

# Civil Society and the Challenge of Russian *Gosudarstvennost*

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Soon after being named acting president of the Russian Federation in early 2000, Vladimir Putin announced that one of his priorities would be the restoration in Russia of what he termed *gosudarstvennost*. Treating this term as more or less synonymous with “sovereignty,” Western observers tended to interpret this declaration with a certain alarm (as indeed they interpreted most of Putin’s initial declarations), emphasizing a hypothesized connection of the term *gosudarstvennost* to resurrected notions of Russian national greatness and international assertiveness. That Western observers would express such concerns, in the context of diplomatic disputes over U.S. intervention in Serbia and Russian policy toward “states of concern” such as Iran, Iraq, and North Korea, is understandable, but more recent events have demonstrated that Western concerns over *gosudarstvennost*, at least as far as international relations are concerned, were misplaced.

Western observers’ initial negative reaction seems to stem from a misunderstanding of the term *gosudarstvennost*, which is, in and of itself, neutral; the *Ozhegov Dictionary of the Russian Language* (1986) defines it as “state system, state organization” (literally, *gosudarstvennyi stroi, gosudarstvennaya organizatsiya*). *Gosudarstvennost* thus refers less to sovereignty in the international arena than to sovereignty understood as an aspect of domestic politics—the ability of the state to act as an internally coherent governing body. Actual usage of the term seems to indicate that it means something like “statehood” or “the quality of being a state.” In the aftermath of the chaos of the 1990s, when the Russian state virtually ceased functioning in some respects, restoration of *gosudarstvennost* seems an eminently sensible priority. The implications of this restoration for Russian civil society are the topic of this article.

To understand exactly what it is that the Putin government is trying to do in restoring Russian *gosudarstvennost*, it is necessary to understand what has happened to the Russian state over the past ten years. Thomas Carothers provides a

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helpful interpretive framework in a recent article in the *Journal of Democracy*.<sup>1</sup> Carothers criticizes the mainstream academic approach to the study of democratic transitions (which has also exerted considerable influence over the policies of Western governments and democracy-promoting nongovernmental organizations) for being based on the assumption—explicit or implicit—that a transition away from one type of nondemocratic, authoritarian political system is of necessity a transition toward a democratic political system.<sup>2</sup> More often than not, Carothers argues, states that have recently undergone a political transition exist in a “gray zone” between democracy and authoritarianism, combining some elements of democracy with “serious democratic deficits, often including poor representation of citizens’ interests, low levels of political participation beyond voting, frequent abuse of the law by government officials, elections of uncertain legitimacy, very low levels of public confidence in state institutions, and persistently poor institutional performance by the state.”<sup>3</sup>

Even the most casual observer will immediately recognize much that is true of Russia in this description. However, establishing a category of gray-zone states and subtypes within them does not resolve a number of important analytical questions. Considering the past ten years of Russian history, one would be hard-pressed to assign Russia to one of the two “syndromes” of political dysfunction that, according to Carothers, characterize gray-zone states. The two syndromes are (a) “feckless pluralism,” characterized by genuine competition for political office but little substantive change in policies, because the state is weak, which limits its ability to implement reform, and (b) “dominant-party politics,” in which one group “dominates the system in such a way that there appears to be little prospect of alternation of power in the foreseeable future” with a state that tends to be “as weak and poorly performing in dominant-power countries as in feckless-pluralist countries, though the problem is often a bureaucracy decaying under the stagnancy of de facto one party rule rather than the disorganized, unstable nature of state management . . . typical of feckless pluralism.”<sup>4</sup>

One reason that it is difficult to assign Russia to either of those “syndromes” is that, like most simple typologies (especially those which attempt to describe developments on a global scale), Carothers’s schema pays little attention to the internal dynamics of the states that it classifies. In Carothers’s terms, the Russian Federation appears to have begun its existence as a feckless, pluralist state, with protracted and intermittently violent struggles not merely for political office but over the very form of state institutions, accompanied by near-total paralysis on almost all issues relating to administrative and economic reform, aside from privatization. However, since the economic crisis of 1998, the Russian state appears to be moving in the direction of dominant-party politics, with forces closely associated with Putin first securing a majority in the State Duma in the December 1999 elections, when he was still prime minister, and his administration gradually increasing its control over a variety of individuals and institutions, including prominent oligarchs such as Vladimir Gusinsky and Boris Berezovsky, the major central television networks, the Moscow bureaucracy, and many of the regional governors.

In the terms introduced at the beginning of this article, the main difference between those two categories, at least as they apply to Russia, is the level of *gosudarstvennost*. Although the Putin administration's efforts to impose control over the Russian state may not be entirely successful, and although these efforts have certainly benefited from a variety of improvements in the Russian economy since the August 1998 crisis, the increase in state power resulting from Putin's efforts is nevertheless real. Indeed, the Putin administration may even succeed in avoiding the bureaucratic stagnation that Carothers maintains is associated with dominant-party systems. Even if one went so far as to concede that the improved financial performance of the Russian state under Putin (in the form of increased

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tax revenues, declining budget deficits, on-time payment of pensions and officials' salaries, etc.) stems exclusively from increases in oil prices, and that pressing issues such as capital flight were not yet under state control, one would still have to contend with such impressive achievements as reform of the income tax system and the passage of legislation allowing the

free sale of both nonagricultural and agricultural land.

