Federalization a la Carte

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The rulers of the Russian Federation have embarked on an extensive overhaul of the country's administrative organization. Recognizing that the political system inherited from the Soviet period was that of a rigidly centralized unitary state, they are trying to build a federation, brick by brick, from the bottom up. The process is haphazard, even chaotic, with the probable outcome being an "asymmetrical federation" in which different regions will enjoy different rights and privileges. But the main aim--the preservation of Russia's territorial integrity--seems already to have been achieved.

After the collapse of communist rule and the disintegration of Stalinist-type federations in the USSR, Yugoslavia, and Czechoslovakia, there was great alarm among Russia's leaders that the Russian Federation would be the next to fall apart. The country did indeed seem, in 1991-92, quite likely to disintegrate. Several of its largest and richest regions were threatening to secede unless the center allowed them control over the natural resources on their territory and freedom to run their own affairs. At first, Moscow's efforts to hold the country together seemed only to make the situation more unstable. But the central leadership bought time with a Federal Treaty in March 1992; it managed, in December 1993, to introduce a new constitution; and it has now embarked on drafting a series of ad hoc, bilateral treaties between itself and the provinces.

To hold the country together, Moscow has had to make substantial concessions to the provinces and to fudge a number of important issues concerning the respective spheres of competence of the federal center and the periphery. Optimists describe this as an exercise in "constructive ambiguity" that will permit the gradual evolution of a true
federation. Pessimists warn that the failure to clarify basic relationships at this stage may, in the longer term, make an equitable distribution of power between the center and the provinces harder to attain.

In a unitary state, sovereignty originates in the center and remains its exclusive prerogative throughout the territory. In a federation, power is shared between the center and the regional subdivisions. However, there is no ideal type of federation, and there are several ways in which the process of sharing power may be achieved. Under one model, sovereignty is deemed to originate in the center, which delegates some of its powers to the individual regions. All powers that are not specifically described in the constitution as belonging to the regions remain the prerogative of the center. Alternatively, sovereignty may be deemed to originate in the regions, which transfer some of their powers upward to the federal center but retain certain attributes of sovereignty at the regional level. All powers not specifically granted by the constitution to the center remain with the individual regions.

The federation now taking shape in Russia fits yet another model--where the issue of who is delegating sovereignty to whom is blurred. Powers are shared between the center and the provinces, without any discussion of where sovereignty originates. Thus, the 1994 treaty between the Russian Federation and the Republic of Tatarstan speaks simply of the "mutual delegation of powers" between the parties.

Conflict over the division of powers destroyed the Soviet Union. One after another, the union republics declared themselves sovereign and announced that their laws took precedence over Soviet laws. Encouraged by their example, Russia's 21 ethnically based republics also claimed the right to run their own affairs. (Russia's republics supposedly act as "national homelands" for Russia's largest ethnic groups--Tatars, Chuvash, Bashkirs, and so on. They enjoy more autonomy than the 55 territorially based krais and oblasts. However, the titular nationality forms an absolute majority in only 5 of Russia's republics, whereas ethnic Russians are an absolute majority in 10.) Russia's republics declared themselves to be sovereign states and, like the union
republics, laid claim to all the land, industrial assets, and mineral resources on their territory. Some claimed the right to secede. Most of them did this not because they really wanted to break away, but because they hoped to reap the benefit of exploiting their rich natural resources. Determined to get more power for Russia, President Boris Yeltsin encouraged their desire for autonomy in order to weaken President Mikhail Gorbachev and the Soviet center.

When the Soviet Union collapsed in 1991, Russia's republics demanded the autonomy Yeltsin had promised them. The question of power-sharing became a football between Yeltsin and the Russian parliament. Finding it impossible in such circumstances to adopt a new constitution, Yeltsin settled instead for a Federal Treaty. Signed in March 1992 by all Russia's territories except Tatarstan and Chechnya, this was an exercise in "constructive ambiguity" that left many issues of competence obscure. By creating a breathing-space and allowing tempers to cool, it prevented Russia from falling apart. Moreover, it distracted the leaders of the krais and oblasts from the idea of secession by focussing their attention on catching up with the republics, which were seen as having received more privileges in the Federal Treaty.

It was not until December 1993, after he had dissolved parliament by force, that Yeltsin was able to get a new constitution adopted. By establishing a strong presidency, this restored a measure of stability. Because the new constitution did not resolve the issue of the division of powers between the center and the periphery, however, pressure for autonomy continued. Whenever they felt could they get away with it, the republics and regions have grabbed more powers. The center has responded by negotiating a series of bilateral treaties between the Russian Federation and its autonomy-minded parts.

