

# Federal Elections in Russia The Necessity of Systemic Reforms

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The current trend in the Western press and much of academia is to evaluate the success or failure of democratic reforms in Russia from a political rather than systemic perspective, that is to say with a focus on the outcome of elections rather than on political and electoral processes. This trend is further compounded by the tendency to consider Russian elections in a vacuum that discounts Russia's previous experience, even in the post-Soviet period, and that of her neighbors. During the 1995 parliamentary election cycle, for example, there was much discussion of the poor quality of Russian election legislation. This begs the question: Relative to what?

Relative to the presidential decree that governed parliamentary elections in 1993 or to legislation in other Newly Independent States (NIS), Russia's electoral code and ensuing institutional and procedural reforms have been impressive. The existence of stand-alone legislation on voter rights, unique to the NIS; the introduction of a new nomination formula for the Central Election Commission of the Russian Federation (TsIK) that envisions greater political diversity and institutional independence; the use of a mixed system of representation that supports the development of political parties; the introduction of improved mechanisms for transparency; and the greater willingness of the TsIK to seek input from the NGO sector and lower level commissions in the drafting of legislation and development of specific programs, such as voter education initiatives, represent a few of the positive steps that have been taken to democratize elections in Russia.

While certain gaps and inconsistencies exist within federal election legislation and will need to be addressed, the bulk of work required pertains to regulatory development, implementation of the law, compliance issues, and fostering the diversity, competence, and independence of lower level commissions. In this article, the author seeks to track some significant reforms since the 1993 elections, while highlighting continued areas of weakness in Russia's nascent post-Soviet electoral system.

## **Constitutional Basis of Russia's Post-Soviet Electoral System**

The legal foundation for democratic systems are often based on a hierarchy of rights. The Russian system is founded on basic rights guaranteed by the Constitution, which was approved by Russian voters on 12 December 1993. Further explication of rights and legal processes are provided in the Federal Law

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on the Basic Guarantees of Electoral Rights of the Citizens of the Russian Federation and specific laws for elections to the State Duma, presidency of the Russian Federation and laws regarding election for subject and local offices. Russia's current Constitution includes the following fundamental guarantees affecting electoral rights:

- Article 2: “. . . The recognition, observation, and protection of the rights and freedoms of man and citizen are the obligation of the state.”
- Article 13, Section 3: “In the Russian Federation, political pluralism and a multi-party system are recognized.”
- Article 17, Section 2: “The basic rights and freedoms are inalienable and enjoyed by everyone. . . .”
- Article 29, Section 1: “Everyone is guaranteed freedoms of thought and speech.”
- Article 29, Section 4: “Freedom of the mass media is guaranteed. Censorship is forbidden.”
- Article 30, Section 1: “Everyone enjoys the right to association. . . . Freedom of activity of public associations is guaranteed.”
- Article 31: “Citizens of the Russian Federation have the right to assemble peacefully, without weapons, hold rallies, meetings, demonstrations, marches, and pickets.”
- Article 32, Section 1: “Citizens of the Russian Federation have the right to participate in managing state affairs both directly and through their representatives.”
- Article 33, Section 2: “Citizens of the Russian Federation have the right to elect and be elected to state bodies of power and local self-government bodies, as well as to participate in referenda.”
- Article 33, Section 3: “Deprived of the right to be elected are citizens recognized incapable by the court and also those detained in places of deprivation of freedom upon a court sentence.”

### **Federal Legislation on Voters' Rights**

On 20 December 1993, Russian President Boris Yeltsin issued a decree (No. 2227) establishing the Central Election Commission of the Russian Federation as a permanent institution and directing it to draft new federal legislation on elections. After consulting with legislative and political leaders and legal scholars, a consensus developed that a basic and preliminary law setting forth fundamental principles of democracy and enumerating voters' rights was an essential first step. Once enacted, this legislation would serve as the framework for all subsequent and specific election laws at all levels of government. Throughout the drafting process, the TsIK's Working Group on Election Law sought input from regional election authorities, parliamentarians, and representatives of the executive branch. Some twenty-five constituency commissions submitted detailed reviews of the draft law and suggested specific modifications. Political parties were also encouraged to submit recommendations.

The Federal Law on the Basic Guarantees of Electoral Rights of the Citizens of the Russian Federation was approved by the State Duma on 26 October 1994, approved by the Federation Council on 15 November and signed by the president on 6 December 1994. As anticipated, this legislation, which is unique within the former Soviet Union, serves to expand upon the basic guarantees to voters expressed in the Constitution and to lay the foundation for more specific

requirements and procedures that flow by operation of succeeding laws for elections for executive and legislative offices at the federal, subject and local level.

Fundamental principles contained within the Basic Guarantees Law include:

- The people of the Russian Federation have the right of self-government, and the legitimacy of the government depends upon the expression of free will of voting citizens;
  - The scope of this law applies to all elections at all levels of government throughout the Russian Federation (though legislative bodies of subjects may enact additional guarantees of electoral rights);
  - Electoral associations (political parties) and electoral blocs (coalitions of parties) are recognized as an institutional feature of the political system;
  - Citizens have a right to voluntary, equal, and direct political participation by secret ballot;
  - Citizens have the right to elect and be elected regardless of sex, race, nationality, origin, language, religion, beliefs, associations, place of residence, property, or official status;
  - A hierarchy of electoral commissions shall be established to implement the election laws—central, subject, district (constituency), territorial (local), and precinct (polling station) level; such commissions shall have defined responsibilities, be independent, be afforded cooperation from other governmental bodies and private groups, and shall conduct their operations in an open and public manner;
  - Candidates shall be guaranteed equal treatment by election laws and officials, the right to campaign and the right to equal access to media and public facilities.

