

# Distorted Constitutionalism in Russia: Reflections upon the Constitutional Reform 2020

Consolidating Constitutionalism in New Democracies:  
Perspectives from Eurasia  
August 10-11, 2020

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# Structure of the presentation

1

Constitutional Amendments 2020

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The RCC Judgment of March 16, 2020

3

The present and future of Russian  
constitutionalism



## 1. Constitutional amendments 2020

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The timeline and the contents of  
the reform

# The Constitutional Reform 2020





## The contents of the constitutional amendments

206 alterations, including:

1. «Zeroing out» presidential terms for the current President
2. Provisions strengthening the presidential powers, distorting the separation of powers
3. Provisions undermining judicial independence and weakening the Russian Constitutional Court
4. Provisions revising (or challenging?) the Russian constitutional identity (accent on patriotism, sovereignty, faith in God, legal succession from the USSR)



## 2. The RCC Judgment of March 16, 2020

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A failure to protect fundamental constitutional values

# The Judgment of March 16, 2020 N 1-3 (1)

- *ad hoc* review of compatibility of amendments with basic constitutional principles of Chapters 1, 2 and 9 of the Constitution
- a **52-page** Judgment, took the RCC **2 days** to issue
- the ruling: all amendments comply with the fundamental constitutional principles, the procedure does not violate the requirements prescribed by the Constitution

# The Judgment of March 16, 2020 N 1-3 (2)

- Section 3: the vague aspirational slogans are "non-political, non-partisan and non-denominational [in] character", they do not establish a state or a mandatory ideology and do not alter the principles of pluralistic democracy and secular statehood, or introduce inadmissible restrictions on rights and freedoms, as prescribed by Chapters 1 and 2 of the Constitution.
- Section 6.2: Decision that limits a number of presidential terms (consequent terms) in a republican state is, in essence, an attempt to balance two constitutional values – the rule of law and the democratic government. When striking a balance, "a constitutional legislator may consider the specific historical circumstances"..., "including the level of threats that the state and the society face, the conditions of the political and economic systems, etc."



### 3. The present and future of Russian constitutionalism

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An attempt to conceptualize

# Some lessons about constitutionalism

- Constitutionalism is a **self-sustaining system** – there are no constitutional provisions that could by themselves hold constitutionalism back if it is attacked.
- The failure of the **Constitutional Court to defend the integrity of the Constitution** is the most problematic for both constitutional theory and practice and leaves us in confusion regarding the future prospects.



# Some tasks for further consideration

- Theoretical tasks: search for constitutional identity
  - whose identity?
  - identity formula ? (identity = traditions, or identity = traditions + aspirations)
  
- Practical tasks: maintaining the horizon for discussing various policy directions
  - building a constructive agenda
  - maintaining political participation during the elections

Thank you!