#### Russian Exceptionalism? Putin's Assertion of Sovereignty at Home and Abroad

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In the past year Russian President Vladimir Putin has undertaken to expand and more strictly enforce Russian sovereignty claims both at home and abroad. In a series of widely read articles in major newspapers, Putin has reasserted Russian sovereignty in its national security policy, domestic politics, the economic sphere, ethnic relations in the post-Soviet space, and even as an ideological/civilizational concept. This paper explores the recent evolution of Russian conceptions of sovereignty, noting areas in which Russian assertion of sovereignty claims has the potential to violate the sovereignty of other nations.

## Background

As the Soviet Union was rapidly imploding in the late 1980s and early 1990s, a conceptual search began to define a post-Soviet ideology or ethos. Initially, the Yeltsin regime adopted an "Atlanticist" foreign policy on the logic that if the ultimate goal was to become a democratic, free market, pluralistic society and gain admission to NATO and perhaps the EU, then Russia should demonstrate its allegiance to the West, especially the United States. This view was championed by Yeltsin's Foreign Minister, Andrei Kozarev, the former Soviet Ambassador to the United States and a man you had spent the majority of his diplomatic career serving in English-speaking advanced Western democracies. By 1995 the Atlanticist policies had netted minimal results: only modest foreign assistance to buffer Russia's introduction of "shock therapy," which had been strongly urged by policy advisers from many USG agencies, no

prospect of admission to either NATO or the EU, and, worse yet, active plans by NATO to extend membership to Poland, Czech Republic, and Hungary.

Evgeny Primakov as Foreign Minister. Primakov, an expert on the Middle East and highly regarded academic and policy adviser, articulated a foreign/security policy called "Eurasianism." Primakov's formulation seemed to acknowledge that Russia was no longer a superpower, rather it was a regional power and its foreign policy priorities needed to reflect that fact. The Eurasianist perspective maintains that Russia's most pressing security concerns lie in the Near Abroad, on their immediate borders, many of them former republics of the USSR and regions in which large Russian populations continue to live. From there, Russia's policies would next focus on the "Further Abroad," countries and regions somewhat further removed from Russian territory, but of regional security concern (e.g. Pakistan, India, Japan, Afghanistan, Iran, Iraq, Syria, Serbia, Bulgaria, Romania, and Slovakia). The "Eurasianist" policy was, at its foundation, geopolitical and as such it appeared to limit Russia's foreign and security concerns and ambitions to peripheral regions. Moreover, it lacked any philosophical or normative content; it simply staked out a region considered a priority for the Yeltsin Government.

During the Yeltsin years, the most frequent invocation of "sovereignty" referred to the Government of the Russian Federation fending off challenges to its powers from regional governments, especially those in ethnic minority republics and regions. A series of decisions of

the Russian Constitutional Court firmly established federal supremacy and a denial of "sovereignty" of Russia's constituent units.<sup>1</sup>

With the arrival of Vladimir Putin to the Russian presidency on January 1, 2000, an effort began to articulate a foreign and security policy for Russian that would (1) be grounded in some philosophical or ideological conceptualization, (2) articulate goals beyond Russia's immediate neighborhood, and (3) restore Russia's place as a global power. Speaking to the Russian public on New Year's Eve as he became Acting President following the surprise resignation of President Yeltsin, Putin articulated his vision for Russia. He noted that at the turn of the millennium Russia was facing an "ideological, spiritual and moral problem." <sup>2</sup> In particular he emphasized the key values of "patriotism" and "statism." The word sovereignty did not appear even once.

The opening and closing sections of the "The Foreign Policy Concept of the Russian Federation," a doctrinal statement of Russia's foreign policy priorities, which had been drafted in the Presidential Administration, presented and passed by the Russian State Duma, and signed by Putin on June 28, 2000, referred to "preserving and strengthening sovereignty and territorial integrity" as main objectives of Russian foreign policy.<sup>3</sup> There were only two other direct references to "sovereignty" in the document: one to protecting state sovereignty of the Russian national economy and one condemnation of "attempts to introduce into international parlance such concepts as 'humanitarian intervention' and 'limited sovereignty' in order to

<sup>&</sup>lt;sup>1</sup> See Mikhail Antonov, "Theoretical Issues of Sovereignty in Russia and Russian Law," <u>Review of Central and East European Law</u>, Vo. 37 (2012), 95-113.