In addition to presenting a somewhat static picture of political developments, another deficiency of Carothers's schema is that it ignores what many view as the most fundamental aspect of many recent political transitions, and of Russia's post-Soviet transition in particular, namely, the massive redistribution of state property during the Yeltsin presidency. Policymakers like Anatoly Chubais and Yegor Gaidar viewed the dismantling of the Soviet planned economy—rather than the construction of a functioning post-Soviet successor state—as their first priority. Privatization was to be as extensive and rapid as possible, to render it irreversible; such a program necessarily involved an extensive and rapid weakening of the Russian state. Russia's descent into “feckless pluralism” was thus as much the consequence of conscious policy choices as it was of decay or collapse of the Soviet system, and the restoration of state authority under Putin might well be viewed as a logical next step, involving the imposition of order after a necessary, if regrettable, period of chaos. Thus, in terms of post-Soviet Russian politics (and perhaps in terms of postcommunist politics generally), the distinction between “feckless pluralism” and “dominant-party politics” might be better, and more parsimoniously, conceived of as simply the result of the waning and waxing of state power associated with one aspect of economic reforms.

That waning and waxing of state power, of *gosudarstvennost*, has important implications, both good and bad, for the development of Russian civil society. In the “good” category, the weakening of state authority effectively removed restrictions on political and personal life, which in turn allowed the development

of elements of civil society such as political parties and independent non-governmental organizations. It also led to the development of a free<sup>5</sup> press capable of criticizing the government and resulted in the ending of human rights abuses such as the imprisonment of political nonconformists. Even as the old problems associated with the too-strong Soviet state ended, however, a whole range of new problems arose. The state stopped paying salaries and pensions; stopped supporting the education system; stopped being able to control crime, both petty and grand, but simultaneously developed a very bad problem with corruption and human rights abuses in the justice system; stopped maintaining an already weakened infrastructure; lost control of some elements within the military; stopped being able to control the country's borders (with attendant financial crime, immigration, and smuggling problems); and ceased being able to assert sovereignty over all its territory, most notably in Chechnya, but in other regions such as Tatarstan as well.

Thus, from the point of view of Russian civil society organizations, a revival of Russian *gosudarstvennost* would not necessarily be a bad thing, because many of the problems that Russian NGOs have been set up to address are associated with a lack of it. No matter how Russian NGO activists might have protested during the 1990s, the Russian state was probably incapable of carrying out the more advanced functions of a sovereign state, such as adhering to transparent budgeting procedures, guaranteeing a stable environment for business, or safeguarding its citizens' human rights. To the extent that a revival of *gosudarstvennost* implies greater attention to such matters, it should be welcomed by NGOs. Unfortunately, however, President Putin appears to regard *gosudarstvennost* as involving not the construction of new mechanisms to incorporate a greater degree of citizen control into the day-to-day operations of government, but rather as involving assertion of the Kremlin administration's prerogatives in pushing through additional economic reform measures, such as the new land code, which were not possible under the more open conditions of "feckless pluralism."

To the extent that NGOs previously had little systematic effect on the process of economic reform, the Russian government seems not to have had much of a systematic approach to NGOs. For most of the 1990s, NGOs regularly encountered harassment from individual officials whose interests they had offended, or from the tax authorities, but those problems were no different from those that might be encountered by any other individual or organization. Likewise, individual NGOs might develop very cordial relations with some officials, which could prove helpful to them in implementing various projects, albeit on a piecemeal and somewhat unpredictable basis. However, as NGOs have developed their capacities and become more well-organized and vocal nationwide, they represent more of a potential base of opposition to unpopular government initiatives, and the government has undertaken a variety of initiatives that might both systematize its relationship with civil society and reduce its capacity to serve as a basis for independent political activity. Those initiatives present NGOs with a fundamentally new environment, involving both new obstacles to their day-to-day work and new opportunities.

### Obstacles

An examination of Russian government policy toward NGOs over the past three years reveals no cause for immediate panic about the wholesale elimination of Russian civil society, but does provoke substantial concern about the narrowed range of opportunities for NGOs to operate as independent critics of government policy. Whether as a result of a conscious strategy designed to reduce independent social initiatives or merely as a consequence of increased state capacity to develop and implement policy, NGOs have found themselves increasingly hemmed in by government initiatives. These initiatives have taken the form of existing laws and procedures that are interpreted in a manner inimical to NGOs' interests; the development of new laws and regulations that further reduce the scope of NGOs' legal activities; and attempts either to supplant existing, independent NGOs with "tame," government-sponsored alternatives, or to co-opt them by integrating them into corporatist structures such as those envisioned in initial plans for the November 2001 Civic Forum.

#### **Interpretation of Existing Laws Dealing with NGOs: NGO Registration**

The first example of government policy aimed at restriction of NGO activity concerns a formal legal registration procedure required of many NGOs in 1999. The Russian constitution and related laws allow Russian citizens to form public associations without formally registering them with the government. In practice, however, to operate as anything more than a small clique of enthusiasts, an NGO must register with the Ministry of Justice, following procedures outlined in the 1995 federal law "On Public Associations." Registration confers a variety of rights and privileges, including the right to open a bank account and engage in financial transactions, the right to own or rent property, and the right to hire and pay employees, among others. Certificates of registration are issued by the Russian Federation Ministry of Justice and by its regional and local departments; organizations register with a regional or local branch or with the national ministry depending on the scope of their activities.

