

Yeltsin Constitution: Considerations and Perspectives

Constitutionalism can be defined as a set of principles and values aiming to shape the constitutional configuration of a state to ensure that society acts in accordance with them. In other words, it represents a significant and compelling normative theory dictating the terms in which a constitution should be written. Constitutionalism implies an evolutionary process from its original format to a configuration corresponding to the emerging political and social demands of society. Basically it should ensure the state flexibility necessary for modifications, when, due to new circumstances, its original premises dictated by considerations of stability and order must be overcome for the sake of progress and emancipation. It is to be stressed that a constitution, even if constructed according to values implying the participation of society, is not by itself sufficient to allow a smooth process of durable and sustainable democratic transition. There are many political and economic forces related to special interests, which can operate at a practical level of interaction with the state not in accordance with the principle of the national common benefits. As the evolution of post-Soviet Russia demonstrates, many things will depend on the political culture prevailing at society level and on the commitment of the state government to lead the country in the direction defined according to democratic principles.

The constitution adopted in December 1995 by the Kremlin opened a crucial period in the political development of the post-Soviet era promoting the process of institutionalisation and constitutionalism of the new Russian regime. The process was a result of Yeltsin's personal decision to impose his political will with the power and the prestige related to his President position. It was a part of a policy which, as demonstrated by the previous clash with the Duma, did not renounce to the use of force, according to the paradigm of what we can call "a revolution from above". An act of last resort that Yeltsin was able to push through

thanks to the authorities accumulation had been realized in the previous years due to a wave of popular consensus, an almost plebiscitarian support to his policy. The justification of this act was an urgent need to check and reverse the situation of uncertainty and tension prevalent in the early 1990-ies due to the condition of disorder and uncertainty in Russia resulting from the collapse of the Soviet Union. Because of the failure of Gorbachev's policy of gradually controlled transition from the Soviet system, the act was generally accepted, even by the majority of western observers, as it was the only realistic choice in that situation.

Born in a situation of emergency, Yeltsin's constitution presented the classical elements of a superpresidential document. This means that it was a constitution framed in a democratic form where the president was with dominant prerogatives embodied over the executive and the legislative parliamentary organs. The power system, as a consequence, was characterised by a weakened system of checks and balances when confronted with a policy decided on the basis of the personal influence of the president. Formally analogous to the presidential constitutions of the republican Western European countries, it represented in practical terms a specifically institutional phenomenon born out of the radical regime change undergone by Russia at that time. The new post-Soviet constitution corresponded, in the logics of constitutionalism, to the identity peculiar for Russia: to its social environment, political culture, historical experience, national self-consciousness, multi-ethnic configuration, territorial dimension, and – last but not least – to its geo-strategic location. The country of Russia, which had traditionally been ruled by strong leaders, “dominated,” as Yeltsin said, “by Czars, Chieftains, where the alternatives to a strong president could only be a dictator... a country where discipline was not developed and legal nihilism prevailed.”

The Russian regime contained, according to its constitution, those basic elements which, in the course of its evolution, could consolidate and give birth to a political system defined as a hybrid. That is a system characterised by the juxtaposition – in a precarious balance – of formal democratic institutions and traditionally authoritarian policy. An institutional mixture, which with the passing of time has evolved

in different, still to day not clearly defined political directions, as is made evident by the contradictory developments of Putin's regime. An overall evaluation of the political experience invested in Yeltsin personality allows, beside the subjective inclinations of the observer, for considerations based on positive as well as critical appreciations. On the positive side we can point to the achievement of what can be presented as a policy of normalisation based on enforcing the paternalism, in general a benign order, unprecedented in the history of Russia. Political pluralism sustained by relatively open competition between parties, and freedom of debate through the activity of mass media, free from censorship, were a part of the new political environment. From the negative side, however, one can find elements obviously opened to criticism: the inefficiency and frequent oscillations in the implementation of the official policy due to the lack of coordination and corruption of the state bureaucracy; the limits inherent in a policy strongly dependent on the president's vagaries, often under the influence of his inner circle of confidants; the very high social costs imposed on the population as a consequence of the mismanagement of the economy culminated in the financial default of 1998. This last phenomenon, the source of a widespread condition of civil disorder and poverty tended to be identified with the formal adoption of a democratic western inspired political course, determining a persistently negative attitude towards democracy of a large section of the population.