In addition to these fundamental guarantees, the Basic Guarantees Law also sets forth relatively specific guarantees and procedures as a framework for subsequent election laws:

- Voter registries are the responsibility of local authorities to administer; individual legal rights and requirements; procedures for appealing exclusion;
- Formation of electoral districts (constituencies) are the responsibility of local authorities; guidelines and requirements for relative equality, including maximum allowable deviation of 10 percent of average rate of representation (15 percent in remote areas); respect for existing administrative divisions;
- Formation of electoral precincts: responsibility of local authorities; maximum of 3,000 voters; provision for military, rest homes, and other extraordinary polling sites;
- Formation of Central Election Commission: composition and member qualifications; primary responsibilities, including organizing systems for voter registration, tabulating election returns, and election administration funding;
- Voting procedures and operation of electoral commissions;
- Procedures for filing complaints of electoral commission actions or appeals of their decisions;
- General procedures for nomination and registration of candidates by electoral associations and blocs, including a requirement for secret ballot for nomination votes by party meetings, and a procedure for direct nomination of candidates by voters;

- Provision for candidate funding, including public funds and voluntary donations;
- Detailed description of voting, counting, and tabulation procedures, including a prohibition on voting for other persons, guarantee of secret ballot by use of voting booths, and prohibition upon any attempt to interfere or influence voting, and provision for the portable ballot box;
- Rights of candidate/party and international observers to monitor entire voting, counting, and tabulation process;
- Preservation of voting materials (no less than one year); immediate right to examine by candidates and public; publication of complete election results within three months.

### **Federal Legislation on Elections to the State Duma**

During the legislative drafting and approval processes associated with the law "On Election of Deputies to the State Duma of the Federal Assembly of the Russian Federation," a number of issues emerged as the focal points of the debate on elections and the primary source of contention between political interests both within the lower house and parliament, between the houses, and with the presidential administration. These included signature requirements, turnout thresholds, proportional versus majoritarian systems of representation, and prohibitions placed on civil servants and election officials. The most contentious of these was retention of party lists as a means of electing half of the lower house of Parliament.

The saga of passage of legislation on elections to the State Duma, marked by three defeats in the upper house of Parliament and a presidential veto, brought Russia to the verge of yet another political crisis, which might have ended in the dissolution of the State Duma, the conduct of another election via presidential edict, or the postponement of elections in the absence of legislation to govern them. The manner in which eventual approval of draft legislation was handled should be seen as a significant victory for the parliamentary process in Russia, an indicator that fundamental disputes between the president and the Parliament can be dealt with peacefully and within the scope of the law.

Below is a summary of key points of the law and a comparison to the 1993 Presidential Edict No. 1557, which governed previous parliamentary elections:<sup>1</sup>

*Citizen electoral rights (Art. 3):* As in 1993, every citizen of the Russian Federation who has reached the age of eighteen has the right to vote in elections for the State Duma, and every citizen who has reached the age of twenty-one may be elected a deputy. The new law specifically entitles electoral rights to Russian citizens outside the boundaries of the Federation on election day.

*Timing of elections (Art. 4):* A significant difference between the 1995 law and the regulations governing elections to the State Duma in 1993 is that the new law sets specific requirements on a permanent basis for the timing of and procedure for calling elections for the State Duma. The new law sets election day as the first Sunday after the expiration of the constitutional term of the Duma (four years), and the president of the Russian Federation shall announce the election no less than four months prior to that expiration. In the event the Duma is dissolved prior to the expiration of its term, the president shall simultaneously announce the election day as the last Sunday before expiration of three months following the dissolution (and all electoral timetables in the election law reduced by one quarter). In addition, a clause has been added that anticipates the failure of

the president to call elections to the State Duma in the event that the lower house is dissolved by order of the president. In such a situation, the day of election of deputies to the State Duma will be announced by the Central Election Commission of the Russian Federation.

*Composition of the State Duma (Art. 5):* Despite considerable political controversy, the 450 members of the new Duma will continue to be elected in a half and half split of methods: 250 deputies elected in single-mandate districts, and 250 deputies elected in federal (nation-wide) elections by means of candidate lists submitted by electoral associations or blocs, and mandates determined through a majoritarian system.

*Conduct of elections by electoral commissions (Art. 7):* Electoral commissions have responsibility for, and control over preparation and conduct of, elections of deputies to the State Duma. In addition to insuring their independence from other governmental bodies, the new law specifically provides that the decisions of electoral commissions shall be binding upon state and local government bodies and upon state enterprises, institutions, and organizations. Pursuant to Articles 10 and 28, all official activities in preparing for and conducting the elections must be performed "openly and publicly," and decisions of electoral commissions and other governmental bodies related to preparation and conduct of elections must be published.

*Pre-election campaigning (Art. 8):* The new law guarantees the right of citizens to freely conduct political campaigning and to encourage support for or against candidates. The new law also guarantees equal access to state mass media for candidates and electoral associations and blocs.

*Election financing (Art. 9):* Funding for administration of the elections by electoral commissions and other governmental bodies will come from federal budget funds; procedures for such funding is described in Article 51 in much greater detail than the 1993 law. Financing of pre-election campaigning by candidates and electoral associations and blocs must be conducted through special election funds; procedures and requirements are described in Article 52, also in much greater detail than the 1993 law.

*Establishing single-mandate electoral districts (Art. 11):* The new law provides that the 225 single-mandate electoral districts shall be comprised of equal numbers of voters within each subject of the Federation, with a permissible deviation of no more than 10 percent (15 percent in remote areas); the 1993 law specified one permissible deviation standard of 15 percent. Electoral districts must be comprised of contiguous, adjacent territory. Subjects of the Russian Federation that have less population than the standard quota of representation (now estimated by the TsIK to be 466,000 voters) shall nonetheless constitute one electoral district.

The law also provides that the lists and map for single-mandate electoral districts shall be developed by the Central Election Commission on the basis of population data. The electoral map must be approved by a special law passed by the Federal Assembly and signed by the president no later than 110 days prior to election day and then published by the TsIK no later than 108 days before the election (the 1993 law required districts to be determined no later than sixty days before the election). Absent enactment of the special law, or in the event of

dissolution of the Duma, electoral district lines would remain the same as those used in the immediately previous election.

