

# From Post-Communist Chaos to Mature Democracy

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**T**he five-year jubilee of *Demokratizatsiya* gives us a good opportunity to look both back and ahead. In less than half a decade, *Demokratizatsiya* has been transformed from a rather modest, student pilot project into an established political journal, a genuinely pluralistic forum for enthusiasts of the democratic reforms in Russia, the New Independent States (NIS), and Central and Eastern Europe, and for supporters of civil society, human rights, and market economy.

The period from 1992 to 1997 comprises a whole epoch. Only six years ago, Russia and the other republics were still part of the Soviet Union. Today, despite all of the inconsistencies, mistakes, and hardship of the transition period, they are separate countries, with distinct faces and lifestyles; they are saddled with the old problems as well as new threats and risks. One of the key elements in the democratic reform process was, and is still, the restructuring of former Communist intelligence, security, and law enforcement agencies, and reform of the laws and the justice system. *Demokratizatsiya*, its editors, authors, and readers, made an invaluable contribution to this process, and I am grateful for the privilege of being part of this endeavor.

## Old Agenda, New Problems

When we began our work in 1992, the security and law enforcement agenda seemed to be as follows:

- Disbanding the totalitarian leviathan of the KGB
- Eliminating the party apparatus and removing ideological guidelines from the intelligence, security, and law enforcement agencies
- Eliminating the domestic political arm of the secret police
- Removing law enforcement functions from state security services

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- Adopting democratic legislation and procedures for the secret services and law enforcement agencies
- Establishing legislative and civil control over the security apparatus
- The introduction of legal limitations banning the perpetrators of the totalitarian regime, those who previously collaborated with the Communist political police, from the government and public offices of the struggling new democracy
  - Codifying democratic legislation concerning state secrets and intelligence archives, and declassifying KGB political police documents
  - Providing more transparency in the working of the intelligence and security communities

In retrospect, one can say that reform in the law enforcement field succeeded more in restructuring the old Communist state security mechanism than in reinventing a new democratic law enforcement and justice system. As far as civil control of those agencies, lustration, or access to the KGB archives is concerned, more remains to be done than was accomplished in the last five years. Even in these areas, there have been some accomplishments that have laid ground for future progress.

The first watershed was the annual Moscow conferences, “KGB, Yesterday, Today, Tomorrow,” hosted by Sergei Grigoryants (famed dissident and head of the Glasnost Foundation) and Arseny Roginsky (of the human rights group Memorial), among others, with the support of *Demokratizatsiya* and other Russian and Western civil society organizations. The conferences have been held regularly since 1993 (the next one is scheduled for November 1997) and have attracted hundreds of former dissidents and political prisoners; civil right activists; Russian, Central European, and Western experts, jurists, and journalists. The conferences became a powerful medium for promoting the democratic transformation of law enforcement, and a lever of pressure on the authorities for advancing civil control on the activities of state security organs.

One of the pivotal points in the public scrutiny of state security agencies was the adoption of a constitutional right to freedom of information, an idea advanced by the St. Petersburg organization Citizens’ Watch, headed by Boris Pustintsev.

Article 24 of the Constitution of the Russian Federation adopted in December 1993 states:

(1) It shall be forbidden to gather, store, use and disseminate information on the private life of any person without his/her consent. (2) The bodies of state authority and the bodies of local self-government and the officials thereof shall provide to each citizen access to any documents and materials directly affecting his/her rights and liberties unless otherwise stipulated under the law.

Finally, as a mechanism for the execution of this constitutional right, a law was adopted in February 1995 that can be called a Russian analogue of the American Freedom of Information Act. Article 1 (chapter 3) of the federal law “On Information, Informatization and Protection of Information” says:

1. The agencies of state authority and agencies of self-government create resources that are accessible for everyone on questions of the activities of those agencies and their subordinate organizations, and also within limits of their competency, carry

out the mass informational support for the users with regard to questions of citizens' rights, freedom . . . safety, and other questions of public interest.

2. Refusal to provide access to the information resources that are stipulated in paragraph 1 of this article can be appealed in court.

Neither the constitutional norm nor the law has any precedent in either Soviet or Russian history.

Critics of the law say that the longstanding totalitarian tradition and practice of the bureaucracy will make this law inoperable. But it is also true that if the Soviet dissidents in the 1960s and 1970s had had such powerful levers, they could have achieved much. It is not by chance that Russian officials and the mass media made a "plot of silence" around this law; they were probably frightened of its democratic potential.

### **Criminalization of Russian Elite Jeopardizes Democratic Process**

The last five years have been devoted mainly to dismantling the heritage of the totalitarian past and the Communist state security organs—a task that remains incomplete. Meanwhile, the agenda for today and tomorrow should have two new goals at the forefront: building new law enforcement and security agencies able to function in a democratic environment, and challenging the new threats and risks generated by the chaos of the post-Communist transformation and post-cold war transition to the global economy.

