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NCSEER NOTE

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The sources of presidential authority, according to Duverger, lie in the formal powers of the constitution, in tradition and circumstance, and in the President's political base in parliament and society. But they also lie in the President's own institutional resources. By examining a key department in the Russian presidential apparatus, the State-Legal Administration, this paper illustrates the relations between the Yeltsin presidency and other institutional actors in Russian politics.

At the center of the analysis is the conflict within the Russian executive between presidential and Government structures, whose functions and jurisdictions often overlap. To explain this politics of redundancy, the paper employs both rationalist and culturalist models of behavior found in the literature of comparative politics. The paper concludes that the pattern of institutional politics found in the post-Soviet era bears a striking resemblance to earlier models of Russian and Soviet rule.
PRESIDENTIALISM IN RUSSIA:
THE STATE-LEGAL ADMINISTRATION AND THE POLITICS OF REDUNDANCY

Eugene Huskey

The adoption of a new constitution in December 1993 revised but did not settle institutional arrangements in Russia. While the constitution kept in place the hybrid presidential-parliamentary structure inherited from the late Gorbachev years, it significantly enhanced the president's formal powers vis-a-vis the parliament and Government. This extension of presidential prerogatives has led some commentators to regard Russia's new political system as presidentialist, if not superpresidentialist or even autocratic.1

Such labels, of course, are provisional. The Russian political system is in its infancy, and the view from 1995--just as the view from year two of the Fifth French Republic--may appear quite aberrant a decade later. A surprisingly limited understanding of the operation of state institutions also restricts our vision of Russian politics. To speak confidently about the distribution of power within and between the executive and parliament--and therefore about the system of government in Russia--we need to know much more about the institutional actors in Moscow, most

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notably the presidency.\footnote{In the last decade and a half an impressive comparative literature has developed to explore what Juan Linz has called the design and performance of political institutions. The fundamental assumption of this literature is that institutional landscapes condition political outcomes—a commonplace of classical political philosophy but a lost science among many contemporary students of politics. Among the works that assess the implications of institutional arrangements writ large—or the system of government—are Duverger (1978), Linz and Valenzuela (1994), Riggs (1988), and Shugart and Carey (1992).}

Maurice Duverger has argued that the sources of presidential authority are scattered around the political landscape: in the constitution, in tradition and circumstances, and in the President’s political base in parliament (Duverger, 1980, pp. 165-187).\footnote{In contrast to democratic regimes, which are the primary subject of Duverger’s work, the Russian political system forces the President to create ruling coalitions from among an array of extra-parliamentary political forces, such as regional elites, industrialists, and the military.} One might add to this list the President’s own institutional resources. Although these personal resources are not essential to a strong executive—witness the British Prime Minister or the French President, who have no more than a handful of personal advisors—they may help to shore up presidential authority when other sources are wanting. Such is the case in Russia, where the presidency has grown rapidly into a bureaucratic leviathan. The Russian presidency now dwarfs comparable bureaucracies in the West.\footnote{Estimates of the size of the Russian presidency range from 5,000 to 27,000, depending on the number of institutions included. The Administration of the President alone contains a permanent professional staff of 2180 ("Filatov Says...," p. 19). An indication of the size of the apparatus can be gained from the budgetary allocations for presidential structures in 1994. Where the State Duma and the Federation Council were allocated 180 billion and 76 billion rubles, respectively, the president’s Administration of Affairs received 214 billion rubles and his Administration for Planning and Realization of Special Programs received 286 billion rubles ("Raspredelenie assignovanii...," p. 6).}

The size and complexity of the Russian presidency is all the more remarkable because of the existence of a parallel center of executive management, the Government. Presidency and
Government now compete for the attention of the ministries, parliament, and the nation. At stake in the current competition between presidential and Government structures is not just immediate policy decisions but the nature of the Russian regime. Settled and efficient political arrangements in Russia require a rationalization of executive authority, either through a clear division of labor between President and Prime Minister or a merger of the two executive hierarchies.  

Sergei Shakhrai recognized this problem in early 1992, when a working group under his supervision prepared a draft law that would have eliminated the Government as a collegial organ. According to a member of the working group, Aleksandr Maslov, then a department head in the president's State-Legal Administration, the draft envisioned direct presidential supervision of the ministries and the removal of the office of the Prime Minister, which had, under Ryzhkov, Pavlov, and Silaev, competed openly with the presidency for the pre-eminent role in the executive (Sichka, p. 1). When this direct strike against the Government failed, Shakhrai encouraged the establishment of a strong presidency as an initial step toward the merging of the two executive hierarchies. In his view,  

...sometimes even duplication of functions is advisable. The most dynamic and competent institution will survive in the competitive struggle. Thus, when Peter I created collegiums he did not abolish the old departments (staging posts, criminal affairs, and others), which had borne the burden of state administration and had not yet outlived their usefulness ("Shakhray explains...," p. 2.)  

The politics of institutional redundancy has a long and unbroken history in Russia. Before Peter the Great, Ivan the Terrible formed the oprichnina as a means of attacking the existing bureaucracy. At the beginning of the 19th century, Alexander I created the Council of Ministers as a counterpoint to the Senate (Eroshkin, 1983, pp. 155-160). And in the first years of the Soviet

6 A compelling analysis of the rationalization of executive authority in the West may be found in Huntington (1966).
era, the Bolsheviks constructed a Communist Party apparatus to shadow a suspect Government. Where Western rulers have disciplined bureaucracies through a combination of patronage and law, their Russian counterparts have relied on the cruder and less sure device of institutional parallelism, that is the creation of new checking mechanisms above existing institutions. The problem, of course, is that no institution remains reliable for long. Today's checking mechanism is tomorrow's established bureaucracy.

When Gorbachev first created the Soviet presidency in 1990, he began to recreate in the presidency the supervisory potential of the old party Central Committee, which he was abandoning. Yeltsin has followed suit in the Russian presidency. Rather than approach this as a restoration of Communist principles of governance, we view it as a continuation of a traditional pattern of Russian rule. Absent loyal, professional personnel and a rational legal structure of authority in the Russian executive, the leader is reduced to choosing between terror or the politics of redundancy to effect change. The Yeltsin presidency is the latest installment in this long-running saga.

To illustrate the politics of redundancy in the Yeltsin era, we shall examine one of the most important institutional resources of the Russian presidency, the State-Legal Administration [Gosudarstvenno-pravovoe upravlenie, or GPA]. According to one of its many critics, the GPA was formed in order "to revive the reach of the Administrative Organs Department of the Central

7 In the case of Gorbachev, however, this process was only in its infancy when the Soviet Union collapsed. Only a little more than 400 persons were working in the Soviet presidency at the end of 1991 (Kozlov, p. 6). This figure does not include the approximately 100 persons who worked in the vice-president's office under Gorbachev or on the staffs of the Security Council or Defense Council.
Committee over the entire range of political-legal decisions" (Mazaev, 1992, p. 3). With a large staff and access to the chokepoints in Russian lawmaking, the State-Legal Administration has emerged as a vital gatekeeper in Russian politics and a prime example of institutional redundancy. Yeltsin’s growing reliance on rule by decree, most vividly illustrated in the summer of 1994, has placed the State-Legal Administration near the center of the continuing struggle among the presidency, Government, and parliament for institutional supremacy in Russia.

