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# Managing Secession Potential in the Russian Federation

JAMES HUGHES

The survival of the Russian Federation for a decade after the fall of communism is an exceptional case in post-communist transitions since all the other federal communist states have collapsed. The Soviet Union dissolved suddenly and chaotically, Czechoslovakia had a peacefully negotiated disassociation, and Yugoslavia was ruptured by civil war. This pattern suggests that the combination of multi-ethnicity, federal state, and democratizing transition is a highly unstable compound. Democratization of communist-type federations is generally seen as conducive to state collapse because of the institutional territorialization of ethnicity, what Brubaker terms 'institutionalized multinationality' (Brubaker, 1996: 26). This institutional feature is seen as exercising a 'subversive' corroding effect on central authority which in certain conditions may be the catalyst for a break-up of the state (Bunce, 1999). Such conclusive statements about the poor viability of communist era federations generally exclude the non-collapse of the Russian Federation from their analysis. The survival of Russia as a federal state seems all the more unusual given that it exhibits many of the characteristics that contributed to the collapse of the Soviet Union: its huge size, territorialized ethnicity in complex administrative divisions, together with the general dysfunction and weakening of the state during political and economic transition.

## THE STUDY OF RUSSIA'S FEDERAL TRANSITION

Studies of transition by and large have neglected the role of federalism in the ethnic and territorial dimensions of democratization – a neglect that is compounded significantly when both dimensions coincide in a federal transition, as they have done in Russia. Recent studies of post-Soviet Russian federalism, particularly by scholars in the USA, are strongly influenced by those theories of federalism which, as indicated in the introduction to this volume, draw on the pessimism of liberal democratic theory and are negative about the prospects for stability in plural societies. Consequently, such works are generally dismissive of the prospects for a stable refederalization in Russia. This view gained momentum during the 1990s when new institutional designs were developed in Russia which

refashioned the territorially defined asymmetric federalism inherited from the Soviet era by selectively empowering it. This process of asymmetric refederalization culminated in a largely non-transparent process of bilateral treaty-making between the federal presidency of Boris Yeltsin and many of the executives of republics and regions in the period 1994–98. By the summer of 1998, 46 of the 89 ‘subjects’ (constituent units) of the federation, including all republics, had negotiated bilateral treaties, the last being signed with Moscow City in May 1998. As only a small number of these treaties provided for a significant devolution of powers, the refederalization of Russia was territory specific, with the most significant power-sharing agreements being concluded with the key ‘ethnic’ republics of the federation, Tatarstan, Bashkortostan and Sakha. The salience of the ‘ethnic’ factor in the power-sharing geometry of Russia’s refederalization led to a perception among many scholars, both Russian and Western, that the process would strengthen separatist and secessionist threats to the territorial integrity of the state.

For some the principle of asymmetric federalism is inherently destabilizing because it created a two-tier federation with a few key ‘ethnic’ republics enjoying a privileged constitutional position and revenue-enhancing economic concessions compared with the majority of regions which are overwhelmingly Russian populated (Dmitrieva, 1993; Busygina, 1994; Slider, 1994; Lapidus and Teague, 1995; Umnova, 1996; Aklaev, 1999). Asymmetric federalism was also viewed as creating a potential deluge of instability caused by a downward spiral of ‘ethnic’ deviance. Since the rebellious sub-national elites that mobilized an ‘ethnic revival’ were ‘rewarded’, coopted and bought off by the centre through bilateral treaties, their demands were likely to steadily expand and create a crisis of control (Treisman, 1996 and 1999). Economists have applied the ‘fiscal federalism’ approach derived from the experience of advanced capitalist federal states such as the USA, Canada and Germany, despite the absence of fiscal transparency, and the unreliability of published budgetary data in Russia (Wallich, 1992, 1994, 1997; Bahl and Wallich, 1995).

The ‘federal bargaining’ approach of William Riker has been widely employed by US political scientists to analyse Russian federalism. Based on the study of the federal system in the USA, this model stresses the critical importance of political parties as agents for making the process work. In the absence of the mediating presence of strong political parties, it is argued, the ‘bargaining game’ of Russian federalism is unworkable (Ordeshook, 1995). Of course, ‘bidding games’ over power, authority and status, like those propagated by Russia’s refederalization in the 1990s, are merely the stuff of politics. All federations are asymmetric as regards the political influence and socio-economic power of constituent units

(Duchacek, 1970). The issue is whether built-in constitutional or institutional asymmetries are an exceptionally destabilizing factor. Some have argued that asymmetric federalism fostered an anarchic 'scramble for benefits', which by 1998 in Russia had fed into a logic for a 'beggarthy-neighbour "race to the bottom"' that threatened its territorial integrity (Solnick, 1996, 1998, 2000). If Russia's asymmetric federalism has selectively peripheralized power, however, and it is characterized by weak parties, and yet it is a stable state in the sense that it is not in a process of disintegration, then Riker's theory of federalism is evidently flawed.

While some scholars de-ethnify the study of Russian federalism, concentrating on its impact on notions of democracy and state capacity (Stepan, 2000), others associate asymmetric federalism with a dangerous 'ethnification' of Russian politics that was seen as an obstacle to the building of a harmonizing 'civic' national identity (Smith, 1998 and 1999). Such arguments underpinned a general scholarly consensus by the second half of the 1990s that Russian federalism was *sui generis*, unlike any federal form found in the West, and unlikely to be stable (DeBardeleben, 1997: 48–50; Alexseev, 1999: 13). In sum, the critique of asymmetric federalism contains morally grounded (all citizens and constituent units should be equal) and practical (without transparent 'standard rules of the game' federal coordination and stability was impossible) components. Such views ignore the growing literature on the importance of 'group-specific rights' and consociational-type institutionalized power-sharing as foundations for stable democracy in multi-ethnic settings (Kymlicka, 1993; O'Leary, 2001).

There is a tendency to confuse Russia's asymmetric federalism based on power-sharing treaties with 'foralistic federalism'.<sup>1</sup> In particular, there is uncertainty as to whether 'foralistic federalism' is stabilizing or destabilizing, and of where appropriate comparative examples can be found. An influential Russian study demonstrates this erroneous tendency to interpret 'foral federalism' as highly destabilizing, citing the Canada–Quebec, Germany–Bavaria (sic), and India–Punjab cases as evidence of the 'damage' (sic) caused by this type of 'treaty-federalism', claiming that it inevitably leads to the 'break up of the federation' (Umnova, 1996: 80–82).<sup>2</sup> In contrast, positive comparisons are made with Spain, where the division of powers between centre and 'autonomies' was institutionalized by a series of bilateral agreements (Chinarikhina, 1996: 20–25; Solnick, 1998: 61). Again, this is an inappropriate comparison as there are substantive differences. The creation of the Spanish 'state of autonomies' through power-sharing agreements was a transparent process ratified by parliament, approved by regional referenda, and the texts entrenched bodily as addenda to the 1978 constitution in the form of the

Autonomy Statutes. This means that Spain is governed by a single constitution. Spain is a decentralized state with segmental autonomies, not a federal state. It does not have federal integrative territorial institutions, but rather has a loose institutional framework which encourages competitive bargaining for further decentralization through party strategies and negotiations (Colomer, 1998). In Russia, in contrast, as we shall see below, the 1992 Federal Treaty was overwritten by the 1993 Constitution, and the Constitutional Court has only recently made a judgement (the Komi case of February 1998), confirming this. The bilateral power-sharing treaties differ in that they exist as para-constitutional texts and in some cases federal–republic relations are regulated by both the Federal Constitution and the republic’s constitution (in the case of Tatarstan and Bashkortostan for example). This constitutes a major jurisdictional obstacle for a federal process of judicial review. Thus, one of the paradoxes of Russia’s federal development is that there is a relatively transparent judicial process about a non-transparent treaty process.

#### EXPLAINING FEDERAL STABILITY

The approach taken here differs from the above-mentioned studies by arguing that the asymmetric refederalization of post-Soviet Russia was stabilizing for the state. As a positive feature of institution-building during transition, asymmetric federalism has acted as an institutional counterweight to centuries of ethnic Russian hegemonic control and the policies of Russification, coercion and centralization that accompanied it. Furthermore, as the introduction to this volume explains, comparative experience of conflict regulation in multi-ethnic societies suggests that such institutional arrangements are part of the repertoire of creative and flexible solutions employed for managing secession potential and conflicting rights. The institutional engineering of a refederalization of Russia was critical to its non-collapse and, moreover, this refederalization was undoubtedly shaped by other institutional choices made as part of Russia’s broader attempt at transition to democracy after 1991. In particular, refederalization was correlated with the rise of a strong presidency under Boris Yeltsin.