These threats and risks are generated by the very nature of the modern Russian ruling class, known as the "party of power," of which the security and law enforcement agencies are a part.

Few serious observers can call the present regime in Moscow democratic. But it is certainly not an authoritarian regime. It is neither genuinely reformist nor diehard reactionary. Most pundits of the Russian scene—and I belong to their number—are inclined to call it an oligarchy, a "power by the few." The elites composing this oligarchy have mixed Soviet and post-Communist origin and include second- and third-tier echelons of the Communist nomenklatura; members of the new generation of young entrepreneurs, administrators, and bankers, recruited mainly from the Komsomol; former state security, law enforcement, and intelligence officers; and leaders of organized crime groups. The elites are structured into several warring clans competing for distribution and redistribution of power, privatized property and cash flows, and for transport corridors.

One can accept or reject this perception of the current Russian regime, but what really jeopardizes the success of democratic transformation are the dangerous dynamics that set this regime in motion. These dynamics can be called the criminalization of the Russian ruling elite. There are several elements of this accelerating criminalization:

- The first and most self-evident element is the all-pervading corruption that seemingly has been elevated to the rank of state policy. In modern Russia, no office, either elected or appointed, governmental or public, civil or military, is completely free from corrupt practice.

- Second is the exponential growth of terror, when paid killings, criminal explosions, and kidnapping have become the daily norm rather than rare exceptions.
- Third is the rapid globalization of Russian organized crime, whereby Russian underworld groups are operating in New York, Berlin, Tel-Aviv, Warsaw, and Paris, while their criminal henchmen (*kryshy*) are laundering their money in Singapore, Luxembourg, Cyprus, the Antilles, or Gibraltar.
- Last but not least is public tolerance of corrupt practices and the rapid proliferation of criminal standards and values among the political bureaucracy, as well as the visible fraternizing of Russian elite groups with the chieftains of the underworld.

### **How Criminal Dynamics Work**

Botched privatization led to almost one-third of all exports of raw materials, oil, and oil derivatives being conducted through illicit channels. Immense illegal profits were feeding organized crime syndicates that already control up to 40 percent of Russia's gross domestic product. A shadow economy of such proportions led to a situation where all subjects of economic life in the Russian Federation were forced to accept a double financial duty: to the state and to organized crime, whoever showed up first. Two of the most acute monetary problems in modern Russian economics, difficulties with tax collection and the crisis of payments from the budget, have the same origin because the criminal world imposes its levy on almost all economic entities in the country. Criminal racketeers collect their "protection" money *before* the state does.

Moreover, according to many sources and witnesses, the underworld spends anywhere from 30 to 50 percent of its income bribing state administrators, government officials, legislators, and law enforcement officers, feeding the corruption engulfing the criminalized bureaucracy at higher and higher levels. This process has already gained such momentum that it places all Russian businessmen and bankers in a dilemma: to join or to be smashed by the criminal tide. As part of the state machinery, the law enforcement agencies, unwittingly or intentionally, became an element of the strengthening alliance between organized crime and corrupt officialdom, putting officers under the same dilemma: to join or to be smashed.

No chieftain of any criminal ring has been arrested in Russia in the last two years; they have been arrested only in other countries. For example, the leader of the Sontsevo group, Sergei Mikhailov (alias "Mikhas"), was arrested in Switzerland; the famous mobster Vyacheslav Ivankov ("Yaponchik") in the United States; and money launderer Grigory Lerner in Israel.

### **Market and Civil Society Can Overpower Corruption**

All of the state-run campaigns against corruption and organized crime have failed miserably. The state plainly cannot fight against something that has become part of it. This is the goal of public opinion, mass media, nongovernment organizations—in short, all of the offspring of civil society that are in place in the new Russia. Only with the help of civil society institutions can one stop corruption

and organized crime. Today many civil society institutions are powerless before the criminal tide, and some organs of mass media have come under the control of controversial banker groups.

I am deeply convinced that we have not seen the final stage in the tumultuous process of Russia's transition to democracy. Today corruption in Russia is a response to the continuous meddling of the state in economic life: the richest people in Russia are either state officials or bankers who became state officials. This phenomenon tends to disappear when mature market relations replace the larcenous privatization schemes, and when traditions of civil society establish themselves as a daily norm. One thing is clear: democracy will not happen automatically or by virtue of economic developments alone. It is necessary that the human rights activists and all supporters of democratic reforms in Russia renew their dedication to "civil society" and "Rechtstaat," slogans that inspired the antitotalitarian revolutions in Eastern Europe and Russia in the 1980s. *Demokratizatsiya* will continue to be a forum for these noble tasks.