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978-0-521-14522-0 - The Crisis of Russian Democracy: The Dual State, Factionalism and the Medvedev Succession

Richard Sakwa

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## The Crisis of Russian Democracy

The view that Russia has taken a decisive shift towards authoritarianism may be premature, but there is no doubt that its democracy is in crisis. In this original and dynamic analysis of the fundamental processes shaping contemporary Russian politics, Richard Sakwa applies a new model based on the concept of Russia as a dual state. Russia's constitutional state is challenged by an administrative regime that subverts the rule of law and genuine electoral competitiveness. This has created a situation of permanent stalemate: the country is unable to move towards genuine pluralist democracy but, equally, its shift towards full-scale authoritarianism is inhibited. Sakwa argues that the dual state could be transcended either by strengthening the democratic state or by the consolidation of the arbitrary power of the administrative system. The future of the country remains open.

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# The Crisis of Russian Democracy

*The Dual State, Factionalism  
and the Medvedev Succession*

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## Preface

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Russia has been in ‘crisis’ for as long as anyone can remember. Several generations became accustomed to viewing the tsarist system as fundamentally dysfunctional, and for many no less illegitimate. The imbalance between the claims of the autocracy to undivided power and the demands of an increasingly dynamic society for a share in that power was partially resolved after the 1905 revolution with the creation of the constitutional monarchy. The principle of popular sovereignty and representative government came into contradiction with the continuing claims by the autocracy in the person of Nicholas II that sovereignty resided in the crown. The crisis of power ultimately provoked the overthrow of the monarchy in February 1917. The Provisional Government was in permanent crisis, and overshadowed by the demands of war. The seizure of power by the Bolsheviks in October 1917 began the experiment of Communist governance that lasted seventy-four years, and was marked by no less intense structural contradictions. The new social order claimed to give power to the people, but instead a political elite claimed tutelary rights over the nation in the name of the higher ideals of building socialism, and became an ever more corrupt and self-aggrandising group. Despite Mikhail Gorbachev’s efforts to reform the communist order during *perestroika* from 1985, the system collapsed in 1991. Since then, Russia has been engaged in the no less grandiose experiment of attempting to build a capitalist democracy from scratch.

Russia, it seems, is trapped in a permanent crisis. For well over a century, the country has been looking for a viable social order combining economic dynamism with political legitimacy. After 1991, the newly independent state set out on the path of constitutional democracy and market capitalism and gave up attempts to create an alternative system to that found in the west. Instead, it sought to adapt its institutions to those found in most of the developed world and to integrate into the dominant institutions of the modern era. In the 1990s, under the leadership of President Boris Yeltsin, this proved highly traumatic, but the basic institutions of a capitalist democracy were established. On coming to power in

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2000, President Vladimir Putin continued along the broad policy direction established by Yeltsin, but now with more emphasis on reasserting the assumed prerogatives of the central state and its status in the world. The 'crisis', clearly, was not over, and by the end of the second four-year term of Putin's presidency, the country's domestic order and international politics was subjected to similar levels of criticism to that of its late tsarist and Communist predecessors. The accession of Dmitry Medvedev to the presidency in May 2008, although accompanied by a more liberal domestic rhetoric, solved none of the systemic problems. Various modernisation strategies have been pursued by different political regimes, yet Russia remains a resolute laggard in competitive terms compared to the advanced western industrial societies.

This book will seek to analyse the features of the crisis in Russian democracy as revealed in the transition from Putin to Medvedev. It will not be an exhaustive political history of post-communist Russia, let alone of the various systems that preceded it. Instead, the work focuses on the specific crisis features of the Russian political system at the moment of succession in 2007–8. The fundamental premise of the work is that succession acts as a prism to reveal the underlying structures of power. The book is an interpretative analysis of contemporary Russian politics, with the focus on the transition from Putin to Medvedev and the systemic problems faced by the latter. It is a study of the specific problems of *Russian* democracy, and not a general study of the problems facing democracy in Russia, although clearly the two are linked. In other words, the focus is not on democratisation as such, let alone on what could be considered a general crisis of democratic governance in the advanced capitalist systems, but on the operation of Russian politics during a specific period.

