TITLE: The Procuracy and the Referendum

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This paper describes the views of the Russian procuracy in anticipation of the April 25, 1993, Russian Referendum, and the author's comments on its aftermath, including Procurator General Stepankov's move to revoke the release of Yanaev, Lukyanov and Kryuchkov, and the effect of the May 1st demonstrations on Yeltsin's relations with security forces. It is based on interviews with Russian procurators in several cities in April, just before the Referendum.
INTRODUCTION

The referendum on President Yeltsin's leadership of April 25 proved to be an important catalyst for accelerating the national debate on adopting a new constitution. Central to the discussion of the referendum was the question of division of power and authority between the executive and legislative branches of government. Since legal reforms have, for the past two or three years, been largely tabled until the larger constitutional questions are resolved, the debate over a new constitution is of exceeding importance for the future development of the entire Russian legal system. Not surprisingly, the referendum sparked active discussion among Russian jurists, including those within the Procuracy. This paper analyzes the positions of several procurators on the referendum and its likely impact on the further development of legal reforms affecting the Procuracy.

METHODOLOGY

This research was conducted during the period April 1-19, 1993 in a number of Russian cities, including Moscow, St. Petersburg, Kazan, and Nizhnyi Novgorod. Extended personal interviews were conducted in each location with procurators of various ranks (chief city procurators, regional procurators, and republic chief procurators), juridical scholars, and police officials. The primary topics covered in the interview sessions focused on the process of legal reform, although many of those interviewed brought up the subject of the impending April 25 referendum on President Yeltsin's leadership.

THE PROCURACY'S STANCE ON THE REFERENDUM

Although the Procuracy did not take an official position on the referendum, several actions leading up to the April 25th vote clearly indicated that Procurator General Stepankov was not aligning himself with President Yeltsin. During the March 1993 emergency
Congress session, Stepankov was the first speaker to suggest that the President may be threatening to violate the Constitution. Stepankov is reported to have warned that unconstitutional actions by the President could result in his impeachment. Subsequent speakers took the argument considerably further by suggesting that Yeltsin’s March 20 televised speech to the nation itself constituted a violation of the Constitution.

Less than one week before the referendum Vice-President Rutskoi alleged widespread corruption among Yeltsin’s top officials and announced he was handing over materials to the Procuracy for investigation. Within two days, Stepankov announced that the evidence raised serious questions and that a full criminal investigation had begun into the allegation. These actions were widely interpreted as an attempt to weaken Yeltsin’s support on the eve of the referendum.

When asked about Stepankov’s actions, one of his senior deputies, N. A. Karavaev, dismissed Western accounts as inaccurate. He did note, however, that the country faces a legal conundrum: should the referendum give the President a renewed mandate, would it permit him to violate the Constitution? Karavaev answered clearly and unequivocally, "No." When asked about the legitimacy of a constitution that had been amended more than 300 times in the past year by a parliament that was not itself democratically elected and did not enjoy the support of the people, Karavaev answered that even so, "to not defend the Constitution and laws would mean anarchy." Karavaev acknowledged that the Constitution lags behind political developments and public opinion but that resolving the constitutional crisis without first resolving the gridlock between the President and parliament is impossible. He was not optimistic that the referendum would break the gridlock and, in fact, he strongly criticized Yeltsin’s handling of legal and economic matters, reiterating the criticisms raised by Yeltsin’s opponents.

These sentiments were shared among virtually all of the procurators with whom I spoke. Many noted Stepankov’s perceived distancing from Yeltsin in the past year. The Procuracy is still one of the country’s most hierarchical organizations and lower level procurators are accustomed to taking their cues from the Procurator General. It is also possible, however, that the procurators interviewed all understand that the interests of the
Procuracy as an institution would be better served by a different President. Several be-
moaned the breakdown of public law and order that they blamed on Yeltsin's reforms.

Others cited that the proposed reforms of the legal system are being pushed by
academic jurists and others with little or no practical experience in law enforce-
ment. Procurators feel that many of the reforms have been unrealistic. Vladimir Goncherov, senior
assistant to the Procurator of the City of Moscow, spoke for several procurators when he
remarked:

The Procuracy must be apolitical. We must only supervise the law. We have
our own views [on the referendum], of course, but they don't matter. We
need more moderate legal reforms. The courts are not ready to handle the
burden, the people also are not ready, and meanwhile, crime is on the in-
crease.

