

The Political System in Belarus: a Diagnosis

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The nature of authoritarian regime in Belarus

by Viktor Charnau

In any analysis of political regimes (including authoritarian ones, which include present-day Belarus), an essential criterion is one of the nature of authority, i.e. whether it seeks to preserve status quo or change the society. This criterion allows for identifying the following types of authoritarianism: conservative, reactionary and liberal. Another key criterion for classifying political regimes is that of the holder of power. With this criterion in mind, authoritarian regimes may be classified as personalist dictatorships and oligarchies.

Based on this approach, the current political system in Belarus may be defined as a reactionary, Soviet-conservative personalist dictatorship with strong totalitarian tendencies.

In most post-Soviet countries that embarked on the path of reform, new social relations triggered off rejection of the new realities. The political and ideological incarnation of this trend is a leftist, Soviet-style conservatism of varying degree depending on circumstances: from quite moderate to very aggressive and reactionary. Not only has this Soviet-conservative trend become reactionary in Belarus; it has dominated politics and become the government's ideology of choice.

The regime's militant Soviet conservatism is its inherent political and ideological feature. Other than merely longing for old-style Soviet mentality and former lifestyle, it seeks to prevent global democratization from reaching Belarus at all cost, and restore and modify key elements of the Soviet order such as a strong, vertically integrated executive branch of power, the *subbotniks*¹² and propaganda briefings.

The regime has the following long-term strategic goals that predetermine its behavior:

- consolidate powers of Alyaksandr Lukashenka and prolong his rule for as long as possible;
- restore, modify and preserve key aspects of the former Soviet order;
- expand internally to control parts of the civic society still independent of the regime;
- expand externally towards 'brotherly Russia' with its rich natural resources and the prospect (still unrealistic) of taking the Moscow throne.

The Constitution adopted in 1996 as a result of a coup allowed Lukashenka to:

- a) legalize the dictatorship which, de facto in place at the time, sought in particular to make provisions for the operation of Oprichnina-type¹³ supra-governmental institutions such as the Presidential Administration and the Presidential Property Management Department.
- b) Strengthen institutional centralization and consolidate personal power, enhance dictatorship in the form of personal dominance (concentration of all branches of power in the president's hands.)

The president is the main source of power capable of making final political decisions on all issues of social significance. The relative weight of all other officials in State hierarchy depends directly on their loyalty, access and proximity to the president and support on his part.

¹² From *subbota* (Rus.) = Saturday (ed.). The first communist subbotnik, or a day of voluntary free unpaid labor, was held on April 12, 1919, by railwaymen of the Sortirovochnaya marshalling yards of the Moscow-Kazan Railway. *Subbotniks* were soon being held at many other enterprises in various cities and became a tradition in the Soviet Union (transl.).

¹³ A military and administrative elite under Tsar Ivan the Terrible.

The president and his 'vertically integrated' executive division are the only full-fledged institution of government. Powers are not separated vertically or horizontally. The country lacks a developed parliament. The judiciary is hinged on the executive entirely and local forms of self-governance have been eliminated. Directly or indirectly, the president appoints all heads of regional, district and city executive boards.

Despite the semblance of democracy and affirmed political pluralism, in practical terms the regime imposes legal restrictions on and wipes out any possibility of holding fair and competitive elections that could spawn a change of government. Political parties have been ousted from the political system and play a dysfunctional role. Those that exert some form of influence on specific policies are not visible to the public eye and contribute to corruption.

Therefore, the personalist authoritarian regime has minimized the number of players with real institutional ability to make state decisions or affect regime's policies.

Government structure

To understand the behavior of the government, it is necessary to be able to recognize its structure and functions. Any description of a state usually begins with the definition of the constitutional form of governance.

The form of governance consists in the arrangement of top-level governmental agencies, and relationship vis-à-vis each other and the people. The form of governance is the embodiment of a regime. The legitimacy and efficiency of governmental institutions and stability of the political regime largely depend on the form of government.

In Belarus, the presidency based on direct presidential elections replaced the quasi-parliamentary republic in 1994. On the surface, it represented almost a classic model of presidential constitutional democracy. Still, it enabled the establishment and legalization of personalist dictatorship.

Dictatorship is institutionally incarnated by the super-presidential form of governance established in result of the 1996 coup.

The super-presidential republic is noted for extreme concentration of power in the hands of the president. Other than just being the head of state, he/she also has the right to rule by decree, dissolve the parliament, dismiss the cabinet, appoint and dismiss judges and heads of local authorities.