*Establishing polling stations (Art. 12):* Polling stations (precincts) must now be established no later than sixty days prior to the election, rather than forty-five days under the 1993 law. The new law continues to cap the maximum number of voters per polling station at 3,000. Polling station lists indicating precinct borders and the address and telephone of the electoral commission must be published no later than forty days prior to election day.

*Voter lists (Arts. 13-15):* The new law contains much more specific procedures for compiling or adding names of voters in special categories, such as military personnel, students, those hospitalized, persons outside of the country, or those who have recently moved to a locality. Lists of voters must be submitted for public inspection in each precinct no later than thirty days prior to the election, and voters are entitled to file complaints if they are omitted or regarding other inaccuracies. The law requires appeals to higher commissions to be decided within three days or immediately if made within three days or on election day.

*Nomination and registration of candidates (Arts. 36-38):* The 1995 Duma law essentially incorporates a partial "political party law," by imposing far more specific requirements upon the process by which electoral associations or blocs select their list of nominated candidates for both single-mandate districts and the federal (nation-wide) list, including that the nomination of candidates be made by secret ballot. The law also specifies that a federal list that is partly split into regional lists of candidates may not include more than twelve non-regional candidates, and the federal list may not exceed 270 persons in total. The federal list may include candidates the association or bloc has also nominated for a single-mandate district election. Lists of both the candidates for single-mandate districts and for the federal district must be submitted for certification by the TsIK. Certification of nominated candidates entitles associations and blocs to gather voter signatures for such candidates and subsequently secure TsIK registration for ballot access.

*Gathering of voter signatures and registration of candidates (Arts. 39-42):* The new law provides more detailed requirements and procedures, including forms, for signature gathering in support of candidates. Electoral associations and blocs may begin gathering signatures for their federal list and for single-mandate district elections as soon as they receive notice their lists of candidates have been certified by the TsIK; signature gathering to support direct nomination by constituents may begin as soon as the TsIK publishes the list of single-mandate electoral districts.

The 1995 law raises the signature requirement threshold for registration by associations and blocs for the federal list from 100,000 under the 1993 law to 200,000. No more than 7 percent (14,000) may be gathered from the same subject of the Federation, as compared to the 15 percent limit under the 1993 law, so that signatures must now be gathered from at least fifteen Federation subjects. Both changes appear designed to require a demonstration of more widespread support for associations and blocs seeking to field candidates for the federal list. In the event of dissolution of the Duma (early elections), the law provides that signature thresholds for the federal list are reduced by half.

*Conducting the campaign (Arts. 45-46):* The new law expands upon the prohibition in the 1993 law upon state bodies and local self-government bodies from participating in the elections, so as to also prohibit participation by military entities, charitable organizations and religious associations, and members of election commissions with the right of deciding votes (excludes party and candidate representatives from the prohibition). The pre-election campaign starts on the day candidates are registered and ends at noon local time prior to the day preceding the day of the election. Pre-election campaigning is prohibited on election day and the day preceding. Note, however, the Basic Guarantees law prohibits disseminating public opinion poll results within five days of the election

*Campaigning through the mass media, meetings and printed materials (Arts. 47-50):* The new law consistently affirms the principle of candidates' equal access to and treatment by state television, radio, newspapers, and other periodicals and in use of public facilities for meetings. The law generally gives wide discretion to electoral blocs and candidates as to particular forms of campaigning or styles of political advertising, and protects their activity from interference or favoritism.

*Campaign financing (Arts. 52-55):* A significant element of the 1995 law is its effort to more clearly define, regulate, and disclose financial activity of electoral blocs and candidates. The new law requires electoral associations and blocs and candidates to establish special, temporary election accounts; prohibits spending for electoral purposes on behalf of such entities outside the account; proscribes contributions from certain entities (generally foreign based or dominated organizations); defines limitations upon contributions to the fund from candidates, electoral associations, and blocs, individuals, and legal entities (and posits that funds will also be provided from electoral commissions for pre-election campaign activity); and sets an overall limitation upon spending by candidates, associations, and blocs.

*Voting process (Arts. 56-58):* The law provides for the establishment of voting premises for each polling station (precinct) electoral commission, and mandates provision for booths or other adequate facilities for casting ballots in secret. A new provision requires polling stations to set up information stands with materials regarding the balloting process and about associations, blocs, and candidates; samples of completed ballots may not utilize names of candidates or blocs actually competing in that district.

Unlike the vote of December 1993 on the referendum for adoption of the Constitution (or the April 1993 vote on the "Yeltsin referenda"), the 1995 Russian elections will not utilize a ballot in which voters "cross out" that which they disfavor. Nor, absent direct elections to the upper house of parliament, will voters have a single ballot upon which they mark more than one choice.

Protocols of official results are to be filled out in triplicate in the presence of all commission members and observers, and signed by all commission members. One copy is immediately forwarded to the appropriate territorial commission. The second copy is kept along with all other documentation and balloting materials by the polling station commission during completion of its work (voting materials are turned over to the territorial commission no more than ten days after announcement of official results of the single-mandate voting). The third protocol copy, another novelty of the legislation, is to be made available to the candidate representatives, media, and other observers

present at the polling site, and according to a TsIK regulation passed on 7 December 1995, is to be posted at each precinct.

*Publication of election results (Art. 65):* The 1995 law is especially significant, and a dramatic improvement over the 1993 law, in requiring publication of complete election results, and in providing for transparency and accountability in tracing results through the tabulation process. At each level of tabulation, from the territorial electoral commission tabulating results from the polling stations and on up to the TsIK, each commission must prepare a summary table providing aggregate voting results reported in protocols of the commissions immediately below upon which it relied.

The law requires the results from all polling stations and the protocols data of electoral commissions to be available for scrutiny by voters, observers, and the media. No later than one month after election day, district election commissions must publish the data found in protocols of all the territorial and polling station electoral commissions in their respective electoral district. Also within a month, the TsIK must publish in the mass media all results from district electoral commissions. And, no later than three months after the election, the TsIK must publish in an official gazette information about the voting results, including protocol data for all commissions above the polling station level.