It is due to Yeltsin's ability that, through opposing deviations and manipulations in the course of his administration, legal norms were generally observed insuring in principle the respect of democratic norms. Hereby, under a minimal conception of democratic norms we mean a pluralistic system based on competitive elections which allows for political alternatives in respect of civil and political liberties. The main achievement of his policy resided in the fact of having broken the traditional link between authoritarianism and national unity, which was judged indissoluble by many analysts looking to the historical experience of Russia. Yeltsin, in fact, was able to demonstrate that Russia could in certain conditions be at the same time a united and democratic country.

Federalism, the official policy of the post-Soviet state, was based on the principle of a contractual relationship in the assignments by the centre of rights and duties to the regional territorial subjects of the periphery. The solution, constitutionally defined, should have represented a solid precondition of a democratic and pluralistic political life of the country. The fundamental condition of its success being a working interaction between federalism and democracy, guaranteed by the representative system presented at the level of government. In the process of federalism implementation, Yeltsin promoted a series of ad hoc treaties and agreements with the different regions and republics, aiming to create in the political life of Russia an environment both of unity and of pluralism. It was a complex task, in view of the centrifugal forces meaning to provide ethnic attribution to any local origin which had gained strength with the sudden collapse of the Soviet state administrative apparatus. The elements of ambiguity inherent in the agreement between Moscow and the periphery at the origin of recurring tensions and conflicts between the opposite partners represented the political price for managing with sufficient flexibility the relations with the various subjects of the federation. A more coherent, more rigid approach would have probably resulted in breaking the agreement with unforeseen consequences of the regime stability. The dramatic case of Chechnya, which involved the government in a disastrous military action with the aim to maintain the territorial integrity of Russia, would not have remained unnoticed. A fundamental contribution into the managing process of this relationship was made by a multitude of informal contacts between the federal authorities and the local political and economic elites representing territorial entities strongly differentiated in terms of material resources, cultural identities, political and religious traditions. This policy confirmed the rule that when nations undergo a radical process of institutional transformation, many problems are solved outside from the constitutional legal framework – in the everyday interaction between the state and society. It is to be stressed that Yeltsin, unlike other leaders confronted by the challenge of a sudden regime change, resisted the temptation to make ethnic nationalism the basis of Russian unity, relying instead of it on civil nationalism as an instrument of social cohesion. In the early nineties, multiculturalism was a mark of

the official policy. According to the constitution, all Russian citizens got full equality of their civil rights without restriction related to their specific nationalities.

Therefore, the West, notwithstanding with growing criticism of what was perceived as a gradual degeneration of his political system and as an oscillating position in his foreign policy, was supporting Yeltsin through the whole period of his administration. This fact appears to be evidence to the necessity, if not the intrinsic validity, of the experience. In the western appreciation of his policy it was fundamental that Yeltsin managed to sustain relative order and stability in the country not only by barring any Communists' return, but also by ensuring security at the international level through a strict control of the nuclear weapon, in the latter co-operating as well with the USA and Europe.

Considering the overall evaluation of Yeltsin's policy in the political context of the 1990-ies can point to both successful and unsuccessful developments, with a negative trend of spending time in favour of the latter. In his role of a transformative leader, Yeltsin fulfilled with sufficient skills the burdensome task of "creative destruction", objectively required by the situation of Russia at the time. That included destroying the structure and culture of the old order and, at the same time, building the foundations of new institutions and creating the elements of a new political culture. Without opposing to contradictions and restrictions in the implementation of this policy, there was created a new regime, overcoming the fundamental elements of the Soviet system, and formally establishing a democratic and federal system. The object of contrastive interpretations is the level of responsibility which can be attributed to Yeltsin, due to the negative aspects of his personality, such as not being able to resist the growing elements of administrative inefficiency and corruption of the system of power, which became evident at the end of his presidency. The crucial, and still open, question is: how much the political action conducted in this period, with both the positive and the negative aspects underlined, have been determinative in influencing the political course, undoubtedly more effective, but at the same time more clearly directed towards authoritarianism than the one, promoted by president Putin?