<sup>&</sup>lt;sup>2</sup> Vladimir Putin, "Russia at the Turn of the Millennium," available at http://www.government.gov.ru/english/statVP engl 1.html

<sup>&</sup>lt;sup>3</sup> "The Foreign Policy Concept of the Russian Federation," available at www.fas.org/nuke/guide/russia/doctrine/econcept.htm

justify unilateral power actions bypassing the U.N. Security Council."<sup>4</sup> The most prominent feature of the Concept was the frequent reference to Russia's commitment to multilateralism through the United Nations. The document emphatically states:

Russia regards international peacemaking as an effective instrument for resolving armed conflicts, and calls for the strengthening of its legal foundations in strict accordance with the principles in the U.N. Charter....Russia proceeds from the premise that only the U.N. Security Council has the authority to sanction use of force for the purpose of achieving peace. Russia proceeds from the premise that the use of force in violation of the U.N. Charter is unlawful and poses a threat to the stabilization of the entire system of international relations.<sup>5</sup>

Emphasis on protecting Russian state sovereignty increased dramatically after the "colored revolutions" of 2003 and 2004 in Georgia and Ukraine. President Putin repeatedly expressed the view that these events were not spontaneous demonstrations by ordinary citizens, rather the result of Western-funded and trained civil society groups seeking to topple pro-Moscow leaders and, as such, constituted an assault on Russia's political, economic, and security interests. From the Russian perspective, the "colored revolutions" can only be viewed within the context of the 1999 expansion of NATO to include Poland, Czech Republic and Hungary and on-going talks which culminated in 2006 in a second round of expansion, including three former Soviet republics: Latvia, Lithuania and Estonia.

Moreover, the war in Chechnya and the terrorist incidents of 2004 sharpened Russia's concern with extraterritorial threats to Russian security at home. In the wake of the first Chechen war and the pullout of Russian military forces in 1996, all civilian authority in the region collapsed. Into the vacuum arose several warlords vying for dominance. Many of the

<sup>5</sup> Ibid.

<sup>&</sup>lt;sup>4</sup> Ibid.

warlords received training, arms and financial support from outside forces, including Al-Qaida in Afghanistan. By late 1999 some of the warlords, notably Shamil Basayev, Ibn al-Khattab, Doku Umarov, and Akhmed Zakayev, crossed over the border into Dagestan and attempted to destabilize that heretofore stable republic. Newly appointed Prime Minister Putin called for a second introduction of Russian military forces into the region. Yet, it is notable that Russia elected to deploy forces only on the territory of the Russian Federation and did not launch any strikes on Al-Qaida camps in Afghanistan or villages in the mountains of northern Georgia where Chechen fighters sought refuge.

In August 2004 two Russian commercial airliners flying out of Moscow's Domodedova International Airport were blown up in midflight by female terrorists killing 89 people. Less than a week later, on September 1, children, parents and teachers at a school in Beslan in southern Russia were taken hostage by a band of foreign-trained terrorists. The standoff lasted for three days. When Russian security forces stormed the school, 380 people died, including all of the terrorists. The 2004 terrorist episodes had a similar impact on the Russian psyche as 911 did on Americans. Faced with foreign-funded and trained terrorist operating on Russian soil and fears of Western-funded "democracy programs" threatening to deny Russia its historic sphere of influence in the former Soviet space, Putin's Administration moved to articulate a much stronger message of Russia's right to assert is legitimate sovereignty, not just on the territory of the Russian Federation, but more widely in the region.

## **Russia's Evolving Concept of Sovereignty**

In Russian political culture state sovereignty is rooted in cultural traditions that emphasize statism, collectivism, strong leadership, the organic connection between the people

(narod) and the state (embodied in its leader), and control of a vast multiethnic territory. This is a political cultural understanding that draws on many elements of continental European political culture and, as articulated by Weber, where the state is seen as an autonomous unit of authority that wields power over a defined population and territory. In this view and resonating in the works of Rousseau and Hegel, citizens obtain freedom, justice, and security from the state's exercise of control and power, rather than the state and its leaders deriving authority from its citizens. Putin clearly articulated these values in his millennial speech: "Our state and its institutions and structures have always played an exceptionally important role in the life of the country and its people. For Russians a strong state is not an anomaly which should be eliminated. Quite the contrary, we see it as a source and guarantor of order and the initiator and main driving force of any change."