*Computerized tabulation (Art. 66):* The newly enacted election law contemplates use of an "Automated Information System" as an initial means of quickly transmitting election results data from lower electoral commissions to higher electoral commissions (Art. 66). The provision states that data compiled through the automated system would be "preliminary information of no legal importance." Nevertheless, sufficient concern was raised by the political participants and press during the early phase of the election period about the system's potential for manipulation or abuse that the TsIK issued a statement saying the automated system would not be used as a basis for any official results in the 1995 parliamentary or 1996 presidential elections.

*Responsibility for violations of electoral rights (Art. 69):* The 1995 law imposes civil and criminal responsibility upon any persons who interfere with the electoral rights of voters or the work of electoral commissions through bribery, deceit, violence, or threat of same, falsification of documents, deliberate miscalculation of votes, or other means, who spread false information about candidates or interfere with pre-election campaigning, or interfere with other legal conduct by candidates or their representatives, or domestic or partisan observers.

### **Federal Legislation on Election of the President**

As for the federal law "On Election of the President of the Russian Federation," which was signed into law on 17 May 1995, comparison with its predecessor is a bit like comparing apples and oranges, as the last presidential elections in Russia were conducted under the Soviet system, when the Russian presidency was not a federal office, per say, but a regional one. As such, the legal and practical conditions for multi-partyism, private financing of campaigns, political diversification of commissions, and separation of political and civil activities did not exist. Moreover, the degree of specificity in the new legislation far exceeds that of its 1991 predecessor. For example, new legislation contains a total of sixty-two articles, while its predecessor had a mere seventeen. The new



legislation also relies heavily upon sections of the voting rights legislation and parliamentary election (already outlined above). Unique and novel features of this law include:<sup>2</sup>

*Calling of election (Art. 4):* Elections are called by the Federation Council at least four months prior to the expiration of the term of the sitting president. The day of elections will be the first Sunday after expiration of the constitutional term of the president. In the event that that the president is removed from office, the Federation Council shall call elections for the the last Sunday after three weeks from the date of removal. In addition, should the president be unable to fulfill his term, the Federation Council must call elections for the last Sunday of the third month following termination of his duties. Again, the failure to call new elections is anticipated in both cases, and in each, the Central Election Commission is tasked with announcing the date of elections.

*Election commission hierarchy (Arts. 8-10):* Unlike the parliamentary election commission structure, there are four levels of commissions responsible for the administration of presidential elections: TsIK, Subject Election Commission, Territorial Election Commission, and Precinct Election Commission. Under previous legislation on election of the president, there were only three levels of election commissions: precinct, territorial, and central, and the rights and responsibilities of commissions were not specifically enumerated.

*Eligibility for nomination (Art. 3):* Citizens thirty-five years of age and older who have resided in the territory of the Russian Federation for at least ten years are eligible for nomination. The previous legislation included a cap on the age of candidates seeking the presidency. Those over the age of sixty-five were ineligible for office. Despite efforts in the parliament to retain an age ceiling, new legislation does not include any such restriction. The new law does, in accordance with the Constitution, stipulate that candidates for the presidency must have lived within the territory of the Russian Federation for at least ten years.

*Signature requirements (Arts. 34-35):* A minimum of one million valid signatures, with not more than 7 percent coming from any one Subject of the Russian Federation, are required to gain access to the ballot. Under the previous law, when the Russian presidency was a republican level institution, 100,000 signatures were required for ballot access. New legislation affords nomination rights to electoral associations, electoral blocs, or initiative groups of voters that can collect signatures on behalf of their candidate.

*Campaign financing (Art. 45):* Sources of campaign funds are specifically listed in new legislation, and include funds allocated to candidates by the Central Election Commission (state subsidy), the candidates's own personal funds, funds allocated to the candidate by the electoral association, electoral bloc, or initiative group that nominated him/her, and donations by individuals or private entities. Ceilings are established for each category of financial support. Under the 1991 law, expenses for election of the president were to be compensated only from the republican budget, with voluntary donations of enterprises, organizations, government, and public bodies and individuals being distributed equally between all candidates by the Central Election Commission. "Private donations and any other support" were forbidden under the law.

*Ballot format (Arts. 50-54):* Candidates are listed on the ballot in alphabetical order with their electoral association/bloc affiliation listed if applicable, i.e., if the candidate was nominated by an electoral association or bloc. If a candidate is nominated directly by the voters, his political affiliation may be indicated if desired by the candidate. Such provisions for political identity of candidates are not envisioned in previous legislation. Voters mark the ballot *for* the candidate of their choice or the “against all candidates” option.

*Declaration of the winner (Art. 55):* The candidate who receives more than one half of votes (50 percent turnout threshold) is elected. If no majority was won, a run-off election is held between the top two candidates. Run-off elections must occur no later than fifteen days after the estimation of results from the first round, which by law must be calculated within fifteen days of the election. In the event that elections are declared invalid, for example, if the threshold requirement was not met or the “against all candidates” option won a majority of the votes, new elections must be called within four months of the original election.

*Political transition (Art. 60):* In accordance with the Constitution of the Russian Federation, the winner of the presidential election shall assume office on the thirtieth day after the date of announcement of official results by the Central Election Commission of the Russian Federation. The incumbent president will remain in office until the inauguration of the newly elected president. Hand-over of political power is not addressed in the 1991 law.

### **The Hierarchy and Composition of Election Commissions**

With the adoption of the Basic Guarantees Law, the legislative basis for a new election commission structure was created, which restored a five-tier commission hierarchy and radically altered the nomination process for the federal election authority. Under the previous constitutional system, the Central Election Commission (TsIK) was an extension of the Russian Parliament and consisted of twenty-nine members appointed by the Congress of People’s Deputies. With the premature dissolution of the Supreme Soviet in the fall of 1993, the authority of the sitting TsIK was suspended. In the midst of the political crisis, President Boris Yeltsin, via edict, established a new commission comprised of twenty-one presidential appointees. This body was tasked with the administration of the December 1993 Parliamentary Election and Constitutional Referendum.