The fundamental measure of political stability in any state is the maintenance of its territorial integrity, and in a federal state this is generally understood as the management of ‘secession potential’ (Lemco, 1991). By this measure the Russian Federation has been very successful. While there are nominally 21 ‘ethnic’ republics out of a total of 89 federal subjects in Russia, since independence in 1991 there has been only one significant secessionist conflict, that in Chechnya. Chechnya is a

protracted conflict, which has resulted in two costly wars in 1994–96 and 1999 to the present. It is also very much a ‘deviant’ case in Russia’s federal transition since secession-potential and conflicts have either been non-existent or successfully managed in the 20 other ‘ethnic’ republics, some of which also strenuously asserted demands for ‘sovereignty’ against the federal government after 1991.

According to conventional accounts a supposed ‘ethnic’ revival, or *matryoshka* nationalism, intensified in Russia from 1990. The demands for ‘sovereignty’ from Russia’s regions and republics were magnified by contagion effects from the revolutions in Eastern Europe and the ‘war of sovereignties’ in the USSR in 1989–90, when separatism escalated in key union republics, including Russia itself. Obviously, time has revealed the ‘ethnic’ revival account of a potential disintegration of Russia as flawed, since non-compliance with federal state-building and secession potential has been a serious challenge in just two republics: Tatarstan and Chechnya. Obviously, to argue that the limited scale of secession potential was a factor in the non-collapse of Russia would be to present a circular logic. Nevertheless, the question remains why, in a state with 39 significant ethnic minorities and 21 ethnically designated constituent units, has secession potential been vigorously and consistently asserted by just two, and violently by only one. Furthermore, why did the federal government take such a radically differentiated policy approach to the management of these two cases? In the case of Tatarstan, the federal government initiated a bargaining process, with negotiations proceeding for three years and including the direct involvement of the president, which led to an institutionalized settlement in a bilateral treaty where a wide latitude of autonomy was conceded to Tatarstan. In the case of Chechnya, no serious negotiations were held under Yeltsin, who refused to engage directly with the Chechen leadership and preferred a disastrous policy of coercion in 1994–96. This pattern has been repeated under Putin since late 1999.

#### STRUCTURAL CONSTRAINTS ON SECESSION POTENTIAL

Secession potential in Russia has been softened by five types of structural constraints. Four of the constraints were internal features of the Russian state: demographic composition, resource interdependencies, spatial location, and historical assimilation. The fifth was an external constraint: the non-recognition of secession by the international system (this factor will not be discussed here since it is analysed in detail in the introduction to this volume).

*Demographic Composition*

One of the most potent conditions for separatism is the presence of a territorially concentrated and dissatisfied minority group. Although Russia's titular ethnic republics account for 29 per cent of the territory of the federation, this spatial significance is not matched by demographic presence. An important force for territorial cohesion in Russia is the high level and spatial spread of Russian ethnic homogeneity across almost all the federal units. At the time of the 1989 census Russians constituted a bare majority (50.78 per cent) of the USSR's 286.7 million population. In contrast, in the RSFSR (renamed the Russian Federation in January 1992) ethnic Russians were an overwhelming majority (81.5 per cent) of the 147 million population. The multi-ethnic demographic complexity of Russia was clear from the 1989 census which identified 101 ethnic groups in the state, and this is probably an underestimate. Although many ethnic groups numbered less than 5,000, the census revealed that there were 39 major ethnic groups numbering more than 100,000. One would imagine that this significant number of diverse minorities would greatly complicate federal nationalities policy and constitute strong secession potential, particular given the standard accounts of the effects of 'institutionalized multinationality'. This demographic structure, however, was subject to a crucial moderating factor. It is not simple numerical superiority as a proportion of the total demographic balance of the Russian Federation that makes ethnic Russian homogeneity a limiting constraint on secession potential, but the spread and strength of the ethnic Russian population throughout the vast majority of the 89 federal subjects. According to the Soviet census of 1989, the then RSFSR contained 31 subjects with a titular ethnic designation (16 Autonomous Soviet Socialist Republics, 5 Autonomous Oblasts [regions], and 10 Autonomous Okrugs [districts]).<sup>3</sup> Only four of these ethnically designated units (North Ossetia-Alania, Tuva, Checheno-Ingushetia, and Chuvashia), all of them autonomous republics, had an absolute majority of the titular ethnic group. In three autonomous republics (Tatarstan, Kabardino-Balkar and Kalmykia) the titular ethnic group enjoyed a simple majority. In the remaining autonomous republics ethnic Russians were an absolute majority or the majority group.<sup>4</sup> In fact, the largest ethnic minority group in Russia, the Tatars (6.64 million), are a minority within their titular ethnic homeland of Tatarstan (Tatars are only 48 per cent of the population, Russians 43 per cent) and have a large diaspora population dispersed across the federation but mainly concentrated in the large urban centres of European Russia.

The spatial spread of ethnic Russians is not a recent phenomenon but occurred as a historically gradual development linked to Russian imperial expansion from the mid-sixteenth century, and the Tsarist and Soviet

modernization policies from the late nineteenth century onward. While the spread and strength of ethnic Russian homogeneity is an important factor, it is not a sufficient explanation. It is not unusual, after all, for cases of national and ethnic conflicts to arise where a titular homeland group feels threatened, discriminated against, or 'swamped' by local majorities of settler-colonists.

### *Resource interdependencies*

In the context of the early transition period of the early 1990s only four ethnic republics were among the most economically important units of the federation, enjoying significant natural resource endowments or being major industrial areas, while the others were heavily dependent on federal transfers from the centre. In the early 1990s Tatarstan accounted for around one quarter of Russia's oil output and was a major industrial manufacturing region, Bashkortostan was a key oil refining and transit region, Sakha-Yakutia produced almost 100 per cent of Russia's diamonds, while Chechnya's importance owed less to its small oil output and more to its refining capacity and strategic straddling of the main Baku-Novorossisk oil pipeline linking Russia to the energy resources of the Caspian Basin. Outwardly, these resource endowments may indicate a capacity for economic independence from the centre, or at least much less dependency on it. There were other constraining factors, however, on such capacity, principally the spatial location of these republics (discussed below). The question of 'ethnic' separatism and secession potential, nevertheless, cannot be fully understood in isolation from the political economy of transition and how distributive issues and the intra-elite struggles to control economic assets affected secessionism and refederalization.

The demand for 'sovereignty' was pursued vigorously in many republics and regions, but only those with significant economic assets had the leverage to bargain seriously with the federal government. Consequently, secession potential was propelled by political economy distributive issues (principally resentment at the lack of federal revenue sharing and the weakness of local control over local resources), although the primacy of the issues of decentralization and autonomy in economic matters was often coated with an 'ethnic' veneer of political rhetoric about 'sovereignty'. The widespread use of the term 'ethnic separatism' in studies of Russian federalism blurs many of the nuances of federal relations. Apart from Chechnya and Tatarstan, there is little evidence for an 'ethnic' mobilization against Russia from the republics as there were no mass nationalist demonstrations and no significant inter-ethnic violence against Russian settler populations. When the 16 autonomous republics of the RSFSR joined the union republics in the so-called 'parade

of sovereignties', beginning with North Ossetia in July 1990, all but two (Checheno-Ingushetia and Tatarstan) affirmed their sovereignty with the proviso that it was 'within the RSFSR'.

The role of cross-cutting cleavages in republics is also much understated. For example, it is clear that a significant part of Tatarstan's large Russian minority supported its declaration of sovereignty in the April 1992 referendum and has consistently exhibited strong electoral support for its autonomy. This seems to indicate an embryonic 'Tatarstani' identity (Hanauer, 1996: 82). The Bashkirs have been more politically hostile to the presence of the large Tatar population (around 30 per cent) in Bashkortostan than they are with mobilizing against Russians. For example, Baskortostan's 1998 language law recognized only Bashkir and Russian as official languages, excluding Tatar.

The general trend in post-Soviet Russia was for a high degree of elite continuity, as the former communist party nomenklatura adapted to the new conditions, retained its grip on political-administrative power and exercised enormous influence over economic development during the transition. The ethnic elites in the key republics mentioned above did not diverge from this trend, being deeply acculturated with Soviet values through the nomenklatura system. Not surprisingly, these elites are more concerned with the consolidation of their networks of local control and distributive issues, than with the assertion of ethnic demands per se (McAuley: 1997). This is not to underestimate the accumulating anecdotal evidence for an 'ethnification' of power vertically and horizontally in republics through nationalizing policies to promote, for example, 'Tatarization', or 'Bashkirization'. Nationalizing policies in Tatarstan, for example, have a strong cultural dimension (mosque building, rewriting of textbooks, Latinization of the Tatar alphabet, censorship). No quantitative studies of such processes exist, however, though we can reasonably assume that such discriminatory trends would over time accentuate the ethno-national cleavage within republics and lead to inter-ethnic conflict. In the first decade of post-Soviet transition in Russia they have not done so. Only in Chechnya was there something akin to an 'ethnic' conflict, though this is only part of the explanation for its causation. As we shall discuss later, Chechnya is a deviant case in post-Soviet Russia.

