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Osaka University

Twenty Years of the Russian Constitution: Constitutionalism and Local Self-Government in Perspective

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The present Constitution of the Russian Federation was adopted on 12 December 1993. 2013 is its twentieth anniversary. The Putin administration values the Constitution highly and grandly celebrates the anniversary. There is currently no serious political conflict, such as was seen between the President and the Parliament, and between the Federation and federal subjects at the time of adoption. There are voices demanding its amendment, but they are not that loud either in politics or legal scholarship. The dominant group of scholars accepts the Constitution, though admitting that there are some problems with it. The Constitution should develop its potential, according to them, through the accumulation of rulings of the Constitutional Court and newly enacted laws designed to give real effect to its clauses. This is what they call constitutionalism.

The 1993 Constitution contains a chapter on local self-government. Under the four clauses of the chapter, municipal formations are given certain autonomy. The federal law on general principles of structuring municipal formations was enacted in 1995 and revised on October 6, 2003. 2013 is also tenth anniversary of the present law on local self-government.

Constitutionalism and local self-government were two subjects that were often favorite topics of discussion among political liberals before the Russian Revolutions, but the concepts were deprived of all positive meaning in the Soviet period. Nowadays, Russia is trying to give new meanings to those mature terms in the new political situation.

It would be easy, but not fair, for Western legal specialists to question the validity of these concepts in modern Russia, given the absence of several important pre-conditions for the operation of the rule of law. But the difference between Western rule of law and Russian rule by law should not be regarded as that between true and false conceptions. To make a fair judgment about new trends in non-Western legal systems, a broader perspective and flexible attitude is required. Such an approach will enrich global legal thinking by permitting a more

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open and non-judgmental comparison between different types of legal system. Contemporary Russia does not gloss over its defects, in contrast to the former Soviet Union. Today there is open and fruitful discourse among Russian and foreign legal scholars regarding these issues.

This special issue on Russian public law contains two highly thought-provoking articles. The first one, by Prof. Iu. N. Stalirov, argues for establishing administrative courts and enacting administrative procedural law as necessary conditions for the realization of the Constitution and “modernization.” Prof. Stalirov, one of the leading administrative law specialists in Russia, holds the chair of administrative and municipal law at Voronezh State University.

The second article deals with the local self-government issue of contemporary Russia, focusing on the inconsistency between the models of self-government adopted by the Constitution and the 2003 law. The author, Prof. O. E. Shishkina, holds the chair of constitutional and administrative law at Far Eastern Federal University in Vladivostok. Her article is based on abundant firsthand knowledge on the relationship between the development policy of the Federal government and municipal autonomy in Primor’e.

Both articles discuss issues arising from the relationship between the Constitution and federal law in the Russian legal system. The first article contains an appeal to the realization of the Constitution by the adoption of new administrative laws, while the second points out the inconsistency between the Constitution and federal laws relating to municipal government. Both will, however, provide readers with valuable food for thought in considering the “rule of law” issue in the context of contemporary Russia. To our great regret, these articles are only for Russian-reading scholars at present.

Some may wonder why these articles appear in a Japanese journal. It is partly because the authors are our partners on a joint research project. More importantly, however, Japan and Russia are in a similar situation regarding their relations with the Western legal world. Both have learned much from the West, but have developed their own legal systems on the basis of the borrowed models – and both are sometimes criticized because of the differences between the modified legal system and the original systems from which they borrowed.

In Northeast Asia, the two legal systems have been greatly influential, though in different areas and fields. Knowledge about the two legal systems will help legal scholars to deepen their understanding about the broader legal development of this region. As for the question of whether or not a new type of “rule of law” will appear in Northeast Asia—that is a question that is beyond the scope of this

special issue, but it is one that should be seriously considered in the near future. This special issue will perhaps lay the ground work for such an exploration, and thus make some contribution to this far-reaching task as well.