Due to its sole source nomination and technical dependence on the presidential *apparat*, such as reliance on the executive authority computer network, the role of administrative working groups in aggregating election returns, and continued involvement of the president and his staff in the decisionmaking on election procedures, serious questions were raised as to the independence of the new commission.

Permanent status was conferred on the TsIK as an institution on 20 December 1993 by another presidential edict. According to the decree, the TsIK was to head the system of election commissions established to hold elections to the federal organs of state authority, referenda, and elections to representative organs of state authority, okrugs, oblasts, autonomous oblasts, autonomous okrugs, and federal cities. The TsIK was also tasked with submitting draft federal legislation on elections. The membership of the commission was retained intact.

With the adoption of the Basic Guarantees Law on 12 December 1994, the status of the TsIK as a permanent institution was reinforced. This most significant provision of the law with regard to the formation of the TsIK was the

introduction of a more equitable nomination formula, relative to the 1993 decree, which aimed to improve the political diversity of the commission and enhance its independence from any one governmental body. According to the formula selected, five members each are nominated by the Duma, the Federation Council, and the presidential administration to a streamlined commission. Leadership of the commission is determined internally by the TsIK members according to secret ballot. In accordance with the law, the commission was fully seated by March 1995. Only two members of the previous commission were appointed to its successor, Nikolai Ryabov, by nomination of the president, and Alexander Ivanchenko, by nomination of the State Duma. Both were re-elected to their previous leadership posts via secret ballot, the former to the chairmanship and the latter to the vice-chairmanship. Of the five members nominated by the Duma, their sponsors included the New Regional Policy Group, Russia's Choice, Liberal Democratic Party of Russia, the Communist Party, and the Agrarian Party.

The ramifications of the new nomination procedure were immediately apparent with the commission taking a more independent stand in public on Yeltsin's proposals on issues of electoral reform, in some cases outwardly criticizing them. Commission sessions, which according to law could now be attended by candidates and candidate authorized representatives, representatives of electoral associations, and the mass media, exhibited more intense debate with clear differences of opinion surfacing between commission members and the leadership as well as within the leadership itself.

Another interesting adjustment to the commission involves the terms of deliberative voting (consultative) members of the commission who represent electoral associations, blocs, and candidates. In addition to the fifteen voting members, each electoral association/bloc on the party list and presidential candidate has the right to appoint one deliberative voting member to the commission. Procedures also provide for deliberative voting members at subordinate election commissions. This facet of the system was introduced in 1993, although deliberative voting members lost their seats when the elections were over. Under new legislation, those members representing electoral associations/blocs surpassing the 5 percent threshold and winning mandates in the State Duma and representatives of the winning presidential candidate now have the right to retain their deliberative voting status, and thereby their seat on the commission until the next election. According to TsIK representatives, however, electoral associations/blocs were either unable to fill these positions at subordinate levels, i.e., those below the Central Election Commission, or simply failed to engage the system.

At the Subject level, commissions have been established as permanent bodies responsible for the preparation and oversight of elections at the district, territorial, and precinct levels and have been given greater responsibility for election official and poll worker training. These commissions (SECs) are accountable to the Russian electorate both during and between electoral events. The significance of offering permanent status to commissions at the Subject level is that a mechanism for greater de-centralization of the election process has been established. The opportunity now exists for SECs to play a greater role in long term electoral reforms, be they legal or procedural, serve as a regionally based repository for election results and other election documents, and administer more comprehensive and systemic, rather than event-oriented, training and public information programs.

The five tier hierarchy of election commissions responsible for administering parliamentary elections has been also been reinstated. This system envisions a Central Election Commission, 89 Subject Election Commissions, 225 District Election Commissions, nearly 3,000 Territorial Election Commissions, and in the vicinity of 95,000 Precinct Election Commissions. This change ensures that all bodies responsible for the determination and transmittal of results exist within the election commission structure, are accountable under the law, and are distinct from the executive branch of government. Under the presidential decree that governed elections in 1993, territory level commissions (the first level of aggregation above polling sites) were abolished. At that time, special administrative working groups, comprised of local executive authorities and their staffs, were brought in to aggregate results from 95,000 polling sites and transmit the returns to the 225 district commissions. The introduction of the working groups relatively late in the election campaign and the inability of some domestic monitors to gain access to the premises of the working groups and to aggregate election returns led to concerns of tampering that persist today. The performance of the TECs in the 1995 parliamentary elections was mixed, with some international and domestic observers reporting continued access problems despite greater cooperation by precinct commissions (PECs) and the TsIK, while others witnessed the positive role of the TECs in ensuring compliance with the law by PECs on issues ranging from the rights of observers to proper completion of protocols.

Perhaps the greatest challenge to the democratization at lower level commissions comes in the transition from law to practice. While significant steps have been taken to diversify and professionalize election administrative structures and to augment their independence from governmental institutions and agencies, many of these changes have been limited to superior level election commissions. The record at lower levels is mixed. In some areas competition for seats on commissions was keen, further diversifying commission representation and, in theory, allowing for greater self-policing and independence.

In Krasnodar Krai, for example, there were reportedly forty-six individuals vying for seven seats on the SEC. In other cases, however, greater opportunity for representation on commission structures coupled with inadequate understanding of laws and regulations, much less ethics, which govern such offices have led to significant conflicts of interest that could jeopardize the integrity of the system. During a regional election official training conference in Omsk, for example, several commissioners reported that Duma candidates sat on District Election Commissions (DECs) in the constituencies in which they were running for seats on the single mandate ballot. While the TsIK took swift action to have these officials removed from their positions once alerted of the situation, the gap between perceptions at the center and very real problems in localities is clear. In some cases there were also reports that seats on commissions were being "bought" by certain political entities, although such complaints were never formally lodged and, thereby, considered, in the adjudication and redress of grievances process.