The law "On Public Associations" required all NGOs that were registered prior to its adoption, under laws adopted during the late Soviet period, to resubmit their papers for registration by 30 June 1999; in the event that an organization failed to submit documents for reregistration or failed to submit papers on time, it could be liquidated following a court procedure, thereby losing all rights conferred by its earlier registration. Registration or reregistration can be denied for a variety of reasons, including advocating the violent change of the constitutional order of the Russian Federation, damage to the security of the state, creation of an armed organization, or inciting social, racial, ethnic or religious conflict; however, an organization cannot be denied registration because it serves no officially perceived "useful" purpose.

Nina Belyaeva, a noted scholar and NGO activist who played an important role in writing the 1995 law, observed that the purpose of the reregistration provision was to remove "paper" NGOs that had ceased to function or were being used for fraudulent purposes from the government's rolls.<sup>6</sup> In addition to serving those purposes, however, the reregistration provision appears to have provided

various officials with an opportunity to rid themselves of troublesome organizations—particularly trade unions and ecological and human rights organizations—that were too openly critical of the officials or their policies.

That trend has been most thoroughly documented in a report prepared by the Moscow-based Center for the Development of Democracy and Human Rights.<sup>7</sup> The report describes in detail how the reregistration procedure caused a sharp drop in the number of public associations registered with the government. For example, out of 1,332 public associations registered with the national Ministry of Justice, as of 1 July 1999, only 770 (57.8 percent) had reregistered; the remaining 562 had not reregistered and could in principle be liquidated by court order. In various regional branches of the Ministry of Justice, the effect on the number of registered NGOs was much more drastic; at the Moscow City Head Department of Justice, for example, only 549 of 4,606 public associations—just under 12 percent—completed reregistration procedures on schedule.

Although by late 1999 many organizations did indeed

exist only on paper or had ceased to function entirely, and therefore accounted for a large proportion of the organizations that had not reregistered, many organizations had their reregistration either delayed or denied outright on basis of official demands—demands contradictory to Russian law—relating to their name, structure, statutory goals, and activities. For example, a number of national human rights organizations were required to delete terms relating to protection of human rights from their organizations' names and constitutions. Among them were the Environment and Human Rights Coalition, the Glasnost Defense Foundation, the Glasnost Public Foundation, the Memorial Human Rights Center, the Moscow Research Center for Human Rights, the Union of Committees of Soldiers' Mothers, and the Hotline NGO. Taken as a whole, these organizations form the core of the nationwide Russian human rights movement, which, had they been denied registration, would have been gutted in a single stroke.

The pretext most often given for requiring the changes was, essentially, that the protection of human rights was properly considered a function of the state and not of NGOs. Most of the NGOs named above made a variety of changes to their formal names and constitutions that nominally complied with this requirement, while leaving their substantive activities unchanged. Often this was accomplished by adding the word *sodeistvie* ("cooperation" or "support") to the organization's name; thus, the International Protection Center, a Moscow human rights organization that works to get human rights violations in Russia considered by the European Court of Human Rights in Strasbourg, was able to continue its work by changing its name to Center for Support of International Protection.

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However, even when NGOs complied fully with such requests, they still often had difficulty reregistering. Frequently, officials would find additional deficiencies in the documents once they were resubmitted, making it difficult for organizations to comply with the registration deadline, even though they might have done so easily had all deficiencies been pointed out to them at the initial review of the reregistration application. This was true even for many organizations that began reregistration procedures well in advance of the deadline, such as the Glasnost Public Foundation (which is, incidentally, one of the government's harshest critics). Other "formal" pretexts for rejection or delay of reregistration verged on the ridiculous, such as complaints that organizations had submitted too many papers, or had submitted them in an incorrect font size. Both the report of the Center for Development of Democracy and Human Rights and a less well-documented report produced by the Glasnost Public Foundation describe numerous such instances from throughout the Russian Federation.<sup>8</sup>

In its report, the Glasnost Public Foundation noted that the uniformity of reasons given for denial of reregistration is strongly suggestive of a centrally coordinated policy, even though no "smoking gun" has appeared in the form of a memorandum or other directive instructing officials to deny registration to particular organizations or categories of organization. Other evidence for a centrally coordinated policy exists as well. For example, officials of the Ministry of Justice often simply refused to discuss problems with organizations' documents, even when presented with a written request. However, the most powerful piece of evidence supporting the notion that denial of reregistration was official government policy comes from the behavior of the president's spokesman in the Council of the Federation when confronted with a Duma bill that would have addressed many of the problems described above through extension of the registration deadline:

On November 5, 1999, the Russian State Duma . . . considered a draft law prepared by the Duma Committee on Public Associations and Religious Organizations which extended the deadline for NGO re-registration to July 1, 2000, and adopted the draft after three readings. However, the draft law . . . met with opposition in the upper chamber, the Council of the Federation. The draft law was voted down regardless of the fact that the upper chamber's Committee on Constitutional Law and Judicial Questions advised the parliament to adopt the deadline extension, and the Ministry of Justice was willing to prolong the term for NGOs' renewal of registration.