Although Russia shares many political cultural values with other European states, there is at the same time a strongly held view in Russian society of Russia's uniqueness, Russian exceptionalism. For centuries Russian writers and philosophers have struggled over the question of whether Russia's was a Western or Asiatic culture. The Westernizer-Slavophile debate continued throughout the 19<sup>th</sup> century and resonated in the 1960s with Khrushchev's reforms, again under the influence of Gorbachev's policy of *glasnost'*, and after the collapse of the USSR and the introduction of shock therapy and a Western-style market economy. The same duality in Russian political culture is seen in its attraction to "state sovereignty" today as a central defining feature of a post-Soviet ideology or ethos. Sovereignty offers protection over Russia's physical geographic space, its people, but also over its norms of governance and

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<sup>&</sup>lt;sup>6</sup> "Russia at the Turn of the Millennium," op. cit.

cultural standards. In his April 25, 2005 address to the Federal Assembly Putin alluded to the "colored revolutions" and issued a strong and unambiguous defense of Russian sovereignty: "Russia will decide itself how it can implement the principles of freedom and democracy, taking into account its historical, geopolitical and other specificities. As a sovereign state, Russia can and will independently establish for itself the timeframe and conditions for moving along this path." Thus, the Russian conception of "sovereignty" functions both externally to safeguard the polity from outside forces and internally to ensure domestic stability, political order, and socioeconomic progress.8

Vladislav Surkov, First Deputy Chief of Putin's Presidential Administration, coined the term "sovereign democracy" (suveryennaya demokratiya). Speaking to a meeting of industrialists in May 2005, Surkov proclaimed "We are not just for democracy. We are for the sovereignty of the Russian Federation." While acknowledging that attaching a "prefix" (sic) to the word "democracy" was problematic, Surkov argued that sovereignty was vital to a country like Russia, which faced a gamut of new threats, ranging from globalization and international terrorism to Western policies of "regime change" and democracy promotion.9

By 2006 "sovereign democracy" had become the centerpiece in Putin's rhetoric, according to Aleksei Chadaev<sup>10</sup> The term was incorporated into the program of the United Russia Party and appeared on the homepage of the party's website. Responding to President Putin's suggestion that history classes should make schoolchildren "proud of their motherland,"

<sup>&</sup>lt;sup>7</sup> Cited in Vladimir Ryzhkov, "Sovereignty vs. Democracy?" <u>Russia in Global Affairs</u>, No. 4, October-December 2005.

<sup>&</sup>lt;sup>8</sup> See John Willerton and Patrick McGovern, "The State and Sovereignty: 'Democracy Building' Russian Style," Paper presented at the Meeting of the International Congress of Central and East European Studies, Stockholm, Sweden, July 2010, p. 24.

<sup>&</sup>lt;sup>9</sup> See Robert Horvath, "Putin's 'Preventive Counter-Revolution': Post-Soviet Authoritarianism and the Spectre of Velvet Revolution," Europe-Asia Studies, Vol. 63, No. 1 (January 2011), p. 20.

<sup>&</sup>lt;sup>10</sup> A.B. Chadaev, Putin: Ego ideologiya (Moscow: Evropa, 2006).

a widely publicized history teacher's manual released in 2007 contained a final chapter on "sovereign democracy."

The term "sovereign democracy" has not been without critics in both Russia and the West. Vladmimir Ryzhkov, a deputy of the State Duma, published a lengthy critique in the journal, <u>Russia in Global Affairs</u> in late 2005. He expressed surprise at the concerted attention being focused on Russia's state sovereignty, as if Russia were under extreme threat from abroad or internal implosion. He implies that the campaign around "sovereignty" is simply a vehicle to consolidate power in the presidency at the expense of democratic participation by Russian citizens. He asserts, "State sovereignty cannot be confused with state power." 11

Not only is Russia not under imminent threat from abroad, he argues, but propounding the existence of such threats to justify limitation of political and civil freedoms is a serious distortion of the concept of "sovereignty." He concludes, "An unconstitutional principle of 'sovereign democracy' is replacing the constitutional principle of popular sovereignty. This trend implies the limitation of democracy and political competition, and the wish to keep the incumbent government in power whatever the cost." <sup>12</sup>

Dmitry Medvedev expressed skepticism about the term "sovereign democracy," saying that he preferred democracy without adjectives. "If you take the word 'democracy' and start attaching qualifiers to it that would seem a little odd. It would lead one to think that we're talking about some other, non-traditional type of democracy." <sup>13</sup> References to "sovereign democracy" would largely vanish during his presidency, 2008-20012.

<sup>&</sup>lt;sup>11</sup> Ryzkov, <u>op. cit</u>.

<sup>12</sup> Ibid.

<sup>&</sup>lt;sup>13</sup> From an interview with the Russian magazine, Expert, July 24, 2006.