The broad model that will be applied is that of the dual state. I argue that a dual state has emerged in which the legal-normative system based on constitutional order is challenged by shadowy arbitrary arrangements, dubbed in this book the 'administrative regime', populated by various conflicting factions. The tension between the two is the defining feature of contemporary Russian politics. No society is without such features, but in Russia dualism assumed systemic forms. As the succession struggle from around 2005 to 2008 demonstrated, neither of the two orders predominated over the other. The interaction between the constitutional state and the administrative regime is the critical arena in which politics is conducted; and as long as each retains a distinctive identity, then Russian political evolution remains open-ended. The tension between the two pillars is the matrix through which the Russian political landscape can be understood.

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The 1993 constitution limited Putin to a maximum of two consecutive terms as president, and therefore a new person would assume office in 2008 accompanied by elite fears that a change of leader would entail a change of regime. Given the extraordinary concentration of powers vested in the presidency, at the heart not only of political power but also of patronage and policy-making in foreign and domestic affairs, the stakes as 2008 approached could not have been higher. Succession conflicts are certainly nothing new in Russian imperial and Soviet history.<sup>1</sup> The hereditary mechanism on more than one occasion (notably with the accession of Catherine II in 1762 and Alexander I in 1801) was trumped by a brutal struggle that changed or accelerated the order of succession. Following Lenin's death in January 1924, the Soviet Union entered a prolonged succession struggle which effectively lasted to 1929, and in a sense the purges of the 1930s were a reflection of that crisis as Joseph Stalin systematically liquidated his potential rivals. Stalin's death in March 1953 led to an interregnum before Nikita Khrushchev was able to consolidate his power, accompanied by the judicial murder of Lavrenty Beria, the leader of the secret police, to remove him as a potential leader before the struggle between various groups continued in a more peaceful way. With the crushing of the so-called 'anti-party group' in 1957, Khrushchev emerged as the clear victor, before he in turn was overthrown by a high-level conspiracy by a party plenum in October 1964.<sup>2</sup> Leonid Brezhnev emerged as part of a leadership *troika*, but by around 1968 he greatly overshadowed the president, Nikolai Podgorny, and the prime minister, Alexei Kosygin.<sup>3</sup> Brezhnev's death in November 1982 following a long decline was accompanied by an extended leadership contest, which finally saw Gorbachev emerge triumphant as General Secretary of the Communist Party of the Soviet Union (CPSU) in March 1985.

He in turn was soon challenged by Yeltsin, a contest which began as a struggle over the pace of the reform of the communist system but ended as a struggle between the declining Soviet state and a number of rising nations, pre-eminent among which was the idea of an independent Russia.<sup>4</sup> This new version of 'dual power' was based on two states and

<sup>1</sup> For a vivid and informative overview, see Petr Romanov, *Preemniki ot Ivana III do Dmitriya Medvedeva* (St Petersburg: Amfora, 2008).

<sup>2</sup> Uri Ra'anana (ed.), *Flawed Succession: Russia's Power Transfer Crises* (Lanham, MD: Lexington Books, 2006), describes these events and other succession crises.

<sup>3</sup> Seweryn Bialer, *Stalin's Successors, Leadership, Stability, and Change in the Soviet Union* (Cambridge: Cambridge University Press, 1980).

<sup>4</sup> John B. Dunlop, *The Rise of Russia and the Fall of the Soviet Empire* (Princeton, NJ: Princeton University Press, 1993).



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differing visions of the future. With the disintegration of the USSR in December 1991, Russia finally emerged as an independent state, but it was immediately plunged into an extended succession crisis in which personal conflicts were overshadowed by a struggle between institutions, primarily the presidency versus parliament. In this period of ‘phoney democracy’, the constitution-drafting process became the main issue of contention, which certainly marked an advance over the bullet used earlier, but in the end also took a violent turn in the form of bloody battles in October 1993.<sup>5</sup> The victor once again was Yeltsin, but the price paid was a heavy one, above all the relative isolation of the regime from accountability to parliament and to organised social forces, notably political parties. Yeltsin’s leadership lacked an organised mass political base, and thus it was precisely in this period that the foundations were laid of the post-communist administrative regime. A new constitution was finally adopted in December 1993, but it bears the scars of the presidential victory, and thus the struggle for genuine constitutionalism continues. The legal-normative order represented by the constitution has not been able to constrain the administrative regime.