THE STATE-LEGAL ADMINISTRATION: GENESIS, LEADERSHIP, AND INSTITUTIONAL CONTEXT

The State-Legal Administration was created on December 7, 1991, to advise the Russian president on legal matters and to facilitate the establishment of a "single legal space" in Russia (Shakhrai, 1992, p. 4). The latter function seemed especially urgent at the end of 1991, when, in the wake of the war of laws between Soviet central authority and the republics, Russia was beginning to assert legal and political hegemony over its more than fourscore subject territories.

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8 One might have selected other structures in the presidency to illustrate this pattern. The President’s Monitoring Administration, which conducts inspections [proverki] of the ministries and attends sessions of ministerial collegia, is also replicating some of the checking functions of the party machinery. Much like junior party cadres in the old regime, inspectors in local subdivisions of the Monitoring Administration are to be seconded to the central office in Moscow for training before being redeployed to local posts. Furthermore, an incipient nomenklatura office has been created in the Cadres Administration of the presidency.

9 As Peter Hall’s work shows, institutions as well as groups can create veto points as well as strategic openings for policies. See generally Thelen and Steinmo (1992).

10 In the words of one observer, "the prospects for cohabitation with an unpredictable and unruly State Duma that does not have a stable majority raise the ante in this game for the right to appraise and edit drafts to be submitted [to the President] for signing" (Parkhomenko, 1993, p. 52).
The fledgling state in Moscow sought to ensure that it would win the second round in the war of laws, this one between Russia and its provinces.

The origins of the State-Legal Administration also lie in the political ambitions of its founder and "ideologist," Sergei Shakhrai. No other subdivision of the Russian presidency has been so closely associated with a major political figure. Shakhrai transformed a small personal staff of legal advisors into an institution that could rival established ministries. Although Shakhrai departed the State-Legal Administration in mid-1992, its organization, functions, and personnel continue to bear his imprint.

Born into a Cossack family on April 30, 1956 in Simferopol, Sergei Shakhrai trained in law at Rostov University and then pursued graduate legal studies and a teaching career at Moscow University. While head of the university’s Laboratory of Legal Information at the end of the 1980s, Shakhrai worked as a consultant for the USSR Supreme Soviet. His political activity began in earnest in early 1990, when he was elected to the Russian Congress of People’s Deputies, and later its Supreme Soviet. A loyal supporter of Boris Yeltsin, Shakhrai served in the legislature as head of the Committee on Legislation and as a member of the Committee on Nationalities. He joined the executive on July 19, 1991, as the first state counsellor to the President for legal policy. A month later, during the August coup, he was in the White House with Yeltsin drafting appeals to the nation (Yeltsin, 1994, p. 57).

When Shakhrai departed the presidency in mid-1992, he left a political ally, Aleksandr

11 The term is Aleksandr Kotenkov’s. The new head of the apparatus of the Duma, Voikov, claims that he assisted Shakhrai in the creation of the GPU (Stepanov, 1994, p. 3).
Kotenkov, in charge of the State-Legal Administration. Kotenkov had travelled a most unlikely route to his new position, having come to Moscow and the GPU's security affairs department in 1991 from Birobidzhan, the capital of the Jewish Autonomous Region. He had served there as a political commissar in the Soviet Army. Viewed by many as a reformist, Kotenkov had defeated the local party secretary in Birobidzhan for a seat in the Russian parliament, where he assumed the deputy chairmanship of its committee on defense and security issues. In published interviews following his appointment as head of the GPU, Kotenkov sought to distance himself from his increasingly controversial patron, Shakhrai ("My - struktura chisto apparatnaia," 1992, p. 2). It is revealing, however, that when Yeltsin fired Kotenkov unexpectedly in December 1993, he immediately found employment as Shakhrai's deputy in the State Committee on Nationalities ("Kadry," 1993b, p. 1).

Kotenkov's replacement, Ruslan Orekhov, was also recruited into the State-Legal Administration under Shakhrai ("Kadry," 1993a, p. 1). Born in Kazakhstan in 1963, Orekhov received his legal education in Alma-Ata, where he studied under some of the Soviet Union's most respected authorities on civil law. Like Kotenkov, Orekhov had previously been a department

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12 According to Kotenkov, Shakhrai left the presidency in part because of a feud with Yuri Petrov, Filatov's predecessor as head of the Administration of the President (Akopov and Kolesnikov, 1992, p. 2).

13 See the biography of Kotenkov in Politicheskaia Rossiia (1993, pp. 26-27). Educated at the Rostov-na-Donu Agricultural Machine Building Institute and the Military Political Academy, Kotenkov apparently had no legal training.

14 As Shakhrai moved toward the political center during 1993, he gained enemies on the left and right. For a flavor of the criticism directed against Shakhrai and his "dictatorial manners" [diktatorskie zamashki], see "Bunt na korabli PRES" (1994, p. 1).

15 Kotenkov believed that he lost his position because of his work in the electoral campaign for the party of Shakhrai, PRES (Parkhomenko, 1993, p. 52).
head in the GPU, in his case in the civil law division. A young, able jurist, Orekhov thus far appears to be less politically astute and ambitious than his predecessors.

All three leaders of the State-Legal Administration have consistently understated their institution's mission and capabilities, in spite—or more likely because—of its visibility and influence in Russian law and politics. Asked in early 1992 to defend the role of the GPU, whose acronym conjures up unpleasant associations with the Bolshevik secret police, the Main Political Directorate of the armed forces, and the Communist Party's department for legal oversight under Gorbachev, Shakhrai insisted that it was little more than an "expert analytical component of the president's apparatus." Its role was to offer "recommendations and opinions for decisions for the president or give its findings on draft normative acts submitted to the president" ("Shakhray explains..., 1992, p. 2). That the GPU has often been a player in grand politics is indicated by the number and vociferousness of its critics. One jurist and parliamentarian complained that the GPU "monopolizes information and access on political-legal questions for the President" (Mazaev, 1992, p. 3). This animus toward the GPU springs from personal, policy, and institutional rivalries within and between the presidency, Government, and parliament.

To speak of conflict within the presidency would seem commonplace to an official in the American White House. It should be even less surprising in the Russian case, where the presidential bureaucracy is larger, the lines of authority are more obscure, and the range of political opinions is more diverse. To appreciate the potential lines of conflict in the Yeltsin

16 While readers will be familiar with the acronym for the secret police, they may not remember that the Communist Party Central Committee's Department of Administrative Organs was renamed the State-Legal Administration (GPU) at the end of the Gorbachev era. Shakhrai was obviously aware of these associations and apparently sought to use them to gain immediate respect and recognition, if not notoriety, for his institution.
presidency, it is essential to locate the State-Legal Department within the apparatus of the presidency.

If physical proximity to the President is a rough measure of authority, the State-Legal Administration occupies an intermediate position in the presidency, beyond the personal offices of the President but within what might be termed the presidential precinct. Located across Red Square from the Kremlin, in the former offices of the Administrative Organs Department and the Party Control Commission, at Il'inka 8, the GPU forms part of the Administration of the President [Administratsiia Prezidenta], which is roughly akin to the Executive Office of the President of the United States (see Diagram 1). With an approved staffing level of 304 persons and an unusual degree of autonomy from the head of the Administration, the State-Legal Administration is just outside of the President’s inner circle of advisors.17 Its seven departments (See Diagram 2) employ some of country’s brightest and most reform-oriented young jurists and other professionals, including psychologists. Although their pay and working conditions do not match those offered by leading firms in the private sector, they are very handsome indeed by the standards of the state bureaucracy.18

The lines of command between the President and the GPU originally ran through Sergei Shakhrai. They are now more diffuse—though Shakhrai continues to serve informally as an advisor to the president on especially important legal questions (Babitskii, 1994, p. 1). Communications with the President may pass through the offices of the President’s permanent

17 Although their approved staffing level was 304, only 220 worked at the GPU in the summer of 1993. Interview with E.V. Voroshilin, Moscow, GPU headquarters, August 12, 1993. It is common for Russian state institutions to be nedokomplektovanych.