The first, between Russia and Tatarstan, was signed in February 1994. Russia recognized Tatarstan's right to have its own constitution and laws, form its own budget, levy republic taxes, and conduct its own foreign policy. Tatarstan won the right to exempt its young men from military service (instead, they must complete a program of alternative civilian service) and to confer its own citizenship (even though this is
arguably little more than a residence permit). Russia has since signed similar treaties with the Republics of Kabardino-Balkaria and Bashkortostan. Next in line are the Republics of Udmurtia and North Ossetia, Krasnodar Krai, and Orenburg and Kaliningrad oblasts.

Though the idea of the whole signing an agreement with part of itself is unorthodox, it has proved rather effective. Three years ago, Moscow was afraid Tatarstan would secede. Today, Tatarstan is a model member of the Russian Federation and its treaty is held up as an example to others. Hopes have been expressed that the formula might resolve Russia's dispute with Chechnya, which in 1991 declared itself entirely independent. The idea has also been seized on by separatists in Ukraine's Crimea and Georgia's Abkhazia--although it has been rejected by both the countries concerned, since neither wishes to become a federal state.

Russia's treaty with Tatarstan has loopholes. It cites as its authority two mutually inconsistent documents--the constitutions of Tatarstan and Russia. While the former describes Tatarstan as "a sovereign state, a subject of international law," the latter does not recognize the sovereignty of Tatarstan or of any other Russian province. Squabbles over interpretation seem certain to arise at some future date. In the long run, moreover, a system of bilateral agreements threatens to undermine the Russian constitution and to turn Russia into a treaty-based, rather than a constitution-based, state. That means that a republic that signed a treaty with the center might claim the right to secede if it felt the center had not kept its side of the bargain.

Russia's treaties with the republics have angered the krai and oblasts, which complain that they do not enjoy equal rights. The arbitrariness of Russia's taxation system remains a particular source of conflict between center and periphery. In August 1994, resource-rich Perm Oblast announced that it would transfer no more federal taxes to Moscow. Perm's leaders were protesting Russia's treaty with Bashkortostan. Perm pays more in taxes to the center than it gets back, while for Bashkortostan the opposite applies.
Meanwhile, other krais and oblasts have been adopting charters giving themselves extra powers. Since the charters are being drafted by provincial governors they are--not surprisingly--concentrating increased powers in the hands of local executives. Democratically elected legislatures are often the first casualty. Civil rights are another, and allegations are mounting that leaders in far-flung places are building personal fiefdoms that have little in common with pluralism or democracy. In Maritime Krai and Bryansk Oblast, for example, local newspapers have been shut down by order of regional leaders. The threat to press freedom is especially worrying since national newspapers are increasingly hard to obtain in the provinces. This means that the press cannot perform the watchdog role assigned to it in democratic societies.

Sergei Filatov, Yel'tsin's chief of staff, told an interviewer that it was difficult for the center to force the provinces to bring their constitutions and charters into conformity with federal laws.(2) The charter drafted by Tambov Oblast, for example, asserts that laws adopted by the regional legislature take precedence over federal laws. So too do the constitutions of the Republics of Bashkortostan, Buryatia, Chechnya, Ingushetia, Kalmykia, Karelia, Komi, Sakha, Tatarstan, and Tuva. Bashkortostan and Sakha have claimed the right unilaterally to decide how much they will contribute to the federal budget, while Tuva wants its own defense policy and customs service. There are wide differences in the approach of the various provinces to privatization, especially of land. The constitutions of Bashkortostan, Buryatia, Sakha, Tatarstan, and Tuva all define the powers of the federal center as the sum of the powers delegated upward by the provinces whereas, according to Filatov, the powers of the Russian Federation spring "from its own sovereignty as a single, integral, federative state."

In response to complaints such as Filatov's, Yel'tsin's adviser Leonid Smirnyagin has argued that Russia's overriding need is for a radical devolution of power.(3) "One can only rejoice," Smirnyagin asserted, "that people in the regions are coming to understand that the main source of local solutions is to be found in the region itself, not in Moscow." Russia, he declared, has embarked on "the high road to genuine federalism."

Tatarstan's relations with Moscow demonstrate that, in the short term, ambiguity can be
a useful tool, enabling lawmakers to sidestep issues that are too contentious to tackle directly. In the intervening lull, the sides can concentrate on building new relationships based on mutual interests. History suggests, however, that respect for the rule of law is an essential ingredient in any democracy--perhaps even the most important ingredient. At some point, therefore, Moscow and the provinces will be forced to come to grips with the ambiguities characterizing their relations. Disparities between the civil rights of the inhabitants of different regions will certainly need to be eliminated. A system of taxation that is seen to be fair must be introduced. But, for the time being, Russia's efforts to build a federation from below have brought a measure of stability (except in Chechnya) to center-periphery relations that, only a couple of years ago, few observers expected to see.

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