### *Spatial Location*

Geography has an immensely important impact on the capacity of a federal unit to assert secession potential. Generally, the more peripheral a unit the greater is the capacity for secession potential, and the more difficult it is to control. If the location of such a unit places it at or near an international frontier, this increases the likelihood that it will be

influenced by external forces, or linked to other states, thus strengthening secession potential. Likewise, if the location of a unit places it close to the core of the federal state, and encircles it with loyalist units, then the capacity to achieve its secession potential is severely constrained. Of the republics with strong secession potential, only the geography of Chechnya spatially favours its assertion of independence, as only it is located on an international frontier, with Georgia, though it is a former internal boundary of the USSR. Since the start of the latest Russian military intervention in Chechnya in September 1999 Russia has increasingly pressurized Georgia's jurisdiction over this border. Of the others Tatarstan and Bashkortostan are landlocked by ethnic Russian regions in the heart of European Russia, while Sakha (Yakutia) is peripheralized and effectively landlocked in Siberia. The precedents are stacked against states with this kind of geography becoming independent, as the only other states wholly landlocked within other states are the Vatican and Lesotho.<sup>5</sup> Furthermore, the advantages of significant natural resource endowments in such republics is counterbalanced by their geography, which renders them dependent on Russia for refining, processing and transshipping their resources.

#### *Historical Assimilation*

When assessing the issue of secession potential in the Russian federation it is important to note the proviso that here we are contending with radically different historical traditions of statehood compared with secessionist cases in other postcommunist states, or indeed in the USSR. Neither Tatarstan nor Chechnya, nor indeed any other Russian region or republic have had recent historical experience of independent statehood for any significant period.<sup>6</sup> Secessionism is acutely weak in the only republic with a prolonged experienced of quasi-independence, Tuva, which was an independent semi-protectorate of the USSR between 1921 and 1944.

While it is also true that many of the former Soviet union republics, such as Ukraine, Moldova, Belarus, and the five Central Asian states, have weak or non-existent state traditions, and many of them were opposed to the break-up of the USSR, these new states have a combination of advantages that Russia's secessionist republics do not have, such as international recognition and a geography which gives them an effective capacity to assert their independence. Moreover, in conditions of weak statehood tradition, nationalizing states are required to invest a great deal of institutional capacity in the construction of a new national identity. Recognition as part of the international community of states obviously helps to embed this, a factor that was absent in Chechnya and Tatarstan.

Historical mythologies are fundamental to the idea of statehood, and the weaker the provenance of a state, the stronger its nationalizing project tends to be. In stretching political mythologies to construct and solidify ethnic and regional identities into a new variant of nationalism, the Tatars mythologize the Kazan Khanate, which was annexed and destroyed by Ivan the Terrible in 1552. The Chechens, however, in their contemporary struggle against Russia, have mobilized more around ethno-religious myths of the nineteenth century and Islamicist resistance to Russian imperial conquest. It is significant that the contemporary Tatar political elite has been much more attuned to the negotiation of an institutional basis for their status, whereas the Chechen elite tends to view its conflict with Russia as a more fundamentalist ethno-cultural struggle. This is not to impute, in some form of historicism, that longevity of colonial subordination reduces ethnonationalism (there are many counter examples), or that brevity strengthens secessionist tendencies.

Unlike many other empires, as the Russian state expanded from the late sixteenth century, the distinction between the Russian *core* and its contiguous imperial *periphery* became blurred. The conflation of core and periphery in the making of Russian identity makes for a very distinctive problem of settler colonialism in Russia. Proponents of a 'civic' federalism in Russia are concerned with how to combine genuine group autonomy with individual liberties (Smith, 1998). The difficulty is that ethnic Russians perceive their identity as being congruent with the current territorial boundaries of the whole Russian Federation. Russian views of federal construction tend to be polarized into either hegemonic or assimilationist camps. Hostility toward minorities is cloaked by arguments for federal symmetry and the equalization of status of federal units, a position often encouraged by attempts to propagate the United States model of federalism.<sup>7</sup> Western ideal types of 'ethnic' and 'civic' nationalism are used to associate asymmetric federalism with a dangerous 'ethnification' of Russian politics that is counterposed to the cultivation of a harmonizing 'civic' national identity (Tishkov, 1997; Tolz, 1998). To forge such a 'civic' identity it is suggested that the federation be reconfigured into ten or twelve super regions, largely defined by 'economic' criteria (a dream of Soviet-era planners), and eliminating the 'ethnic' marker altogether. 'Civic' also tends to infer the eradication of the constitutional recognition of citizens of the Russian Federation as a 'multi-national people' (*mnogonatsional'nyi narod*), and the inculcation of a new state identity of 'civic Russian' (*rossiiskii* or *rossiianin*). For non-ethnic Russians, however, these terms have an acquisitive 'belonging to' or 'demi-Russian' connotation.

Thus, the proponents of a 'civic' Russianess share a common trait with the radical Russian ethnocrats, whether it is Zhirinovskiy on the extreme nationalist right, the centrist Luzhkov, or the communist Zyuganov. It is the view that multi-ethnic bargaining is somehow illegitimate, an appeasement, and a betrayal of the Russian 'nation'. The problem is that such a restructured, more symmetrical federation would go against the grain of 70 years of Soviet nationalities policy, and therein lies its danger. Symmetric federalism in Russia would inevitably unravel the particular legacies of historical assimilation inherited from Soviet 'institutionalized multinationality'. It would mean a concentrated Russian domination of minorities, a politics of exclusion, and potentially more, not less, political instability since it would most likely be accompanied by a strong control regime for the management of multi-ethnicity.

#### REDESIGNING ASYMMETRIC FEDERALISM

Despite his failure to refederalize the Soviet Union, many of the elements of Gorbachev's policy were retained in the attempt to refederalize Russia. The question of the status of the autonomous republics (mostly located within Russia) acquired great salience after Gorbachev equalized their status with that of the union republics in March 1990 (Hough, 1997). In particular, the language of the 'New Union Treaty' process established a verbal currency for the political discourse of Russia's post-Soviet refederalization after 1991, with terms such as 'delimiting powers', 'power-sharing' and 'sovereignty' becoming pervasive. The refederalization involved a difficult policy learning curve and a passage through three federal institutional designs.

##### *Design 1: Ethnified Asymmetric Federalism*

The first phase of refederalization in Russia began even while the Soviet Union still existed. In 1990–91 the Rumiantsev Constitutional Commission of the Russian parliament proposed to abolish the asymmetric framework inherited from the nominal Soviet federal structure by erasing the distinction between republics and regions and creating about 50 new *zemli* (lands) with equal status and without ethnic labels along the lines of the German *Länder* (though without their extensive powers). This configuration would have created, in effect, a state structure conducive to ethnic Russian hegemonic control. This option was blocked by vigorous protests from the ethnic republics and, consequently, the Federal Treaty agreed between president, parliament and the governments of the regions and republics and signed in March 1992 not only reaffirmed the ethnified asymmetric institutional architecture of the federation, but empowered it in

such a way as to make it the defining feature of the new federal system (*Federativnyi Dogovor*, 1992). The Federal Treaty was a triadic agreement composed of three separate treaties: the first, with titular 'ethnic' republics, the second with overwhelmingly Russian populated krajs (territories) and oblasts, and the third with the titular 'ethnic' autonomous oblasts and okrugs. The treaty was supported by a broad institutional consensus in Russian politics in the immediate aftermath of the August Coup and the collapse of the USSR in December 1991. We should remember, however, that the treaty was ratified at a time when there was an uneasy balance of power between president and parliament. Consequently, greater segmental autonomy for the titular ethnic republics was conceded in the context of a fragmentation of power at the centre, where neither president or parliament could afford to alienate the potential support of the republics. Assuming they engaged in collective action to defend their segmental autonomies, the republics were potentially a powerful force in both chambers of the Russian parliament.

The treaty empowered Russia's asymmetric federalism, not so much from the terminology, which recognized the 20 constituent republics existing at that time as 'sovereign republics within the Russian Federation', since this was a replication of Soviet jargon, but from the effective and specific segmental autonomies that were granted to the republics compared with the 68 regions. They were given the right to adopt their own constitutions, whereas regions could only have charters, and they were conceded wide autonomy over their internal budgets, foreign trade, and, most importantly for budgetary independence, they were given powers of ownership and use of natural resources and land (article III, clause 3). In secret addenda three republics (Bashkortostan, Komi, and Karelia) were ceded even more power (Slider, 1994: 247–8). Four of the five titular ethnic autonomous oblasts were raised to the status of 'republic', while the other ethnically denominated okrugs were given equal status with the krajs and oblasts, thus ending their administrative subordination to overwhelmingly ethnic Russian regional governments. Only Tatarstan and Checheno-Ingushetia refused to sign the Federal Treaty, holding out for the prospect of even more concessions and as a symbolic assertion of their sovereignty from Russia. The Federal Treaty, in essence, recycled the 'institutionalized multinationality' of the Soviet era, while empowering it in such a way that the unequal status of the two main groups of federal units was copperfastened and made much more meaningful. The *republics* were now treated as empowered autonomous units within the federation, while the *regions* were effectively dealt with as administrative units under the vertical power of a unitary state.