18 The budget allocated 4.6 million rubles for the 304 staff positions approved for the State-Legal Administration at the end of 1991 (Rudnev, 1992, p. 36).
secretary (currently Viktor Iliushin), his counsellor for law and security (currently Yuri Baturin), or the head of his Administration (currently Sergei Filatov), all of whom have direct, if varied, access to Yeltsin. The GPU also works closely with other presidential structures, including the Security Council, the Monitoring Administration [Kontrol'noe upravlenie], and the Department for Work with Territories. Depending on a complex calculus of issues, personalities, circumstances, and presidential leadership, relations among these institutions alternate between

19 For a profile of Iliushin, who had served as a party official in Yeltsin's "tail" in Sverdlovsk and Moscow, see Vyzhutovich (1994, p. 6) and "Komu prinadlezhit vlast' v Rossii?" (1994a, p. 4.). These articles, plus the reporting of the Izvestia journalist Irina Savvateeva, provide a useful introduction to Yeltsin's inner circle in the presidency.

20 Law is Baturin's second career. The 44-year old graduated from the Moscow Physical-Technical Institute and then worked for seven years in an institute for space research. He also obtained degrees in law and journalism, and became a member of the presidential council only on March 17, 1993. He assumed the post of Yeltsin's aide for legal affairs on June 2, 1993 (Ryabov, 1994, pp. 14-15). Baturin was also Gorbachev's main legal advisor during the Novo-Ogarevo process (Baturin, 1994, pp. 212-221).

21 Where Iliushin has daily meetings with Yeltsin, it appears that Filatov sees the President only about once a week. When Yeltsin was preparing the assault on the parliament in early October 1993, he kept Filatov "blissfully ignorant" of the plan until very late (Yeltsin, 1994, p. 241). Accounts of Yeltsin's work habits are in the autobiography (pp. 142-143 and passim) and in Vasil'ev (1993, p. 1). A description of the presidential chancellery may found in Sergazieva (1993, p. 2).

22 In early 1994, the Monitoring Administration had a staff of 150 persons, whose main responsibility was insuring the faithful implementation of laws and decrees. For an edited version of the Monitoring Administration's yearly report, see "Kak ispolniaetsia Ukazy Prezidenta" (1994a, p. 3, and 1994b, p. 3). The former head of the Monitoring Administration, Aleksei Iliushenko, began serving as acting Procurator-General in March 1994, after Aleksei Kazannik sanctioned the release of opponents of Yeltsin who were freed under a parliamentary amnesty. The Federation Council has repeatedly rejected Yeltsin's attempts to confirm Iliushenko as Procurator-General. See Nikitinskii (1994b, p. 2). Iliushenko had assumed the post of head of the Monitoring Administration in March 1993, when Iurii Boldyrev resigned to protest the President's failure to respond to his repeated reports of corruption in the bureaucracy ("Korruptsiia - bolez' gosudarstvennaia," 1994, p. 4). Doubts about Iliushenko's commitment to fight corruption may explain the parliament's reluctance to confirm him.
cooperation and competition.\textsuperscript{23}

In general, the scale and shapelessness of the Russian bureaucracy tend to encourage "self-destructive competition" \textit{[samopozhiranie]} between presidential structures (Kozlov, 1992, p. 8). The network of presidential institutions created to check and possibly supersede existing Government bodies has itself degenerated into internecine conflict. This competition is for more immediate access to the President as well as broader jurisdiction. Pursuit of the first goal has brought the State-Legal Administration into conflict with Sergei Filatov and his staff, who, in organizational terms at least, are the immediate overseers of the GPU. The efforts of the GPU to bypass Filatov have been facilitated by the campaign of Viktor Iliushin to weaken the control of the more liberal Filatov over the presidential bureaucracy. Since the middle of 1993, Iliushin has sought to create a traditional pyramidal chain of command in the presidency, replacing Filatov's unwieldy Administration with several branch departments, each of which would answer directly to a presidential counsellor. Iliushin would presumably emerge from this reform as the bridge between these counsellors and the President, and thus the de facto chief of staff (Meyer, 1994, p. 12).

The most serious claims against the State-Legal Administration, however, come from Government, not presidential, structures. Here the resentment is deep and bitter, and, one might add, understandable in light of the GPU's position as an upstart overseer and rival to the Government and its ministries. As we noted earlier, unlike other political systems with dual

\footnotesize{\textsuperscript{23} Yeltsin, like many leaders, seeks to keep advisors in check by maintaining a balance of political forces in his entourage ("Komu prinadlezhit vlast' v Rossii?", 1994a, p. 4). This tactic can be quite benign when the competition involves ideas, as in the presidency of Franklin Roosevelt; when institutional power is at stake, as in the Stalin era, the costs of competition escalate. See Neustadt (1990, p. 83 and \textit{passim}).}
executives. Russia has thus far failed to develop an accepted division of labor between presidential and Government institutions. The result is two competing centers of executive management.24

It is tempting to cast the Russian Government in a Western European mold, with a prime minister governing through a cabinet that includes the country’s ministers. But there are at least two important wrinkles in the Russian model. First, directly underneath the prime minister is a group of deputy prime ministers, each of whom supervises a discrete set of ministries. In this system, the prime minister exercises only indirect oversight of the ministries. Second, between the deputy prime ministers and their subordinate ministries is a layer of specialized departments that oversee the policy and performance of the ministries. Approximately 800 officials work in this bureaucracy ("Gosapparat zhdet mini-reforma..., 1994, pp. 1-2). Thus, sitting atop the functional ministries in Moscow, which themselves contain almost 36,000 officials, are two management teams, one in the Government and one in the presidency (Bekker, 1995, p. 2). In each case, multiple tiers of supervisory offices separate the leader from the ministries that actually implement policy. It is a system based not on a "separation of powers but a splintering of power [droblenie vlasti]" (Kolesnikov, 1994a, p. 2).

This splintering of power between presidency and Government is nowhere more evident than in legal policy. Although the Government has its own Legal Department [Iuridicheskii otdel], with formal powers much like those of the GPU, it no longer has the authority to certify the legality [vizirovat'] of Government rules on its own. All orders and decrees of a normative

24 We should add, however, that institutional redundancy occurs on each side of, as well as across, the Government/ministerial and presidential divide. Ol'ga Volkova, the head of the Constitutional Legislation Administration of the Ministry of Justice, exclaimed: "How many ministries we have that duplicate each other!" The Ministry of Labor, the Federal Employment Service, and the Federal Migration Service are on some issues redundant ("Nomenklatura sokhranila svoe litso," 1994, p. 2).
character must be passed along to the GPU for final approval. When the occasional act avoids the imprimatur of the GPU, it is a source of considerable frustration for officials in the State-Legal Administration.\(^\text{25}\)

The State-Legal Administration also duplicates or supervises the work of ministries in areas as diverse as law, interethnic relations, and defense. Because its functional profile matches closely that of the GPU, the Ministry of Justice has felt especially threatened by the rise of a legal service in the presidency. Indeed, some observers attribute the sudden resignation of the Justice Minister, Nikolai Fedorov, in March 1993, to his frustration with the intrusive role of the State-Legal Administration in legal policy. Both the Justice Minister and the GPU were seeking what one journalist called "the palm of supremacy" in the president's legal space ("Ob otstavke Nikolaia Fedorova," 1993, p. 1).\(^\text{26}\) In April 1994, Fedorov's successor, Iurii Kalmykov,\(^\text{27}\) exposed the

\(^{25}\) One such act was the closure of parliament by presidential decree no. 1400 in September 1993. According to Kotenkov, "if I had seen it earlier, I would have tried to formulate it differently because that edict was a forced measure" (Sherova, 1993, p. 22.) GPU officials were irate when, without their approval, the Justice Ministry submitted a draft Criminal Code and constitutional court judges received raises in the middle of the CPSU trial ("Sergei Pashin...", 1993, pp. 8-9). See also Kotenkov (1992, pp. 1-2).

