

Power and Policy in Putin's Russia

Edited by
Richard Sakwa



Routledge Europe–Asia Studies Series

Power and Policy in Putin's Russia

This book provides a retrospective analysis of Putin's eight years as president between 2000 and 2008. An international group of leading specialists examine Putin's leadership in an informed and balanced manner. The authors are drawn from Russia itself, as well as from Europe, America and Australasia. Coverage includes general analysis of the Putin presidency, the ideology underlying the thinking of the regime, issues of institutional development including coverage of parties, parliament and elections, developments in the federal system, corruption and changes in the configuration of the elite. The impact of energy on changes in political economy provides the background to an assessment of Russia's re-emergence as a great power in international affairs, accompanied by analysis of the difficulties in Russia's relations with its former Soviet neighbours and the European Union. The authors examine the interaction between power and policy, and draw some conclusions about the dynamics of Putin's system of government and thus of the fate of Russia.

This book was published as a special issue of *Europe-Asia Studies*.

Richard Sakwa is Professor of Russian and European Politics at the University of Kent at Canterbury and an Associate Fellow of the Russia and Eurasia Programme at the Royal Institute of International Affairs, Chatham House. He has published widely on Soviet, Russian and post-communist affairs.

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Power and Policy in Putin's Russia

Edited by Richard Sakwa

List of Contributors

ELENA CHEBANKOVA obtained her doctorate from King's College, Cambridge, and in October 2006 took up a Junior Research Fellowship at Linacre College, Oxford. She is currently working on the political philosophy of Russia's federalism and the evolution of Russian civil society. *Address:* Wolfson College, Cambridge University, Barton Road, Cambridge CB3 9BB, UK. Email: eak36@cam.ac.uk.

ALFRED B. EVANS, JR is a Professor Emeritus in the Department of Political Science at California State University, Fresno. He has published many journal articles and book chapters. He is the author of *Soviet Marxism–Leninism* and is a co-editor of three books, the most recent of which is *Russian Civil Society: A Critical Assessment*. From 1999 to 2004 he directed seven projects funded by the Bureau of Educational and Cultural Affairs of the US Department of State, hosting groups of Russian professionals who visited Central California. His current research focuses on civil society and ideological trends in contemporary Russia. *Address:* Department of Political Science, California State University, Fresno, McKee-Fisk Building, 2225 East San Ramon Avenue, Mail Stop MF 19, Fresno, CA 93740–8029, USA. Email: evansalca@comcast.net.

OXANA GAMAN-GOLUTVINA is a Professor at the Moscow State Institute for International Affairs (MGIMO), and also works at the Higher School of Economics and the Russian Academy for Public Administration. She graduated from the Philosophy faculty of Kiev State University, and took her doctorate at Moscow State University and the Russian Academy for Public Administration. She is vice president of the Russian Association of Political Science; chair of the National Research Committee for Political Elites; and a member of the Russian Academy for Political Science. Her research interests include the study of political elites, political leadership, political transformations, administrative reforms, political management, and political culture. She has published widely on these issues, including *Political Elites of Russia: Stages of Historical Evolution* (Moscow, Rosspen, 2006), *Parliamentary Representation in Russia and Germany: History and Contemporary Issues* (Moscow, 2006); *The Most Influential People in Russia: Political and Economical Elites of the Russian Regions* (Moscow, 2004), and *State Bureaucracy in the Russian Empire* (Moscow, 1997). *Address:* Moscow State Institute for International Affairs (MGIMO), Moscow, Russian Federation. Email: ogaman@mail.ru.

VLADIMIR GEL'MAN is a Professor in the Faculty of Political Science and Sociology, European University at St Petersburg, and has also served as a visiting professor at the University of Texas at Austin and the Central European University, Budapest. He is the author and/or editor of 17 books in Russian and in English, and numerous scholarly articles published in international journals and edited volumes. His research interests include the study of Russian and post-Soviet politics in theoretical and comparative perspective. *Address:* Faculty of Political Science and Sociology, European University at St Petersburg, 3 Gagarinskaya St., St Petersburg 191187, Russia. Email: gelman@eu.spb.ru.

LESLIE HOLMES is a Professor of Political Science and Deputy Director of the Contemporary Europe Research Centre at the University of Melbourne, and a Fellow of the Academy of the Social Sciences in Australia. His latest authored book is *Rotten States? Corruption*,

Post-Communism and Neoliberalism (Duke University Press, 2006); more recently, he edited and contributed to *Terrorism, Organised Crime and Corruption: Networks and Linkages* (Edward Elgar, 2007). He was President of the International Council for Central and East European Studies (ICCEES) 2000–2005 and of the Australasian Association for Communist and Post-Communist Studies (AACPCS) 2005–2007. *Address*: The School of Political Science, Criminology & Sociology, The University of Melbourne, Victoria 3010, Australia. Email: leslieth@unimelb.edu.au.

ANDREI KAZANTSEV was born in Turkmenistan in 1974, and was a citizen of this country until 1996. He graduated from the Russian State University for the Humanities (RGGU) (Moscow) as a historian and philologist. In 1999 he defended his PhD in political science at the same university. He worked as a lecturer in RGGU, and, simultaneously, as a researcher in Vyacheslav Igrunov's Institute for the Humanities and Political Studies (IGPI). He also worked as an analyst for the liberal *Yabloko* party. He now works as a senior research fellow, expert and lecturer at the Moscow State Institute of International Relations (MGIMO) of the Russian Foreign Ministry. His research focuses on Central Asian and Russian politics, energy and security. *Address*: Center for Euroatlantic Security, Moscow State Institute for International Affairs (MGIMO), Moscow, Russian Federation. Email: andrka@mail.ru.

FYODOR LUKYANOV is Editor-in-Chief of the *Russia in Global Affairs* journal, published in Russian and English with the participation of *Foreign Affairs*, and an international columnist with *Vedomosti*, *The Moscow Times*, *RIA Novosti* and *Gazeta.ru* online source; leading national radio stations and TV channels. He graduated from Moscow State University in 1991 as a Germanist. He worked as a correspondent, commentator and editor for many Russian media. Currently, he is a member of the Presidium of the Russian Council on Foreign and Defense Policy (SVOP), an independent organisation providing foreign policy expertise. *Address*: *Russia in Global Affairs*, 11 Mokhovaya Street, Building 3B, 103873 Moscow, Russian Federation. Email: editor@globalaffairs.ru.