Only the Russian parliamentary election of March 1990 and the presidential election of June 1991, in which Yeltsin was elected Russia’s first president, were genuinely open competitions. The December 1993 parliamentary election and referendum on the new constitution established a pattern in which the electoral process was suborned by a force standing outside the competition. In 1996 the regime managed to organise Yeltsin’s re-election, and in late 1999 the succession passed to a nominee of the regime, Putin. The electoral process underwent a dual adaptation: while formally conducted within the framework of law and electoral pluralism, the regime used elections (that were typically hard-fought) to legitimate its own power rather than subjecting that power to the openness of outcomes that is the characteristic feature of free and fair political competition.

The dualism of the electoral process is accompanied by factionalism in politics. Political succession in post-communist Russia has been attended by factional conflicts, usually conducted in the shadowy corridors of power but with a public form played out using the formal political institutions and processes. The outcome of these struggles shaped the nature of the system. In the 1990s, succession took the form of the vivid interplay of secret and public politics, but in the 2000s, although this duality remained, the process was increasingly internalised

<sup>5</sup> Richard Sakwa, *Russian Politics and Society*, 4th edn (London: Routledge, 2008), Part I.

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as the regime imposed restrictive regulations on public politics. Fearing the untrammelled exercise of electoral democracy, regime perpetuation trumped the formal constitutional procedures for the transfer of power in a process independent of the regime itself. In other words, instead of the competitive selection of alternative governments within the framework of a given constitutional order, the power system (the administrative regime) found ways of constraining the electoral process to ensure its own survival. The moment of change – Yeltsin’s re-election in 1996, the succession to Putin in 1999–2000, once again re-election in 2003–4 when Putin easily won a second term, and intensely in 2007–8 when a successor had to be found – became a test for the regime and the stability of the political system, but had little to do with competitive elections even in a minimalist Schumpeterian sense in which the incumbents have a real chance of losing.

The constitutional order, nevertheless, exercises a constraining and normative function. Limited to two terms, Putin repeatedly declared that he would leave the presidency in conformity with the constitution. As the succession approached, tensions within the system became increasingly apparent, taking the form of factional conflict and ideological struggles. The battle between powerful interests was not limited to the formal institutional rules of political conduct but spilled over into the parallel sphere of para-constitutional competition. Fearing that the emergence of a new leader would be accompanied by power and property redistribution, incumbent elites sought to avoid this at all cost. The succession, in other words, brought to the surface hidden patterns of political behaviour and economic concerns.

The battle for the succession was at the same time a struggle between the two pillars: the formal constitutional order, and the second world of factional conflict and para-constitutional political practices. We use the term ‘para-constitutional’ deliberately, because the political regime and its factions did not repudiate the formal constitutional framework but operated within its formal constraints while subverting much of its spirit. The struggle between the two systems gave birth to the dual state, with much of politics taking place in the charged zone between them. This is a dynamic model of Russian politics that moves away from the typological transitivity typical of the ‘democracy with adjectives’ school of analysis.<sup>6</sup> It seeks to endow a sense of agency to the hybrid order that has emerged in post-communist Russia, accompanied by a clear conceptual hierarchy. Rather than qualifying Russian democracy with a modifying adjective,

<sup>6</sup> Cf. David Collier and Steven Levitsky, ‘Democracy with Adjectives: Conceptual Innovation in Comparative Research’, *World Politics* 49, 1997, pp. 430–51.

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denoting some sort of unified order, we adopt a spatial approach in which the political terrain is contested by two sub-systems, neither of which in present conditions can gain uncontested dominance over the other.

