

Yeltsin Deserves American Support

■ **Russia: He's the only reformer with a national following; don't be deceived by the Congress' smoke screen.**

By **DMITRI N. SHALIN**

Boris Yeltsin's decision to sidestep the Parliament and appeal directly to the Russian people for support has thrown the country into a severe constitutional crisis. Although controversial, his emergency decree is on solid historical, legal and moral grounds.

To begin with, Russia's constitution was adopted in 1978 at the height of the Brezhnev era. It has been amended since, but its core reflects the spirit predating the August Revolution that toppled the Communist regime. The constitution continues to treat the Union of Soviet Socialist Republics as a legal entity, proclaims "Soviet power" and "socialist democracy" as the foundation of its political order and uses the hammer and sickle as the national insignia.

That the Congress of People's Deputies, the country's highest legislative body, would refuse to dispense with these anachronisms should come as no surprise. It was elected before the Communist Party lost its stranglehold on the political process. Eighty-six percent of its members were card-carrying Communists in 1991, and many remain committed to the cause. The Congress' efforts to derail reform and restore to power the old *nomenklatura* only show how historically obsolete this institution is.

Nor should one be blinded by the legalistic smoke screen that Russian legislators set up to cover up their hidden agenda. The Congress' reading of the constitution is highly selective. Its own legislative measures violate key constitutional provisions, most notably Article 3, which establishes the separation of legislative, executive and judicial powers, and Article 5, which reads, "The most important questions pertaining to state matters are to be handed over for deliberation to the entire people and submitted to the national referendum."

The Congress disenfranchised the Russian people by failing to endorse the

national referendum on private ownership after its supporters gathered 2 million signatures. It also unilaterally backed out of an agreement to hold a national referendum on power-sharing that was reached earlier to break the constitutional impasse and that was sealed by the president, the constitutional court and the Congress. Worse, it systematically undermined the executive branch and its reform policies.

The Congress refused to appoint Yegor Gaidar, chosen by the President to head the Council of Ministers; it encouraged local authorities to ignore their tax obligations to the federal government; it spurred hyper-inflation by offering unlimited

receive and freely distribute information." Nor did the court exercise its authority to restrain the anti-Semitic Pamyat movement that violates Article 7 prohibiting organizations that "promote social, ethnic and religious hatred."

Valery Zorkin, who heads the Russian Supreme Court, has been playing politics, issuing express opinions on complex constitutional matters and siding mostly with the Congress. He declared the emergency decree invalid even before it was formally reviewed by the 15-member Supreme Court, as mandated by the constitution. The subsequent court ruling against Yeltsin is not surprising, but its binding power is questionable, given the transitional—even revolutionary—nature of the period and the court's failure to address the Congress' infringement on the constitution.

To be sure, Yeltsin is aware that his drastic measures set up a dangerous precedent in a country working its way to democracy and struggling to establish the rule of law. This is why he chooses not to dissolve the Congress and carefully spoke about "a special regime of governance in a short transitional period." But given the Congress' selective approach to the constitution and the court's half-hearted effort to enforce it, these legal niceties may well be superfluous. The Russian constitution is historically and morally obsolete, and so is the Russian Parliament. Both must be replaced as soon as possible.

It's hard to predict where Yeltsin's gamble will lead, but it might pay off yet. The public seems to favor the president over the Congress. The early move in the Supreme Soviet, the second branch of the Parliament, to start the impeachment process failed (only 40% voted for the measure). The military and security agencies have sworn to stay out of politics. The international community is solidly behind Yeltsin, and President Clinton is finally ready to offer a substantial aid package to Russia.

Clearly, now is not the time to second-guess Yeltsin on legal grounds. He is the only proved Russian reformer with a national following. We should support him.

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credit to failing enterprises, and it severely limited the President's capacity to carry out market reforms by cutting his power to issue decrees. Yeltsin is right when he charges that the Congress positions itself to take over the executive prerogatives, but wants the president to answer for all failures.

The Constitutional Court plays a key and not always constructive role in this drama. When Ruslan I. Khasbulatov, the Speaker of the Congress, made a clumsy attempt to reign in the recalcitrant press, the court did nothing to uphold Article 43 of the constitution protecting "the right to seek,