IAN MCALLISTER is Professor of Political Science in the Research School of Social Sciences at the Australian National University. He is a Fellow of the Academy of the Social Sciences in Australia, a Corresponding Fellow of the Royal Society of Edinburgh and an Honorary Professor at the University of Aberdeen. He is currently Editor of the *Australian Journal of Political Science*, and is Chair of the Planning Committee for the Comparative Study of Electoral Systems. He has been a co-Director of the Australian Election Study since it was established in 1987. *Address*: Research School of the Social Sciences, Australian National University, Canberra, ACT 0200, Australia. Email: ian.mcallister@anu.edu.au.

THOMAS REMINGTON is Professor of Political Science at Emory University. He is author of numerous books and articles including two books on the Russian parliament: *The Russian Parliament: Institutional Evolution in a Transitional Regime, 1989–1999* (Yale University Press, 2001) and *The Politics of Institutional Choice: Formation of the Russian State Duma* (co-authored with Steven S. Smith) (Princeton University Press, 2001). Other books include *Politics in Russia* (5th edn 2007); *Parliaments in Transition* (1994); and *The Truth of Authority: Ideology and Communication in the Soviet Union* (1988). His research focuses on the development of representative institutions in post-communist Russia, particularly the legislative branch and legislative–executive relations, and on the problem of governance, inequality and democracy in post-communist states. *Address*: Emory University, 201 Dowman Drive, Atlanta, GA 30322, USA. Email: thomas.remington@emory.edu.

PETER RUTLAND is a Professor of Government at Wesleyan University. He has also taught at Columbia University, the European University in St Petersburg and Sophia University in Japan. Recent articles cover topics such as Russia as an Asian power, and US energy policy towards Russia. His personal webpage is <http://prutland.web.wesleyan.edu>. *Address*:

Government Department, Wesleyan University, 238 Church Street, Middletown, CT 06459–0019, USA. Email: prutland@wesleyan.edu.

RICHARD SAKWA is Professor of Russian and European Politics at the University of Kent at Canterbury and an Associate Fellow of the Russia and Eurasia Programme at the Royal Institute of International Affairs, Chatham House. He has published widely on Soviet, Russian and post-communist affairs. Recent books include: *Contextualising Secession: Normative Aspects of Secession Struggles* (Oxford University Press, 2003), co-edited with Bruno Coppieters; *Russian Politics and Society* (London and New York, Routledge, 4th edn 2008), *Postcommunism* (Buckingham, Open University Press, 1999), and *Putin: Russia's Choice* (Routledge, 2nd edn 2008). His book on *The Quality of Freedom: Khodor Kovsky, Putin and the Yukos Affair* was published by Oxford University Press in 2009. He is currently working on *The Crisis of Russian Democracy: Factionalism, Sovereignty and the Putin Succession*. Address: Department of Politics & International Relations, University of Kent, Canterbury, Kent CT2 7NX, UK. Email: R.Sakwa@kent.ac.uk.

ANGELA E. STENT is Director of the Centre for Eurasian, Russian and East European Studies and Professor of Government and Foreign Service at Georgetown University. She has also served on the National Intelligence Council and in the State Department's Office of Policy Planning. She has published widely on Russian–German relations, and on Russia's economic and political relations with Europe and the United States. She is currently writing a book on the debate within the West about the collapse of the USSR and the evolution of post-Soviet Russia. Address: Center for Eurasian, Russian and East European Studies, 681 Intercultural Center, Georgetown University, 37th & O Streets, NW Washington, DC 20057, USA. Email: stenta@georgetown.edu.

STEPHEN WHITE is Professor of International Politics at the Department of Politics, University of Glasgow and a Senior Research Associate of the University's School of Central and East European Studies. He graduated from Trinity College Dublin in history and political science, and then completed a PhD in Soviet studies at Glasgow—including an exchange year at Moscow State University—and a DPhil in politics at Wolfson College Oxford. He is the chief editor of the *Journal of Communist Studies and Transition Politics* (Routledge, quarterly), and was for some time also the editor of *International Politics* (Palgrave, quarterly). His recent books include *Putin's Russia and the Enlarged Europe* (with Roy Allison and Margot Light, Blackwell, 2007) and *Party Politics in New Democracies* (co-edited with Paul Webb, Oxford University Press, 2007); two edited collections, *Media, Culture and Society in Putin's Russia and Politics and the Ruling Group in Putin's Russia*, appeared in 2008 (Palgrave). Address: Department of Politics, University of Glasgow, Glasgow G12 8RT, UK. Email: s.white@socsci.gla.ac.uk.

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Putin's Leadership: Character and Consequences

RICHARD SAKWA

VLADIMIR PUTIN'S LEADERSHIP WAS RIVEN WITH CONTRADICTIONS, and on the basis of these contradictions very different evaluations of his presidency are possible. The contradictions themselves became a source of Putin's power. They allowed him to act in several different political and discursive spheres at the same time, with a degree of credibility in each, although their genuine authenticity was questioned. Arriving into the presidency in 2000 Putin declared his goal as the 'dictatorship of law', and indeed this principle was exercised in the attempt to overcome the legal fragmentation of the country in the federal system; but when it came to pursuing regime goals, it appeared more often than not that the system ruled by law rather than ensuring the rule of law. This is just one example, and there are many more—the revival of the party system, the development of civil society, international integration—where the declared principle was vitiated by contrary practices. The most interesting debates about Putin's leadership are precisely those that examine whether the tensions were contradictions, and thus amenable to resolution (non-antagonistic), or whether they were antinomies (antagonistic contradictions) that could not be resolved within the framework of the system itself. The first option allowed an evolutionary transcendence of the Putinite order; whereas the second would require some sort of revolutionary rupture.

Challenges and contradictions

Putin's presidency did not operate in a vacuum, and too often easy judgements are made on the basis of a decontextualised absolutism of principles which fails to engage with the real challenges faced by the Russian government during Putin's watch at the helm of the Russian state. The challenge from the Chechen insurgency, accompanied by incursions beyond the republic—into Dagestan, and even into Moscow with the Dubrovka theatre siege of October 2002, as well as the terrible siege of the school in Beslan in September 2004 in which 364 died—would test the political order of even the most long-established democracy. In foreign policy, the terms on which Russia would be accepted into the international community reflected certain postulates that alarmed parts of the ruling elite in Moscow (issues discussed by Angela Stent and Fyodor Lukyanov in this collection). Teleological applications of the transition paradigm, which focused on the mechanics of democracy building and consolidation but neglected history and geopolitics, were tested to destruction in Russia. This reinforced

arguments in favour of a more 'genetic' approach: that any discussion of change must be rooted in real starting conditions, complex social realities and questions of civilisational pluralism and contested identities.