"Sovereign democracy" even became the target of Russian satirists who liked to say that "democracy" and "sovereign democracy" are as different as "chair" and "electric chair." <sup>14</sup>

Assistant Secretary of State for European and Eurasian Affairs Daniel Fried remarked:

I get nervous when people put labels in front of democracy. Sovereign democracy, managed democracy, people's democracy, socialist democracy, Aryan democracy, Islamic democracy—I am not a big fan of adjectives. Managed democracy doesn't sound like democracy. Sovereign democracy strikes me as meaningless. <sup>15</sup>

With the reelection to Vladimir Putin to the presidency in 2012, emphasis on "sovereignty" has resumed, usually without the pesky reference to democracy. In a series of articles in popular Russian newspapers in the run-up to the March presidential election, Putin laid out his agenda. The first article, entitled "Russia Concentrates: Calls which We Should Answer," surveys the economic, political and social chaos resulting from the collapse of the USSR. He claims that in 1999 when he was appointed Prime Minister and then President in 2000, the Russian state was in a condition of "deep systemic crisis." He lists the accomplishments if his leadership: ending a civil war, breaking the back of terrorism, restoring the territorial integrity of the country and a constitutional order, and reviving the economy. <sup>16</sup> In the article Putin goes on to recount the threats posed by the destabilizing impact of Western democracy promotion programs in the region and the serious impact on the Russian economy of the 2008 global economic crisis. Both are portrayed in the frame of external threats that jeopardize Russia's sovereignty. He decries those nations that seek "to export democracy by means of power and military methods" and notes that even good intentions do not justify

<sup>&</sup>lt;sup>14</sup> Quoted in Leon Aron, "The Problematic Pages," <u>The New Republic</u>, September 24, 2008.

<sup>&</sup>lt;sup>15</sup> Daniel Fried, "Current Policy towards Russia, Serbia, and Kosovo," available at www.state.gov/p/eur/rls/rm/78973.htm.

<sup>&</sup>lt;sup>16</sup> Vladimir Putin, "Russia Concentrates: Calls Which We Should Answer," <u>Izvestiia</u>, January 16, 2012.

violating state sovereignty and international law. He concludes by noting that Russia can and should play an assertive and positive role "dictated by its civilizational model, great history, geography and its cultural genome in which fundamental bases of a western civilization and centuries-old experience of interaction are organically combined with the East, where new centers of economic power and political influence actively are developing." Following his inauguration, Putin developed a more detailed statement entitled "Development Strategy for Russian Civilization," that emphasizes two main goals: (1) preserving and upholding the spiritual and cultural values that constitute the Russian civilization's unique identity, and (2) crafting a new educational concept for children and youth, based on securing a safe information environment for them at home and in school. <sup>18</sup>

Putin's framing of sovereignty in civilizational terms was highlighted in his January 23, 2012 article published in Nezavisimaya Gazeta entitled "Integration of Post-Soviet Space: An Alternative to Uncontrolled Migration." He states, "Our national and immigration problems are directly linked to the collapse of the Soviet Union; the inevitable degradation of state, social and economic institutions; and to the enormous gap in development on the post-Soviet territory." Putin argues that Russia rejects integration through assimilation and notes that ethnic Russians living in former Soviet states do not constitute a diaspora, rather they are an integral part of a larger cultural Russian civilization that was torn to pieces by the collapse of the USSR. It is only in this frame that we can understand the Russian Government's position on

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<sup>1</sup> Ibid.

<sup>&</sup>lt;sup>18</sup> See Igor Panarin's assessment of Putin's program in "Putin's New Ideology: Developing Russian Civilization," available at rt.com/politics/putin-election-president-panarin-955.

<sup>&</sup>lt;sup>19</sup> Vladimir Putin, "Integration of Post-Soviet Space an Alternative to Uncontrolled Migration," <u>Nezavisimaya</u> <u>Gazeta</u>, January 23, 2012, available at <a href="http://rt.com/politics/official-word/migration-national-question-putin-439/">http://rt.com/politics/official-word/migration-national-question-putin-439/</a>

state sovereignty and the question of permissible use of force beyond its borders, a topic to which we now turn.

# International Law and Extraterritorial Use of Force: The Russian Perspective

As noted earlier, Russian leaders have been consistently critical of the use of force beyond a nation's borders unless it has been authorized by the Security Council. NATO strikes on Serbia in 1999, the US-led invasion of Iraq in 2003, on-going encroachments on Pakistan's territory by U.S. forces, NATO's support for Libyan rebels, and prospects of Western assistance to Syrian rebels all have been condemned as violations of the sovereignty of those states and meddling in their domestic affairs.