\(^{26}\) Fedorov's resignation was, in a more immediate sense, a reaction to Yeltsin's attempt in March, 1993, to claim extraordinary powers for the presidency. But his frustration with the GPU had been building since its inception. In a revealing news conference in January 1992, he compared the GPU to institutions in the Third Reich and complained that its existence would lead to a paralysis of power in the executive (Rudnev, 1992, p. 36).

\(^{27}\) Trained as a lawyer, Iurii Khamzatovich Kalmykov worked as a people's judge before pursuing an academic career. Upon completion of a doctorate in law, he taught at the Saratov Legal Institute, one of the country's largest legal faculties. He then served for a time as the head of the Committee on Legislation in the last USSR parliament. Prior to his appointment as Justice Minister, on August 5, 1993, Kalmykov was deputy director of a legal think tank in Moscow (Volkov, 1993, p. 2). He had served as acting minister in the months after Fedorov's departure.
depth of this inter-agency feud in an interview with Izvestiia. Kalmykov complained that the GPU, an institution with modest powers and personnel at its inception, is now comparable in size to a branch ministry, though with interbranch responsibilities. The State-Legal Administration, he insisted, constantly intrudes on Ministry of Justice prerogatives, particularly in the areas of legislative drafting and court supervision. "Only narrow bureaucratic ambitions [chinovnye ambitsii] can explain the tactics of the GPU...." (Nikitinskii, 1994a, p. 4).

The GPU has also directly challenged the Justice Ministry's position as the country's central repository of legal information. For much of the last decade, the Ministry of Justice has worked to perfect a computer-based register of normative acts and other legal data. The Ministry's collection of legal norms has been facilitated in the last two years by the requirement that all substatutory acts affecting citizens' rights or other executive departments, whatever their provenance, be submitted to the Justice Ministry for approval. The Justice Ministry was therefore the logical site for the nationwide legal database. But in April 1993, a presidential decree ordered the formation of a new Center for Legal Information, in effect an appendage of the State-Legal Administration, which would duplicate, if not supersede, the efforts of the Justice Ministry in this area ("O merakh po uskoreniiu..., 1993, p. 2). The Center for Legal Information and its projected regional subdivisions appear to be part of a larger strategy, almost certainly

28 Kalmykov admitted in this interview that the GPU had assembled legal talent that was more impressive than his own because of the pay and privileges in the presidency. See also Volodina (1994, p. 1).

29 From May 1992, when the new policy came into effect, through February 1993, the Ministry reviewed 160 ministerial and vedomstvo instructions and had 20 more on its desk ("Vedomstvenye tainy..., 1993, p. 2). According to one source, some 20 percent of submitted acts have to be returned for reworking because they contradict existing legislation or are otherwise legally defective (Personal interview with N.A. Khavanskii, Head of the Administration for Systemization of Legislation, Ministry of Justice, August 12, 1993, Moscow).
inspired by Shakhrai, to concentrate the executive's information resources in the presidency.\textsuperscript{30} Decrees issued at the end of 1994 also gave the GPU the leading role in a potentially far-reaching initiative to recreate a common legal space on the territory of the former USSR.

THE STATE-LEGAL ADMINISTRATION AS GATEKEEPER

The central focus of the GPU's activities has been lawmaking in its broadest sense, what the Russians would call \textit{normotvorchestvo}. At issue is not just the drafting or formal passage of legislation but the shepherding of laws from their conception to the final signature of the President. The interests of the State-Legal Administration are not limited, however, to the laws [\textit{zakony}] of parliament. The GPU has devoted a major, and increasing, share of its energies to executive rulemaking, \textit{that is to the decrees and orders issued by the President and the Government.}

The making of laws and rules advances through many discrete steps, almost all of which occur under the watchful eye--and some of which involve the direct intervention--of the GPU. As in most West European countries, private members' bills in the Russian parliament are few,

\textsuperscript{30} According to Leonid Nikitinskii, the legal database is not just a formal archive but "an active information source on a myriad of judicial and administrative decisions. By claiming a monopoly on the right to these legal texts, the database acquires a certain power, or at least significance, in the bureaucratically formalized state structures" ("Sud’ba zakona o zakonakh,” 1994, p. 2). That very powerful forces stood behind the Center's formation is confirmed by the generous initial funding provided for the Center. The enabling decree directed the Ministry of Finance to allocate 300 million rubles for the renovation of a building for the Center next to Old Square and 650,000 dollars (plus 740 million rubles) for the purchase of foreign and domestic software. \textit{Ibid.} See also the article by Palagichev (1993, p. 8), which describes the creation of a library of two million volumes in the Administration of the President. The library was formed from the collections of the Administration of Affairs of the Central Committee, the USSR Council of Ministers, and the Secretariat of the USSR Supreme Soviet. The library staff systematizes the periodical press (they receive 75 current newspapers and over 1000 periodicals) by subject and publishes for executive officials regular digests of current affairs.
and therefore most laws originate in the executive. The President and Prime Minister agree on a legislative plan for a parliamentary session and then distribute responsibility for new bills among interested executive agencies. When several agencies are involved in the preparation of a draft law, one assumes the role of chief executor [головной исполнитель] of the drafting commission. Judging by the executive’s recent plans for new parliamentary bills, the State-Legal Administration has emerged as the President’s most trusted source of legislative drafting. Out of a total of 17 bills submitted by the President to parliament in June 1994, the GPU had sole drafting responsibility for four, it served as the chief executor of the drafting commission in a further seven cases, and in one instance it was a member of the drafting commission. Even when bills were of immediate interest to the Prime Minister, such as the Law on Government and the Law on the Federal Organs of Executive Power, the representatives of the Government on the drafting commission worked under the leadership of the GPU ("Plan podgotovki zakonoproektov," 1994, p. 5).

Contrary to the assertions of the State-Legal Administration (Akopov and Kolesnikov, 1992, p. 2), GPU officials have not been politically disinterested draftsmen offering only technical legal advice. The principal author of the law on elections, Viktor Sheinis, reported that in late 1993 the head of the GPU, Aleksandr Kotenkov, substantially edited and revised the draft law on elections when it emerged from the Constituent Assembly. After Filatov intervened to undo Kotenkov’s distortions of the original draft, the bill passed once more to the GPU for review.

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31 A similar plan was issued for the fall session of the parliament ("Plan podgotovki zakonoproektov," 1994b, p. 2).
where it was again "deformed." According to Justice Minister Kalmykov, the GPU is constantly running to the Government or President to torpedo legislative acts for the simple reason that they don't originate in the State-Legal Administration [oni imeiut chuzhuiu marku] (Nikitinskii, 1994a, p. 4).