The 1996 Constitution conferred unlimited and inviolable powers to the president on the one hand, while on the other it gave the authorities the appearance of constitutionality and conformity with European standards. The Constitution declared the president the head of state, guarantor of the Constitution, human rights and freedoms. It vested the president with powers to arbitrate and mediate among various top-level governmental institutions. Statutorily, the president is not the head of the executive power exercised by the government with the prime minister at its head. The government is accountable to the president and the parliament. The president may dissolve the government; the Parliament may take a vote of non-confidence in the government; and the president may dissolve the Parliament.

The system appears to be one of a standard presidential parliamentary republic which, despite all its weak points, is a relatively democratic form of governance. However, in-depth analysis of real powers of various branches shows that this is an authoritarian, super-presidential government system. The affirmed principle of separation of powers has been transformed into an absurd and awkward system of interactions between the authorities under total control of the president.

The president

The president of Belarus plays a special role in the system of governance. It takes more than one article in the Constitution to specify the president's virtually unlimited powers.

However formally not heading the executive (the constitution does not even refer to such a notion), the head of state has real powers of the prime minister.

The president has the right to appoint and dismiss the prime minister subject to parliamentary approval, and other cabinet members, chair cabinet me-

etings and define the structure of the government. The prime minister has no say on cabinet formation or changes in its composition.

The president may issue directives and orders binding for the entire country, and override any governmental decision. Such influence of the president on the executive is characteristic of presidential and super-presidential systems of governance.

In addition to directives and orders, the president may issue law-decrees. If a presidential decree or edict conflicts with a law, the presidential act takes precedence, except for cases where the law empowers the president to issue the decree or edict in question. The president's legislative function is yet again indicative of the super-presidential form of governance.

The president also holds undisputed control of the National Assembly, Belarus' parliament. He directly appoints eight of the 64 members in the Council of the Republic, the upper chamber. Presidents in some parliamentary democracies also have this right, however more symbolic. Besides, the president indirectly appoints other members of the Council of the Republic nominated at joint meetings of the regional and Minsk city soviets and executive committees under the watchful eye of the presidential administration.

Apart from the right of veto, the constitution provides the president with extensive powers to dissolve the parliament. The president may dissolve the National Assembly (1) if it adopts a vote of non-confidence in the government, (2) rejects twice the president's nominee for the post of prime minister (3), repeatedly votes down the government's program of actions (4), 'in the event of repeated or flagrant violations of the Constitution by the parliament', which is absurd from the legal point of view.

A cumbersome impeachment procedure makes it almost impossible to oust the president before the end of term.

The concentration of functions of the head of government and broad powers to dissolve the parliament are indicative of a dangerous shift in the balance of power toward the president, a characteristic of the super-presidential form of governance.

The president in Belarus has unlimited powers to form other State institutions. He/she appoints and dismisses six out of 12 Constitutional Court judges, all judges in common courts of law, six out of 12 members of the central electoral commission, the chair of the State Audit Chamber and heads of local executive and administrative authorities.

Constitutional Court judges are appointed for 11 years, while other officials, including judges, are appointed for unlimited term and may be dismissed by the president at any time. Another symptom of there being a super-presidential republic is that a single person makes appointments to key positions in the judiciary.

Some top-level nominations – the chair of the Constitutional Court, chair and deputy chairs at the Supreme Court, Supreme Commercial Court, chair of the central electoral commission, prosecutor general, chair and governors of the National Bank – need to be endorsed by the Council of the Republic. Surprising as it may seem, however, the president does not need the Council of the Republic's approval to dismiss these officials.

Moreover, under the constitution, the president may dismiss the few senior public officers nominated by the Council of the Republic: six Constitutional Court judges and six members of the central electoral commission. He merely needs to 'notify' dismissal to the Council of the Republic.

The 1996 Constitution legalized the personnel management practices employed by Lukashenka in 1995 and 1996, particularly the dismissal by decree of the chair of the central electoral commission, appointed by the Supreme Soviet and due to be dismissed by the Supreme Soviet only under the 1994 Constitution.

The presidential power rests on the so-called 'president's vertically integrated regional, district, city and town executive committees' headed by Lukashenka-appointed officials.

The Presidential Administration tops the presidential 'vertically integrated' structure. It has very much in common with the former Central Committee of the Communist Party. In the hierarchy of power, the administration is second to the president. It has more powers than the Council of Ministers and the National Assembly. An analysis of the organizational structure of the Presidential

Administration and of the way in which decrees, edicts and directives are enacted, proved that administration officials may impact these processes much more than the government or the parliament.

However, the Administration's functions and powers are not specified by the constitution. Hence, it is a semi-legal authority, 'a state within a state', accountable to the president alone.