The President's spokesman in the Council of the Federation, Mr. V. Khizhnyakov, played a crucial role in the rejection of the draft. . . . [He] drew the members' attention to the fact that an extension of the NGO re-registration term would add to the workload of the Ministry of Justice staff and thus cause additional budgetary expenses in the form of extra salaries. However, the President's spokesman did not take into account the fact that legal suits would, undoubtedly, be brought by non-governmental associations against registering agencies, and will cause even greater expenses for the Ministry of Justice, for the judiciary, and for the state budget.<sup>9</sup>

Interestingly, in the past year or so, NGOs have reported little if any serious opposition to attempts to register; even new organizations dedicated to opposing government policy on such intensely controversial issues as military activity in Chechnya have been allowed to register and begin working. Moreover, according

to Sergei Grigoryants of the Glasnost Public Foundation, Ministry of Justice officials are now answering questions, "albeit reluctantly," about how organizations can bring their registration documents into line with government requirements.<sup>10</sup> Although criticism from Western governments and NGOs may have played some role in prodding the Russian government to adopt a less obvious approach to reigning in civil society, there seems to be no clear reason for the government's abandonment of its apparent policy of shutting down troublesome NGOs outright. Moreover, attempts to control civil society are still going on, through a variety of more subtle means.

### **Legal Regulation and Taxation**

One of the more subtle approaches to the development of state controls over civil society that has arisen over the course of the past three years is legislation intended to regulate NGOs and their activities. As the Putin administration has gained a more secure grip on the legislative branch, this approach has come to be preferred to the relatively crude administrative measures available through enforcement of existing laws. Some recently developed laws regulate NGOs directly, while other measures have an impact on them by regulating the particular areas in which various types of NGOs work, particularly labor issues.

Sergei Nasonov, a Russian legal scholar specializing in NGO law, provides a useful discussion of three trends in recent Russian legislation bearing on NGOs in general.<sup>11</sup> The first trend that Nasonov describes is actually favorable from the point of view of NGO activists, namely, a tendency toward elaboration of the legal status of various types of NGOs (membership associations, noncommercial partnerships, social, charitable, and other foundations, etc.), which are not differentiated in the original 1995 law "On Public Associations." NGO leaders have welcomed this trend because it has helped them strengthen the legal basis for their existence. One somewhat disturbing aspect of the trend is that the law "On the Noncommercial Society" contains a provision stating that the activity of noncommercial societies (that is, membership organizations) should be directed toward "socially useful goals." This would seem to be an ideal opportunity for officials to interfere directly in the workings of organizations by determining what is a "socially useful goal." Although the law elaborates with great specificity exactly what is meant by the term "socially useful goal," and it explicitly includes such broad categories as "defense of citizens' rights," thereby providing a legal basis for the activity of human rights organizations that was disputed by the Ministry of Justice during the reregistration controversy, that alone may not be enough to prevent officials from exploiting the vagueness of the provision to suppress some forms of NGO activity.

An even more unhealthy trend that Nasonov describes is a tendency in Russian law to blur the distinction between commercial and noncommercial activity, and in particular, for the tax code to treat the activity of NGOs as if it were being carried out by a commercial business. The Russian tax code is an extremely complex document, and a full understanding of all its implications would demand both greater expertise and far greater patience than I have. However, a few exam-



ples should suffice to illustrate that the tax-related difficulties facing NGOs are no less daunting than those facing businesses. For example, many forms of income accruing to an NGO, such as grants coming from international foundations, can be treated by tax inspectors as if they are profits. Many, but not all, foreign donors have been able to register with the Russian Ministry of Justice so that their grantees can have grants exempted from taxes. However, many tax inspectors are unaware of the significance of this registration, and recipients of funds from donor organizations that have not registered with the government may find themselves faced with considerable difficulties.

Another feature of the tax code that works to NGOs' detriment is the way in which it treats services provided by NGOs. In principle, if a human rights organization offers legal assistance to an indigent client, then the assistance is treated as if it were income (*dokhod*). That is, the human rights organization could be obliged to make contributions to the pension fund and pay other taxes to the government, and the recipient of the assistance could be obliged to pay taxes on the market value of the assistance rendered. The determination of the market value would be left up to tax officials; however, lawyers' fees in Russia are so high relative to most individuals' incomes that most recipients of legal aid would be unable to pay the necessary taxes and could be prosecuted for tax evasion. According to Olga Makareno, an expert on the Russian tax code who frequently works with the Center for Independent Legal Expertise, avoiding such an eventuality is mostly a matter of NGOs' keeping their books in a way that makes it clear that they are involved in noncommercial activity.<sup>12</sup> However, because tax inspectors undergo so little training, and because NGO activists themselves are often unaware of the law, opportunities for misinterpretation and outright abuse are numerous.

Nasonov points out one final unwelcome trend in legislation pertaining directly to NGOs, namely, a tendency to write laws in a way that gives the state the right to interfere directly in the functioning of NGOs. For example, the draft law "On the Introduction of Changes and Amendments to Articles 38, 42 and 44 of the Federal Law 'On Public Associations'" proposes giving law-enforcement agencies the right to demand any information whatsoever from an NGO and to carry out inspections of NGOs without a court order, which would effectively allow the state to interfere directly in the internal operations of any NGO. Also, the law "On Freedom of Conscience and Religious Organizations" specifies particular organizational forms to which religious organizations must adhere, in direct violation of the Russian constitution.