Beyond the composition of election commissions and establishment of the hierarchy of commissions, new legislation contains more specific description of the rights and privileges of commission members, including their right to be informed in advance of meetings, to voice their opinions on issues and demand a vote, to ask questions, and to review and receive commission documents. It also contains new provisions detailing the grounds for relieving members of their appointment. A series of provisions in federal laws explicitly describe (in even

greater detail than the 1993 law) the powers and responsibilities of each level of electoral commission, including their particular role and duties in coordinating the work of subordinate commissions, registration of candidates, disbursement of funds, production or delivery of voting materials, supervision of pre-election campaigning and the voting process, adjudication of complaints and, importantly, tabulation of votes and publication of voting results. The provision of the 1993 law specifying that regulations promulgated by the TsIK "shall be approved by the president of the Russian Federation" has been dropped.

New legislation also provides greater detail on the procedures and requirements for voting and effecting decisions by electoral commissions, including a requirement for a majority vote of all members (regardless of number present) on particular important issues, and a special two-thirds quorum requirement for the TsIK. Dissenting members at all levels are now expressly permitted to state their opinion in writing, and such opinions must be promptly conveyed to a higher commission. Concerned parties may be present at commission deliberations in adjudicating complaints. As before, decisions and actions (and now specifically "inaction") of electoral commissions may be appealed to a higher commission or to the courts (appeal to a higher commission is not a prerequisite to seeking judicial relief), and such appeals must be decided promptly.

### **Security, Accountability, and Transparency of the System**

In addition to mechanisms for diversification of commission membership, which encourages self-policing from within and allows for the presence of deliberative voting members, a number of legal provisions in the federal electoral code also speak to the issues of openness and integrity of the election commissions, foremost among them:

- All activities of election commissions are to be open and public. Decisions of commissions must be published in the press and made available to other mass media;
- Candidates and their official agents, representatives of electoral associations and blocs, and the mass media are entitled to attend meetings of election commissions;
- Representatives of electoral associations and blocs concerned with complaints brought to the commission's attention are entitled to attend sessions of the commission during which the grievance is addressed;
- Provisions for election day monitors from the following categories: electoral associations and blocs, candidates organizations, the mass media, and international organizations, as well as issuance of instructions on the rights and responsibilities of all types of observers by the TsIK;
- A third copy of the official protocol of results has been introduced for review by representatives of electoral associations and blocs, candidate organizations, the mass media, and international observers. For the parliamentary elections, a regulation was signed by TsIK Chairman Nikolai Ryabov on 7 December 1995 instructing election officials to post the third copy of the official protocol of results at each precinct or risk penalty.

Perhaps the most contentious issue pertaining to the transparency of the system and means of public oversight is the omission of language in federal election law on non-partisan observers. While some political factions in the parliament, and some civic organizations, have called for the right of non

governmental organizations (NGOs) to monitor elections, the TsIK, backed by some independent legal interpretations, has contended that because such groups are not specifically enumerated in the law as enjoying the right to observe, they are prohibited. Votes in the State Duma to introduce legislation on NGO monitoring prior to the 17 December 1995 elections, backed by Yabloko and other pro-democracy factions, failed. With the support of the Communist faction in the current State Duma, a new initiative for citizen monitors has passed third reading in the State Duma, and is being forwarded for consideration by the Federation Council. According to the draft legislation, any citizen who acquires the signatures of ten other citizens has the right to observe elections. It also establishes a mechanism for recounts and calls for public posting of returns at election commissions. The positive intent of the proposed legislation, with regard to broadening of rights and enhancing the accountability and integrity of the system, is clear.

At the same time, several issues pertaining to implementation of the legislation have not yet been thoroughly considered. For example, the draft legislation envisions the possibility to access the State Automated System via modem to obtain election results, although no security procedures are elaborated upon. Also, the ability of citizen observers to be organized, in practice, under a broader NGO to ensure that information collected on election day is aggregated, summarized, and forwarded up the system in an organized fashion, so that problems can be investigated and trends considered within the context of electoral reforms, is not clear. If the draft legislation passes, the mobilization capabilities of NGOs and the capacity of election officials, both in terms of resources and administrative burdens, to comply with the draft legislation will be tested for the first time in the presidential elections.

With regard to partisan observers, the greatest challenge, as observed in the 17 December 1995 elections as well as the 1993 electoral activities, is the ability of electoral associations (political parties) to mount a comprehensive grass-roots monitoring effort. By and large, the Communist Party has been the only partisan structure capable of consistently mobilizing observers. Moreover, their observers appear to be increasingly well prepared. Communist Party representatives encountered by the author and the majority of international observer delegations came equipped with summaries of their rights and responsibilities as observers, copies of the protocol forms to be filled in upon completion of the vote count, and contact numbers for higher level commissions and party structures. They were also prepared to follow results up the commission hierarchy. While pro-democracy forces have organized monitoring efforts and offered training courses, their success can be measured only on a case by case basis. In fact, many pro-democracy activists concede that they do not have the manpower to sufficiently cover the polls on election day.

Significant room for improvement remains with respect to ballot security measures. Standards for ballot design are set by the TsIK and ballots are printed and distributed at the regional level. The stock used to print ballots is of poor quality, akin to newsprint, and does not have a watermark. Nor are the ballots perforated to allow for the use of numbered tabs, which would provide for an independent audit trail. Ballots are validated in advance of election day to streamline the voting process, rather than validating each ballot when a voter has signed by his name on the registry indicating that he has received his ballot. The validation process involves the use of the official stamp of the polling site or affixing signatures of the leadership to the back of the ballot. The absence of sufficient ballot security mechanisms with regard to the physical ballot is further

exacerbated by the lack of any computer flagging systems that could detect data entry errors or highlight potential manipulation. For example, under the State Automated System, whereby the contents of the official protocols of results are entered into computer, beginning at the TEC level, and relayed to higher level commissions, no information is entered in advance, such as the number of registered voters in each precinct, which could serve as a "flagging" mechanism. A long term TsIK priority must be to reduce the ballots' ability to be counterfeited, introduce an independent auditing system, and enhance the utility of existing technologies by using simple computerized spread-sheet programs that provide a flagging system for discrepancies.