We define democracy as a set of institutions and a set of norms and practices, with the two in constant interaction. The institutional level has a validity of its own, and without falling into the trap of the legal-constitutional positivism characteristic of continental institutionalism, even formal compliance with the normative order associated with democratic institutions is no mean achievement. Russia's Constitutional Court has not been as courageous as some would like, yet it has delivered qualified judgments against the regime.<sup>7</sup> As Bernard Crick reminds us, 'An ounce of law is worth a ton of rhetoric if a court will recognize certain liberties and order their preservation against the State itself.'<sup>8</sup> The formal provisions of Russia's constitution are wholly in line with the requirements of a liberal democratic order, although there are disputes (as we shall see) over specific provisions, notably the excessive powers of the presidency. The legal-constitutional pillar has real substance, and it is to the normative order associated with it that within-system reformers appeal. Practices of the administrative regime, however, foster the egregious abuse of law and weaken democratic competitiveness. The administrative regime is able to suborn the courts in cases of vital importance to it, as the Yukos trials attest, and to manipulate the electoral process. The administrative regime, as we shall detail later in this book, is far from a unitary actor, and indeed fragmentation is its defining feature, riven by factionalism as political and economic interests combine and collide.

The dual state in Russia today has some of the characteristics of the period of constitutional monarchy between 1906 and the overthrow of tsarism in February 1917, although of course the historical circumstances are very different. Nicholas II only grudgingly accepted the adoption of a constitution (Basic Law) following the 1905 revolution, and the results of the first two elections to the Imperial Duma in 1906 and 1907 were rejected until a more amenable parliament was elected. The tsar still insisted on his supra-constitutional status. In other words, sovereignty for him was not derived from a popular mandate but from the will of God. Elements of this tutelary approach are evident in the behaviour of the administrative regime today, claiming an

<sup>7</sup> Marie-Elisabeth Baudoin, 'Is the Constitutional Court the Last Bastion in Russia Against the Threat of Authoritarianism?', *Europe-Asia Studies* 58, 5, July 2006, pp. 679–99; Alexei Trochev, *Judging Russia: The Role of the Constitutional Court in Russian Politics 1990–2006* (Cambridge: Cambridge University Press, 2008).

<sup>8</sup> Bernard Crick, *In Defence of Politics* (Harmondsworth: Penguin Books, 1964), p. 65, from whom my definition of democracy is drawn.

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extra-constitutional mandate to govern in what it perceives to be the best interests of the country. This principle was at the heart of Communist rule, and thus quasi-tsarist attitudes are reinforced by neo-Soviet practices. These ‘best interests’ are defined by the regime itself and thus the mass of the population, who are not trusted to achieve the right results at the ballot box (the so-called ‘democracy paradox’), is infantilised and the legal-constitutional order suborned. The power of the administrative regime is based on a combination of this appeal to extra-democratic sovereignty and its own socio-political interests, which generates not just what we call *venal corruption* (the use of bribes and the like), but also systemic abuse that I call *meta-corruption*, where the logic of one order (for example the market system or administrative rationality) invades another (notably, the judicial system).

The two pillars of rule in contemporary Russia are in rough balance. If the administrative regime abandoned even its formal appeal to democratic legitimacy, then Russia would set out on the path of an overtly authoritarian system. If, however, the constitutional state could extend its authority and repulse the encroachments of the administrative system, as the democratic reformers of the Medvedev era tried to do, then Russia would become more of a consolidated democracy. The essence of the Putin system, however, was to keep the two pillars in parity, while balancing the factions within the administrative system (the two types of balance were mutually reinforcing). The forces favouring normative-constitutional renewal undoubtedly existed, both within government and beyond (notably in the world of non-governmental organisations and parts of the rising middle class), but they were stymied by the entrenched power of the bureaucracy and the pragmatic-technocratic rationality of the administrative system. This has given rise to a political and developmental stalemate, whose features will be explored later.