The State-Legal Administration has also written and circulated its own alternative bills as a means of scuttling official drafts that it finds unacceptable. Such was the case with the Labor Code, which had been drafted by the Ministry of Justice and approved by the President and Prime Minister. Passed along to the GPU for the requisite certification, the official draft languished there for months, during which time officials of the State-Legal Administration prepared and distributed their own version. In another case, the GPU unexpectedly introduced a draft Commercial Code in the spring of 1994 in order to head off adoption of a new Civil Code, which the GPU's head, the civilist Ruslan Orekhov, apparently found wanting. In this instance, the GPU lost out to drafters at the Private Law Center, whose head, Sergei Alexeev, had developed close personal ties to Yeltsin. In light of such inter-agency disputes, Kalmykov observed, deputies in the parliament can only regard the executive as an "insane asylum" (Nikitinskii, 1994a, p. 4). 33

In at least one important area, court reform, the State-Legal Administration has consistently pursued its own political agenda. It is here, more than in any other area, that the GPU enjoys a reputation for radical reform (Zherebtsov, 1994, p. 6).

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32 Peter Reddaway, Russian and Ukrainian Diary (September 22 - October 12, 1993), private communication.

33 This was the fourth version of the general part of the Code, which was drafted by a team headed by Justice Minister Kalmykov (Kolesnikov, 1994, p. 1). The commercial code emerging from the GPU was drafted by Professor Laptev, who had acquired notoriety in the Soviet era for his desire to replace traditional civil law with a socialist economic law.
The GPU's interest in court reform owes much to the close personal relations between Shakhrai and Sergei Pashin, the thirty-two year old head of the GPU's Department of Court Organization and author of The Conception of Court Reform, which was adopted by the Russian parliament in the summer of 1991. Shakhrai's colleague in the Laboratory of Information Department at Moscow University and his electoral agent during the 1990 parliamentary campaign, Pashin was lured to the State-Legal Administration by Shakhrai's promise to help him carry out court reform "under the protection of the very highest spheres" ("Sergei Pashin...", 1993, pp. 8-9).

Pashin and the GPU have taken the lead in numerous reforms of the justice system, including laws on the constitutional and arbitrazh courts, the removal of economic crimes from the Criminal Code, and the re-introduction of the jury trial in Russia ("Shakhrai explains..., 1992, p. 50)." Although the jury trial has been permissible under Russian law for some years, it has only recently been introduced, on an experimental basis, in nine regions. To launch it even as an experiment, Pashin and the GPU had to overcome the resistance of conservative forces in Government legal institutions, most notably in the Ministry of Justice, which has traditionally supervised the courts. The depth of the GPU's involvement in this reform is indicated by its micro-management of implementation issues, such as the payment of jurors and the physical layout

34 Shakhrai noted that these reforms were introduced without the participation of the Justice Ministry, which, he suggests, was unwilling to advance such progressive policies. Thus, it was "logical to have decided to create a supradepartmental department [sic] for judicial reform within the GPU."

35 Officials in the Justice Ministry complained that the launching of jury trials was a premature sideshow, which distracted attention from the more pressing needs of legal reform. Personal interview with N.A. Khavanskii, Head of the Administration for Systemization of Legislation, Ministry of Justice, August 12, 1993, Moscow.
of the courtroom ("Sud prisiazhnykh..., 1994, p. 9).

The State-Legal Administration has also been responsible for representing the President's interests in parliamentary lawmaking. A deputy chief of the GPU, until recently Anatolii Sliva, had served as the President's representative to parliament for legal affairs. For each major parliamentary bill, whatever its provenance, Sliva assigned an overseer [kurator], usually a head of department in the GPU, who followed the bill through committee hearings and parliamentary readings, served as a source of executive influence, and then recommended to the President that the bill be signed or vetoed. The appointment of a separate presidential office for liaison with parliament in January 1994 clearly encroached on this power of the GPU. Although the politics of this appointment remain obscure, it appears that Sergei Filatov nominated the advisor, A.M. Yakovlev, a widely-respected jurist, as a means of limiting the authority of the GPU ("Aleksandr Iakovlev...," 1994, p. 3). At a working conference of executive and legislative officials outside of Moscow in July 1994, Yakovlev sought to replace the confrontational relations between GPU and parliament with a consensual approach to lawmaking among the varied "branches" of government (Anokhin, 1994, p. 1). Yakovlev was not able, however, to sustain his institutional independence. In December 1994, a presidential decree brought Yakovlev's office under the aegis of the GPU.

The State-Legal Administration also advises the President on vetoes. Here the State-Legal

36 Interview with E.V. Voroshilin, Moscow, GPU headquarters, August 12, 1993. See also "Razval vlasti..." (1992, p. 2).

37 According to Kalmykov, "we can now expect tensions between the GPU and representatives in the office of A.M. Yakovlev" (Nikitinskii, 1994, p. 4).

38 Telephone interview with Igor' Leonidovich Petrukhin, Senior Researcher, Institute of State and Law, Moscow, January 23, 1995.
Administration has shown itself willing to challenge directly the views of the President. In May 1994, the parliament passed a new Law on the Status of Deputies, which included provisions that many in the executive regarded as unconstitutional. The GPU prepared a veto for the President, but at the last minute Yeltsin decided to sign the legislation, apparently convinced by the argument of his new political counsellor, Georgii Satarov, that a veto would threaten hard-won political stability. The response of the State-Legal Administration was to send the President a memo stating that there was now a dual violation of the constitution, his and the parliament’s (Chugaev, 1994, p. 1).

The analysis thus far has focused on the GPU’s responsibilities in parliamentary lawmaking [zakonotvorchestvo]. But in Russia’s transition regime, as in the Soviet Union before it, the rulemaking of the executive has dominated the country’s normative terrain. It is presidential decrees and Government orders that define, most clearly and fully, the rights and responsibilities of the state and its citizens. The heavy reliance on executive rulemaking is more than a vestige from the old regime; it is also a characteristic response of executives in democratizing states who lack a reliable party majority in parliament (Mainwaring, 1993). If a directly-elected president is unable to introduce his policies through parliament, he often circumvents the legislature and rules by decree. Such is the case in Russia, where Yeltsin has used presidential decrees to enact change against the wishes of the parliament, and, in September 1993, to disband parliament itself.

To gain legal sanction for these quasi- or openly unconstitutional practices, Yeltsin insured

39 The President’s legal advisors argued that the new law would lead to a "sovietization" of the assembly.

40 On decree-making generally, see the perceptive analysis of Shugart and Carey (1992, pp. 140-146).
that the new Constitution of December 1993 granted the Russian president broad rulemaking powers. Article 90, for example, gives the president the authority to rule by decree as long as the decrees do not contravene existing parliamentary legislation. Absent a cooperative majority in the second Russian parliament, Yeltsin has decided to use this power liberally. During 1994 he issued a flurry of major decrees, which were designed to advance economic reform and fight corruption.\footnote{On the preparation of the economic decrees of May 1994, see Gorlov (1994). Andrei Zverev, the head of the Government's Economic Department, noted that the decrees were prepared in the Government and then submitted to the presidency. "Of course, there they didn't mechanically take them from us for signing. The drafts of the decrees were subjected to corresponding corrections and revisions [utochneniia], first of all in the GPU of Ruslan Orekhov...." (Ibid.)} The will of the president substituted itself for a consensus in the parliament.