The tendency to give officials excessive discretion through vague wording of legislation and to grant them the authority to interfere directly in NGOs' work has reached its apotheosis in a draft law, "On Counteracting Extremist Activity," which was adopted by the Duma in mid-June 2002, and is expected to face little or no opposition in the Federation Council. Among other negative features, the bill defines extremist activity as anything whose goal is "impeding the legal activity" of local, regional, or national organs of power. This would make an unsanctioned demonstration extremist activity, at least from a legal perspective, regard-

less of its underlying political motivation. Moreover, the bill allows the Ministry of Justice to suspend the activity and cancel the registration of organizations suspected of extremism without waiting for a court order. A court hearing would be required to formalize an organization's liquidation, but even if the Ministry of Justice's actions were ruled illegal, an organization could have its activity suspended for so long pending a court decision that it would be effectively destroyed. Moreover, although Russian minister of justice Yuri Chaika maintains that the law is a necessary tool to enable Russian law enforcement to cope with extremism more effectively, human rights activists note that most manifestations of extremism (such as forming a violent, armed movement) could easily be dealt with under existing laws. The bill also contains provisions allowing for the punishment of mass media outlets that distribute "extremist materials" and allows the blocking of Web sites and, ultimately, the closure of Internet providers who fail to comply with orders to block sites. In short, it gives the government comprehensive and virtually unlimited power to close organizations and censor the press directly. Civil society activists had hoped to introduce amendments that would have placed at least some limits on the government's authority, but given the difficulties they typically face in having any impact at all on legislation—described at length below—it is hardly surprising that this effort was largely unsuccessful.<sup>13</sup>

Other elements of civil society besides NGOs have been directly affected by recent changes in legislation, in particular, trade unions and political parties. A series of amendments introduced in 2001 to the law "On Political Parties" is likely to hinder new political parties from arising in the near future, because the amendments specify that a party must have at least one hundred members in more than half of Russia's eighty-nine regions, and a total of ten thousand members overall, to participate in elections. This effectively bans regional parties, and absent the kind of massive outside financing that allowed Boris Berezovsky to sponsor the *Liberal'naya Rossiya* party, it is unclear how any group of individuals, no matter how determined or well intentioned, could carry out the nationwide organizing effort required to participate in Duma elections without first building from a regional base. Other provisions in the law ban ethnic and religious parties.

Of all the elements of civil society, trade unions currently face the most severe restrictions on their activities as a result of new legislation, specifically, the 2001 Labor Code, which, according to Irene Stevenson of the American Center for International Labor Solidarity, contains "major violations of the concept of freedom of association."<sup>14</sup> The Labor Code requires that, to be recognized as the legitimate representative of the workers at a given enterprise, a trade union must have at least 50 percent of the enterprise's workforce on its membership rolls. This simultaneously serves to eliminate most of the independent labor unions that appeared in the aftermath of the collapse of communism, because few of them have been able to get more than 50 percent of any plant's workforce on their rolls, and also serves as a way of keeping the old-style communist FNPR (*Federatsiya Nezavisimyykh Profsoyuzov Rossii*, or Federation of Independent Trade Unions of Russia) in line, because many of the old-style unions have been unable to keep

workers on their rolls either. (Small independent unions still have the right to be kept up to date on developments relating to collective bargaining, however.) In addition, the Labor Code contains provisions that will force trade unions to reorganize themselves into centralized, “top-down” structures, which will cause severe problems over the coming year for the few viable independent trade unions, because most of them are currently organized as federations of local unions, rather than as a single, unified structure. Finally, procedures for calling a strike have been made so complex that strikes are effectively no longer an instrument of trade union behavior.

In sum, the trend in Russian legislation relating to civil society, whether it concerns NGOs directly or the right to freedom of association more generally, is toward restriction on the types of activity in which NGOs may legally engage and toward greater powers for the state to interfere directly in the activities and structure of NGOs. It is important to note that many of the provisions described above are not yet enforced vigorously, and some have not even come into legal effect. I should add that I personally have never heard of an NGO’s being shut down or receiving more than a minor fine for violations of the tax code. Nevertheless, the provisions are reminiscent of Chekhov’s famous pistol lying in plain view during the first act of a play—one has the uncomfortable feeling that eventually, they will be used.

### **Creation of GONGOs and Co-optation of Existing NGOs**

GONGOs (an acronym for government-organized NGOs, organizations set up by government to draw attention and public support away from other NGOs) are currently a relatively minor component of the government’s strategy in dealing with civil society. The most prominent example of a GONGO is the reportedly Kremlin-backed *Idushchie vmeste* (“Walking Together”) youth organization. To date (early March 2002), *Idushchie vmeste* has limited its activities to a few marches and a somewhat bizarre campaign to improve the standards of contemporary Russian literature by encouraging young Russians to exchange books by the writers Viktor Pelevin and Vladimir Sorokin for a collection of stories by the Soviet-era patriotic writer Boris Vasilyev.<sup>15</sup> Absent a clear rationale for its existence, *Idushchie vmeste* would seem to be an excellent example of Mancur Olson’s “logic of collective action,” insofar as participants in its activities seem motivated primarily by side-benefits to participation like t-shirts and free trips from the provinces to Moscow to participate in demonstrations. Should Carothers’s “dominant-party politics” become consolidated in Russia, in the long run *Idushchie vmeste* might evolve into a means of recruiting young members of a new political class, much as the Komsomol did in the Soviet era, but for the time being it is more peculiar than menacing.<sup>16</sup>

