

RUSSIA: 'Quiet revolution' seeks to end legal nihilism

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EVENT: On October 28, President Dmitry Medvedev submitted to the Duma (lower house of parliament) his new law on the police.

SIGNIFICANCE: The legislation is part of a broader drive to reform Russian laws and policing. This reflects not only a technocratic appreciation of their importance in fostering positive business and social climates, but also Medvedev's commitment to a government based on the rule of law. The Kremlin's emphasis on legal reform has raised questions whether there will be a complementary reduction of the state's extensive and often intrusive powers.[Go to conclusion](#)

ANALYSIS: President Dmitry Medvedev and Prime Minister Vladimir Putin both trained as lawyers, but Medvedev seems to have a genuine interest in and respect for the notion of law that his prime minister lacks. For example, the president has repeatedly criticised Russia's culture of 'legal nihilism'. One fault line within the government centres on divergent interpretations of law:

- **'Civiliki'.** Medvedev believes the state ought to be powerful, but that these powers need to be codified and thus subject to limits and made more predictable. This stance appears to be supported by many within the 'civiliki' -- technocrats and lawyers united (as much as anything else) by their suspicion of the 'siloviki', who represent traditional security interests in the elite. Medvedev seems to have won the support of some whose natural loyalties might have lain elsewhere, such as Investigative Committee (SK) chief Aleksandr Bastrykin.
- **Siloviki.** Another cadre within the elite came to power largely during Putin's presidency, and is drawn disproportionately from the security agencies. The siloviki appear to believe that the law must take second place to the interests of the state ([see RUSSIA: Modernisation unsettles security interests - July 22, 2010](#)). Putin and key figures such as Deputy Prime Minister Igor Sechin are associated with this view.

Despite these differences, both factions agree that reform can only proceed if it strengthens the 'vertical of power' through which the state maintains central control. For example, a share of police funding currently comes from local budgets, which gives regional elites a degree of leverage. However, the Ministry of Internal Affairs (MVD) and all local commands will soon be funded solely from the federal budget (subsidies to the localities will be cut correspondingly), reflecting Moscow's concern with maintaining federal control over the police.

Law enforcement reform. Some changes are essentially cosmetic -- notably, the planned renaming of the 'militia' as the 'police' -- but others are fundamental ([see RUSSIA: Police attacks may reinvigorate reform - June 30, 2010](#)):

- **Public debate.** The draft of the new federal law on the police was posted online for unprecedented public discussion in August. Although most of the largely critical comments were ignored, some revisions were implemented. The legislation has just been resubmitted to the Duma (lower house of parliament), with the aim of coming into force on March 1.
- **MVD reform.** The MVD is undergoing organisational reform aimed at streamlining structures and ensuring that it has fewer but better officers, in line with a presidential decree issued in December 2009. Overall, the strength of the force is to fall by 20% by 2012, but average salaries will rise by 30%. According to Finance Minister Aleksei Kudrin, some 217 billion roubles (7 billion dollars) will be allocated for police reform in 2012-13, mostly to cover higher wages for officers.

- **SK control.** In September, Medvedev transferred the SK -- which is responsible for all preliminary criminal investigations -- from the Prosecutor-General's Office to direct presidential subordination. Putin established the SK in 2007, and while it did little to improve prosecution rates or avert miscarriages of justice, it has played a role in tightening Moscow's grip on local courts and investigations.

Legal reform. Medvedev is also presiding over a comprehensive review of the legal system:

- **Penal code revisions.** In October, Medvedev approved the draft law amending the criminal code, which will allow courts to impose fines, community service or house arrest for a variety of minor offences. This follows changes to the criminal procedure code in April to prohibit the detention of suspects in many white-collar crimes without special cause. The threat of open-ended detention was often used by predatory tax and police officers to extort bribes from businesspeople.
- **Right of appeal.** The right of appeal will be fully available in civil cases in 2012 and criminal cases in 2013. As well as providing fundamental new rights, this reform will also necessitate an expansion of the judiciary. The appointment of approximately 1,500 new judges should dramatically lower the average age in the judiciary and bring in a new generation with little experience of Soviet practices.
- **Trial by jury.** Juries currently decide only some of the most serious cases, but their role is slowly expanding. Juries try around one in every 2,000 criminal cases, but acquit one in five; in traditional courts that rely on a judge and two lay assessors, one in 100 defendants are acquitted.
- **Curbing police raiding.** The Kremlin appears interested in curbing the widespread use of police and the courts to extort bribes and appropriate property ([see RUSSIA: Corporate raiding challenges investors - August 21, 2008](#)). The draft police law would deprive officers of the right independently to conduct tax audits or financial inspections, two powers that are widely abused. Instead, they could only do so when authorised by the tax authorities or a prosecuting magistrate.
- **Private prisons.** Federation Council (upper house of parliament) First Deputy Speaker Aleksandr Torshin is campaigning for the government to allow private companies to build and run prisons, and has promised to table a bill to this effect within a year. His view is that this would not only economise state resources, but also help ensure that petty offenders are kept separate from hardened recidivists, who sometimes recruit and train other inmates to become more sophisticated criminals.

Principles vs practices. The key question is whether this quiet legal revolution will have much of an impact in practice:

- **Corruption.** In recent years, there has been a stabilisation of Russian corruption -- that is, a general predictability about whom to pay and how much, as well as a belief that bribes will be honoured. However, corruption is still very much a feature of the judicial system, and without effective measures of control, it will render any reforms of limited value.
- **Lack of will.** The legal nihilism Medvedev criticises is not just a product of previous presidents; it also reflects the extent to which the elite has benefited from keeping the laws and courts under control.
- **Electoral considerations.** The approach of the 2011 parliamentary and 2012 presidential elections will undermine significantly efforts to bring meaningful reform to Russian law and policing ([see RUSSIA/US: West cannot rely on 'democratic Medvedev' - September 16, 2010](#)). While Medvedev may believe in confronting the politicised and partial use of the law, he will probably step back from implementing these reforms while he works to secure the support of federal and local elites.

CONCLUSION: Medvedev seems to regard a more consistent and transparent legal environment as key to Russia's development, and has been introducing substantive reforms to this effect. However, these improvements are likely to have limited practical impact in the short term, in part because Medvedev may find himself making so many expedient compromises within the elite that he is never able to bring legal changes to fruition.

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