The politics of rulemaking under Yeltsin reveals a president who rarely initiates decrees himself. Rather like a monarch in the era between absolutism and constitutionalism, he responds to proposals submitted by officials who want the President's imprimatur on their project. Draft decrees come from all corners of the executive. According to Sergei Filatov, some decrees are initiated "by the Government, some by the GPU, some by assistants to the President, some by ministries and agencies" ("Sila vlasti...," 1994, pp. 1-2). Certain draft decrees, especially those on economic matters, may circulate for weeks or months before they are signed by the President. In other cases, a minister or presidential assistant may slip a draft under the President's nose and receive quick approval.\footnote{According to Kotenkov, ":[u]nfortunately, quite often we are faxed a draft and asked to return it 15 minutes later with an endorsement. In this event I do not even have the time to ask for a memorandum...." (Sherova, 1993, p. 22).} For the State-Legal Administration, initiating decrees is less important than vetting them to assure their compatibility with the country's laws and the President's policies. The GPU is not always successful in this effort, in part because of haphazard procedures in the
presidential apparatus, in part because high-ranking officials at times withhold drafts from the GPU."

Presidential decrees, of course, represent only the peak of Russian rulemaking. Most rules are issued by the Government or by the ministries. In theory, these rules form a coherent hierarchy of norms, with lower-level acts issued on the basis of, and in conformity with, higher-level norms. But the practice is far less tidy.44 One of the primary responsibilities of the State-Legal Administration is to review Government and ministerial rules before their enactment in order to create a single legal space within the executive. Standing guard over one of the many gates that draft rules must negotiate, the GPU is in a position to stifle Government and ministerial rulemaking. In its role as sentinel in executive rulemaking, the GPU has attracted a host of enemies.

Draft orders of the Government usually begin on an internal "ministerial conveyor," from where they proceed to the appropriate Government department. The department assigns the draft a chief executor, who is responsible for gaining the approval of interested ministries and departments. The draft goes next to a deputy prime minister and then to the Legal Department of the Government. Only after clearing these hurdles in the Government is the draft reviewed by the GPU. If the draft receives the certification of the GPU, it is returned to the chief of the Prime

43 Professor Sergei Alekseev, one of Yeltsin's closest legal advisors, has argued that the GPU, as an executive agency, should not have such broad responsibilities for vetting laws. He has proposed introducing an independent State Council, like the French Conseil d'Etat, which would review legislation (Kolesnikov, 1993, p. 1).

44 For an introduction to the role of rulemaking in late Soviet politics, see Huskey (1990, pp. 419-432).
Minister's apparatus (currently Vladimir Babichev), where it awaits the signature of the premier. At any point in this journey, as the Prime Minister's former permanent secretary, Vladimir Kvasov, pointed out, a draft "may die a natural death from the fluid economic and political climate" (Vyzhutovich, 1994a, p. 4).

The rulemaking procedures just described do not grant the GPU an unassailable veto power over the proposals of the Government and its ministries. The intervention of officials who have the confidence of the President can break the resistance of the GPU or even remove the GPU from the policy loop altogether. Such an expenditure of political capital and energy is only likely to occur, however, on issues of utmost importance to the leadership of the Government and ministries. And even then, these officials may find the GPU a worthy adversary. When Egor Gaidar sought to force through a measure against the wishes of the GPU, Kotenkov threatened to "close down the State-Legal Administration and retire" if it passed. The rule wasn't prepared by us, he said, and we didn't agree to it (Akopov and Kolesnikov, 1992, p. 2). Except in rare cases, the GPU remains a chokepoint in the executive labyrinth.

The State-Legal Administration has sought to supplement its supervisory duties in

45 According to Kvasov, in the first six months of 1994, the Government received 120,000 documents, 4,000 of which were reviewed by the Apparatus of the Government [the Prime Minister's apparatus] and 39,000 of which were reviewed in the departments ("Ispolnitel'naia distsiplina apparata," 1994, p. 2).

46 As Chernomyrdin's permanent secretary, Kvasov had amassed formidable power as well as numerous enemies in the executive and legislature. President Yeltsin launched a campaign to remove Kvasov in the early summer of 1994, ostensibly because of his confrontational relations with parliament ("Pri Prezidente....," 1994, p. 2). Yeltsin also complained that under Kvasov's "leadership so many people have been hired that it will take along time to sort things out" (Bruni and Zuichenko, 1994, p. 7; "Komu prinadlezhit vlast' v Rossii?", 1994b, p. 4). This move was also, of course, an assertion of presidential power against the prime minister. Vladimir Babichev finally replaced Kvasov in December 1994. Like Kvasov, Babichev is a client of Chernomydyrin's from the gas industry.
rulemaking by offering explanations [raz'iasnenii] of executive rules. In April 1993, for example, Aleksandr Kotenkov interpreted the provisions on voter eligibility in the presidential decree on referendums ("Esli Sezd...," 1993, p. 2). To be sure, explanations such as this must bear the signature of the President or the Prime Minister ("My - struktura chisto apparatnaia," 1992, p. 2). Nonetheless, this power of rulemaking review has the potential to transform GPU officials into de facto constitutional court judges, with an ability to refine, and in some cases redefine, the policies of the presidency and the Government.

On questions of pardons, citizenship, and awards, the GPU serves as the President's primary advisory organ ("Miloserdie vsepluiu," 1993, p. 12). Besides recommending to the President individuals to be pardoned for criminal offenses, the State-Legal Administration also drafts bills for submission to parliament when an entire category of persons is to be amnestied. One such amnesty law, celebrating the new constitution and embracing imprisoned World War II veterans and women, emerged from the GPU in January 1994 ("Sovet Gosdumy...," 1994, p. 1). This broad-based amnesty, adopted on February 23, 1994, was overshadowed, however, by a parliamentary-inspired amnesty issued the same day, which absolved those who participated in the August 1991 coup and the parliamentary revolt of October 1993.48

Like its namesake in the Communist Party Central Committee, the State-Legal Administration has a military as well as a legal portfolio. In response to criticism that the armed forces operate outside of effective civilian oversight in Russia, Pavel Grachev, the defense chief,

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47 Kotenkov also issued an explanation on presidential decree no. 1617 of October 1993, which ordered local soviets to cease their activities (Kotenkov, 1993, p. 2).

48 For an analysis of the political amnesty of February 1994 and of the institutions of pardon and amnesty more generally, see Barry (1994).
commented that "we are controlled [sic] by the Security Council, the assistant to the President for national security and his staff, the State-Legal Administration, and the defense committees of the Duma and the Federation Council" (RFE/RL Daily Report, 1994). On operational issues, the Defense Ministry answers directly to the President, much like other power ministries, such as internal and foreign affairs and the intelligence services. These ministries remain, however, members of the Government, and questions of military procurement and budgeting are within the purview of the Prime Minister.49 Within the presidency, primary responsibility for liaison with the Defense Ministry rests with the Security Council, an organization which has had close parallels to the Soviet-era Defense Council, and the newly-created Administration for Questions of Defense Policy.50 The role of the GPU appears to be restricted to issues such as military doctrine and military justice, the latter a question of considerable controversy because of the numerous deaths resulting from hazing rituals in the Russian armed forces ("Interview with Kotenkov on Moscow

49 One of Shakhrai's most ambitious and controversial plans was to create a superministry with responsibility for overseeing the power ministries. This attempt failed amid much criticism in January 1992. In December 1993, however, Shakhrai, as deputy prime minister, appears to have been plotting with Prime Minister Viktor Chernomyrdin to assume immediate oversight of the power ministries, thereby weakening their ties to the Security Council and the President ("V tsentre vnimanie," 1993, p. 1; Vainonen, 1993, p. 3; Nikolaev, 1993, p. 1). If Shakhrai had succeeded in this venture, his already worsening relations with Yeltsin would surely have been destroyed. Those relations deteriorated dramatically after the October 1993 events, when Shakhrai formed a centrist party and sought to attract into its ranks a sympathetic Chernomyrdin.