*Design 2: De-ethnified Symmetric Federalism*

The second phase of federal state-building lasted from March 1992 to the October crisis of 1993. In this period no overarching 'elite settlement' or consensus on the nature of the Russian federal state and its constitution could be reached between the centre and the republics and regions. Some leaderships in the ethnic Russian regions, incensed by the consensus at the federal centre for the 'ethnic' privileging of the republics, reacted by intensifying a populist regionalism. For example, the eight so-called 'inter-regional associations', or lobbying blocs of regions, formed in Russia in 1990–91 largely on the basis of planning regions, became an institutional platform for regionalism. The most politically significant challenges came from the regions with significant natural resource endowments, and in particular those regions from which Russia earns most of its export revenues: the Urals, Siberia and the Far East. As with regionalism elsewhere, for example in Western Canada and Northern Italy, challenges to the state from the overwhelming majority of units in the Russian Federation have been mobilized around economic distributive issues rather than the outright assertion of secession. In Russia, however, collective action by regional organizations was disrupted by clashes of interests between the member regions, leading to intra-regional conflicts and multiple opportunities for the federal government to exploit the divisions (Hughes, 1994).

The Constitutional Assembly, of dubious legitimacy, convoked by Yeltsin in July 1993 failed to break the deadlock over the federal architecture. Inevitably, given ethnic Russian hegemony in the state, the Constitutional Assembly was overwhelmingly dominated by ethnic Russians. The gathering marked, nevertheless, a watershed for an outpouring of aggressive ethnic nationalist Russophilism among the Russian political elites, which was largely coordinated by Yeltsin's representative Sergei Shakhrai. Hostility toward the ethnic republics was evident in the agenda-setting and discussions, which focused on the equalization of the status of all federal units to the exclusion of all other options. Chechnya refused to send a delegation, and although Tatarstan initially attended it withdrew its delegation early in the proceedings. The constitutional impasse over refederalization was only broken as a result of developments in the other major constitutional logjam in Russia's transition, the president versus parliament conflict. The latter conflict had intensified during 1992 to reach a crisis point in late September–early October 1993, when Yeltsin used the military to forcibly dissolve parliament. Freed from political constraints and flush with his success, Yeltsin imposed strong presidential rule on Russia and pushed through a

new constitution ratified by a falsified referendum conducted in December 1993 (White, Rose, and McAllister, 1997: 98–101, 126–9).<sup>8</sup>

The new constitution closely followed the proposal for an equalization of status which had been favoured by the regional representatives in the Constitutional Assembly. Overriding the demands of the republics the text of the Federal Treaty was not incorporated into the new constitution, thus ending their short-lived segmental autonomy. The 1993 Constitution polarized the Russian Federation along an ethnic cleavage as, according to the heavily falsified and much underestimating official reports, seven ethnic republics returned majority votes against the new constitution (unofficial estimates suggest even more). The leadership of Tatarstan advocated a boycott and, when only 13.4 per cent of those eligible actually voted, declared the referendum invalid. Chechnya refused to participate. The highest vote against was 79 per cent in the Republic of Dagestan.

In principle, the provisions of the Federal Treaty are contained in article 11 of the 1993 constitution, however, only in so far as they conform with other articles in the new constitution. Most pointedly, references to the ‘sovereign’ status of republics contained in the Federal Treaty were dropped and both republics and regions have equal status as subjects of the federation (articles 5 and 65). Significantly, one of the key segmental autonomies made exclusively to the republics and enshrined in the Federal Treaty, the ownership of land and natural resources on their territory, was replaced in the constitution by joint jurisdiction (article 72) for all subjects with the federal government (*Konstitutsiia Rossiiskoi Federatsii*, 1995). It took more than four years for Russia’s nascent process of judicial review to establish the precedence of the 1993 constitution over the Federal Treaty in a February 1998 decision of the Russian Constitutional Court in a case brought by Komi Republic.

### *Design 3: Partial Asymmetric Federalism*

Article 11 of the 1993 Russian Constitution states that the division of powers between the federal government and the subjects may be regulated by ‘treaties’ in addition to the constitution, although no mechanism for treaty-making is specified. Whatever the uncertainties of the 1993 constitution in this respect, the serious budgetary impact of an escalating tax war between Moscow and key republics in the course of 1993, when federal taxes were withheld by Chechnya, Tatarstan, Bashkortostan, and Sakha, forced the presidential administration into a new phase of federal design. The strong presidential rule of Yeltsin not only secured the ‘equalizing’ and centralizing clauses in the federal relations sections of the 1993 constitution, and the abrogation of the Federal Treaty, but also allowed him to negotiate with the leaders of the most important ethnic

republics in the search for an accommodation. To manage the long-running problem of contested sovereignty between Russia and Tatarstan and other key republics, Yeltsin aimed to coopt these key republican leaders into his presidentialist patrimonial system. To achieve this goal Yeltsin promoted a new type of federal architecture based on a highly selective system of partial asymmetric federalism. Power-sharing treaties were signed with the key resource rich republics, beginning in February 1994 with Tatarstan, and followed by Bashkortostan and Sakha (Yakutia). The treaties had a limited institutional basis of support within the Russian political system, since parliament was excluded from the process, and they were essentially executive agreements between the Yeltsin presidency and the presidents of the republics. The limited consensus of the bilateral treaties between the Russian president and the presidents of Tatarstan, Bashkortostan and Sakha stood in sharp contrast to the Federal Treaty of 1992 which was agreed by Yeltsin, the speaker of parliament, Ruslan Khasbulatov (and was ratified by the Russian parliament), and involved all regions and republics of the federation (with the sole exception of Chechnya). In fact, the bilateral treaty process began even as the new 'equalizing' constitution was being drafted, as in late 1993 a number of power-sharing agreements in non-controversial policy areas were signed by Yeltsin and Tatarstan president Mintimer Shaimiev.

#### THE FAVOURED FEW: BILATERAL POWER-SHARING TREATIES

The key autonomies and power-sharing arrangements for Tatarstan were detailed in a treaty codicile of 12 'cooperation agreements' on major policy areas (economic cooperation, production and transportation of oil, property, customs, environment, higher education, foreign trade, budget, defence, law and order, military organization). These were time limited for a term of five years, after which they were to be reviewed and renegotiated if necessary. The cooperation agreements were initially secret but have been subsequently published (*Rossiskaia Gazeta*, 18 February 1994; Guboglo, 1997: 416–38).<sup>9</sup> It is significant that the most prolonged negotiations involved policy domains that touched most on the sovereignty issue (law and order, budget, banking credit and foreign currency, foreign economic relations, and defence). Both presidents placed the treaty in the context of building a post-Soviet federation that guaranteed the republic's 'sovereignty' while preserving the territorial integrity of the Russian Federation. Yeltsin was also determined that the preferential treatment of Tatarstan would not be a 'model' for an overhaul of federal relations (*Segodnia*, 31 May 1994).

The selective asymmetric federalism was subsequently extended in a series of power-sharing treaties in 1994–95 with other republics. The

treaties, however, institutionalized a partial asymmetry that was exceptionally hierarchical. Those treaties of a core group of resource-rich republics on which the centre is economically heavily dependent, first and foremost Tatarstan, Bashkortostan, and Sakha (Yakutia), were conceded an even deeper form of segmental autonomy than had been given in the federal treaty of 1992. The power-sharing contained in the treaties generally fall into five main policy domains: legal, economic, cultural, foreign economic relations, and security. If ethnic conflicts generally contest two key issue dimensions: effective and symbolic recognition of status, and material distribution (Offe, 1996: 55–7), then these core treaties address both dimensions. With regard to the first dimension, they are imbued with symbolic language, variations in which are an indication of important differences in the power-sharing arrangements. Thus, it was not only differences in power-sharing that distinguished the core treaties with Tatarstan, Bashkortostan, and Sakha (Yakutia), but also their language of recognition of a special status for these republics. In general, treaties with other republics simply reproduce the formulaic language of article 72 of the 1993 Constitution, often verbatim, which broadly delimits powers in favour of the federal government. In fact, as the bilateral treaty process was extended in a formulaic manner to all republics, and more widely to Russia's regions, a presidential decree of 12 March 1996 established a standardized format and a specific vocabulary for them (*Sobranie zakonodatel'stva Rossiiskoi Federatsii*, 1996: 12, 1058).