The power of the administrative regime in part resides in its ability to depoliticise the sources of its own power and to appeal to a ‘centrist’ pragmatic type of governmentality. Its opponents were weakened by a fundamental division, reminiscent of the late Soviet period, between those who argue for an evolutionary strategy of within-system reform, warning that a revolutionary attack on the administrative regime threatened to bring down the whole constitutional order, and the radicalised outsiders, who argue for the destruction of the whole rotten edifice. If the latter prevailed, Russia would once again, for the third time in a century, have to start again from scratch. As we know, revolutions only tend to perpetuate in new forms the old authoritarianism, whereas an evolutionary transcendence of the gulf between democratic institutions and the corrupt practices of the administrative regime, the

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strategy advocated by Medvedev although only tenuously implemented, promised more enduring perspectives for long-term democratic transformation.

From the perspective of the dual state model, it would be incorrect to label Putin's Russia an authoritarian regime *tout court*, since not only did it remain formally committed to constitutional democracy and liberal capitalism, and these remained the source of its popular legitimacy, but these commitments moderated its behaviour and allowed the formal constitutional framework to structure and influence the conduct of politics. Although many of the regime's actions were authoritarian in spirit, the formal niceties of a constitutional democracy remained pre-eminent and the legitimating framework for the system as a whole. There was no systematic national political repression, and a degree of political competition and media pluralism remained. It would be a grave mistake to lump Russia in with, say, semi-authoritarian regimes of the likes of Egypt, where Hosni Mubarak in 2005 won yet another term after twenty years in power.<sup>9</sup> Thus we have a peculiar hybrid, in which formal constitutional norms come into conflict and interact with para-constitutional practices. In the dual state, the two levels exist as discrete systems but at the same time operate in constant interaction with each other; and it is this which endows Russian governance with its peculiar kaleidoscopic character, constantly changing yet fundamentally remaining the same.

It also provoked the crisis of Russian democracy. We use the word 'crisis' in three senses. The first draws on the Greek word *krisis* to suggest a period of reflection in the life of the community, suggesting a turning point and moment of decision.<sup>10</sup> The succession struggle forced the Russian political establishment, as well as voters, to take a look at what had been created. The outcome of the two ballots, for parliament on 2 December 2007 and for the new president on 2 March 2008, suggests that not all that they saw was considered bad. The Putinist political order not only survived but was able to perpetuate itself in new forms. Putin's approach to politics and his plans for the future won the approval of the overwhelming majority of the population. However, critical observers were less impressed, and for many the 2007–8 electoral cycle represented conclusive proof of the political bankruptcy of the

<sup>9</sup> See Marina Ottaway, *Democracy Challenged: The Rise of Semi-Authoritarianism* (Washington, DC: Carnegie Endowment, 2003).

<sup>10</sup> Note also the complementary Greek term *krinein*, meaning (1) to separate, to divide, to classify, to distinguish, to select, to approve, to define, to determine; (2) to judge, to discern, to explicate, to believe, to interpret; (3) to pass judgment, to decide, to sentence; and (4) to investigate, to explore. Despite the capaciousness of the term, the underlying sense, as with *krisis*, suggests a moment of decision based on judgment.

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regime and the failure of democracy to take root in Russia's harsh climate.

Used in a second and conventional modern sense, evidence of a 'crisis' in Russia's democracy was apparent at this time. The inability of the opposition to put forward its views in the mass media, the suffocating predominance of the administrative regime in the political campaign, the ability of the authorities to interfere in the management of electoral procedures and of the election itself, and in general the high level of 'manual' manipulation of the whole formal process was apparent throughout. The succession acted as a catalyst that brought out the deeper inner workings of the regime and showed just how far para-constitutional practices could influence constitutional norms. Above all, the factionalised nature of the regime became increasingly obvious. While parties could fight for seats in parliament and the whole panoply of the Central Election Commission (CEC) and ever more elaborate rules governed the formal electoral process, a second para-constitutional struggle was being waged between factions.