50 Created in late July 1994, the Administration for Questions of Defense Policy was to be organized by Yuri Baturin, the president's national security advisor ("Pri Prezidente...," 1994, p. 2). This move appeared at the time to represent a reduction in the power of the Security Council and its head, Oleg Lobov, and an attempt to tighten civilian reins over the military. However, the war in Chechnia has again elevated the status of the Security Council, inviting comparisons to the old Politburo. The Security Council, once a defense cabinet, now includes among its members the leading representatives from the presidency, the Government, and the parliament.
THE TWO FACES OF THE GPU

Two images of the State-Legal Administration are current in Russia. The first highlights the GPU's progressive cadres and policies. In this view, where the Government's legal services are filled with anti-reformist officials, many of whom transferred from the Central Committee, the GPU is comprised of "fresh cadres." According to Kotenkov, a forty year old who claims for himself reformist credentials, the GPU has been the only major executive institution without personnel ties to former party structures. "We have practically no one left over from the Central Committee," he asserted (Akopov and Kolesnikov, 1992, p. 2). With a young and reform-minded staff--the average age of professional personnel in the GPU is between 30 and 40--the State-Legal Administration has sought to implement the president's democratic reforms in the face of fierce opposition from entrenched interests in Government ministries and departments. To do this, the GPU has had to pursue methods that are appropriate to the moment, at times compromising on procedural niceties in order to overcome the hostility and inertia of a conservative bureaucracy.

Competing with this flattering portrait of the GPU is a second, and far darker, image. It is of a renegade institution with no clear master and with no respect for the division of offices and labor in a bureaucracy. In a cruel irony, the President's lawyers are said to be impeding the development of a law-based state by fusing legal functions that should be kept separate in a

51 Forty-three of the GPU's 304 officials work on defense-related issues.
constitutional order. The harshest critics of the GPU see it as an incipient legal superministry designed as an institutional base for Sergei Shakhrai, who was stymied in his attempt in January 1992 to create the ultimate superministry from a fusion of the MVD and Ministry of Security.

The GPU has found it increasingly difficult to sustain its image as a reformist institution. By the beginning of 1995, democratic forces in the legal community had all but abandoned the State-Legal Administration, accusing it of employing unscrupulous tactics and of making unnecessary concessions to the power ministries and other conservative institutions. A fateful moment in the transformation of the GPU’s image occurred in the fall of 1994, with the appearance of a draft Code of Criminal Procedure written by Sergei Pashin. Tossing aside a draft prepared under the aegis of the GPU by a team of distinguished reform-oriented scholars, Pashin prepared a version that promised to undermine hard-won advances in the protection of individual rights. In this most politically-charged area of Russian law, Pashin’s draft sanctioned, *inter alia*, the detention for up to 60 days of uncooperative witnesses or victims, a longer period of detention for suspects before the laying of a charge (from 48 hours to 7 days), the suspension of the requirement of a court order for wiretaps in pressing cases, and a less generous regime for defense counsel seeking to acquaint themselves with investigatory materials (Petrukhin, 1994, pp. 1,3; Larin, 1994a, pp. 2-3; and Larin, 1994b, p. 5). Only with such state-oriented provisions, Pashin argued, would the Code pass the obligatory review of the power ministries and the scrutiny of a conservative parliament.52

52 Telephone interview with Igor' Leonidovich Petrukhin, Senior Researcher, Institute of State and Law, Moscow, January 23, 1995. According to Petrukhin, the Council of Europe severely criticized the Pashin draft for its failure to defend the rights of individuals. The contemporary debates over criminal justice policy are reminiscent of Soviet-era struggles among nihilist, statist, and legalist approaches to law. See Huskey (1991, pp. 53-70).
In part, the rising unpopularity of the GPU among reformists has its roots in a generational conflict. Recent law school graduates in the GPU feel empowered to order about distinguished and seasoned democratic jurists and to ignore conventions such as collaborative drafting. In their tactics, at least, there is a wide streak of neo-bolshevism. But the democrats' disillusionment with the GPU is grounded more fundamentally in the willingness of the State-Legal Administration to conform to the shift to the Right in Russian politics in 1994, and in a change in the institution's mission. Once part of a coalition of democratically-oriented structures surrounding the President, the GPU--like the Security Council, the Monitoring Administration, and other presidential agencies--appears to have become the established bureaucracy that it was originally committed to reform. Without its democratically-inclined allies, the GPU, like Yeltsin himself, has come under attack from Left and Right, with little room for maneuver.

The struggle for the "palm of supremacy" on legal issues appeared to enter a new phase at the end of 1994, when Yeltsin chose Valentin Kovalev, a Communist, to succeed Kalmykov as Minister of Justice.\textsuperscript{53} Appointed at the beginning of the war with Chechnia, Kovalev immediately assumed a high profile in addressing issues of legality in the breakaway republic. Whether the GPU can sustain a reform orientation and institutional integrity in the face of a strengthening coalition of conservative legal forces is uncertain. Forces hostile to the GPU convinced Yeltsin to issue a decree in early December, 1994 that reduced the staffing of the State-Legal Administration from 305 officials to 169 and transferred some of the GPU's functions to other

\textsuperscript{53} Shortly after his appointment, Kovalev was expelled from the Communist Party for having accepted a ministerial portfolio without seeking the permission of the party. Among Communists, Kovalev--a retired military officer--was known as a person with moderately progressive views. Telephone interview with Oleg Rumyantsev, Advisor to the State Duma, January 24, 1995.
legal institutions, such as the Ministry of Justice ("O merakh po sovershenstvovaniu... "). A May 1995 decree reduced the autonomy of the GPU within the presidential apparatus ("O vnesenii izmenenii v Polozhenii... "). There were even suggestions that the GPU as a separate presidential structure would not survive the current campaign to reduce and reorganize the executive bureaucracy. 54 Oleg Rumyantsev reported that a decree reaching Yeltsin’s desk in late December 1994 proposed the creation of the long-awaited superministry of law and security. 55 Among the institutions that would be subsumed by this new structure are the Ministry of Justice, Yeltsin’s personal security service (headed by Aleksandr Korzhakov), the Tax Administration, sections of the Federal Counter-Intelligence Service, and the State-Legal Administration. Given the relative youth of the GPU’s leadership and Yeltsin’s penchant of late for experienced personnel from the old regime, a presidential signature on such a decree would almost certainly reduce officials in the State-Legal Administration to a secondary role in the president’s legal space. A decline of the GPU would represent one more victory of the managers over the intellectuals, this time in the legal sphere. In law, as elsewhere, the "boys in pink shorts" may have had their day.

CONCLUSION: RATIONALIST VS. CULTURALIST MODELS OF RUSSIAN PRESIDENTIALISM

54 As early as November 5th, Filatov had confirmed the existence of a plan to restructure legal institutions. Responding to queries about effects of a broad-based staff reduction on the GPU, he replied that "the cuts will not affect the State Legal Directorate [sic] until the questions of the functions of the GPU and Ministry of Justice of Russia have been resolved" ("Filatov Says Presidential Staff To Be Cut by 500," 1994, p. 19).