An important feature of the partial asymmetric federalism is that areas specified by the treaties as being of joint authority or equal status also often constitute a significant loss of power for the federal government. Shaimiev illustrated this point in a speech at Harvard University in October 1994, when he observed that the equalization of language status for Tatar and Russian in Tatarstan was a 'win' for the Tatar language since it would be 'upgraded' to an official language (*Suverennyi Tatarstan*, 1997: 51). Tatarstan was conceded the widest degree of autonomy, placing it at the top of the bilateral treaty hierarchy. In effect, the treaty with Tatarstan established a co-sovereignty arrangement with Russia. The first sections declare that Tatarstan is a 'State' that is '*united with the Russian Federation*' [my italics], on the basis of both the Russian and Tatarstan constitutions and the treaty itself (differences over interpretations were to be resolved by a special conciliation commission). Consequently, the treaty was clearly viewed as having a paraconstitutional status in regulating Russia–Tatarstan relations. There are clauses in the Constitution of Tatarstan of November 1992 which declare its laws to be 'supreme' (article 59), proclaim it to be 'a sovereign state, a subject of international law *associated to the Russian Federation*' (article 61),

reserve for itself the right to conduct foreign relations, hold exclusive ownership of natural resources, and restrict military service of its citizens to its own territorial jurisdiction (*Konstitutsii respublik*, 1996). Such constitutional provisions are obviously in flagrant disagreement with the 1993 Russian federal constitution.

Such clauses are not easily reconcilable with the sovereignty of the Russian Federation over its whole territory, and indeed, many Russians, and particularly Yeltsin's political opposition in the Duma and in the regions, consistently criticized this and the other treaties as a threat to Russia's territorial integrity. In contrast, Tatarstan's leaders saw the treaty as an institutional buffer between the Russian and Tatarstan constitutions and as a protective device against Russian hegemonic control (Khakimov, 1996). After Tatarstan, treaties with other republics offered much less generous power-sharing concessions, although the economic leverage of Bashkortostan and Sakha meant they could also extract considerable powers. The Bashkortostan treaty describes it as 'a sovereign state within the Russian Federation' (article 1), and accords its constitution 'equal status' with that of Russia in the regulation of joint relations (article 2). The treaty with Sakha describes it as a state 'conforming to the Constitution of the Russian Federation *and* [my italics] the Constitution of the Republic of Sakha (Yakutia) within the Russian Federation'. Russian sovereignty is technically compromised by the constitution of Sakha, which claims among other things jurisdiction over its airspace and continental shelf (article 5).

The key treaties with Tatarstan, Bashkortostan, and Sakha (Yakutia), conceded them enormous economic privileges: ownership or use of natural resources and land, wide autonomy in budgetary and tax powers with enhanced revenue-sharing with the federal government, and the right to engage directly in foreign economic relations. The privileges evoked the common response to privileging policies in conditions of inter-ethnic competition: antagonism and intense pressure from disgruntled elites in ethnic Russian regions for equal treatment, inclusion in or the abrogation of the process. Whereas the treaties with the republics were, in essence, only tangentially linked with the democratization process in Russia, the extension of the treaties to Russia's regions is directly related to it. Once Yeltsin allowed the shift to elected rather than appointed governors, some mechanism had to be devised to contain democratic mandates for regionalism, which in part reflects a trend toward a form of 'delegative democracy' in Russia (O'Donnell, 1994). In the autumn of 1993 the regional governor who was among the most fervent advocates of regional 'sovereignty', Eduard Rossel in Sverdlovsk (Yeltsin's home region), made a mockery of the ethnic republics' special status under the Federal Treaty

of 1992 by adopting a regional 'constitution' and declaring a 'republic' (*Vash Vybor*, 5, 1993: 10). Although dismissed by Yeltsin in October 1993, Rossel returned to power as one of the first elected governors in Russia's transition to democracy in August 1995. By the time the election of regional governors began in autumn 1995, all republics barring Chechnya had signed bilateral treaties with the Federal government and the process moved to the regions.

The first regional treaties were signed with Kaliningrad, Sverdlovsk, Orenburg, and Krasnodar in January 1996. As with the ethnic republics, the language of the regional treaties is indicative of a hierarchy of status and power-sharing. Sverdlovsk, in particular, achieved *de facto* 'republic' status by winning substantial economic privileges, though time limited to five years as with the republics (Guboglo, 1997: 652 *passim*). A demonstration of linguistic symbolism of the Sverdlovsk treaty is that it is the only treaty with a region where President Yeltsin and Governor Rossel were signatories on behalf of their respective 'governments'. A further 24 treaties with regions were concluded in time for the first round of the presidential election in June 1996. If this was a calculated strategy by Yeltsin to woo the support of regional elites for his re-election campaign it largely failed. In the first round of voting only half the regions with treaties gave a majority vote for Yeltsin, illustrating the fact that for many regions the treaties were largely symbolic and politically irrelevant. Yeltsin lost in most of the republics, the notable exception being Tatarstan where the voting was heavily rigged in favour of Yeltsin (Chinarikhina, 1996: 24).

Partial asymmetric federalism was as deeply unpopular as was the ethnified asymmetric federalism of the Federal Treaty among the hegemonic ethnic Russian political class across the whole political spectrum from the communists and nationalists to the social democrats and liberals. The key treaties clearly involved a massive loss of revenue for the federal government and were a source of considerable resentment among Russian elites, particularly as they hindered a common federal fiscal policy and regional strategy. Russian parliamentarians were incensed in particular by the fact that the treaties created legislative no-go areas, while the representatives of the republics could vote on legislation that did not affect them.<sup>10</sup>

After Yeltsin's re-election in July 1996 there began a period of retrenchment against further power-sharing. Attempts to recentralize power were made by economic liberals such as Head of the Presidential Administration Anatoly Chubais, who fancifully argued that the key treaties distorted compliance with the tight fiscal targets set by the IMF. Chubais recruited Vladimir Putin, a former KGB officer and Deputy Mayor

of St Petersburg who had a reputation for toughness, into the presidential administration to oversee relations with the regions and republics, and to ensure compliance with the vertical command line from the presidential administration. Chubais embarked on a test confrontation with one of the key resource-rich republics Sakha (Yakutia). The 1994 treaty with Sakha institutionalized a prior informal agreement between Yeltsin and Sakha president Mikhail Nikolaev, which granted the republic the right to keep 25 per cent of the profits from its diamond sales (*Rossiiskaia federatsiia*, 3, 1995: 22–3). The Yeltsin-Nikolaev agreement was an immense revenue enhancing device for Sakha given that the republic accounts for over 80 per cent of known diamond reserves and over 99 per cent of Russia's diamond output, while Russia accounts for about one quarter of global production. Chubais unilaterally reneged on the treaty with Sakha in summer 1996 in an attempt to compel the republic to deliver its diamonds to the state monopoly producer, Alrosa, under less preferential terms. Sakhan leaders spoke of an economic 'blockade' from the centre to force them to comply. These efforts proved short-lived, however, and after the forced resignation of Chubais over a corruption scandal in autumn 1996, Yeltsin's administration re-established a cooperative relationship with Sakha, though on the basis of changes to the diamond deal that favoured the centre. The drive to roll back power-sharing with republics resurfaced in spring 1998 under the government headed by economic liberal Sergei Kirienko, when he attempted and failed to renegotiate the treaty with Tatarstan. Under Primakov's tenure as prime minister from in 1998–99 no new treaties were signed, for even as foreign minister he had been a vehement opponent, regarding them as a dilution of Russian sovereignty and too much of an encouragement to sub-national foreign policy-making. For example between December 1991 and October 1998 Tatarstan signed 50 treaties, agreements and protocols with foreign states without the sanction of the Russian foreign ministry.<sup>11</sup> This pattern of federal government attempts to renege on the treaties continued under Putin's premiership from August 1999, and once in power as acting president from January 2000 Putin used the powers of the office to implement a radical restructuring and recentralization of Russian Federalism.

#### PRESIDENTIAL FEDERALISM: ACCOMMODATION AND CONFLICT

##### *The Role of Yeltsin*

The development of a post-Soviet federal institutional architecture in Russia was closely interlinked with the emergence of strong presidential rule under Yeltsin, to such an extent that we could refer to it as a type of

'presidential federalism'. As observed in the introduction to this volume studies of democratization almost universally associate strong presidential rule with a Latin American model of a dangerous personalization of power and a destabilizing, consensus-averting, zero-sum politics that it tends to inject into the body politic (Linz: 1990 and 1994). The discordant note in this conventional wisdom was sounded by Donald Horowitz, who demonstrated how presidential rule in deeply divided societies, such as in West Africa, can be a stabilizing force (Horowitz, 1990). The combination of multi-ethnic diversity, institutional debilitation and rampant corruption in the Russian state has more parallels with the weak states of post-colonial Africa, than it does with the overwhelmingly homogenous states of Latin America. In such conditions, as Horowitz emphasizes, presidentialism may be the only institutional bond to avert disintegration into ethnic conflict. If our focus is central politics and institutions there is much evidence of Yeltsin's reluctance to compromise and preference for unilateral action and confrontation. To a large degree it was Yeltsin's uncompromising 'winner takes all' approach to reform in Russia that caused the October 1993 crisis with parliament (Colton: 1995; Shevtsova; 1999). In contrast, Yeltsin's impact on the management of Russia's multi-ethnic diversity has been on the whole a crucial stabilizing factor, with the notable exception of Chechnya.