The government has made much more concerted efforts to co-opt existing NGOs into centralized, national structures, presumably to exert greater control over them. An initial effort in this direction was the little-noted All-Russian Association of Trade Unions and Trans-National and All-Russian Companies, a corporatist-style structure incorporating labor unions and management that was orga-

nized in August 2001. The exact motivation for organizing the structure is also somewhat unclear, although Irene Stevenson believes that it was intended at least in part to provide the FNPR trade unions with an incentive to support the 2001 Labor Code by allowing them to continue a "cozy financial relationship" with the management of major corporations. It is also significant that the drive to organize the All-Russian Association began in spring 2001, about the same time that the first drafts of the labor codes were being developed. However, once a founding congress was held in August and the labor code finally adopted in December 2001, the organization seems to have stagnated.

A more prominent effort was the November 2001 Civic Forum, which was originally announced as a means of organizing civil society organizations throughout Russia into a single corporatist body that would allow them an official consultative role with the government. After an outcry from the more vocal segments of the Russian NGO community, however, the Kremlin backed away from its original proposals and set up an organizing committee composed of one-third Putin administration officials, one-third independent NGOs (drawn largely from the Moscow human rights and policy NGO communities), and one-third "official" NGOs closely connected with Gleb Pavlovsky's Foundation for Effective Politics. At the insistence of the human rights NGOs, who threatened to discredit the forum by walking out on the organizing committee if their demands were not met, it was decided that the forum would not vote on founding documents for any kind of centralized organization or present any resolutions, but rather would divide up into various sections depending on the interests of the participating organizations.

The actual content of the Civic Forum is less interesting than what it revealed about the overall state of Russian civil society. First of all, in spite of some speculation that the entire initiative was merely a provocation on the part of the government, intended to create a split among the major Russian human rights organizations, it actually appears to have resulted in recognition of a need for greater cooperation in the face of state pressure. With the lone exception of Sergei Grigoryants of the Glasnost Public Foundation, human rights activists in the aftermath of the Civic Forum took great pains to avoid denouncing each other for the actions they took in organizing the event. More radical human rights activists such as Lev Ponomarev of the *Za Prava Cheloveka* movement proposed that, to reduce tensions and recapture a sense of common purpose, human rights organizations should undertake joint campaigns on topics of mutual interest; this sentiment was echoed by Daniil Meshcheryakov of the Moscow Helsinki Group, Alexei Simonov of the Glasnost Defense Foundation, and Arseny Roginsky of the International Memorial Society.<sup>17</sup> These suggestions are more than mere words; recently, the Moscow Helsinki Group and the *Za Prava Cheloveka* movement have begun a joint nationwide campaign intended to combat the widespread police practice of planting narcotics on suspects to provide a pretext for arrest.

In fact, the main difference of opinion among NGOs that the Civic Forum revealed was the relative comfort that charities and service-provision organizations felt regarding the government. Many of the human rights leaders cited above

noted with dismay that the majority of the organizations seemed perfectly willing to subordinate themselves to a centralized government body, so long as the government began spending money to address the problems on which they worked.

The main conflict that arose in the aftermath of the Civic Forum was a tug-of-war between the human rights NGOs on the organizing committee and the Pavlovsky faction, which soon advanced a series of proposals that could give the government as much control over civil society as the actual establishment of a centralized corporatist organization would. There were three main proposals. The first was the establishment of a system of government financial support for NGOs, which would allow the government to channel funding to GONGOs or other NGOs willing to trade independence for financial support. The second was the support of existing regional NGO resource centers from a central source in Moscow. Yuri Dzhibladze views this as a particularly dangerous proposal, because such centers have become critical resources for NGOs throughout Russia, but they cannot yet support themselves. In addition, major Western funders such as the Eurasia Foundation, the Ford Foundation, the Mott Foundation, and the Open Society Institute are all cutting funding for such centers. This leaves the resource centers in need of funding and open to pressure to work within restrictions imposed by the government, because otherwise they will be forced to shut down. Finally, the Pavlovsky faction proposed compiling a database of all NGOs in Russia, to facilitate information exchange and networking. This in and of itself is rather benign, but a number of individuals associated with the Pavlovsky faction have suggested that compiling the database would require carrying out an audit of all NGOs, which might be used to shut them down.

In sum, powerful forces within the Russian government appear, for whatever reason, determined to curtail the independence of civil society through the development of legal, administrative, and financial mechanisms that will restrict the ability of NGOs to operate outside of narrow limits imposed by the Russian government.

### Opportunities

In this article, I have so far focused on negative trends associated with the Russian state's recovery of much of its former capacity to influence Russian social and political life. Finding ways to cope with the pressure on NGOs associated with the restoration of *gosudarstvennost* is one aspect of the challenge that the Putin administration presents to Russian civil society activists. Western democracy aid practitioners and scholars have tended to view the challenge of *gosudarstvennost* in an almost exclusively negative light and to regret their own past missteps. It is even possible that some democracy aid practitioners find recent developments in state-civil society relations all the more troubling because they feel that they share in responsibility for the backsliding, having emphasized the development of nonstate actors such as NGOs and political parties instead of working to inculcate an understanding of the role of the NGO sector among Russian officials.<sup>18</sup>