55 Telephone interview with Oleg Rumyantsev, Advisor to the State Duma, 24 January 1995. Rumyantsev stated that he had personally seen the draft around December 20th. Of course, many drafts prepared for the president are never signed by Yeltsin. The very existence of the draft, however, illustrates the desire of forces close to the president to diminish the role of the GPU.
To explain the rise of the GPU and of a massive and unwieldy presidential bureaucracy in post-Soviet Russia, students of comparative politics would seek answers first in the continuing confrontation between president and assembly, each of which can claim popular legitimacy. Unable and unwilling to rule through an often uncooperative parliament, Yeltsin invested the presidency with the institutional resources and decree-making authority to rule around the assembly. Parliaments, Yeltsin asserted, are everywhere beset by "corruption, official sloth and an inflated and empty self-importance" (Yeltsin, 1994, p. 188). Rather than govern within the confines of a parliamentary democracy, Yeltsin has pursued what Guillermo O'Donnell has called a "delegative democracy," whose instruments of rule include plebiscites, reserved powers, extra-parliamentary assemblies, and presidential agencies--such as the Security Council and GPU--that lie beyond the reach of the parliament (O'Donnell, 1994, p. 59).

Scholars such as Juan Linz would attribute much of Russia's governing crisis to the perils of presidentialism. Under presidentialism, the direct election of president and assembly ask politicians--rather than a constitution--to settle vital institutional arrangements on the march (Linz, 1994, pp. 3-87). This is a difficult task even in a modern democracy such as France, where political elites have agreed, depending on the outcome of elections, to alternate sovereignty between president and parliament. In Russia, it may ask the impossible. There is no professional civil service to assure continuity in a period of crisis, no tradition of political compromise, and few life chances for politicians outside of politics. At the same time, the

56 In Suleiman's words, the French system contains "a safety valve that avoids the clash and crises of two popularly elected legitimacies by permitting the political system to function now as a presidential system, now as a parliamentary system." This of course is learned, agreed behavior among elites. Such an elite consensus would be much harder to achieve in Russia's conditions (Suleiman, 1994, p. 151).
economic, political, and cultural stakes for a country in the transition from communism are enormous. Russia offers a cold climate indeed for elite accommodation.

An analysis that emphasizes executive-legislative relations does not readily explain, however, why a vast and powerful presidency has arisen alongside, and often in competition with, an executive bureaucracy in the Government and its ministries. One might argue that the parliament's constitutional authority to turn out a Government encouraged the President to create parallel executive structures, which could insulate his reform program from the encroachment of an unfriendly legislative. To say this, of course, is to suggest that Yeltsin refused to accept the political outcomes inherent in a mixed presidential-parliamentary system. But the construction of a powerful presidential apparatus began well before the erosion of Yeltsin's legislative support and it continued after the adoption of a new Constitution, which effectively severed the Government from the parliament. Fear of parliamentary encroachment alone, therefore, does not account for the peculiar politics of the dual executive in Russia. Rational universalist analyses of Russian politics have their limits.

More compelling are explanations that emphasize the importance of culturally conditioned patterns of political behavior, especially those relating to personnel. In a modern democracy, political appointees are subject to removal once a new leader assumes office. Not so in Russia, where a large-scale turnover of officials would be read as a de-stabilizing purge rather than a normal circulation of elites. Besides this political convention, which blunts the "cadres weapon," there are informal relations within the bureaucracy that limit the formal patronage powers of the President. At stake are not just the jobs of individuals but a web of patron-client relations spun

57 The next three paragraphs draw on my essay "Yeltsin as State Builder" (Huskey, 1994, pp. 56-62).
through the Government bureaucracy. One fires a member of a "family circle" and not just an isolated individual. The task of removing political opponents in Russia is therefore more complex than in political systems where the bases of authority are less personal. For Yeltsin, it was easier to construct his own apparatus--and thereby champion the politics of redundancy--than to remodel and restaff existing executive structures. So too for earlier leaders in Russian history.

The prominence of the Russian presidency also reflects a part socialist, part feudal commitment to the full employment of the army of officials who were made redundant by the collapse of the USSR. Personnel from the Soviet Government and the Communist Party leapt from sinking institutions to those still afloat. Many settled into the larger and more politically comfortable ministries, but a significant number clambered to safety on presidential structures. Just as monarchical power revealed itself in the grandeur of its entourage, so bureaucratic power expresses itself in its ability to hire more people and provide them with office space, telephones, cars, and staffs. In Russia, as in the Soviet Union, the number of persons in one's retinue.

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58 There was also the very serious problem of finding persons who were both competent and political loyal. Yeltsin saw no choice but to install experienced "old" personnel in many posts (Yeltsin, 1994, p. 129).

59 The number of bureaucrats in Russia rose 1.7 times from 1989 to 1994, with local and regional government accounting for two-thirds of that increase. The total number of non-uniformed officials is 1.66 million, half of whom work in "organs of state administration" and half in "other budgeted organizations" (Bekker, 1995, p. 2).

60 No one was more aware of this than Boris Yeltsin, who, as head of the Russian parliament before June 1991, struggled to obtain for himself decent living and working conditions (Yeltsin, 1994, pp. 19-20). According to Yegor Ligachev, provincial secretaries on short trips to Moscow struggled to get a meal, so the Central Committee set up a special canteen for them (Ligachev, 1993, p. 148). Western scholars ignore these cultural/economic conditions of politics at their peril.
whether in a factory or ministry, remains an important measure of authority. Thus, the extraordinary growth of the presidency represents a search for symbolic legitimacy as well as a normal human response to the pleas of supplicants desperate for work and its perquisites.

Parallel executive structures have also offered Russian leaders a means of shaping policy while claiming the majesty of an office above everyday politics. In the pointed comments of one observer:

In December 1993, presidential power in Russia made an almost full circle and came to its party prototype - general secretary - central committee system, under which one person (the President) reigns, but does not rule. Others (President's entourage) are ruling but are not responsible for anything, and still others (the Government) are patiently collecting all the mud which the people are flinging at such a system (Isakov, 1994, p. 3).

Where the tsar had his own chancellery and the General Secretary his Central Committee, Yeltsin now has his presidency. The politics of redundancy has not yet exhausted its potential.
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Diagram 1
The Russian Presidency
(October 1994)

President of the
Russian Federation
Boris Yeltsin

HEAD OF
EXECUTIVE OFFICE
Sergei Filatov

SECRETARIAT
Petr Korol'ko

HEAD OF
EXECUTIVE OFFICE
Sergei Filatov

SECRETARIAT
Petr Korol'ko

SECURITY
COUNCIL
Oleg Lobov

CENTERS

AGENCIES

COMMISSIONS

COMMITTEES

CHANCELLERY
Valerii
Semenchenko

COUNSELLORS
Viktor Iliushin

ADMINISTRATION
OF AFFAIRS
Pavel Borodin

STATE-LEGAL
Ruslan Orekhov

PRESS SERVICE
Anatolii Krasikov

PERSONAL GUARD
Aleksandr Korzhakov

FINANCE-BUDGET
Igor Moskovskii

MONITORING
Vladimir Zaitsev

INFORMATION
Sergei Nosovets

INFORMATION
SYSTEMS
Vladimir Levchenko

FEDERAL CIVIL
SERVICE
Aleksandr Kurbatov

WORK WITH
TERRITORIES
Aleksandr Kazakov

SPECIAL
PROGRAMS
Vasili Frolov

CADRES
Dmitrii
Rumiantsev

AGENCIES

COMMISSIONS

COMMITTEES

Diagram 2
The State-Legal Administration

Source: Supplement to Decree No. 273 of the President of the Russian Federation, February 22, 1993.