regions, People's Deputies) declared a political alliance.<sup>36)</sup> The Council of the State Duma (then chaired by either its speaker Gennady Seleznev, nominally of the Communists and first deputy speaker Liubov' Sliska of the Unity faction) decided, with the strong support of other centrist factions, namely, Unity, Fatherland and All Russia, LDPR, and Yabloko, to send the draft bill to the Duma's pro-Putin property committee for examination, instead of to the left-wing agricultural committee. Having been outwitted, the Communists used the backdoor to block the controversial legislation, using a procedural rule that says a national law must first be sent to all the country's federal regions for approval. If 30 of the 89 regions do not approve the law, then a conciliatory commission must be set up. Since its first Reading, the Communists leader Gennady Ziuganov has been busy agitating against the draft Land Code bill, with the allegation that 26 regions have so far declined to approve it. Ziuganov has said that at least five more regions are set to follow suit. The government has

requested the Ministry of Justice investigate the credibility of the Communists' allegations, which have been found to be faulty. Up to the last minute, analysts were thinking that the government would press for an accelerated procedure - seeing the Land Code go through its second and third Readings in the same session. In the end, though, contrary to the Communists' expectations of setting up a conciliatory commission, the deadline for amendments was set for July 7. By the autumn session, important concessions had been made, such as a ban on altering land's purpose; a ban on selling agricultural land; and on foreigners buying land. Despite desperate attempts from left-wing deputies to prevent it, opponents of the Land Code seemed to accept its inevitability, having fought their battles in the first and second Readings. The third Reading focused on linguistic and legal touches. Having glanced at the Land Code legislative process, the State Duma exerted some levers of influence on critical questions concerning the privatization of land.

### Conclusion

The popularly elected president who serves a fixed term of four years is not, theoretically speaking, dependent on parliamentary majorities. Presidential power which exceeds the power of the legislature and is unconstrained by judicial branch, may not be exercised as the president pleases. The legislature and the president are subject to periodic elections. Although Yeltsin secured reelection in June 1996, the Communists stood in first place in the December 1995 Duma election largely due to government failure in economic policies. Although the constitution seriously curtailed the parliamentary functions of monitoring, and as a public forum, political forces adapted to the situation and learned to use parliamentary opportunities for their own purposes. An obstructionist Duma dominated by the Communists tried to block any attempt at reform. Presidential government, therefore, had to search for compromise among conflicting interests in the parliamentary arena.

In countries where a parliamentary cabinet system prevails, it is usually the case that a political party initiates a legislative bill, leaving aside the question of whether it will in the end materialize as a government or private bill. Likewise, in Russia, the political parties are busy advocating a number of bills to be acted upon. Yet their actions do not always lead to the drafting of a bill either by themselves, by the government, or by the president. Nonetheless, there has been some movement by the parties to secure their role in the legislative process.

Since Putin came into power, the Communists have lost control to a centrist, pro-

Putin coalition. At the third State Duma (2000-2003), the legislature passed many important laws that touches upon almost all segments of government and society. The conflict between the president and the legislature appears to have come to an end at last. This may have been indeed one of the obstacles to the emergence of an effective party system and responsible government.

In his annual address to the nation on May 21, 2003, President Putin mentioned the possibility of forming a cabinet in line with parliamentary government, taking into consideration the Duma election results.<sup>37)</sup> Putin's heart may well be in the right place.

Such a thought may arise from the current favorable political circumstances. A merged pro-Putin faction, United Russia, has safely returned to the State Duma with (it was hoped perhaps by President Putin) a strong majority in the December 2003 Duma election, and in 2004 Putin himself seems assured of a second term in office. If by any chance, however, 'co-habitation' like that in the French presidential system is reproduced in Russia, this would bring instability to the country when various reforms are still in the process of being enacted. There was a time in the past when President Yeltsin did make a similar promise. When the Communists together with other left-wing factions tabled a vote of non-confidence in October 1997, President Yeltsin made several concessions at the quadripartite meetings (composed of the president, the prime minister and speakers of both chambers). One of the concessions made was to respect the spirit of a parliamentary government system.<sup>38)</sup> When the Kirienko government was formed in April 1998, this promise was disregarded. With such a precedent, Putin's resolve remains at present a matter of conjecture.