The impact of Yeltsin on Russia's federal development began with his efforts to thwart Gorbachev's New Union Treaty. Yeltsin was one of the leading advocates for the break-up of the USSR, and as Chairman of the RSFSR parliament in 1990-91 he stirred up the ethnic republics of Russia to join the 'parade of sovereignties' of the union republics. The drive to undermine Gorbachev's power was encapsulated in his appeal to Russia's ethnic republics to 'take as much sovereignty as you can stomach' during a visit to Tatarstan's capital, Kazan, in August 1990. Although all of the then existing autonomous republics, except for Chechnya and Tatarstan, declared themselves sovereign 'within the RSFSR', in his attempts to destroy the Soviet Union Yeltsin incited centrifugal pressures and legitimized secessionist tendencies within the Russian Federation itself.

Yeltsin used his great personal authority to pragmatically build pacifying patrimonial relations with the leaders of the ethnic republics throughout his tenure as Chairman of the RSFSR parliament and then as Russian president in 1990-91. He played an instrumental role in securing the ratification of the Federal Treaty of 1992, which empowered the ethnified asymmetric federalism inherited from the USSR. During the conflict of dual authority between the president and parliament in 1992-33, Yeltsin appears to have shifted his position and began to push for an equalization of status option for Russian federalism. This is evident

from the role of his key minister and adviser on nationality and regional affairs, Sergei Shakhrai, in orchestrating the Constitutional Assembly of July 1993, and the proposal for an ex-officio upper house of parliament, the Federation Council, composed of regional and republic leaderships, proposed to them at Petrozavodsk in August 1993. The irony is that Yeltsin's forced dissolution of parliament in October 1993 was a decisive step in the aversion of a parliamentary republic, which most likely would have eradicated the segmental autonomy of the republics and restored ethnic Russian hegemony over them. That outcome may well have led to conflict with the most recalcitrant republics, Chechnya and Tatarstan, and perhaps with Bashkortostan also. While enforcing the adoption of equality of status in the new constitution, Yeltsin astutely led the attempts to reach an accommodation with the key republics of Tatarstan, Bashkortostan and Sakha. He employed his extensive decree powers under the constitution to bypass the new nationalist and communist dominated parliament elected in December 1993, and to implement a federal design of partial asymmetry based on bilateral power-sharing treaties. Yeltsin's role was instrumental to the process in the face of strong opposition from many of his key advisers on federal questions.<sup>12</sup> Yeltsin's pragmatic approach continued throughout the 1990s, as even as late as 1999 he attempted to entice leaders of key republics and regions into sacking Prosecutor General Yuri Skuratov (then investigating Yeltsin's role in Kremlin corruption) by promising: 'We will give you more independence than set down in the bilateral agreements we have signed. Let us gradually revise these agreements.'<sup>13</sup>

Thus, the presidential personalization of power, so widely viewed as destabilizing in a transition to democracy, was central to establishing a rapport with the leaders of the ethnic republics and eased the treaty-making process. To a great extent it replicated the traditional patrimonialism of the Soviet nomenklatura system. It was precisely these characteristics that were absent from Yeltsin's management of the secession crisis with Chechnya. As the secessionist republic *par excellence* one would have expected Chechnya to be the priority for the president in his search for an institutional accommodation. In fact, Chechnya was excluded from the bilateral power-sharing treaty process, and instead Yeltsin and a 'war party' within his administration presided over a long-running dirty campaign of military subterfuge to undermine Chechen President Dzhokhar Dudaev (Dunlop, 1998). The explanation of why Chechnya was excluded from the partial asymmetry of the power-sharing treaty process is complex and involves historical, politically contingent, political economy and personal factors (Hughes, 2001). Certainly, there were Russian sensitivities to a potential threat to its

influence in the Caspian Basin from an independent and hostile Chechnya, but economic distributive issues were a characteristic feature of many conflicts between the federal government and other republics and were stabilized by treaties. When the treaty with Tatarstan was signed Yeltsin's chief negotiator, Sergei Shakhrai, stated that a similar agreement would most likely be the basis of a solution for the Chechnya crisis.<sup>14</sup> A power-sharing treaty offered the best prospect for a peaceful resolution to the conflict and would have averted the war of 1994–96, and possibly prevented that beginning in late 1999, both of which rank alongside Bosnia as the most bloody conflicts of the post-communist era.<sup>15</sup>

History provides part of the explanation for the conflict in Chechnya. Chechen nationalism, unlike that of Tatarstan and other republics, was mobilized around a much more recently ingrained and bitter historical memory of Russian imperialism, notably the genocidal deportation of 1944. Historical grievances against Russia, profoundly embedded in Chechen society, were a significant constraint on Dudaev's room for compromise. The main obstacle, however, to an accommodation between Russia and Chechnya was the 'personalization' of the clash between Yeltsin and Dudaev (Tishkov, 1997). We should not minimize, moreover, the extent of mutual 'ethnic' hatred contributing to this 'deep-seated personal animus' between Yeltsin and his key advisers on the one hand, and Dudaev on the other (Dunlop, 1998: 215–19; Lieven, 1998: 76).<sup>16</sup>

The personalization of the conflict was evidently immensely important to its drift into war. Perhaps the main stumbling block, however, was not so much the 'ethnic' rivalry factor, but the fact that Dudaev, unlike Shaimiev and the leaders of the other republics, was not a former member of the party nomenklatura. As a former military officer, by training and temperament he was very much an outsider to the tightly closed patrimonial networks of the party nomenklatura. The clash of personalities and egos so often referred to as the source of the conflict lay in this insider–outsider dynamic. Dudaev lacked the personal skills for integrating with an executive federalism constructed around Yeltsin's new patrimonialism, and Yeltsin was too arrogant to engage with Dudaev at an appropriate level of respect. Consequently, Yeltsin never entered negotiations with Dudaev, and left the task to Shakhrai. That Yeltsin personally was central to the continuation of the conflict is indicated by the fact that the war was pursued even after the removal from office of the key ministers who formed the so-called 'party of war' (Grachev, Shakhrai, Yerin, Soskovets, Yegorov *et al.*) by summer 1996.

Much as Yeltsin personally contributed to the cause of the first war, he was also instrumental in bringing it to a swift conclusion. With Dudaev killed by Russian forces, and Yeltsin facing a difficult re-election

campaign in spring 1996, he instructed key subordinates, at first Prime Minister Viktor Chernomyrdin, and later his Security Council chief, Aleksandr Lebed, to negotiate a settlement. The importance of the new federalism in shaping the behaviour of Russia's elites was evident in the way that Tatarstan president Shaimiev acted to mediate between Russia and Chechnya.<sup>17</sup> The Khasavyurt Agreement of August 1996, followed by a power-sharing treaty in May 1997, led to a Russian military withdrawal and the end of its effective sovereignty over Chechnya. In its place a special status of 'association' between the Russian Federation and Chechnya was established, where a final decision on the status of Chechnya was postponed for 'up to' five years, while it remained part of a 'common economic space' with the Russian Federation. In practice Chechnya was left in limbo, cut off from Russia, and without significant external support; the new president Aslan Maskhadov attempted, with great difficulty given the radicalization and Islamicization of Chechen field commanders, to rule it as a *de facto* independent state. This was most obviously demonstrated by the introduction of *Shariat* law in Chechnya in early 1999 in complete indifference to the Russian Constitution.

#### *The Role of Putin*

The highly patrimonial presidential federalism that had developed under Yeltsin was built on an extremely narrow institutional consensus and imprecision of meaning, being the outcome of non-transparent executive agreements between the president and heads of the republics and regions. Consequently, they were vulnerable to unravelling after a presidential alternance in Russia. Parliament passed a federal law on power-sharing treaties in June 1999 which stipulated that all of the existing treaties must be revised to comply with the Russian constitution by 2002.<sup>18</sup> While it was unlikely that Yeltsin would comply with this law, the shift to a more centralizing policy began when Vladimir Putin became prime minister in August 1999. Putin had been deeply involved in the failed drive by Chubais to nullify the treaties and recentralize power in summer 1996. His intent to rebuild a strong central state in Russia became clear almost immediately on taking office when in September 1999 he took a leading role in the new war to re-establish Russian control in Chechnya. As acting president from 31 December 1999, and as elected president from March 2000, Putin used recentralization as a key platform in his credo to reverse the 'weakening of state power' that had occurred under Yeltsin.<sup>19</sup> Putin viewed the treaties as contributing to the legal chaos in the country whereby thousands of legal acts at all levels of power contradicted the federal constitution and federal law.<sup>20</sup> His answer was to enact a 'dictatorship of law', though the precise meaning of this term was left

vague, by a range of devices, from institutional reform, negotiation, the Constitutional Court, and in the case of Chechnya, coercion.