The contradictions of Putin's leadership reflect those of the society he led. Not only was the historical legacy a difficult, and indeed contradictory, one, with the Soviet period endowing the country with a distinctive economy and society, but the experience of reforms since Mikhail Gorbachev launched *perestroika* (restructuring) in 1985 added yet more layers of complexity. The presidency of Boris Yel'tsin, between 1991 and his pre-term resignation on 31 August 1999, saw the emergence of Russia as an independent state and the establishment of the institutional framework of a capitalist democracy, enshrined in the December 1993 constitution. However, the opportunity to radically transform not only the institutional framework of the new order but also to provide it with a new spirit of openness, accountability and probity was missed. According to Alexander Korzhakov, the man standing next to Yel'tsin on the tank during the attempted conservative coup of August 1991 and the head of Yel'tsin's presidential security service until 1996:

After the August putsch, I thought that Russia had drawn a lucky lottery ticket. Such a win occurs in the history of a country only once in a thousand years. Power fell almost bloodlessly into the hands of the democrats, and the whole country was thirsting for change. And Yel'tsin could indeed have taken this 'golden' opportunity. He had everything to implement intelligent reforms, inhibit corruption, and to improve the life of millions. But Boris Nikolaevich remarkably quickly succumbed to everything that accompanies unlimited power: obsequiousness, material benefits, absolute unaccountability. And all the changes promised the people quickly reduced to not much more than endless reshuffles in the higher reaches of power. (Korzhakov 1997, p. 359)

The emergence of a class of 'oligarchs' in the 1990s allowed economic power to be concentrated in the hands of a tiny group. The state was subverted to serve their narrow interests, although within the state by the end of Yel'tsin's leadership a counter-movement gathered pace, notably during the premiership of Yevgeny Primakov from September 1998 to his dismissal in May 1999.

Putin was heir to the Yel'tsin tradition, with all of its achievements in establishing the rudiments of independent Russian statehood, a market economy and democratic institutions, as well as its failings, notably its focus on Byzantine court politics and the insulation of the regime from popular accountability. He was advanced to power by the Yel'tsin elite, and his nomination as prime minister on 9 August 1999 was seen as part of the succession operation to ensure elite and policy continuity after the end of Yel'tsin's two terms as president in 2000, as well as a way of ensuring the personal inviolability of Yel'tsin, his family and associates. At the same time, Putin was also the legatee of the counter-movement that sought to restore the prerogatives and integrity of the state, and to shift towards a modified developmental model. Although committed to the market, belief in the spontaneous self-correcting facilities of the capitalist market was severely tested by the bacchanalia of the 1990s.

In that context, Putin's leadership can be understood as a classic manifestation of Karl Polanyi's view about the natural tendency for society to adopt self-protective measures against the ravages of the market, which in his view carried the danger of

destroying the fundamentals of what makes civilised life possible. Throughout history, according to Polanyi, the economy had always been embedded in society, with economic relations subordinated to perceived social needs. In the early nineteenth century this was repudiated in favour of a liberal belief in spontaneously generating and self-regulating markets. Polanyi's key argument, however, was that the aspiration to create a self-regulating market creates a counter-movement in which peoples resist, what he called the 'double movement': the principle of market liberalism is countered by 'the principle of self-protection', which once again begins to embed the economy within a framework that allows society itself to survive (Polanyi 2001, p. 138). Polanyi likened the process to a giant elastic band: pulled too far in one direction, society resists and pulls strongly in the opposite direction (2001, p. 240). No image is more apt to describe the Putinite counter-movement to what were perceived to be the excesses of the 1990s.

Putin thus came to power intent on restoring the state, but he was also heir to a tradition in which the state itself represented both the highest aspiration of the society for survival in conditions of adversity, most recently tested in the Great Patriotic War of 1941–1945, and at the same time the greatest danger to society itself, as evidenced in the Stalinist purges and the Brezhnevite suffocation of civil society. This contradictory approach to the state, and thus the ability of democracy to become a discrete sub-system able to reproduce itself within the framework of the rules of that system, was fully in evidence in his 'manifesto' published on the eve of taking over the reins of power on 31 December 1999. In his *Russia at the Turn of the Millennium* statement, Putin (1999; Sakwa 2008) outlined a developmental agenda that aspired to transform Russia into a vibrant capitalist economy in which standards of living within a generation would equal those of developed Western societies. His repudiation of Soviet failings was unequivocal: not only did the Soviet system not deliver the goods, it could not do so by its very nature. Those who consider Putin's leadership as little more than a continuation of the Soviet Union by other means are very much mistaken, since Putin had witnessed the shortcomings of the old regime at first hand, and had no desire to restore it. This was accompanied by sensitivity to what he considered traditional Russian values: patriotism, *derzhavnost'* (Russia as a great power), statism, social solidarity, and above all a strong state. As Alfred Evans shows in this collection, Putin was opposed to the restoration of a new official ideology, but this did not prevent him appealing to shared values. Equally, Stephen White and Ian McAllister show the popularity of the Putinite synthesis.

Throughout his presidency Putin appealed to the principles of stability, consolidation and the reassertion of the prerogatives of the state. However, the concepts of consensus, centrism and the appeal to 'normal' politics were beset by a number of fundamental contradictions. These contradictions are reflected in the central problem facing any analysis of Putin's leadership: the nature of his statism. It is easy to identify the tensions in the 'project' espoused by Putin, but these tensions were themselves the source of much of his power. Putin was not simply able to appeal to a variety of constituencies, many of which would be exclusive if his ideas were enunciated more clearly, but the very nature of Putin's centrism acted to reconcile antagonistic and contradictory social programmes. He was thus able to transcend narrow party politics and affiliation with either left or right not by an act of evasion, but by a distinct type of

political praxis that transcended the classic political cleavages of the age of modernity. In an epoch when politics is shifting from interests and ideologies to identities and values, Putin was able to reconcile policies and groups that in an earlier era would have been in conflict, notably the working class and the aspirational middle class. Putin's style was anti-political and indeed, severely technocratic, but as a leader confronted by the need to reconcile conflicting interests and views, he proved a highly adept politician.

Putin's technocratic approach to the management of public affairs was accompanied by what in an earlier age would have been called charisma. While not naturally a charismatic individual, Putin's persona reflected not just the grandeur of the office but a distinctive mix of the demotic and the demiurge of a period of Russian disillusionment and vulnerability. His enduring and astonishingly high levels of popularity, which barely dipped lower than 70% throughout his two terms, reflected his authoritative synthesis which not only identified the challenges facing Russia, but which was also able to provide solutions. These solutions may not have been ideal from the perspective of democratic theory, but they allowed a stabilisation of the political order. In that sense, Putin was a transitional leader: the system that he built was inherently, and in many ways deliberately, contradictory, with numerous internal institutional and policy ambiguities that would ultimately have to find long-term resolution.