Under what circumstances short of authorization by the Security Council would the Russian Government support extraterritorial use of force? Russia has expressed deep skepticism of the "Responsibility to Protect" (R2P) doctrine. An official policy statement released by the Russian Foreign Ministry in the wake of events in Libya recognizes the occasional need for the use of coercive measures if peaceful means are inadequate and national authorities fail to protect their populations. However, the document adds "this solution can only be taken by the Security Council acting under Chapter VII of the UN Charter. Any unilateral actions that violate the constitutional principles of sovereignty, territorial integrity and noninterference in the internal affairs of states will only undermine international stability and rule of law."<sup>20</sup> A fuller version, appearing in the on-line journal International Security Forum, goes on to declare: "Attempts to bypass the UN Security Council by setting up

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<sup>&</sup>lt;sup>20</sup> See "Russia's Approach to the Notion of 'Responsibility to Protect', posted on the website of the Russian Embassy in London available at http://www.rusemblon.org/in3a/.

parallel tracks (under the banner of 'group of friends', or unilateral forums and initiatives) is an alarming trend....With this in mind, Russia is not going to continue to accept the adoption of UN Security Council resolutions authorizing military intervention in conflicts without careful consideration of parameters for their implementation: firstly, determining the limits of the use of force, secondly examining the motives of those states and organizations that request the relevant UN Security Council sanctions."<sup>21</sup>

In taking this position, the Russian Government has been surprisingly consistent even in its own decisions to use or refrain from using military force outside of its borders. When interethnic conflict broke out in Kyrgyzstan in 2010 and the leader of the Provisional Government, Roza Otunbayeva, made an urgent appeal to President Medvedev for assistance, he was reluctant to commit Russian peacekeepers, although a small contingent was sent to secure a Russian airbase in the country. Russian military leaders learned a painful lesson in sending peacekeeping forces into Tajikistan in 1992-1993—they are still there.

In the midst of its wars in Chechnya, Russian military forces did not pursue Chechen fighters who were fleeing, seeking refuge, and receiving support and training across international borders. In a February 27, 2013 hearing before the U.S. House of Representatives Committee on the Judiciary on the use of drones in the "War on Terror", the following hypothetical question was posed: "Imagine that Russian President Vladimir Putin has used remote controlled drones armed with missiles to kill thousands of "enemies" throughout Asia and Eastern Europe. Imagine further that Putin refused to acknowledge any of the killings and

<sup>&</sup>lt;sup>21</sup> See "The Russian Approach to 'Responsibility to Protect,' <u>International Security Forum, July 13, 2012</u>, available at <a href="http://www.inter-security-forum.org/articles/global-security/187-the-russian-approach-to-responsibility-to-protect">http://www.inter-security-forum.org/articles/global-security/187-the-russian-approach-to-responsibility-to-protect</a>

simply asserted in general terms that he had the right to kill anyone he secretly determined was a leader of the Chechen rebels or associated forces even as they pose no immediate threat of attack on Russia." The questioner continues, "How would the State Department treat such a practice in its annual reports on human rights compliance? Anyone? Mr. Bellinger?" Mr. Bellinger, a partner in the law firm Arnold and Porter LLP, responds: "It could happen this year where the poor State Department's spokesman is going to have to stand up after Russia or China has used a drone against a dissident in the next country and the State Department will have to explain why that was a bad drone strike in comparison to the United States that of course only conducts good and lawful drone strikes."<sup>22</sup>

Under what conditions does Russia reserve the right to violate the sovereignty of other countries? Clearly, any nation has the right to defend itself when it is attacked, but what about when its compatriots abroad are attacked? As we noted earlier, Russia sees itself having a transnational or civilizational identity as a result of the collapse of the Soviet Union. Some 25 million ethnic Russians live in the "Near Abroad" and Russia feels a strong "responsibility to protect" its compatriots from acts of violence or discrimination. Obviously, this creates a conflict when Russia extends its sovereignty claims to protect Russian compatriots abroad thereby encroaching upon the sovereignty of those states in which Russian populations reside. Fortunately, military confrontation has been avoided in all but one case, the Republic of Georgia. Article 61 of the Russian Constitution provides for the protection of Russian citizens outside the country. According to Chief Justice of the Russian Constitutional Court Valery Zorkin, it is absolutely legal for a sovereign state to apply the full force of its military and

<sup>&</sup>lt;sup>22</sup> From transcripts of the House Committee on the Judiciary, February 27, 2013.

destroy the armed forces of a foreign state if the goal of such an operation is to secure the lives of its compatriots who are permanently living abroad. Moreover, the Russian federal law "On the State Policy in Regard to Fellow Citizens Residing Abroad" that went into effect March 24, 1999 provides that, "If a foreign state violates recognized norms of international law and human rights in regard to Russian expatriates, the Russian Federation shall undertake efforts authorized by international law to defend their interests." In order to reinforce its position, the Russia Government has offered dual citizenship to many Russians living abroad, especially in contested regions such as South Ossetia and Abkhazia, but also many of the Central Asian States.