### **Election Procedures and Practices**

In a country with an excess of half a million election officials and poll workers, issues of compliance by lower level election commissions and the implementation and effectiveness of retraining programs is daunting. Nevertheless, the uniform application of law at the precinct level is critical to the integrity, impartiality, and efficiency of the overall system. In fact, international observers have consistently raised concerns about practices at the precinct and territorial levels that are contrary to new laws governing elections. While problems persist at lower levels, the Central Election Commission has taken steps to improve its training materials and services in compliance with the presidential edict of 28 February 1995 that requires the development and implementation of comprehensive training programs.<sup>3</sup> The basic goal of the program is to increase the level of professionalism of election administrators on the basis of up-to-date education and training methods and technologies.

A number of reference materials for administrators and training materials for those instructing lower level commissions were developed for the parliamentary elections and included commentaries on the law, guidelines on how to deal with problems likely to arise in the polling sites, and even achievement tests designed to measure administrators' familiarity with the law.

In all, over thirty items ranging from regulations and training materials to contact lists and sample lesson plans were provided to seminar participants. These materials were supplemented by a series of regional seminars conducted by the TsIK to train chairmen of SECs and DEC. TsIK Chairman Nikolai Ryabov attended each of the three seminars, which were held in Moscow, Omsk, and Ufa. Topics addressed at the seminars included the organization of the work of commissions and formation of precincts, nomination of candidates and pre-election agitation, polling place procedures, publication of election results, responsibility for election violations, financing of election campaigns, the State Automated System, the federal program of voter education, interaction with the mass media, and training methodologies. A set program was used each time. This inaugural program represented a radical departure from the highly bureaucratic and legalistic approach, which was hardly tailored to laymen, used during the Soviet period.

A number of modifications should be made to future training programs aimed at specific electoral events, in particular dealing with timing. It was clear that by the time these seminars were being conducted, election officials had already been confronted with a host of issues to which they were forced to respond absent direction and instruction from the TsIK. Moreover, many of the regulations supplementing election legislation were still not passed at the time the training was conducted. Despite gains made in the applicability and appeal of training materials, further efforts should be made to develop "user friendly"

materials formatted for easier reference. Similarly, seminar format should be adjusted to reduce the number of lectures and allow for interactive sessions, including demonstrative exercises and question and answer sessions. More time should also be given to presentations by regional election officials. Solicitation of questions or informal surveys of participants in advance might also have helped in identifying major areas of concern and potential problems at lower levels. Finally, adding more seminars to the tour would have allowed for smaller group sessions and a more participatory atmosphere.

The TsIK and SECs will also have to devote attention to long-term training programs that provide professional training and develop skills in a host of areas not tied to a specific election, including bookkeeping, competitive bid processes, budget development, communication and management skills, etc. In addition, permanent SEC status facilitates creation of a professional association of election administrators, which could serve as a catalyst for on-going training efforts.<sup>4</sup>

### **The Electorate**

The findings of a baseline survey of 4,000 voters across the Russian Federation conducted by the International Foundation for Electoral Systems (IFES) and the Institute for Comparative Social Research (CESSI) in the summer of 1995, underscore the critical need for greater voter education efforts in Russia:

- Only 15 percent of voters were very or somewhat familiar with their voting rights;
- Less than half of all respondents (49 percent) felt they received enough information from election officials so that they understood the election process, while 33 percent did not feel that they received enough information;
- An overwhelming majority (73 percent) agreed with the statement: "I do not have enough information about my rights with regard to the authorities;
- Three out of four voters said that they had inadequate information about the democratic process;
- Better than one in five voters said they didn't have sufficient information on how to check the voter registry or the means of alternative voting;
- The survey found several widely held misunderstandings regarding voting rights. More than one-third (34 percent) of voters believed that a family member could vote on their behalf. Also, a majority of voters (51 percent) incorrectly believed that prisoners could vote and nearly four in ten believed that Russian citizens not currently residing in Russia could not vote.
- As for legislation on parliamentary and presidential elections, a majority of Russian voters claimed that they had not seen, read, or heard anything about the new legislation and most had no opinion about the effectiveness of the laws.
- A majority also said that they had heard or read nothing at all about the Central Election Commission.<sup>5</sup>

This lack of information tends to promote skepticism about the integrity of the process revealed by the survey. That is to say that those who possessed less information on the election process were more likely to say that elections were or will be fraudulent.<sup>6</sup>

Recent polling conducted by the prestigious All-Russia Center for the Study of Social Opinion (VTsOM) indicates that despite the experience of the Duma elections, voters are still ill-informed about their new electoral system. For example, only 45 percent were aware that if turn-out for the presidential elections



is below 50 percent, the elections will be declared invalid and new elections will be called, only one-third were aware that if none of the candidates receives over 50 percent of the votes a second round of voting is called, and not even a fourth were aware that if the "Against All Candidates" option collects more votes than the leading candidate, the elections are declared invalid and new elections called. Nearly half conceded that they knew nothing of the above.<sup>7</sup>

Although significant numbers of Russian are not familiar with the voting rights and specific, albeit fundamental, aspects of federal election legislation, the IFES/CESSI survey found that they do have attitudes about several major issues of electoral reform, among them computerization of elections, elections to the upper house of parliament, and campaign financing. Despite concerns in Moscow's political and intellectual circles about the vulnerability of computerized election systems to manipulation, fully 73 percent of voters favored computerizing aspects of the electoral system, such as voter registration, balloting, and tabulation of results. Only 11 percent opposed computerization. Voters were highly supportive of computerization regardless of their view of the political environment or reform process. For example, those who said that official corruption is very common and those who said it is very rare were equally in favor of computerization.

The survey also found voters to be at odds with the president and Parliament on elections to the Federation Council. A 61 percent majority said that the Federation Council should be directly elected. Just 11 percent said that it should be indirectly elected, and only 5 percent said that it should be appointed by the president. Support for direct elections was strong across all subgroups. Nevertheless, legislation passed by the Parliament and signed into law by President Yeltsin created a system of indirect elections whereby the upper house is comprised of the executive authority and the speaker of the legislature from each of the eighty-nine Subjects. To date, forty-four of the eighty-nine executive authorities were appointed by Yeltsin to their regional posts. They must stand for election to their regional posts by the end of 1996.