After his election as president Putin implemented a package of significant institutional reforms to Russia's federal architecture the goal of which was to strengthen the 'executive vertical' in order to 'cement Russian statehood'. In May 2000, he initiated a territorial-administrative reconfiguration of the federation by stealth, by dividing the subjects into seven new federal districts, each headed by a presidential plenipotentiary representative, commonly referred to as 'governor-generals' after the Tsarist military governors of the provinces.<sup>21</sup> The new heads of the federal districts have ultimate authority for economic coordination and security in their areas. The control factor is evident from the strong military-security bias in the appointments; two of the new presidential representatives were former commanders in the 1994–96 Chechen war, and two others were former senior officials in the internal security apparatus. The reform suggests that Putin has opted for a simplistic military-bureaucratic solution to the complex problems of centre–regional and federal relations in Russia.

Putin's next step was to radically restructure the upper house of parliament, the Federation Council, to end the situation whereby it is composed of ex-officio republican and regional executives (presidents or governors), and heads of assemblies. Exploiting his enhanced authority from the successful (at that stage) military operation in Chechnya, and his victory in the presidential election, he easily pushed a new federal law through the parliament in August 2000, which removed the governors and replaced them with representatives nominated by the governors and approved by a republic's or region's legislative assembly for a four-year term. The law also gave the president the power to remove and replace governors for repeated violations of federal law. The reform deprived the governors of their most important forum for organizing collective action against the centre. Putin created a new State Council as an alternative consultative forum for the regional and republican leaders, but it meets in plenary session only four times a year. While its seven-member presidium meets monthly, its composition and agenda are decided by Putin. These are clearly substantially weaker bodies than the former Federation Council.

In the late 1990s, Russian prime ministers and leading officials had tried without success to modify the bilateral power-sharing treaties with the most powerful republics, Tatarstan, Bashkortostan, and Sakha. Federal fiscal flows (including non-budgetary funds) are distorted by the exceptions contained in the key treaties, thus constraining any federal policies of regional wealth redistribution or development. By 1998 only 26 of the 89 regions and republics were net 'donors' to the federal budget and

the rest were dependent on federal transfers (EastWest Institute, 1999). Putin exploited his new authority as president to renegotiate the treaties. He also had the advantage of a period of weakness of key republican leaders like Shaimiev, whose credibility had been damaged by their involvement in the Fatherland-All Russia movement, formed to fight Putin's Unity Bloc in the Duma elections of 1999, and which had performed badly. Putin evidently felt institutionally constrained by the treaties, since he did not unilaterally revoke them and had to engage in negotiations with the republics to reverse some concessions. From March 2000 Putin focused on the economic aspects of the treaties, forcing Tatarstan to relinquish back to the federal government some of the fiscal privileges that had been allocated by the 1994 treaty. Tatarstan, which contributed about \$350 million in 2000, is already one of the key donors to the federal budget, but the centre wanted even more. It was now to return the same proportions of tax revenue to the federal budget as other regions, though Putin accepted a symbolic face-saving formula for Shaimiev whereby the revenues would stay in Kazan at the regional branch of the federal treasury and would be spent on federal projects in Tatarstan. Afterwards, Putin visited Bashkortostan and agreed similar forfeits of fiscal exceptions with President Rakhimov. In 1999, for example, Bashkortostan was the only subject that did not transfer income tax revenues to the centre. The treaty revisions, therefore, strengthen the federal treasury and give the federal government greater control over tax collection in these wealthy resource-rich republics. In principle, this should make for improved coordination of federal economic policy and a more equitable regional development policy. Putin appears to want to erode the partial asymmetry further, and perhaps remove it altogether and impose a symmetric federal system.<sup>22</sup> Shaimiev, in contrast, recently observed that without the power-sharing treaty the relations between Tatarstan and Russia have no defined constitutional basis, since Tatarstan did not sign the Federal Treaty of 1992, or ratify the 1993 Russian constitution.<sup>23</sup>

Putin used another avenue of attack on the treaties, judicial activism by the Constitutional Court. In a landmark test case on the status of the power-sharing treaties, in June 2000 the Constitutional Court struck down Bashkortostan's electoral law.<sup>24</sup> Bashkortostan argued unsuccessfully that its constitution was protected by exceptions contained in its power-sharing treaty. The case established the important *de jure* precedent that the constitutions of republics must comply with the federal constitution. Subsequently, Sakha amended its constitution to comply with the court's ruling in August 2000. It remains uncertain how this process of judicial review of the treaties will be given effect, as in November 2000 Bashkortostan's parliament approved a new law to bring the republic's

constitution into conformity with the federal constitution, but concurrently included *verbatim* the text of the 1994 power-sharing treaty in its new constitution, a *de facto* non-compliance.

In the space of one year, Putin has radically transformed the nature of Russian federalism, by an ambitious programme of measures to recentralize power. The power of the leaders of republics and regions has been seriously weakened, both institutionally and politically. Some of the important concessions made by Yeltsin to the key republics in the power-sharing treaties, principally in the fiscal domain, have been reversed. Chechnya has been reoccupied militarily, though how this problem is to be managed politically remains one of the greatest challenges facing Russian federalism. While, with some justification, Putin can claim to have restructured executive power in the Russian state in a more 'constitutionally united' system, the partial asymmetric federalism has been modified, not eradicated.<sup>25</sup>

#### CONCLUSION

Weak secession potential in the Russian Federation during its transition to democracy has been mainly a result of, I have suggested, *structural limitations* and *institutional experimentation* with federal designs to accommodate ethnic and territorial diversity. The small number of effective cases of secession potential made this task less complicated and more manageable. The institutional experimentation was founded on a recycling and empowerment of the inherited asymmetric federal architecture of Soviet 'institutionalized multinationality'. Rather than being a 'subversive' flaw for federal state-building, this path-dependent institutional legacy was an advantage in refederalization, and was crucial for the defusing of serious secession potential in Tatarstan and the lesser variants in Bashkortostan and Sakha (Yakutia). This refederalization evolved quickly over time through three major phases before settling on a system of partial asymmetry based on a hierarchy of bilateral treaties between the federal government and the republics and regions to institutionalize varying degrees of autonomy.

The bilateral power-sharing treaty process can be viewed as destabilizing for Russia's federal transition for several reasons. The treaties were a product of a relatively limited institutional consensus, reflecting executive interests and based on executive agreements at the federal and republic or regional level, and excluding participation by or consultation with the Russian parliament. Since they have an imprecise paraconstitutional status (though judicial review by the Constitutional Court is redefining their status *within* the 1993 constitution), and were the

outcome of executive agreements (president-to-president in the case of republics, president-to-governors in the case of regions), the treaties were vulnerable to unravelling once there was an alternance in the presidency. This is, in fact, what has happened under Putin's presidency. Second, notwithstanding the spatial constraints on secession potential, the treaties have been regarded with almost unanimous hostility by the Russian political elites, and Russian and Western scholars. On the part of the former, the hostility reflects concerns at the weakening of ethnic Russian hegemony by power-sharing, while the latter equate asymmetric federalism with a weakening of state capacity and the promotion of administrative confusion. The most common criticisms are that the treaties institutionalize ethnic privileging, disrupt the process of civic nation-building, undermine the constitutional and administrative coherence of the federation, dilute economic reform and contribute to disequilibria in economic wealth distribution and regional development, and even threaten the territorial integrity of the state by encouraging secessionism, as in Chechnya.

In the event, only Chechnya fought to secede from the Russian Federation, and yet it was the only republic with which there was a failure to achieve an institutional accommodation. Furthermore, problems of weak federal control, difficulties with embedding democratic practice, rule compliance, order, economic reform and state administrative coherence exist in Russia irrespective of the status of the subject, or whether it has a power-sharing treaty or not. Asymmetry may also have led to some disparities in federal revenue distribution in favour of ethnic republics, but this pales compared with the immense disparity of wealth concentrated in Moscow by ethnic Russian elites during the economic transition.

Partial asymmetric federalism has had important stabilizing effects on the management of federal relations with the key ethnic republics:

First, by decentralizing power over a wide range of policy domains the treaties have been important institutional counterweights to the powerful residues of a centralizing unitarist state tradition in Russia, which has historically practised ethnic control, assimilation and oppression against its national minorities.

Second, the treaties have engineered a new institutional structure for the accommodation of Russia's multi-ethnic society. The process by which these new institutional arrangements were crafted is as important as their functional operation. The negotiation, bargaining and compromise that accompanied the institutional engineering of a treaty framework was a critical element in the construction of the federal process in politics itself. The negotiations before the treaties were signed were lengthy and

complex (lasting three years in the case of Tatarstan), and this bargaining has continued over their operation and interpretation (the Tatarstan treaty was renewed by mutual agreement in 1999). The process has by its very nature helped to regularize federalism as a political, if not constitutional, process of institutionalized bargaining. Evaluating the impact of the treaties, once adopted, on federal relations is a more complicated task given the non-transparency of the cooperation agreements covering key policy domains and the secrecy surrounding the reconciliation of differences. The fact that the process of negotiation has continued under Putin, however, is indicative of the enduring significance of the treaties and their power-sharing provisions. Consequently, asymmetric federalism performs the crucial functions of promoting political stability and institutionalizing elite bargaining, factors that were so damaging for democratic consolidation by their very absence in central politics.