Parliament

The National Assembly is the supreme representative and legislative body in Belarus. It consists of two chambers, the 110-seat House of Representatives elected by secret ballot on the basis of universal, free, equal and direct suffrage, and the 64-seat Council of the Republic, referred to as the chamber of territorial representation. Eight members of the Council of the Republic are appointed by the president of the Republic, while the remaining members, eight from each region and from the city of Minsk, are elected to a four-year term by secret ballot on the basis of equal and indirect suffrage at meetings of the 'basic-level' local soviets (elected councils) in the area. As a rule, nominees to the Council of the Republic are candidates pre-approved by the president.

The Belarusian Constitution delegates the legislative power to the National Assembly, yet the Assembly's role is not decisive in the general legislative process. The drafting of bills, including those governing Belarus' domestic and foreign policies, is not included as main functions of the legislature. The House of Representatives is tasked with considering, rather than drafting bills, which may then be passed or rejected by the Council of the Republic. A bill becomes law once it passes both chambers and is signed by the president.

Under the Constitution, a bill rejected by the Council of the Republic may still pass the legislature if the House of Representatives manages to override the upper chamber's veto with a two-thirds majority of members voting to pass the bill again. However, the bill is subsequently referred to the president who may exercise his right of suspensive veto. In the case of a veto, the legislature may override the veto with two-thirds of each chamber voting to pass the bill again.

Thus, in the course of lawmaking, a bill may be subject to three suspensive vetoes: at the Council of the Republic, from the president and the Council of the Republic again. This points to the main function of the 'semi-appointed' upper chamber, whose very existence makes no sense in a small unitarian state. In the event the House of Representatives escapes presidential control, the Council of the Republic would be an efficient barrier for bills and resolutions adopted by the House of Representatives if they run counter to the president's interests.

A serious restriction on the House of Representatives' right to initiate legislation is provided by Article 99 of the Constitution, which stipulates that bills which may entail lower government revenue or increased spending may be tabled for consideration by the House of Representatives only with consent of the president or the cabinet on the president's request. However, implementation of almost every piece of legislation causes some changes in public spending. Therefore, consistent application of this article of the Constitution would deprive the parliament of the right to initiate laws altogether.

The lawmaking function of the House of Representatives is restricted not only by the Constitution, but also by current unconstitutional legislative practice. In 1997, by way of his presidential edict, Alyaksandr Lukashenka established a so-called National Bill-Drafting Center reporting to the president of the republic. All institutions with a right to initiate laws must refer bills to the Center, rather than directly to the parliament. Even this mechanism alone contradicts the Constitution, which says that each bill must first be considered by the House of Representatives and then by the Council of the Republic.

In some cases, the Center has the right to reject sponsors' requests to draft the bill, in particular if the draft law is deemed to contravene the president's stance or 'impedes the drafting of bills ordered by the President of the Republic or President's Administration'.

Thus, the National Assembly is in fact prevented from initiating bills. The president and his administration can block any legislation before it proposed for the House of Representatives' regular agenda. Each year, Lukashenka issues edicts to adopt a bill-drafting plan and the House of Representatives considers only the bills listed therein.

Under the Constitution, the House of Representatives does not have sufficient powers to influence formation of the Cabinet and other governmental agencies. The House is formally involved in four appointment-related procedures:

1. It deliberates on consent to appointing of a new prime minister. However, if the lower chamber has twice refused to give its assent, this may entail its dissolution. The president does not need the House's consent to dismiss the prime minister.
2. The House of Representatives considers accepting the president's resignation. Since the resignation issue can be initiated by the president only, this function of the lower chamber is of a purely technical nature.
3. The House can initiate the impeachment procedure by accusing the president of high treason or other severe crimes. In this case, the lower chamber decides that investigation of the charges should be conducted. Yet, the investigation itself is to be organized by the Council of the Republic whose members are directly or indirectly appointed by the president. The National Assembly may dismiss the president with a two-third majority in each chamber voting in favor of passing the decision. The entire impeachment procedure should take no more than one month following the date of filing the accusation. If the legislature fails to decide on the president's dismissal, the accusation dies.
4. The House also can take a vote of confidence or no-confidence vis-à-vis the Cabinet, but in the latter case the president may arbitrarily choose between dismissal of the Cabinet and dissolution of the House. A vote of no-confidence vis-à-vis the Cabinet may be initiated by at least one-third of all members of the House of Representatives compared with one-fourth of the MPs in Moldova, one-fifth in Estonia, and one-tenth of members of the lower chamber in Poland and France.

Unlike the House of Representatives, formally the Council of the Republic has greater powers of appointment. It deliberates about consenting to presidential appointees to a rather broad spectrum of government positions; it elects six members of the Constitutional Court, six members of the Central Electoral Commission for Elections and National Referenda. However, the Constitution does

not offer the upper chamber the opportunity to influence the president's decision to dismiss them.

In addition, the upper chamber actually has to consider presidential appointments ex-post, rather than ex-ante. Therefore, the president de facto asks the Council of the Republic merely to acknowledge an accomplished fact. Since the upper chamber was established in 1996, it has never rejected president's appointments, even in justified instances.