It is notable that the Russian Federation has attempted to avoid the militarization of conflicts with its neighbors and has relied on economic, diplomatic, and energy levers to protect ethnic Russians from discrimination. President Putin has also stepped up efforts toward integration of the post-Soviet space through the formalization of networks via multilateral treaties. Some of the organizations resulting from these treaties go back to the period immediately following the collapse of the USSR, but they have become more active during Putin's presidency. They include:

Commonwealth of Independent States (founded 1991)

Collective Security Treaty Organization (founded 1992, charter ratified 2002)

Shanghai Cooperation Organization (originally 1996, renamed and enlarged 2001)

<sup>&</sup>lt;sup>23</sup> Quoted in "Russian Federation: Legal Aspects of War in Georgia," available at <a href="http://www.loc.gov/law/help/russian-georgia-war.php">http://www.loc.gov/law/help/russian-georgia-war.php</a>. The compatriot defense has been used by other nations, including the United States in Grenada and the United Kingdom in the case of the Falkland Islands, although this has been largely ignored by Russian officials and commentators.

Organization of Central Asian Cooperation (founded 1998, renamed 2002)

Eurasian Economic Community (founded 2001)

Common Economic Space (founded 2003)

Customs Union of Belarus, Russia, and Kazakhstan (founded 2010)

Clearly, part of Putin's strategy of resolving Russia's contested sovereignty claims in the post-Soviet space is to legitimize extraterritorial rights via multilateral treaties. From the standpoint of "state sovereignty," the two most important multilateral organizations are the Shanghai Cooperation Organization and the Collective Security Treaty Organization. Article 2 of the Shanghai charter enumerates guiding "principles" of the organization which include: mutual respect of sovereignty, independence, territorial integrity of States and inviolability of State borders, non-aggression, non-interference in internal affairs, non-use of force or threat of its use in international relations, seeking no unilateral military superiority in adjacent areas; and equality of member states. All decisions of the body are made by consensus and individual member states may opt out. The SCO has cooperated in stemming trans-border trafficking, terrorism, and has staged periodic joint military exercises. This is the only organization of those listed above in which China is a member. The Russians and the Chinese share complementary perspectives on the issues of state sovereignty, non-interference in each other's internal affairs territorial integrity, and reject secessionist movements. These are all issues in which both the Chinese and Russian governments have differed sharply with the United States in recent years.<sup>24</sup>

<sup>&</sup>lt;sup>24</sup> See Richard Weitz, "Superpower Symbiosis: The Russia-China Axis," <u>World Affairs</u>, November/December 2012, 71-78.

The Collective Security Treaty Organization charter establishes that aggression against one signatory would be considered as aggression against all members. Permitting the establishment of military bases of a non-member state on the territory of the CSTO requires the consent of all its members, effectively giving Russia the right of veto. This will negatively impact the Pentagon's plans to deploy to Central Asia some of the forces leaving Afghanistan in 2014.

In recent years, non-Russian members of these various multilateral organizations have begun to drag their feet on more integrationist proposals being floated by the Russian Federation, expressing concerns about preserving their own state sovereignty and fears of being too closely linked with an organization that in the West might be viewed as an "anti-NATO" bloc.

## "Sovereignty" in the Domestic Sphere: Xenophobia or Rational Response?

The evident preoccupation of the Putin Administration on "state sovereignty" beginning in 2004 also manifested itself in the domestic sphere by a tightening of control of foreign organizations operating on the territory of the Russian Federation. Responding to Putin's concerns deriving from the "colored revolutions," in 2006 the Duma passed regulations requiring all non-governmental organizations to be registered and report annually on their activities, sources of funding, personnel, and future plans. The registration and reporting requirements were burdensome and time-consuming, and the process of registration was fraught with corruption and favoritism. The new NGO law also changed the reporting requirement for churches and religious organizations. In 2006 the Russian government also began awarding grants to Russian civil society organizations on a competitive basis, offering an

alternative to Western funding. <sup>25</sup> Although there was no explicit language either in the 1997 "Law on Freedom of Conscience and Associations" or the NGO law granting privileged status or treatment to the four religions considered indigenous to the Russian Federation (Orthodoxy, Islam, Judaism, and Buddhism), in practice churches with outside funding and personnel faced considerable difficulties being approved. Some, such as the Church of England, that refused to comply with the new regulations were shut down for a period of time, until they were eventually compelled to register. In a similar vein, a 2002 "Law on Combatting Extremist Activity" has been used, not just to counter hate groups, but also to restrict religious and political movements and parties that are out of favor with the authorities. On June 20, 2012 the Council of Europe's Venice Commission concluded that the law violates international human rights standards due to is broad and vague definitions, which result in unequal and potentially discriminatory application of the law.<sup>26</sup>