Despite the favorable political environment he enjoys, President Putin's political style has been cautious and rather orthodox; more precisely, a preference for quiet behind-the-scenes deals rather than overt principled structural reform.<sup>39)</sup> He is keen to preserve a political consensus with a fractious legislature, and to make some amendments to satisfy the legislative opposition as we have seen above. In Russia which is still in the process of transition, we have already witnessed that it is necessary to bolster the political ideas, political resources and structure of the leadership. A lack of this support results in a chaotic leadership. Yet, leadership without the accompaniment of other variables such as organizational development, favorable Duma elections results and popular support cannot bring about any substantial change in the foundation. The evolution of a new parliament, or for that matter, the political system as a whole, depends much upon not only the leadership, but also the progress made on economic and social reforms.

Given the distance Russia must still travel, it may take decades to reach parliamentary democracy. But considering the distance already traversed in a brief time, it shows parliamentarism to be no longer an empty word. Indeed, every sign points to the fact that the Russian legislature is already organically operating within the Russian political system. The shell enveloping elements of parliamentary democracy has now, metaphorically speaking, been cracked. It must be kept in mind, however, that, although the Russian legislature has now progressed to the second stage of its development, it must face the question of its validity within the contemporary political system. In most parliamentary democracies, legislative politics is much more about building and maintaining a government than it is about legislating. The legislative agenda is very much in the hands of the executive. The Russian electorate must now ask themselves again why it should keep maintain such an institution.

\*This paper is by and large abridged version of my book, *Russian Federal Parliament: Process of Institutionalization, 1994-2000* (in Japanese), Keisuisha, 2002 and also a revised version of the paper, "Parliamentary Democracy in Russia at a Crossroads" presented to the International Conference on Democracy and Market Economics in Central and Eastern Europe, September 3-5, 2003, Slavic Research Center, Sapporo, Japan. Information collected since 2001 on activities of the Russian legislature, however, have relied heavily on secondary sources. It is undeniable, therefore, that some of the analysis herein has been influenced by the various slants of media coverage. Transliteration of Russian words follows the style used by the Library of Congress, except for commonly used personal names, such as Yeltsin, Yakovlev, and Yavlinsky, instead of El'tsin, Iakovlev, and Iavlinsky respectively.

- 1) Giovanni Sartori, *Comparative Constitutional Engineering*, Macmillan Press, 1994, p.vi
- 2) See, for instance, Andranik Migranian's article, "The End of Perestroika's Euphoric Stage", *Thorny Path to the Post-Perestroika World*, S. Minagawa (ed.), Slavic Research Center, Hokkaido University, 1992, p.125
- 3) When the bill of non-confidence was passed on June 20, 1995, the president vetoed it. Then, the Communists retabled the non-confidence bill on July 1, but it could not receive the majority votes at the State Duma. *Rossiiskaia gazeta*, 22/6/1995, 1/7/1995.
- 4) *Sovetskaia Rossiia*, 15/3/2001
- 5) See article 93 section 1 of the Constitution which states that the president can only be removed from office by the Federation Council on the basis of a charge of high treason or commission of another grave crime, filed by the State Duma and confirmed by an opinion of the Supreme Court

that actions of the president contain the elements of a crime and an opinion of the Constitutional Court on the observation of the procedure established for filing the charge. Section 2 of the same article requires a vote of two-thirds of the total membership of each chamber on the initiative of at least one-third of the deputies of the State Duma.