Neither parliamentary chamber has supervisory functions. They have no agencies to monitor compliance with laws and resolutions. The Supreme Soviet (the National Assembly's predecessor) elected an Auditing Commission accountable to it. The present State Control Committee reports directly to the president.

Thus, in its current form, the Belarusian legislature is severely restricted in its lawmaking functions, does not influence formation of the Cabinet and other governmental agencies, and has no supervisory functions. This confines any legal possibility for a new political course to be initiated and adopted through the National Assembly virtually to nil. The Constitution currently in force requires that the Assembly be a piece of window-dressing that readily approves the president's decisions.

Prime Minister and Cabinet

The executive branch is represented by the Council of Ministers of the Republic of Belarus which is supposed to put laws to work and is said to be the central body of state governance.

The Belarusian Cabinet officially consists of 38 members: the prime minister, four deputy prime ministers and 33 ministers and heads of other central government agencies. If we take into account the nine State committees reporting to the Council of Ministers, the Cabinet expands to 47 people. This is twice or thrice the number of cabinet members in many other countries. For instance, there are 12 cabinet members in Latvia, 14 in the United States, 17 in Lithuania, 20 in Germany, 21 in Poland and 24 in Russia. Extreme centralization of govern-

ment is the main reason for having such cumbersome administrative machinery which, in its turn, leads to inefficient in governance.

The Cabinet is headed by the prime minister, appointed by the president for an indefinite term by consent of the House of Representatives. The prime minister's relative strength is usually revealed by the degree to which he/she can influence appointment of other Cabinet members. In Belarus, cabinet formation is the sole prerogative of the president. He appoints ministers and other Cabinet members at his own discretion and may dismiss them when he considers it necessary. The prime minister, of course, may propose certain appointments to the president, but the final decision rests with the Head of State. The candidate's loyalty to the president is much more important than his/her competence, skills or experience.

The prime minister's key functions in parliamentary systems of governance include determining the government's political course together with the parliament. Still, in Belarus the president, rather than the prime minister and the National Assembly, sets the guidelines for the country's domestic and foreign policies. The prime minister's function is to use it as a basis for devising the Cabinet's action plan and take measures to implement it.

Since the president of Belarus is the definitive political leader of central government, the premier has the status of administrator. His main mission is to ensure ongoing management of the Cabinet's activities. The prime minister is personally accountable to the president for this job.

The prime minister's absolute dependence on the president determines the status of the Council of Ministers. Rather than political, it is a technical administrative body with functions limited to executing and handling president's decisions. Moreover, direct interference by the President and his Administration in Cabinet's functions is common practice.

Meanwhile, the existence of prime minister's position and the Cabinet's notional accountability to the National Assembly leaves the president, i.e. the actual head of the cabinet, untouchable. Thus, all key government decisions are made by the president, but responsibility for their implementation lies with the

prime minister and other Cabinet members. As a result, the country suffers from an inefficient and irresponsible social and economic policy.

This situation may change dramatically only if the cabinet were to be formed by a democratically elected legislature and were politically accountable to it.

The return of Belarus to the democratic path of development entails dismantling the present system of supra-government and establishing a constitutional form of government based on the rule of parliament and separation of powers.

Local Government

By Pyotra Natchyk

The local government system in Belarus is provided for by the Constitution and acts of Parliament which define the structure and powers of local government agencies, and edicts and directives of the Council of Ministers¹⁴ which regulate the activity of local executive authorities and thus influence the implementation of decisions made by bodies of elected representatives.

At the structural level, officially speaking, the country has a system of local government and local government agencies. Article 117 of the Constitution specifies local government bodies such as local soviets or councils, executive and administrative agencies and territorial public agencies reporting to local government. Article 1 of the law 'On Local Government' defines local executive authorities as local government bodies accountable to central government and forming a single system. In fact, local government is structured according to the acts of Parliament, not the Constitution¹⁵.

Belarus' administrative-cum-territorial division is conducive to effective control of the society from the top down. Belarus is divided into rather large admi-

¹⁴ Указ прэзыдэнта Рэспублікі Беларусі «Аб структуру і ліку работнікаў выканаўчай камітэтаў і мясцовых адміністрацыяў раёнаў у гарадах» ад 7 снежня 2001 г. № 723. Палажэньне Рады Міністраў «Аб старшыні абласнога, менскага гарадзкога выканаўчага камітэту», зацверджана ўказам прэзыдэнта ад 20 лістапада 1995 г. № 476.

¹⁵ Закон О местном управлении и самоуправлении в Республике Беларусь, Национальный реестр правовых актов Республики Беларусь, 2000 г., № 8, 2/137.