Putin's leadership represented a distinctive type of neo-authoritarian stabilisation that did not repudiate the democratic principles of the constitutional order in which it existed, but which did not allow the full potential of the democratic order to emerge. The debate over sovereign democracy, the term advanced in particular by the deputy head of the presidential administration Vladislav Surkov, reflected precisely the ambiguities in the relationship between the Putin regime and democracy. Sovereign democracy was a theory of tutelary democracy, in which the free play of societal political competition was restrained (as analysed by Vladimir Gel'man in this collection), but the principles of pluralism were not repudiated. The concept also provided the ideological justification for greater self-reliance in international affairs and also greater confidence in the country's ability to solve its problems on its own terms. Only if they were resolved in this way would they be durable and enduring.

The Putinite stabilisation was founded on an extraordinarily favourable economic climate. With state capture by the oligarchs repudiated, a degree of internal coherence was brought to Russian governance and the country was well-placed to take advantage of the commodity-price boom of the early twenty-first century. With the baseline price of a barrel of oil rising from some \$18 a barrel in 1998 (the proximate cause of the partial default of August of that year) to above \$100 in early 2008, Russia as the world's second largest supplier enjoyed healthy budget surpluses and was able to build up significant reserves as well as creating a Stabilisation Fund (for more on this, see Peter Rutland in this collection). There is no doubt that Russia's new confidence was in part based on energy rents, but the relationship between petrodollars and political change is far from clear. Although displaying a touch of the 'Dutch disease' (inflated currency values which stifle domestic manufactures and inhibit competitiveness and diversification), some have gone further to argue that the country suffered also from a severe case of the 'Nigerian disease', where the 'natural

resource curse' allowed the regime, buoyed by energy rents, to become ever more insulated from society and accountability mechanisms. Stephen Fish (2005) on this basis has argued that democracy in Russia became 'derailed'.

The contradictions of Putin's statism

Democracy in Russia is faced with the task of creating the conditions for its own existence; to which postulate Putin implicitly added that this could not be done by following the logic of democracy itself. Therein lies a further level of duality—between the stated goals of the regime and its practices which permanently subverted the principles which it proclaimed. Putin's team dismantled the network of business and regional relationships that had developed under Yel'tsin, and although in policy terms there was significant continuity between the two periods, where power relations were concerned a sharp gulf separates the two leaderships. Putin recruited former associates from St Petersburg and the security forces, and on this he built a team focused on the presidential administration in the Kremlin that drove through the new agenda. The power of the most egregiously political oligarchs was reduced, and from their exile in London and Tel Aviv they plotted their revenge, further stoking the paranoia of the regime, especially after the 'orange' revolution in Ukraine in late 2004, which saw significant popular mobilisation force a rerun of the presidential election. With the fear of the oligarchical Jacobites abroad, the insurgency in Chechnya spreading across the North Caucasus, and the spectre of colour revolutions, it is not surprising that the regime exhibited all the symptoms of a siege mentality, and its statism took an ever more conservative hue.

Paradoxically, as Putin centralised power he imported into the Kremlin the conflicts that in a more pluralistic system are played out in society. However, Putin's commitment to a moderate state-shaped modernisation process, accompanied by a constrained liberal democratisation project, should not be under-estimated. Putin's departure in 2008 according to the constitution represented a major advance for democracy, even if he sought to shape the post-Putin era from beyond the presidential grave. As always, Putin's actions were paradoxical and contradictory, and this is reflected in the three phases of his leadership.

The first period between 2000 and 2003 focused on ensuring an attractive investment climate for domestic and foreign capital, and to consolidating his position. Putin devoted himself to restructuring the domestic polity to reassert the prerogatives of the central state and to ensure that no *fronde* by regional or party leaders could challenge the regime. By changing the way that the Federation Council was composed, for example, with regional executives and heads of legislatures expelled and replaced by their much weaker nominees, an act of resistance such as the refusal to sack the Prosecutor General Yuri Skuratov, which had dragged on for most of 1999, could not be repeated.

The onset of the Yukos affair in 2003 signalled the beginning of a new period in Russian politics. This meant new conditions for business and for most of the elite, with the exception of the *siloviki*; instead of partners, they were reduced to functionaries. As Aleksei Makarkin notes, the Putin coalition of 2000–2003, which included the bureaucracy and big business, now gave way to a period where the only partner for the

top executive was the bureaucracy, within which the *siloviki* became predominant (Silaev 2008, p. 23), a theme taken up by Gaman-Golutvina in this collection. Within the new framework the Kremlin was able to resolve a number of tasks that it had not been able to do earlier: to get big business to pay its taxes in full; to launch long-term infrastructural projects such as the East Siberian Pacific Ocean (ESPO) pipeline; and the creation of state corporations for aircraft, ship-building and many other spheres. However, the new system carried some powerful political risks. Since it was relatively insulated from social forces, tensions over power and policy were concentrated within the regime itself, leading to intensified factional conflict. Putin spent much of his second term managing these conflicts, and tried to find para-institutional answers to para-political problems (see below). The intense involvement of the state in economic management also threatened stable economic development. As in the Soviet period, Putin proposed a type of modernisation without modernity. With his shift to the post of prime minister in May 2008 and Medvedev's assumption of the presidency, a third phase opened up in which the gulf between declarations and practices would have to be transcended.

The self-constitutive characteristic whereby democracy had to create the conditions for its own existence imbued all political processes in the country with a contradictory dynamic. Liberalism, even many liberals concede, needs the support of the state to be implemented, and thus some of the principles of liberalism were eroded at the very moment of their implementation (Weigle 2000). This immanently contradictory nature of Russian social reality was reflected in concentrated form in Putin's leadership. The presidency itself was able to transcend divisions, and thus prevented them taking on more deeply entrenched or even violent forms. This perhaps is the deeper meaning of Putinite 'stability': not the resolution of contradiction but its displacement to another sphere, within the regime itself, where it is more amenable to management, although at the risk of undermining the coherence of the regime itself. This is nowhere more evident than in the practice of his statism.

The resurgence of the state was torn between two forms, each of which gives rise to a distinctive type of statism (these are depicted in Figure 1). If we take Putin's commitment to the maintenance of the principles of the existing constitution at face value, and accept that the attempt to establish the uniform application of constitutional and other legal norms across Russia in a uniform and homogeneous way represented a genuine attempt not only to undermine the neo-medieval features of regional governance that had emerged under president Yel'tsin in the 1990s, but also reflected a commitment to liberal universalism, then we can describe the process as the

State type	Outcome	Practices
Reconstitution	Pluralistic statism	Universal application of law, constitutionalism, equal citizenship, active federalism, autonomous civil society
Reconcentration	Compacted statism	Centralisation, discretionary use of law, managed democracy

FIGURE 1. MODELS OF STATE REFORMATION UNDER PUTIN

'reconstitution' of the Russian state, where the constitution reigns supreme. In other words, Putin's statism represented an advance for democracy in the sense that the application of the law would be uniform for all, including regional bosses, oligarchs and, presumably, the political regime and the presidency itself. This is very much a normative (that is, legal and constitutional) reconstitution of state power. The type of system that emerges out of this is a 'pluralistic statism', a type of democratic statism that defends the unimpeded flow of law and individual rights while respecting the pluralism of civil society and federalist norms. Pluralistic statism takes as genuine Putin's commitments in his *Russia at the Turn of the Millennium* statement and many other statements that a strong state should be rooted in a liberal economic order and a vibrant civil society.