The concerted policies of restricting civil society groups and opposition parties waned somewhat during the Medvedev presidency, but emerged in a more exaggerated form with the decision that Putin would run for a third term in 2012. Public demonstrations against the "smoke filled room" nature of the decision and Putin's rapidly falling approval ratings appear to have caught officials off guard. In order to secure a victory for the ruling party, United Russia, in the 2011 parliamentary elections authorities resorted to the usual tools, dubbed "administrative measures" to undermine the opposition. Opposition parties and candidates were denied rally permits or were assigned to remote or undesirable locations, signatures on

<sup>&</sup>lt;sup>25</sup> Cited in Alfred B. Evans, Jr., "Civil Society and Protest," in Stephen Wegren, ed. <u>Return to Putin's Russia</u> (Lanham, MD: Rowman & Littlefield, 2013, p. 107.

<sup>&</sup>lt;sup>26</sup> See Venice Commission report of 06/20,/2012, available at <a href="http://www.venice.coe.int/Newsletter/Newsletter">http://www.venice.coe.int/Newsletter/Newsletter</a> 2012 3 E.htm

petitions in order to have parties or opposition candidates' names appear on the ballot were routinely challenged and invalidated, press coverage was grossly slanted in favor of "the party of power," and some civil society groups and opposition parties had their offices raided, files confiscated, and leaders summoned for police questioning. Some Western election monitoring groups were denied visas to enter the country, while Russian's chief election monitoring organization, *Golos*, has been intimidated and openly criticized. Speaking at a United Russia congress in November 2011, Putin said: "We know that representatives of some countries meet with those whom they pay money – so-called grant recipients – and give them instructions and guidance for the 'work' they need to do to influence the election campaign in our country."<sup>27</sup>

In the run-up to the March Presidential elections, Putin's rhetoric grew even harsher and protection of Russia from foreign influences became a recurring theme. Speaking to a campaign rally in a packed stadium celebrating Defender of the Motherland Day, Putin proclaimed: "We will never allow anyone to interfere in our internal affairs....Victory is in our genes, in our genetic code." In a pre-election article on military policy, Putin stated that Russia sees its sovereignty as under threat. Referring to recent global economic crises, Putin noted:

In a world of economic and other upheaval, there is always the temptation to resolve one's problems at another's expense through pressure and force. It is no accident that some people today are saying that it will soon be 'objectively' the case that national sovereignty should not extend to resources of global significance. There will be no possibility of this, even a hypothetical one, with respect to Russia. In other words, we should not tempt anyone by allowing ourselves to be weak.<sup>29</sup>

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<sup>&</sup>lt;sup>27</sup> Quoted in "Election Monitors Complain of State Harassment," <u>The Guardian</u>, December 2, 2011.

<sup>&</sup>lt;sup>28</sup>Susan Glasser, "Nasty Electoral Rhetoric Goes Global," <u>Foreign Policy</u>, February 27, 2012.

<sup>&</sup>lt;sup>29</sup> Rachel Douglas, "Putin Presents Military Policy for Securing Russia's Sovereignty," February 22, 2012, available at www.larouchepac.com/node/21702.

At a post-election rally in front of the Kremlin an emotional Putin, with tears running down his face screamed to the crowd, "I promised you we would win. We have won. Glory to Russia!" <sup>30</sup> He went on to denounce unidentified outside forces who he accused of seeking to influence the election outcome: "We showed that no one can direct us in anything! We were able to save ourselves from political provocations, which have one goal: to destroy Russian sovereignty and usurp power."

The push for sovereignty has not let up after the election. In July 2012 the Duma passed a new legislative provision to the NGO law requiring any civil society organization that receives funding from foreign sources (including governments, non-governmental organizations, foundations, or individuals) to identify itself as a "foreign agent." Two other pieces of legislation passed that are widely seen as restricting political discourse in the country. One reinstitutes libel, which can carry a fine as high as 5 million rubles (\$166,000). The other creates a government body to monitor and blacklist internet websites ostensibly to protect children from illegal or harmful content.

In late September 2012 Putin ordered the United States Agency for International Development to close its mission to Russia. Foreign Ministry spokesman Alexander Lukashevich cited USAID's funding for non-government organizations that seek to "influence the political process, including elections at various levels and civil society." Presidential spokesman Dmitry Peskov told reporters that President Putin shares this view.

<sup>&</sup>lt;sup>30</sup> Report by Miriam Elder in "Vladimir Putin: We Have Won. Glory to Russia," <u>The Guardian</u>, March 4, 2012.