Russian NGO activists also acknowledge that they neglected to develop mechanisms whereby the Russian NGO sector could influence state policy. Alexei Simonov of the Glasnost Defense Foundation expresses this thought as follows:

We understood censorship as a one-sided process, but there is another kind of censorship. It didn't permit public opinion to go upward. The absence of such a mechanism required the development of special mechanisms for processing and transmitting information—which was processed in favor of certain interests in society, of course—which the state has not ceased to use.<sup>19</sup>

Likewise, Arseny Roginsky notes,

These old dissident methods aren't working. We can write as many letters, appeals, and complaints as you like, and it won't have any influence at all. We need to develop concrete levers of influence on power, which don't exist now, and that's going to take at least ten years.<sup>20</sup>

The activists are probably being too hard on themselves. In the conditions of political and social disorder and fragmented government that prevailed under Boris Yeltsin, it would have been very difficult to develop such stable mechanisms of political influence. Although the lights were on in the Yeltsin government, there was frequently nobody home to implement any policy ideas. Thus, the positive aspect of the challenge of the restoration of Russian *gosudarstvennost* is that there is now a certain degree of political will to effect long-term change in the country. Even though some of the mechanisms that NGOs have used in the past to influence politics have indeed been weakened, to the detriment of Russian democracy, others remain in place, and some surprising new avenues of influence have opened.

Although, as noted earlier, the Duma has become markedly more closed to outside influence than it was under Boris Yeltsin, NGOs still retain some influence, although they must pay careful attention to the importance that the Kremlin's attaches to the bill and to the Duma's willingness to open itself to outside influence.

The rules . . . are simple: If the Kremlin is indifferent about a bill, activists can influence its contents. If the Kremlin backs a bill, they can influence it if their suggestions toe the Kremlin line. If the Kremlin draws up a bill it considers vital, they cannot influence it. And if State Duma deputies don't know where the Kremlin stands, they can stir up a public storm and then influence it.<sup>21</sup>

Thus, for example, NGOs were able to create a public outcry that allowed amendments to be introduced to the law "On Alternative Service."<sup>22</sup> Although the resulting law was far from ideal from their perspective, it was at least somewhat better than the version backed by the armed forces. However, given the importance the Kremlin seems to attach to the bill "On Counteracting Extremist Activity," it may well be that creating such an outcry will come to be a counterproductive or even dangerous tactic, which will even further reduce NGOs' influence over legislation.

A few examples of direct NGO influence on the Kremlin and the executive branch do exist. Controversial though it was, the Civic Forum did provide many

NGOs with an opportunity to form constructive contacts with government officials. (In fact, members of the organizing committee report that Kremlin officials were considerably easier to work with than the Pavlovsky faction, who resisted making any concessions, evidently viewing compromise as a threat to their privileged positions.) Based on the favorable impression that the NGOs on the organizing committee made on them, many officials now actively seek out NGO expertise in developing new laws and policy proposals. This is a particularly significant development, insofar as the Duma has ceded almost all responsibility for the initiation of legislation to the Kremlin and the ministries.

One example of such cooperation is a working group on amendments and changes to the Labor Code convened by the Ministry of Labor. Among the experts invited to the group is an analyst affiliated with the Independent Council for Legal Expertise, a high-powered group of legal scholars that produces expert analyses and policy papers on legal reform. Although the analyst has been highly critical of the government's labor policies, she reports that her opinion appears to be valued by ministry officials and has high hopes that her efforts may lead to an improvement of some of the worst aspects of the labor code.

This type of decision-making is better than a completely closed system, but is hardly ideal from the point of view of democracy. In the first place, such consultation is not transparent; meetings of the working group mentioned above, for example, are not open to the public. Second, it occurs only at the behest of the government and places NGOs in a defensive position, in which the best possible outcome is not connected with pursuit of a positive agenda, but rather with avoidance of the worst possible government policy. Third, it almost completely excludes the majority of Russian citizens from participation in important decisions affecting their lives.

All too often, Russian voters are simply presented with a *fait accompli* from the government. For example, the Duma recently passed a law—which polls indicated was wildly unpopular—that allows the importation of nuclear waste into Russia. The law received practically no discussion in the mass media, particularly in the government-dominated television networks on which most Russians rely as their primary source of information. Likewise, the Labor Code was developed, debated, and voted into law with essentially no discussion in the media, a rather shocking development when one considers that the code affects almost every Russian of working age.

Nevertheless, most NGO activists with whom I have spoken in recent months have reacted with relative equanimity to the situation that they now face. Rather than dwelling on new limitations, they emphasize the necessity of building long-term mechanisms of influence over government policy and the tradeoffs between maintaining a completely independent, critical stance toward the Russian government and engaging the Russian government in a long-term dialogue in which they may not win on every issue. Some are even guardedly optimistic. Yuri Dzhibladze expresses it this way: "It's possible that these guys will realize that doing good things for the people is as good a way of staying in power as any other."<sup>23</sup>

### Conclusion

In his *Journal of Democracy* article, Thomas Carothers somewhat glumly observes that

what is often thought of as an uneasy, precarious middle ground between full-fledged democracy and outright dictatorship is actually the most common political condition today of countries in the developing world and the postcommunist world. It is not an exceptional category to be defined only in terms of its not being one thing or the other; it is a state of normality for many societies, for better or worse.<sup>24</sup>

Certainly it seems likely that, for the foreseeable future, leaders of Russian NGOs will have to accommodate themselves to a subordinate, consultative role in a political system that might best be characterized by the label satirist P. J. O'Rourke applied to elections in the late Soviet period, namely, "sort of democratic." The future does not, of course, exclude more extreme efforts to circumscribe—or even eliminate—independent NGO activity, and the Putin administration has developed much of the legal and administrative machinery necessary to eliminate organizations that become too obstreperous. However, there are other forces in the political system that are favorably inclined toward NGO activity and that periodically seek out advice. To the extent that they do not contradict government priorities, NGOs may even be able to develop a role as initiators of policy, rather than as mere supporters or consultants.