Third, a lack of transparency, leading to an information deficit, is an intrinsic part of the bilateral power-sharing treaty process. Secrecy may lead to bidding games, but it also gives the centre the flexibility to negotiate on a case-by-case basis and is a useful instrument for breaking up potential regional and republican coalitions. Secrecy also serves the interests of those key republics and regions (like Tatarstan, Bashkortostan, Sakha and Sverdlovsk) that have the most leverage and can extract the most concessions.

Fourth, the successful management of separatist and regionalist challenges by Russia's asymmetric federalism is an attractive alternative conflict resolution mechanism to the 'Bosnian' model of segregation in 'ethnic' enclaves. The Russian experience of federal transition may even have had a beneficial contagion effect as, for example, the institutionalization of Crimean autonomy in the Ukrainian constitution of 1996 was influenced by the Tatarstan model. In recent years, the debate in Georgia over Abkhazia and South Ossetia, and in Moldova over Transdnistria, has shifted in support of asymmetric federal type solutions.

Finally, fragmentation of state authority, for example in foreign policy, is a sign of modernization and democratization. Such 'perforations' in national sovereignty have been the trend in advanced industrial democracies since the 1960s, primarily in those with federal systems, as local and regional actors play an increasingly significant role in the 'marbled diplomacy' of international relations (Duchacek, 1990; Strange, 1995).

A focus on new institutional designs exclusively would be a wholly insufficient explanation for any development during transition given the crucial role played by the political actors and elites who inhabit the key institutions. The success and failure of refederalization as a management strategy for secession potential in Russia has also critically depended upon

the rise of a strong presidency. Yeltsin and Putin pursued similarly ambivalent policies, preferring negotiation and accommodation with Tatarstan and other republics, and reserving a coercive strategy for Chechnya. The failure of refederalization in Chechnya was largely an 'actor' problem, which was exacerbated by a lack of institutional mechanisms for managing the conflict and embittered by historical enmities. This 'actor' failure was evident in both the 1994–96 war and the renewed war from late 1999, although the latter conflict was marked by a radicalization that was a by-product of the first war. The process of federal institutional experimentation has continued under Yeltsin's successor, Putin, though now with stronger centralizing tendencies. Consequently, the benefits and limitations of the interaction of presidentialism and federalism during Russia's transition – what in essence was a kind of executive federalism – are evident in the contrast between the two most important cases of success and failure in the management of secession potential, Tatarstan and Chechnya. Post-Soviet federal development in Russia, the war in Chechnya apart, is confirmation of the view that where there is a territorialization and politicization of ethnicity, a strong presidency can promote stability by imposing institutional mechanisms to accommodate and manage ethnic and regional challenges. In the absence of strong presidentialism, federal power-sharing would have been blocked by an ethnocracy based on an ethnic-Russian dominated parliament. This type of parliamentarism would have made little difference to the pattern of conflict with Chechnya. It is doubtful whether any alternative institutional arrangement to asymmetric federalism would work as well in managing Russia's ethnically and territorially divided society.

## NOTES

1. The term originated with the Spanish *fueros* of the Middle Ages, whereby the state gave certain localities preferential or exceptional powers enshrined in a charter or treaty. The term 'federalism' itself, however, is derived from the Latin *foedus* meaning 'treaty'. See Elazar, 1987: 59.
2. The author is a legal specialist and Chief Consultant to the Russian Constitutional Court, and the book is an official text for the Ministry of Justice.
3. For the ethno-demographic structure see *SSSR v tsifrakh v 1989g.*, 23–5; *Argumenty i fakty*, 13 March 1991, p.1. The Federal Treaty of February 1992 recognized 20 ethnically designated 'republics', 16 of which were inherited from the autonomous republics of the RSFSR (Bashkortostan, Buriatia, Checheno-Ingushetia, Chuvashia, Dagestan, Kabardin-Balkar, Kalmykia, Karelia, Komi, Marii El, Mordovia, North Ossetia-Alania, Sakha (Yakutia), Tatarstan, Tuva, Udmurtia), and four were upgraded from autonomous oblasts of the RSFSR (Adygeia, Altai, Karachai-Cherkess, Khakassia). See *Federativnyi Dogovor: Dokumenty, Kommentarii*, Moskva, Izdatel'stvo 'Respublika', 1992.
4. By 1994 the Russian population in these 11 republics was as follows: Karelia (73.6%), Buriatia (69.9%), Adygeia (67.9%), Mordova (60.8%), Altai (60.4%), Urdmutia (58.9%),

- Komi (57.7%), Sakha (Yakutia) (50.3%), Marii El (47.5%), Karachai-Cherkess (42.4%), Bashkortostan (39.3%). See *Narody Rossii, Entsiklopediia, Bol'shaia Rossiiskaia Entsiklopediia*, Moscow, 1994: 433–5.
5. Lesotho, a British 'protectorate' until independence in 1966, is landlocked by South Africa, and effectively reverted to that status after a South African military intervention in September 1998.
  6. The Russian Far East was briefly an independent republic in 1919–22.
  7. In 1993–95 I participated in several Russo-American conferences on federalism held in Novosibirsk under the auspices of the USAID programme and attended by leading specialists on federalism from Russia and the USA. I was alone in proposing an asymmetric federal model for Russia.
  8. The result of the constitutional referendum was almost certainly falsified by the Yeltsin administration. It legally required a 50% turnout of registered voters, which almost certainly did not occur. It is even doubted that the referendum secured the majority of votes.
  9. The treaty and its codiciles have been published on the official website of the Republic of Tatarstan: <http://www.tatar.ru/00000038.html>.
  10. This problem is termed the 'West Lothian' question in the UK. It involves a jurisdictional problem when a Scottish Parliament has exclusive spheres of policy competence independent of the Westminster Parliament, yet Scottish representatives continue to legislate at Westminster in areas that will not affect Scotland. Author's interview with Anatolii Sychev, then head of the Federation Council's Committee on Federal Affairs and Regional Policy, Novosibirsk, August 1997.
  11. For a list of the agreements see: <http://www.tatar.ru/00000078.html>. See also Paul Goble, 'Diplomacy Within Russia', *Radio Free Europe/Radio Liberty*, 20 July 1998.
  12. Author's conversations with a senior presidential adviser on nationalities and regional policy (member of the presidential council) in Russia in 1994–96. Sergei Shakhrai, deputy prime minister for nationalities and regional policy, was the chief negotiator, although he had been a keen advocate of equalized status at the Constitutional Assembly.
  13. Russian Public TV, 20 April 1999.
  14. *Segodnya* 17 February 1994.
  15. Estimates of casualties in 1994–96 vary from a low of 4,379 military dead and in excess of 20,000 civilian dead, with no accounting of wounded (Lieven, 1998: 108), to a high of 80,000 dead and 240,000 wounded, announced by General Alexandr Lebed in *Izvestiia*, 4 September 1996. In the current war, officially Russia admits to just over 3,000 military killed, but unofficially estimates are at least double this, and no-one knows the scale of Chechen military and civilian casualties.
  16. Lieven suggests that Yeltsin's two key advisers on federal questions, Sergei Shakhrai (a Terek Cossack), and Ramazan Abdulatipov (a Dagestani Avar) were driven by ethnic hatred of Chechens.
  17. See *Rossiiskaia Gazeta*, 5 March 1996.
  18. *Parlamentskaia gazeta*, 30 June 1999.
  19. Putin's statement was published on the Russian government website as 'Russia at the Turn of the Millennium' on 31 December 1999.
  20. At a conference on federalism in Moscow in January 1998, Justice Minister Sergei Stepashin stated that one-third of the 16,000 regional laws examined by the Justice Ministry since summer 1995 violated federal legislation. *Radio Free Europe/Radio Liberty Research Report*, 20 January 1998.
  21. The districts are: Central, North West, North Caucasus, Volga, Urals, Siberia, and Far East.
  22. In late June 2001 Putin established a special presidential commission under Deputy Head of the Presidential Administration, Dmitri Kozak, to examine the whole question of power-sharing treaties with a view to their complete removal. *Kommersant-Daily*, 27 June 2001.
  23. *Izvestiia*, 1 June 2001.
  24. The law required candidates for the Bashkortostan presidency to be bilingual, effectively

- disqualifying four out of five Bashkortostani citizens since Bashkortostan is only 20% ethnic Bashkir (ethnic Russians account for 40% and Tatars almost 30%).
25. Putin's speech to the State Council on 22 November 2000: <http://www.president.kremlin.ru/events/105.html>.

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