<sup>&</sup>lt;sup>31</sup>Quoted in RT News, September 20, 2012 available at <a href="http://rt.com/politics/putin-usaid-russia-washington-moscow-557/">http://rt.com/politics/putin-usaid-russia-washington-moscow-557/</a>

Sovereignty issues also lay behind the introduction of new legislation in February 2013 that would bar senior Russian officials from holding bank accounts or stocks in companies outside Russia. The law would apply to high-ranking officials whose work "involves the sovereignty or national security of the Russian Federation," as well as their spouses and young children.<sup>32</sup> Some Russian lawmakers reportedly want to extend the restrictions to owning foreign property and sending children abroad for their educations.

#### **Implications for Executive Power**

"Sovereignty" has become the new ideology and legitimizing trope for Putin's government, both in its foreign relations and in justifying restrictions on the political space domestically. The Russian Constitution, adopted in 1993, creates a "superpresidential" system by design, largely patterned on the French model introduced by President Charles de Gaulle. While Boris Yeltsin often used many of his presidential powers to circumvent opposition groups in the Duma, he did not mobilize his full range of powers and political influence to dominate the political scene. Putin, on the other hand, has built a multilayered powerbase consisting of high levels of popularity; clientelistic networks of secondary elites in virtually every sector of Russian society, the economy, and government; a dominant ruling party with extensive patronage resources to maintain loyalty; regime-supportive civil society groups and youth organizations that can be mobilized, among other things, to disrupt opposition rallies; robust constitutional powers; and extensive experience in deploying "administrative resources" to hobble any serious opposition threat.

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<sup>&</sup>lt;sup>32</sup> See Ellen Barry, "Russia May Restrict Investing Abroad," <u>The New York Times</u>, February 12, 2013.

The more difficult question to assess is the extent to which Russian emphasis on protecting "state sovereignty" is empty rhetoric designed to appeal to the Russian sense of national pride and patriotism and to shore up Putin's declining popularity at home. Jakob Rigi argues in a recent fascinating article that the postmodern "state of exception" is exercised not through the suspension of law (e.g. Schmitt's justification of anti-Jewish laws in the Weimar Republic), but through the "counterfeiting of legality" whereby in the context of external or domestic disorder or threats, citizens are disposed of their rights under the guise of enforcement of law.<sup>33</sup>

That is not to say that threats do not exist or that Russian concerns with protecting its sovereignty are disingenuous or simply rhetorical. In 2005 the author of this paper attended a panel discussion on the "EU and Russia" at the annual convention of the International Studies Association. The Russian participants on the panel were quite openly critical of the entire EU enterprise as an ill-conceived sacrificing of national sovereignty. More recently in 2012 during a meeting with Finnish President Sauli Niinisto, President Putin admonished Finland not to surrender its national sovereignty by joining NATO. Putin remarked, "The involvement of any country in a military bloc deprives it of a certain degree of sovereignty, and some decisions are made at a different level." Russian Chief of the General Staff Nikolai Makarov interpreted Finnish membership in NATO as a direct threat to Russia: "Cooperation between Finland and NATO threatens Russia's security. Finland should not be desirous of NATO membership, rather it should preferably have tighter military cooperation with Russia."

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<sup>&</sup>lt;sup>33</sup> Jakob Rigi, "The Corrupt State of Exception," <u>Social Analysis</u>, Vol. 56, Issue 3 (Winter 2012), 69-88.

<sup>&</sup>lt;sup>34</sup> Reported by RT News, "Finland Will Lose 'Sovereignty' If It Joins NATO," June 22, 2012.

<sup>&</sup>lt;sup>35</sup> <u>Ibid</u>.

In 2008 former President and current Prime Minister Medvedev declared the post-Soviet space "a zone of privileged influence" for Russia<sup>36</sup> Russia's active record of building multilateral organizations in the post-Soviet space appears to be rooted in the desire to formalize a sphere of influence, especially in light of US and NATO rejection of the legitimacy of such a "zone of special privilege." Russian officials rightly point out that the United States and NATO have long claimed spheres of influence. American "exceptionalism" is often invoked to justify the implied infringement of other nation's sovereignty in its sphere of influence. Russia is seeking recognition of its own "exceptionalism," justified not just in terms of raw power, but in terms of the unique demographic, military, economic, and political circumstances resulting from the rapid implosion of the USSR. If Russia succeeds in securing its wider civilizational borders through these multinational treaty organizations, they become the legal justification for their wider sovereignty claims—they cease to be "exceptional."

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<sup>&</sup>lt;sup>36</sup> Dmitri Medvedev, Interview on Russian television, August 31, 2008, available at <a href="http://eng.kremlin.ru/text/speeches/2008/08/31/1850">http://eng.kremlin.ru/text/speeches/2008/08/31/1850</a> type 82912type2916-206003, pp. 5, 11.