However, the selective approach to the abuses of the Yel'tsin era, the partial attack on 'segmented regionalism' in his reform of regional relations, and the weak commitment to media freedom and human rights, undermined the principles of federalism and democratic pluralism. Moreover, the dependence of the presidential regime on 'power structures' as part of a flexible alliance of the presidency, the power ministries and a section of the oligarchs, ranged at first against certain powerful regional leaders and other, less-favoured oligarchs, suggested that another, less benign form of statism could emerge. We call this the 'reconcentration' of the state to distinguish it from the reconstituted statism described above. State reconcentration gives rise to compacted statism in which the rhetoric of the defence of constitutional norms and the uniform application of law throughout the country threatens the development of a genuine federal separation of powers, undermines political pluralism and weakens media and informational freedoms, and which establishes a new type of hegemonic party system in which patronage and preference is disbursed by a *neomenklatura* class of state officials. There were many signs that United Russia (UR, *Edinaya Rossiya*) could become the core of a new patronage system of the type that in July 2000 was voted out of office in Mexico after 71 years. The absence of a developed concept of citizenship, a feature which is characteristic of much Russian liberal thinking as well, left state development prey to the temptation of reconcentration.

Putin's statism was full of paradoxes and contradictions. For example, he stressed the universal applicability of law, yet in certain individual cases and in dealing with the insurgency in Chechnya and with the 'over-mighty subject' (for example, Mikhail Khodorkovsky), he ran roughshod over property rights and the rule of law. It appeared that in talking of law Putin had in mind the rights of the state rather than those of individuals in society. In his first address to the Federal Assembly on 8 July 2000 he argued that 'an era is beginning in Russia where the authorities are gaining the moral right to demand that established state norms should be observed' and that 'strict observance of laws must become a need for all people in Russia by their own choice'.¹ In an interview soon after he insisted that he sought to put an end to the situation in which Russians appeared to have become subjects of different regions rather than citizens of a single country.²

¹See <http://www.president.kremlin.ru/events/42.html>, accessed 30 July 2000.

²*Izvestiya*, 14 July 2000.

As always during Putin's presidency, a positive logic was balanced by a negative dynamic. For example, Putin's approach to the development of the party system, beginning with the July 2001 party law, can be seen to be a positive development, if the stated aim of establishing a smaller number of more effective parties is accepted, but the restrictions on the type of parties allowed, the extremely high entry costs, the excessive bureaucracy in registration procedures, and the close management of the election process, undermined the stated goals. Ultimately, the exercise was less about the development of a viable multi-party system than to ensure that the sphere of party politics was manageable and that no threats to the regime could emerge from that arena of political life. The creation of a dominant party in the form of UR sought to prevent the emergence of a new insurgency against the Kremlin of the sort that developed in 1999, when regional elites and some important federal politicians came together to create Fatherland—All Russia (OVR, *Otechestvo-Vsya Rossiya*) (Hale 2006). The December 2007 *Duma* election demonstrated that 'party substitutes' could no longer emerge, but it was clear that Russia's party system was far from mature, and this was reflected in parliamentary politics (as shown by Thomas Remington in this collection).

The tension between reconstitution and reconcentration coexisted uneasily in the Putin years, and neither was able to triumph conclusively. The normative framework of the constitutional state was balanced by the recentralisation associated with compacted statism and the development of a personalised regime. While Yel'tsin's leadership also undermined the development of stable institutions, his more diffuse leadership style and encouragement of asymmetrical federalism allowed a profusion of media and other freedoms to survive. Putin put an end to the anarchy and the state capture of the Yel'tsin years, but his new statism carried both a positive and a negative charge. In the end the revived presidency was not fully subordinated to the new emphasis on the 'dictatorship of law', and thus failed to encourage the development of a genuine rule of law state. It remained insulated from the process of state reconstitution and instead promoted the development of compacted statism, which undermined political pluralism and autonomous citizenship, and thus once again perpetuated the tradition of 'revolution from above', and replicated patterns of lawlessness and arbitrariness. As in the Yel'tsin years, the political regime was not wholly subordinated to the rule of the constitutional state or rendered adequately accountable to the representative system (above all, political parties and legislative assemblies).

Elements of reconstitution however, although over-shadowed by reconcentration, did not altogether disappear. At the end of his two terms allowed by the constitution Putin left the presidency, and to that degree the presidency remained constrained by the normative imperatives of the constitution. The nature of the reconcentrated state is also controversial, since by the end of his presidency it was clear that the regime was torn by factional conflicts. In yet another of the paradoxes characteristic of Putin's presidency, the relatively insulated nature of the regime meant that these factional conflicts did not seriously damage the operation of the state or take on a social form (that is, mobilising constituencies in society, such as workers or the bureaucracy). If factional conflict had taken on broader forms, they would have become both more deeply entrenched and more enduring. This is a classic Putinist contradiction: by

insulating itself from society, the regime at the same time shielded society from its own divisions. The end of Putin's presidency will in all likelihood see the weakening of factional conflict, and thereby perhaps open the way for greater political pluralism.

Federalism and citizenship

State consolidation can act as both the facilitator of democratisation and as its gravedigger, and elements of both were visible under Putin. The president was a centraliser of state power, and at the same time centralisation served to equalise the rights of citizens across Russia. The declared aim was to ensure that citizenship became universal across the country, not impeded by the emergence of various neo-feudal patrimonial or ethnocratic regimes. Putin can thus be characterised as an equaliser rather than a centraliser. The fundamental question, however, is whether the basis of this equalisation would be full civil and democratic rights, or equality in subordination (see Chebankova in this collection).