As we shall see, the factional model as applied in this book is not just descriptive but is a dynamic model that allows us to understand the interactions of groups and institutions. The succession revealed the system at its most vulnerable and brought to the surface subterranean processes. It also brought to the fore the ideological assertion of a distinct Russian model of society. The notion of 'sovereign democracy' provided the intellectual legitimisation of the para-constitutional order. Not surprisingly, defenders of unadulterated constitutionalism, including Medvedev, balked at the term. The debate revealed the tension between two schools of thought: partisans of Russia as a normal liberal capitalist democracy, governed by the rule of law and effective constitutional constraints on the exercise of power accompanied by formal procedures of popular accountability; and adherents of the view that Russia as a great power should be more assertive in world politics and practise elements of exceptionalism at home as a preparatory phase for a more self-sustaining liberal democracy at some unspecified point in the future.

This brings us to the third sense in which the term is used. This draws on the Chinese approach that depicts a crisis as both a danger and an opportunity. The risks attending the succession crisis of 2007–8 were at the forefront of the regime's approach to the elections, seeing the threat of an 'orange' revolution everywhere (referring to the event in autumn 2004 in which popular mobilisation forced a third round in the Ukrainian presidential election), and doing all in its power to stamp out independent popular mobilisation, as well as warning of the danger of foreign interference. The risk was that the regime would not be able to

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perpetuate itself, and even that the country would fall prey to disintegrative tendencies. At the same time, the opportunity was provided by the forced transparency that the election provided. It brought out the fever, to shift to a medical metaphor, and as in the turning point of an illness, could prove cathartic: either the patient would be healed, or they would die. Thus crisis in this sense means not sclerosis but the struggle for life.

After taking a long look at itself during the succession, Russian democracy did not simply revert to the status quo ante. The rampant factionalism clearly represented a danger to the coherence of the state, and the insidious nature of para-constitutional practices eroded not only the effectiveness but also the legitimacy of the formal constitutional order. The new leadership recognised that the gap between the two would have to be narrowed, if not closed, and the regime would have to subordinate itself to the formal rules to which it professed loyalty. This was the fundamental challenge facing the new president from 2008, and one which Medvedev acknowledged in his condemnation of 'legal nihilism' and attempts to curb pervasive corruption. Although it would be too simple to assign Putin the role as unmitigated defender of the administrative regime, his glowering presence as prime minister from May 2008 inhibited the struggle to overcome the 'legal nihilism' and meta-corruption.

Russia may have endured a permanent crisis lasting well over a century, but there is also a crisis in the way that we analyse the country. A crisis in crisis studies can be identified, with a ready recourse to stereotypes and the abstract identification of faults and flaws in the country; while Russian politicians and scholars have no less of a proclivity to apply ontological characteristics to matters more readily explained by temporal factors. In this study we will avoid both praise and condemnation, and instead try to free analysis of the whiff of Cold War thinking that pervades so much analysis today. In methodological terms, this work is based on a close reading of the Russian and western scholarly literature and academic analysis, the study of the secondary literature, current affairs periodicals and newspapers (the 'first draft of history'), and above all on interviews and discussions with Russian politicians and scholars. It makes use of polling and survey data, which provide a singular, although invaluable, approach to the study of the highly complex reality that is contemporary Russia. The crisis of Russian democracy is unlikely to be resolved soon, but as long as it remains a crisis and not a breakdown, there remains the possibility of renewal and revival.

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Richard Sakwa

Frontmatter

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## Note on transliteration

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In this book I follow the Library of Congress system of transliteration in its adapted British form. In transliterating Cyrillic, I use conventional English-language spelling of commonly used Russian proper names. The 'iu' letter becomes 'yu', 'ia' becomes 'ya', and at the beginning of names 'e' become 'ye' (Yevgeny rather than Evgeny). Thus, El'tsin becomes Yeltsin, Ekaterinburg is Yekaterinburg, and Riiazan is Ryazan. I have tried to be consistent without being pedantic. Anglicised name forms tend to be used (so 'Alexei', 'Dmitry', 'Alexander' and 'Yuri', rather than 'Aleksei', 'Dmitrii', 'Aleksandr' and 'Yurii'), but for bibliographical references in the notes and Bibliography I have used transliterations of the Russian names.