In Nizhny Novgorod, opinions on the up-coming referendum seemed to reflect the
views of the powerful local leader Boris Nemtsov. Nemtsov, a 33-year old physicist who
entered politics a few years ago to lead opposition to the construction of a nuclear power
station, was a strong supporter of Yeltsin and was named by him as "governor" of the
Nizhnyi Novgorod region. Recently, however, he split from Yeltsin's group and now
supports Civic Union. However, Nemtsov maintains close ties to Gregory Yavlinsky and has
implemented some of the elements of his "500 Day Plan" into the economy of the Nizhnyi
Novgorod region. Still, the oblast procurator, Alexander Fedotov, was not optimistic about
Yeltsin's chances of carrying the region. He indicated that 20-30 percent would refuse to
participate in the referendum, and only 20 percent could be counted on to support Yeltsin.
The remaining voters would split between various alternative candidates and institutions. He
noted that Yeltsin's "headlong rush to reform everything" had resulted in "serious mistakes."

In the capital of Tatarstan, Kazan, the chief issues are legal and economic sovereign-
ty. In the past, the vast majority of the republic's oil and other resources were sold with the
republic receiving little in return. The chief Procurator of the Republic, Saifkhan Nafeev,
noted that the pace of reform in Tatarstan has been slower but more orderly than in other
regions of the former USSR. Tatar President Shaimeev insists that everything proceed
according to the law, Nafeev noted. So far, Shaimeev has been able to build a compromise
with the Parliament so that they have not experienced the gridlock that exists in Moscow. Nafeev acknowledged, that the reforms have not preceded very far and that Shaimeev’s power tends to be personal; he has tremendous influence with many of the factions in the Tatar Parliament.

Nafeev predicted that Yeltsin stands little chance of carrying the referendum in Tatarstan. He noted that people in Kazan see the referendum as a vote of confidence in the President and that many do not have much confidence in him.

A countervailing trend, identified by jurists affiliated with Kazan State University, might result in support for Yeltsin, however. They noted that movement toward greater autonomy for the republic depends on a continuation of the path of reform favored by President Yeltsin. A backlash against Yeltsin, if it resulted in a new leader supported by the extreme Russian nationalists, could in the future constrain the Tatar Republic’s sovereignty over its own affairs.

POST-REFERENDUM DEVELOPMENTS

Following Yeltsin’s clear victory in the April 25th referendum, the Procurator General Stepankov has moved to a centrist position, curbing his criticism of the President and failing to align himself with Vice President Rutskoi and Parliament Chairman Khazbulatov. Despite charges by Rutskoi and Khazbulatov of widespread electoral fraud, the Procuracy has yet to launch a criminal investigation into the referendum. Instead, an investigation has been undertaken by a political committee of the Parliament.

Even more significant was the announcement on May 5 by ITAR-TASS that the Procurator General petitioned the court to revoke the probationary release of Gennadi Yanaev, Anatolii Lukyanov, and Vladimir Kryuchkov, who are defendants in the trial of the organizers of the August 1991 attempted coup d’etat. The grounds for suspending their probationary release, included in Stepankov’s petition, are that they helped to organize the May 1st demonstration in downtown Moscow that turned violent. While this action firmly puts Stepankov in opposition to Khazbulatov and others in Parliament, it may not indicate his total support for Yeltsin.
It is likely that Stepankov also feels that the Procuracy must investigate and prosecute those demonstrators who violated the law because their actions resulted in the death of one special forces policeman and injuries to hundreds of others in the law enforcement community. The upshot of the events of May 1 may be to build stronger ties between the President's position, the Moscow mayor's office and the three law enforcement services, the Procuracy, the Ministry of Internal Affairs, and the Ministry of Security (the former KGB). Establishing a cooperative relationship among these parties would be an urgent necessity in advance of the anticipated Victory Day demonstrations on May 9th.