In the 1990s the federal separation of authority was undermined by spontaneous processes of segmented regionalism (Valentei 1998). The development of asymmetrical federalism may well have provided a framework for the flexible negotiation of individual tailor-made solutions to Russia's diverse ethnic and political composition, but it failed to do this within the framework of universal norms of citizenship. Instead, segmented regionalism fragmented the country judicially, economically and, implicitly, in terms of sovereignty. This is what Vitalii Tretyakov called 'velvet' regional separatism.³ By the end of Yel'tsin's term in office Russia was beginning to become not only a multinational state, but also a multi-state state, with numerous proto-state formations making sovereignty claims *vis-à-vis* Moscow. The country was increasingly divided into segments, not only spatially but also in terms of the fragmentation of political authority. Russia was moving towards what some have called the 'medievalisation' of politics, where overlapping jurisdictions fragmented administrative and legal practices. The development of a national party system was undermined by the proto-state claims made by regional executives, their ability to control patronage resources and to influence electoral outcomes. The emergence of a single national community was impeded by the segmented regionalisation of political authority.

Putin's response to segmented regionalism was to restore the authority of the state. However, this attempt to place the constitution at the centre of relations between the centre and the regions was torn, as we have seen, between two forms, reconstitution and reconcentration. The reform of the federal system was accompanied by changes in the basis of citizenship itself. Putin's model of liberal republicanism espoused individual citizenship against traditional communitarian views of group solidarity. In particular, this was visible in the introduction of the new Russian passports, now lacking the notorious Soviet 'point five' establishing the passport-holder's ethnic identity. The aim, clearly, was to give content to Yel'tsin's notion of '*Rossiiskii*' citizenship. This is in the tradition of Jacobin republicanism, so eloquently defended in the summer of 2000 by Jean-Pierre Chevenement when he resigned from the French

³Vitalii Tretyakov, *Nezavisimaya gazeta*, 23 March 2001, p. 1.

government in protest against plans to give autonomy to Corsica. In the Russian context, Putin's actions cannot be considered simply centralisation but are as multifaceted as the original Jacobin republicanism itself. The Putinist state entered into an informal alliance with the people against the representatives of corporate interests (such as the regional bosses and the oligarchs). This, however, was a diffuse populism based on opinion poll ratings and lacked consistent theoretical development or political implementation. Putin detested demagogic populism, and remained loyal to a vision of rational technocratic and bureaucratic decision-making.

Constitutionalism and para-constitutionalism

Analysts of political systems have long noted the distinction between having a constitution and enjoying a constitutional order. The experience of the Soviet regime demonstrates that it is quite possible to have a constitution but no constitutional order, and British history illustrates that it is possible to have a constitutional order but no constitution (although the attempt to maintain constitutionalism without a written constitution is now unravelling). A constitutional system is a much broader concept than the constitution itself and reflects the subordination of the power system to a set of norms that are independent of that system. Oleg Rumyantsev (1994) has written much about the need to develop a constitutional order in Russia, using the concept of *stroï* (system) in the broadest sense. As V. Leontovich (1980, p. 539) argued for pre-revolutionary Russia, it was the absence of a developed civil structure, 'something that is essential for any liberal constitution', that led to the disappearance of political freedom and the destruction of the constitutional system in 1917 (Leontovich 1980, p. 539). The dilemma in contemporary Russia, as we have noted, can be put more simply: not only has democracy to create the conditions for its own existence, but Russian democracy would reflect the genetic conditions of its development, and no amount of teleological messianism could refute objective realities.

Both Yel'tsin and Putin were committed to maintaining the letter of the 1993 constitution, but their commitment to the spirit of constitutionalism is less clear. The toleration of corruption, despite the appeal to good governance, was one of the most debilitating of Putin's contradictions, as it was with Yel'tsin, and a sphere where the gulf between rhetoric and reality was most evident. In regional policy Putin reappointed the notoriously wilful leader of Kalmykia, Kirsan Ilyumzhinov, and he also tolerated the appointment of the daughter of the governor of Orël region, Yegor Stroeve, as senator to represent his region in the Federation Council. The failure to deal with corruption undermined the autonomy and integrity of the state. Indeed, the award of large pay rises to top officialdom dramatically increased the gulf in pay with the average citizen, making it at least 15 times more. Increased wages may well be seen as an anti-corruption strategy, but it does little to develop social solidarity (as argued by Holmes in this collection).

Similarly, the creation of a number of para-constitutional institutions undermined the spirit of the 1993 constitution. An administrative regime emerged between the structures of the constitutional state and the accountability structures of civil society, above all parties and parliament. Para-constitutional behavioural norms predominate

that, while not formally violating the letter of the constitution, undermine the spirit of constitutionalism. This is a feature that was already identified in American presidentialism in the 1980s (Riggs 1988), and it has if anything intensified since then. As in America, para-constitutional behaviour gets things done, but is ultimately counter-productive because its reliance on bureaucratic managerialism undermines popular trust and promotes self-interested behaviour on the part of elites. This is more than the politics of duplication that was prevalent under Yel'tsin, notably in the case of the development of the presidential administration as a type of surrogate government (Huskey 1999). During Putin's presidency the practices of para-constitutionalism have been sharply accentuated. His regime was careful not to overtly overstep the bounds of the letter of the constitution, but the ability of the system of 'managed democracy' to conduct itself with relative impunity and lack of effective accountability means that it was firmly located in the grey area of para-constitutionalism.

A number of the key institutions were involved in the practice of para-constitutionalism. The first is the establishment of the seven federal districts in 2000, which were subordinated to the presidency and thus technically did not require constitutional validation. However, the insertion of an administrative tier between the central authorities and the subjects of the federation could not but change the nature of Russian federalism. The second was the establishment of the State Council in September 2000, a body comprised of the heads of Russia's regions, but running in parallel with the upper chamber of Russia's parliament, the Federation Council. The third para-constitutional body is the Presidential Council for the Implementation of the National Projects, established in autumn 2005 to advance the four national projects in housing, education, health and agriculture announced in September of that year. The Council was run by Dmitry Medvedev, consisted of 41 members, and was responsible for an initial budget of \$4.6 billion. The Council worked in parallel to the government and clearly undermined the authority of the prime minister. By bringing together the various executive and legislative agencies in this way, the Council also undermined the separation of powers.

The fourth main para-constitutional body is the Public Chamber. In his speech of 13 September 2004, Putin argued that a Public Chamber would act as a platform for broad dialogue, to allow civic initiatives to be discussed, state decisions to be analysed and draft laws to be scrutinised. It would act as a bridge between civil society and the state.⁴ The Chamber monitors draft legislation and the work of parliament, reviews the work of federal and regional administrations, and offers non-binding recommendations to parliament and the government on domestic issues, investigates possible breaches of the law and requests information from state agencies. The public Chamber introduced a new channel of public accountability against overbearing officialdom, and thus usurped what should have been one of parliament's key roles. Work that should properly have been the preserve of the State *Duma* was transferred to this new body, a type of non-political parliament. The existence of the Public Chamber could

⁴Ob Obshchestvennoi Palate Rossiiskoi Federatii', available at: <http://document.kremlin.ru/index.asp>, accessed 27 January 2005.

not but diminish the role of parliament, which should act as the primary tribune for the expression of popular concerns.