One final point deserves to be made. Western democracy-building assistance has been criticized on any number of points: it frequently imposes funders' agendas on local organizations; it may inspire cynicism about civil society through resentment of so-called *grantoyedy* (grant-eaters) by paying NGO workers extremely high wages by local standards; it tends to emphasize the development of independent NGOs at the expense of building capable, responsible government; it may not be "sustainable," and so forth. However, I would argue that the current NGO situation in Russia represents a considerable achievement for Western democracy-building. Internal Russian sources of funding for NGOs are almost entirely nonexistent. Most Russians are too poor to pay membership dues or make contributions to NGOs, and many are uninterested in doing so in any case. Although some of the Russian oligarchs, most notably Khodorkovsky and Potanin, have set up charitable foundations, for the most part these devote their attention to "safe" issues like reducing poverty, or to cultural events like art exhibits.

Thus, to my mind, it is certain that in the absence of the sustained Western funding that has supported them over the past ten-plus years, the Russian NGO sector would not have had the capacity simultaneously to increase its numbers, resist a state-sponsored takeover of its activity, and to develop influence—however marginal—on Russian policymaking. For possibly the first time in Russian history, some counterweight to the Russian state's ability to act arbitrarily has been set in place. Moreover, even if the current situation in Russia persists for some time, history has shown that where Russia is concerned, the appearance of placid stagnation can be deceiving, and change can come quite rapidly. Carothers's pessimism notwithstanding, democracy-building still has a role to play in improving conditions in modern Russia.



## NOTES

1. Thomas Carothers, "The End of the Transition Paradigm," *Journal of Democracy* 13 no. 1 (2002): 5–21.

2. Carothers's description of a "paradigm" is something of a caricature; practitioners of democracy promotion, at least, are generally sensitive to the fact that there is no necessary deterministic path between authoritarianism and democracy. However, most democracy promoters would certainly *like* the world to work in terms of Carothers's simplified paradigm.

3. Carothers, "The End of the Transition Paradigm," 9–10.

4. *Ibid.*, 12.

5. Although not independent in a Western sense.

6. Nina Belyaeva, interview with author, Washington, DC, 15 December 1999.

7. Yuri Dzhibladze et al., *On Violations Committed in the Course of Registration and Re-Registration of Public Associations in the Russian Federation in 1999* (Moscow: Center for Development of Democracy and Human Rights, 2000). The figures cited in the rest of the section are drawn from this report.

8. Glasnost Public Foundation, "Registration of Public Associations," unpublished manuscript, 2000.

9. Dzhibladze et al., *On Violations Committed*, 14–15.

10. Sergei Grigoryants, interview with author, Moscow, 23 January 2002.

11. Sergei A. Nasonov, "Tendencies of Development of Legislation on Noncommercial Organizations," unpublished manuscript, 2002.

12. Olga Makarenko, interview with author, Moscow, 21 January 2002.

13. Information Center of the Human Rights Movement, *Summary of Publications of the Central Press and Internet Journals*, 7–13 June 2002, on-line newsletter. See also Robin Munro, "Extremism Bill Riles Human Rights Activists," *Moscow Times*, 5 June 2002.

14. Irene Stevenson, interview with author, Moscow, 25 January 2002.

15. Associated Press, "Putin Club Kicks Off Book Swap," *Moscow Times*, 21 January 2002, 4.

16. In addition to *Idushchie vmeste*, an alternative to the existing Union of Journalists (called *Mediasoyuz*) has been organized but does not currently seem to be doing much of anything and has certainly not displaced the existing Union of Journalists or related organizations from their building at 4 Zubovskii bulvar' in downtown Moscow.

17. Lev Ponomarev, interview with author, Moscow, 23 January 2002; Daniil Meshcheryakov, interview with author, Moscow, 21 January 2002; Alexei Simonov, interview with author, Moscow, 31 January 2002; Arseny Roginsky, interview with author, Moscow, 22 January 2002.

18. See Carothers, "The End of the Transition Paradigm," 8–9.

19. Simonov, interview.

20. Roginsky, interview.

21. Nabi Abdullaev, "Civic Activists Learn Duma Game," *Moscow Times*, 4 June 2002.

22. The need for people who can successfully *otparit* (a neologism meaning, in some contexts, "to spin an issue") seems to have led to a trend in which NGOs create more opportunities for younger professionals to play a more active, high-profile role. This has been necessitated by the fact that many of the older former dissidents who lead Russian civil society organizations are unfamiliar with (and, on basis of principle, somewhat dismayed by) the techniques of modern public relations that the Kremlin has adopted with such alacrity. This development may indicate both impending generational change and potential generational conflict in Russian civil society.

23. Dzhibladze, interview.

24. Carothers, "The End of the Transition Paradigm," 18.