- 6) For instance, cogent influence on non-party affiliated deputies and dismissal of Prime Minister Primakov just before the vote.
- 7) This group is chaired by W. Gregyriad, chair of chamber standing committee of budget, executive representative of Sakhalin oblast. Now, he is deputy chair of the upper chamber. He has been one of Putin's protégé. See *Roshia Geppou*, No.692, February 2001, pp.20-21; No.702, December 2001, p.24
- 8) See rules of legislative procedures adopted in 1999. *Politika*, <http://www.cityline.ru/politika/fs/>
- 9) See my book, *Russian Federal Parliament: Process of Institutionalization, 1994-2000* (in Japanese), Keisuisha, 2002
- 10) *Sevodnia*, 27/5/2000
- 11) A. Ryabov, "Partiya vlasti" [The party of power] in *Partiino-politicheskie elity i elektoralnye protsessy* (Moscow, 1996), pp.5-16
- 12) *Rossiiskaia gazeta*, 29/6/2001; *Roshia Seisaku Doko*, No.393, June 2001, pp.22-23
- 13) Approved by the State Duma on November 20, 2002. See *Rossiiskaia gazeta*, 21/11/2002
- 14) *Rossiiskaia gazeta*, 8/2/2002
- 15) As of February 2002, the United Russia had 130 seats and the Communists had 84 seats.
- 16) *Rossiiskaia gazeta*, 12/4/2001, 1/6/2001
- 17) *APN*, 26 April 2000.
- 18) For example, Unity deputies voted together on 92% of votes in May - more than any other factions. (KPRF vote discipline was 75%, SPS 78%, Yabloko 83%.) The KPRF was voting with Unity 70% of the time. <[www.duma.ru/infgd/00\\_05/0005\\_018.html](http://www.duma.ru/infgd/00_05/0005_018.html)>
- 19) *Roshia Geppou*, No.707, May 2002, p.51
- 20) *Rossiiskaia gazeta*, 13/7/2002; 22/11/2002
- 21) *Executive and Legislative Newsletter*, No.27, 1997
- 22) *Roshia Geppou*, No.698, December 1999, p.41
- 23) *Roshia Seisaku Doko*, No.435, January 2003, p.2
- 24) For example, Shmeiko stated that the upper chamber should stop working solely in a 'yes-no' mode and gain the right to submit its own amendments when it approves laws presented by the State Duma. Moreover, he insisted on changing articles 104 and 105 of the Constitution so that the upper chamber may initiate the adoption of laws, subsequently 'sending them down' to the State Duma for approval. See further *Kommenrsant Daily*, 23/6/1994
- 25) *Roshia Seisaku Doko*, No.423, August 2002, p.11
- 26) *ibid.*
- 27) *Rossiiskaia gazeta*, 6/4/1998
- 28) *Izvestia*, 24/3/1995
- 29) *Roshia Seisaku Doko*, No. 423, August 2003, p.12; No.426, September 2002, p.13; No.427, October 2002, p.17. Year 2002 budget surplus was about 72 billion rubles (equivalent to 2.5 billion dollars), see same journal No.424, August 2002, p.24.
- 30) Sale of commercial and agricultural land has now been authorized imposing conditions on 49-year

leases and foreign capital of no more than 50 %. See *Roshia Seisaku Doko*, No.422, July 2002, p.32; *Rossiiskaia gazeta*, 14/2/2003

31) *Rossiiskaia gazeta*, 28/9/2001

32) As early as November 1997, for instance, Saratov oblast legislature adopted land ownership law that allows its sale. *Rossiiskaia gazeta*, 12/1/1997

33) President Putin's answer at the *Open Forum* ran through ORT channel.

34) *Rossiiskaia gazeta*, 10/1/2001

35) *Rossiiskaia gazeta*, 30/1/2001; *Izvestia*, 22/3/2001

36) *Rossiiskaia gazeta*, 12/4/2001; 1/6/2001

37) *Roshia Seisaku Doko*, No.444, May 2003, P.16

38) That means then forming a coalition cabinet. See further *Roshia Seisaku Doko*, No.303, January 1998, p.13

39) See Peter Rutland's excellent article, "PUTIN'S PATH TO POWER," *Post-Soviet Affairs*, 2003