A fifth major para-constitutional innovation came into effect as the former president (Putin) took over as prime minister as part of a tandem with the new president (Dmitry Medvedev). Although Russia formally remained a presidential republic, the country was to a degree governed as a parliamentary republic. While Medvedev enjoyed enormous constitutional power, the prime minister brought with him a great store of political capital. Certain tutelary powers, and thus governmental sovereignty, were transferred to the premier's office. While formally the two-term limit was observed, the spirit of the provision was undermined.

Para-constitutional accretions to the constitution were designed to enhance efficacy but in practice undermined the development of a self-sustaining constitutional order and the emergence of a vibrant civic culture and civil society. The spirit of constitutionalism was undermined by the failure of the Russian political class to subordinate itself to the constitution. This problem of course is not unique to Russia, but here the constitution tended to represent the interests of those in power and has not effectively defended the rights and freedoms of ordinary citizens. In Russia patronage politics have differed from those predominant in developing countries because of the lack of a traditional autonomous social class whose power derived from historically accumulated wealth rather than access to the state. The political order in developing countries is used primarily to defend accrued privileges rather than to serve as an instrument of enrichment. In Russia, the political order defends the privileges of the political regime, which in a patrimonial way itself became the organiser, if not the outright owner, of economic property.

Para-constitutional innovations were accompanied by the luxuriant development of what may be termed para-political practices. These are forms of political activism not envisaged by the constitution—not formal party politics and pluralistic elections, and instead it is a form of politics that is hidden and factional. By contrast with public politics, para-politics focuses on intra-elite intrigues and the mobilisation not of popular constituencies and open interests but of organisational and situational capital. The institutions of democracy remain central to political practice and democracy remains the legitimating ideology of the regime, but politics operates at two levels, the formal constitutional and the nominal para-constitutional and para-political. It is precisely the interaction of the two levels that gives ample scope for democratic evolutionists and failed transitionists to put forward their arguments with some credibility. The two levels have their own institutional logic and legitimating discourses. This endows Russian politics with its permanent sense of a double bottom and allows so many conflicting interpretations.

Dual adaptation

One of the distinctive features of modernity is the emergence of autonomous civic actors accompanied by attempts of the state to manage various transformative projects that entail the management and reordering of society. In this respect Putin reflects the larger contradiction within modernity. It is a contradiction exacerbated in Russia by the clear tension between liberal democratic aspirations and the state's

inability to act as a coherent vessel in which these aspirations can be fulfilled. It is for this reason that many have argued that a strong state is an essential precondition for the development of liberalism (Weigle 2000, p. 458), a contradiction that lies at the heart of Putin's liberal statism.

It is also a contradiction that underlies much of Russia's political development since the 1990s. Since at least 1993 dual adaptation has taken place. Political movements and the regime itself have adapted to the exigencies of constitutional and electoral politics. Just as constitutionalism was eroded by para-constitutional practices and institutional innovations, so the electoral process was suborned by the regime. The institutions of democracy have adapted themselves to the power relations of elite politics. In a different way a process of dual adaptation was characteristic of Wilhelmine Germany. The late nineteenth century saw the growing social autonomy of political actors and the parallel development of political institutions and democratic procedures, but something transcended this, a force to which even Max Weber was susceptible—nationalism. This gave rise by the eve of the First World War to the peculiar phenomenon of liberal nationalism which led the country to decades of disaster. Putin's liberal patriotism is by no means as virulent and emerges out of a quite different philosophical tradition, yet its state ordering impulse is reminiscent of the earlier period.

The constraints on the development of political pluralism are vividly reflected in the development of United Russia. As Pavel Isaev presciently noted, 'United Russia seeks to establish a parallel "counter-elite" system able at any moment to seize the instruments of management in the regions from the present *nomenklatura* in power'. He quotes the deputy head of the presidential administration, Surkov, to the effect that 'the phenomenon of the non-party bureaucracy (*chinovnichestva*) has outlived itself' (Isaev 2002). But, as always in Russia, there is a second bottom to this particular problem: Putin's refusal 'to share authority and popularity with United Russia' (Isaev 2002). In the 2007 parliamentary election Putin went much further than Yel'tsin had ever done in aligning himself with UR, yet even he refused to join the party. Medvedev, like Yel'tsin and Putin before him, fought the presidential election of March 2008 as an independent. Nevertheless, the establishment of United Russia represents a significant development since it does not simply represent the existing power system but seeks to set up an alternative structure in whose name central and regional governments could be formed. The contradiction remains between creating an autonomous political actor (in this case United Russia) while at the same time subordinating it to the regime-state.

The drive to remake the state under Putin led to a narrowing of the basis of his regime and a reduction in political pluralism as a whole. The autonomy of regional bosses and oligarchs was reduced, while political parties were either incorporated into the new system or marginalised. Putin's system was based on an ideology of extended administrative rationality, and feared the independent operation of political forces. Putin's anti-political approach was able to manage conflict, but it is not clear whether it was able to resolve underlying problems. Although the liberals were eclipsed in the December 1999 elections, and suffered a crushing defeat in December 2003 and again in December 2007, the main economic posts in the government were occupied by them, and Putin's economic policy was fully in tune with the main tenets of neo-liberal

economic management. Thus Putin was happy to incorporate liberal ideas into his policies and to work with individual liberals, but liberalism as a political movement was fundamentally weakened. Similarly, the ideologically amorphous United Russia was effectively the party of the bureaucracy and the instrument used by Putin to drive through his legislative agenda (as shown by Remington in this collection), but the degree to which it could become an active campaigning political party remained unclear, as Putin himself recognised during the 2007 parliamentary election.

Although much of Putin's elite support came from those seeking the privileges of power (as well as the benefits of property that often comes with it), Putin clearly had a transformative agenda focused on economic modernisation and national integration, with politics the means rather than the end. It is this that gave rise to managed democracy and the lack of autonomy for political actors. The 'malaise of antipolitics', as Ghia Nodia puts it, is prevalent across the post-communist world. In Nodia's words:

The Communist regime parodied and discredited things political, such as political parties, ideologies, institutions, and the notion of a 'public good' as such. The label of 'falsity' firmly stuck to the public sphere, and politics was *a priori* considered a 'dirty business', with the values of goodness and truth sought only in the private domain. (Nodia 2002, p. 435)

This attitude fostered the anarchic attitudes that provoked state disintegration and the weakening of the state across the region, notably in Yel'tsin's Russia. The collapse of the Soviet transformative agenda, which itself represented the apogee of late nineteenth and early twentieth century ideas about the power of the state to manage social progress, left the state high and dry. It was Putin's achievement not only to restore the state, but also to endow it with a renewed legitimacy derived from its revived developmental and modernising agenda, accompanied by the rhetoric of social inclusion. While its capacity to enforce rules remains limited, and the gulf remains stark between its claims to represent the universal interest of the public good and the empirical reality of self-seeking elites at the national and regional levels mired in corruption, the regeneration of the legitimacy of state interests was a major achievement. The stick, however, was bent too far, and the efficacy, if not legitimacy of pluralism, competing interest groups, partisan politics and open-ended debate was undermined.