With regard to a third area of electoral reform, campaign financing, a majority of voters said that candidates for the Parliament and the presidency of the Russian Federation should not be allowed to accept private campaign contributions to help pay for their campaigns. Further, if such contributions were to be allowed, voters called for a ceiling on the amount candidates could accept. Some 28 percent of voters supported private contributions for State Duma candidates, while only 25 percent favored them for presidential candidates. Younger voters tended to be more in favor of private campaign contributions with older voters more opposed. Still, a majority of all age groups are opposed.

To foster greater understanding of post-Soviet political and electoral systems as well as to encourage public participation and confidence in those systems, President Yeltsin issued an edict (No. 558) on 1 November 1994 on the establishment of a "Federal Program for Improvement of the Legal Culture of Voters, Citizens of the Russian Federation, Administrators of the Electoral Process, and Representatives of Public Associations of the Russian Federation." In compliance with that edict, the TsIK developed a long-term strategy for voter education, which was approved by the president on 28 February 1995 (No. 228). Among the objectives outlined in this strategy document are:

- To communicate the knowledge about electoral legislation to the participants of the election campaign;

- To help voters better understand the practical application of effective electoral laws;
- To assist voters in participation in the election campaign, to make them aware of the relationship between their participation therein and the economic and political development of the country; and,
- To increase the level of participation of voters in the electoral process and their interest in the election returns.

Toward the fulfillment of these objectives the TsIK has launched, an impressive effort aimed at reaching first time and young voters, who as a group have demonstrated the highest levels of apathy. To assist in the creative development and implementation of these programs, the TsIK has created an internal working group on voter education initiatives, which includes not only representatives of the TsIK, Parliament, and presidential administration but also non-partisan NGOs, media representatives, academicians, and administrators.

Election-specific projects have included increasingly "hip" television programs and public service announcements utilizing Russian pop icons and youthful emcees as well as addressing issues of interest to this segment of the electorate. For the presidential elections, the TsIK is sponsoring a number of regional youth festivals, which draw attention to upcoming elections. In St. Petersburg, for example, the voter's club that is organizing the initiative has made arrangements with area radio stations to distribute tickets through radio call-in contests where listeners will be asked for the correct response to a question about the elections. Mail-in lotteries based on the same concept will also be used. Longer-term efforts have focused on school-based programs, including mock election exercises and the development of voter and civic oriented reading materials and teacher's guides. Two comic-style books have been published by the TsIK and include worksheets, learning exercises, and instructive games.

At the same time, public information aimed at the general electorate throughout the entire course of the election campaign, and the addressing of fundamental issues ranging from the collection of voter's signatures in support of candidates and the prospect and timing of second-round voting or repeat elections, to the scope and purpose of the State Automated System and the impact voting in regional legislative and executive races will have on the composition of the upper house of Parliament, remains lacking. Further work will need to be done in the future to communicate the basics to the electorate at large if the objectives of the federal program are to be fulfilled.

### **Looking Beyond June**

As of this writing, it appears entirely likely that Western interest in Russia's electoral, if not political, process will drop off considerably once the results of the presidential contest are announced and even more likely that if those results are discomfiting to the West, that the reaction will be a coupling of disorientation and hostility. Disinterest and aversion would be unfortunate responses at a time when legal, institutional, and procedural reforms may be enhanced and consolidated, or may not.

It will be a pivotal time characterized by significant activity in the electoral sphere, much of it behind the scenes or localized. A working group has already been established to analyze the experience of the federal elections and propose amendments to the current electoral code. The TsIK has confirmed that significant work will need to be done pertaining to the development of administrative regulations that answer critical questions before they become subjects of

confusion and controversy, to clarify provisions of the law that are vague or unclear, and to provide the procedural detail necessary to fulfill the mandates and intentions of laws that election officials are responsible to uphold.

Throughout 1996, elections will be held for forty-four regional executive positions that are, to date, appointed positions. This is extremely important as voters will not only be asked to directly elect their executive authority, but will be indirectly selecting their representative to sit in the upper house of the Russian Parliament. Throughout 1997 and 1998, elections are also slated for regional legislatures. Under a constitutional system that affords considerable authority to regional elites, gubernatorial and legislative elections may, in the long term, prove considerably more important than the Duma elections of 1995.

To reinforce its commitment to democracy, the West must accept and respect the choice of the Russian people, while clearly communicating to the next Russian president that there has been no adjustment in Western expectations of continued democratic and economic reforms coupled with peaceful and constructive foreign relations between Russia and the West. Toward this end, substantive cooperation and support and encouragement of progressively oriented policy makers, opinion leaders, and political activists working within official institutions and the NGO community must continue. The development of democracy, not to mention the cultural context in which this particular experiment is taking place, requires a long-term and systems-oriented perspective. In this respect, part of the foundation has already been laid. Observers attuned only to short-term and purely political developments, however, will likely be disappointed.

## Notes

1. Taken from Robert Dahl, "1995 Federal Law on Election of Deputies of the State Duma of the Federal Assembly of the Russian Federation: Summary of Key Points and Comparison to 1993 Law" (Washington: International Foundation for Election Systems, October 1995).

2. For more information on federal election legislation, refer to Conny McCormack, "Comparison of Russian Election Laws," for IFES.

3. Presidential Edict No. 228, dated 28 February 1995, "Federal Program for Improvement of Legal Culture of Voters and Election Administrators in the Russian Federation."

4. For more observations of the TsIK's regional training program, see Conny McCormack, "Summary Report of TsIK Training for Regional Election Officials," for IFES.

5. Gary Ferguson, IFES Russia National Survey, October 1995, 121-27.

6. For more information on Russian voters' process knowledge and experience, see Gary Ferguson, IFES Russia National Survey (July 1995) and Regional Profiles (October 1995).

7. "Do Russians Know the Basics of Election Law?" *Moskovsky Komsomolets*, 28 March 1996, 2.