The modernising aspects of Putin's government provoked the breakdown of traditional social solidarities and growing atomisation. While Putin appealed to collective values at the political level, he subverted social solidarity at the economic level. While attacking prominent independent 'oligarchs', the new rich continued to flaunt their wealth and privileges. Putin was concerned with raising living standards, ensuring that wages were paid on time, and that the welfare system provided a range of public goods, but he was distant from the egalitarian ideology typical of the Soviet regime and which still pervades much of Russian oppositional thinking. In that sense, Putin was a genuine economic liberal, allowing the market to determine the life chances of individuals as long as a basic social safety net remained in place.

The depluralisation of society affected not only politics but also took the form of deprivatisation trends in the economy. Instead of private oligarchs, who through the Yukos affair have been tamed or taken the exit option, as with Roman Abramovich's

sale of Sibneft to Gazprom in September 2005, we now have a developed system of state oligarchs. These take two forms: Kremlin appointees at the head of the management boards of state-owned companies (for example, Medvedev, former head of the presidential administration and later first deputy prime minister and then president, as chairman of the Gazprom board); and the executives at the head of state-owned companies, notably Sergei Bogdanchikov at the head of Rosneft. The key issue was control over financial flows, if not direct ownership of the companies themselves. At the same time, companies were wary of funding political parties, let alone opposition groups, for fear of alienating the Kremlin.

Putin tried to rehabilitate the concept of order and to render it compatible with a liberal economic system. This has been a problem since at least the eighteenth century, and Putin's leadership represented an attempt to transcend the contradiction between democracy and order. However, there are numerous order-creating processes in play at the same time: legal order, public order and state (constitutional) order. All three are susceptible to de-ordering processes, for example the use of decrees, the proliferation of para-constitutional agencies, and the independence of the regime from subordination to the constitutional order. Ultimately it is only through law and constitutionalism that a modern ordered society can emerge, although undoubtedly even this type of modern liberal system contains numerous contradictions; and thus some of the contradictions that characterise post-communist Russian politics are not of its own making. Nevertheless, under Putin there remained elements of the stability politics (that is, the 'manual' management of social processes) that characterised the Brezhnev years and the Soviet system as a whole.

At the heart of Putin's reconfiguration of politics lay a tension, if not a contradiction or antimony, between liberal republicanism, using classic state-building strategies (some of which draw on Jacobin republicanism) and bureaucratic patrimonialism. This reconfiguration by no means entailed a repudiation of what had gone before, and there remain profound continuities between the Yel'tsin and Putin regimes. Both relied on the presidency as the instrument of hegemonic politics, and both relied on selective co-optation and compromise in their relations with regional and other actors. Politics remained heavily personalised, and institutions were subordinate to bilateral bargaining. Patronage politics emerged as a central element in what became known as 'managed democracy'. The contradiction between regime support for the development of the political actors typical of a liberal democracy—for example, political parties and civil society associations—and the limited scope for their political autonomy was not transcended. In a paradoxical process reminiscent of Soviet development and demise, the regime of managed democracy fostered the agents (notably the so-called middle class) that will (if Soviet history is repeated) become the instruments of the modernising regime's own transcendence.

Medvedev's resolution of contradiction?

The main challenge of Medvedev's presidency would be to narrow the gap between formal constitutionalism and para-constitutional innovations with their para-political practices. Dual adaptation hollowed out autonomous political institutions, and rendered Russian politics an echo chamber of declarations unmatched by actions. This

was something that Medvedev condemned in his address to the second Civic Forum on 22 January 2008, in which he outlined his view on the key issues facing the country, accompanied by the insistence on the evolutionary transcendence of contradictions. He considered the main issue the need to combine 'our national traditions with a functional selection of democratic values. We have been working on this for at least 150 years, and Russian society is now closer than ever to resolving this problem'. The national idea for Russia had to be based on 'freedom and justice', accompanied by the 'civic dignity of the individual' and 'the individual's prosperity and social responsibility'. He stressed that 'the most important requirement for our country's development is the continuation of calm and stable development. What we need quite simply is a decade of stable development—something that our country never had in the twentieth century'; and like Putin he noted the 'great trials of the 1990s, and many mistakes were made—but our country wasn't destroyed'. He then stressed the development of social policy to allow individual development. In relations between state and society he talked of 'a social contract between the authorities and society—a contract in which they have duties to each other, rendering the authorities fully accountable to the people'.

Reflecting his earlier opposition to the attack on Yukos, he stressed that 'we shall pursue a firm policy of free development for private enterprise, protecting property rights, and reinforcing the common principles of a market economy', accompanied by the need to turn the struggle against corruption into a national campaign. This was hampered by the fact that

Russia is still suffering from legal nihilism. No European country can boast of this degree of contempt for the law. This phenomenon is rooted in our country's distant past. The state cannot be a law-based state, or a just state, unless the authorities and citizens know and respect its laws, and citizens have sufficient awareness of the law to monitor the actions of state officials effectively.

In foreign policy the strategic goal of 'reinforcing Russia's international status, so that it holds a proper position worthy of our country and its people', would be continued. It would engage in 'dialogue and cooperation with the international community', but 'Russia's actions will be based on its own interests, combined with an understanding of the degree to which Russia is responsible for rational development of a democratic world order and solutions to global problems, economic and otherwise'.⁵ The tone of the speech represented a significant de-escalation of the harsh rhetoric of Putin's last year, although in substance it did not differ from much of what Putin had been saying. It was clear that the main policy lines would continue as before, but they would now be pursued in a more consensual manner.

In his Civic Forum speech Medvedev called for the struggle against corruption to become a 'national programme', noting that 'legal nihilism' took the form of 'corruption in the power bodies'. He returned to this idea in his 29 January speech to the Association of Russian Lawyers, of which he was chair of the board of trustees, when he called on his fellow lawyers to take a higher profile in society and to battle

⁵See http://www.medvedev2008.ru/english_2008_01_22.htm, accessed 24 March 2008; *Nezavisimaya gazeta*, 23 January 2008.