

Standard Oil and Yukos in the Context of Early Capitalism in the United States and Russia

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Abstract: The author compares two conflicts between large businesses and the state in the United States and Russia. Although almost one hundred years apart, the Standard Oil and Yukos cases are comparable in so far as they erupted in the context of early capitalism in a weak institutional environment. Both conflicts were shaped by the state's increasingly strong authority.

Keywords: early capitalism, large business, Standard Oil, the state, Yukos

In January 1906, Missouri State Attorney General Herbert S. Hadley began court hearings to prove that the Standard Oil Company of Indiana, the Waters-Pierce Oil Company, and the Republic Oil Company were parts of a single monopolistic conspiracy. He issued one of his thirty-four subpoenas to John D. Rockefeller, the most powerful business tycoon in the United States and the founder of Standard Oil. Rockefeller ignored the subpoena, leaving the agitated press to speculate about his whereabouts. In June, David Watson, the Attorney General of Ohio, announced his resolve to prosecute Standard Oil for violating the state's antitrust law. In November, U.S. Attorney General Charles J. Bonaparte began prosecution of Standard Oil of New Jersey under the Sherman Antitrust Act. In the same month, the Circuit Court of Missouri opened a lawsuit against Rockefeller and his closest associates to dissolve Standard Oil of New Jersey, the holding company controlling more than sixty other companies. Thus began a massive attack against America's largest

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oil company and its owners. From November 18 to 20, 1908, Rockefeller gave three days of court testimony. In November 1909, the first court announced its decision to dissolve Standard Oil of New Jersey, which Standard Oil immediately appealed to the U.S. Supreme Court. On May 15, 1911, Chief Justice Edward Douglas White announced the final verdict: the Court required Standard Oil to divest itself of all its subsidiaries within six months. It took the federal government, first under President Theodore Roosevelt, and then under President William Howard Taft, more than five years to disassemble what was then the world's biggest oil company.¹

On July 2, 2003, Russian law-enforcement authorities arrested billionaire Platon Lebedev, chairman of the Board of Directors of Menatep, the oil giant Yukos's financial center. The General Procuracy charged Lebedev with financial fraud dating back to the 1993–94 privatization of the phosphate-producing plant Apatit, and with tax evasion by Menatep subsidiaries in Tomsk Oblast. On October 25, Mikhail Khodorkovsky, the head of Yukos and one of Russia's leading tycoons, was arrested and charged with fraud, tax evasion, and theft. In October 2003, the General Procuracy froze 44 percent of Yukos stock (a major part of it belonging to Khodorkovsky and his closest associates). During 2004, Russia's Federal Taxation Ministry filed \$27.5 billion in tax claims against Yukos for unpaid taxes and fines. On December 19, to meet the claim on Yukos's main assets, the oil mining company Yuganskneftegaz was auctioned and purchased for \$9.35 billion by an unknown company that was later bought by the state oil company Rosneft for less than \$30,000. It took the Russian federal authorities one and a half years to assert state control over Yuganskneftegaz, a company that produced 62 percent of all Yukos's oil. Khodorkovsky and Lebedev were sentenced to eight years in prison.²

Formally, in both cases, the state attacked the country's largest oil company. The two cases have similar sets of principal players and similar conflicts between the wealthiest and the most powerful; or, more accurately, the conflicts themselves determined who would ultimately become the most powerful (and perhaps also the most wealthy). The events previously outlined are separated by some one hundred years and took place in different countries with dissimilar histories and cultures. Are they comparable? If so, what should be compared? The analogies applicable to the two cases, I argue, derive from the similar political and economic conditions in which they emerged. The comparison highlights structural conditions and historical situations that produced the cases against Standard Oil and Yukos. I refer to these conditions as "early capitalism," a somewhat more neutral substitute for normatively charged terms, such as "wild capitalism" or "primitive capitalist accumulation."³

The comparison is intended to highlight a sociohistorical condition in which individual actors are stronger than institutions. In such a condition, institutions do not have sufficient authority to significantly constrain the actors' pursuit of their private goals or to limit the choice of means to reach these goals. Actors are able to use institutions instrumentally, to create or bend them—and thus adapt them—to serve their own interests. These interests and goals are essentially the accumulation of wealth and power. What is extraordinary about early capitalism is the speed with which actors gain wealth and power and the resulting inequalities.

Early capitalism is an environment in which there are no constraints sufficient to prevent a plurality of strong actors emerging. There also is not one dominant actor that can create a lasting hierarchy. Domination either by force or by law is impossible. In such an environment, anarchic competition will prevail: actors employ all possible means to ensure

self-preservation and to pursue their own interests. Periods of balance-of-power politics will be interrupted by wars until new equilibriums emerge.⁴

Until the beginning of the twentieth century, the United States was a strong society with a weak state. State formation began when democracy and civil society were already in place. The demand for a strong state originated from the need to counterbalance strong actors in the economy that operated exclusively in their private interest on a national scale. Under Roosevelt, the strengthening of the state (a process that also clearly had political justifications at the time) proceeded through conflict with business tycoons. Contemporary American observers saw this as a personal and political conflict between the president and a number of powerful tycoons. The trust-busting that marked the first decade of the twentieth century was the very practice that constituted the state as a separate political actor endowed with the power to regulate, thereby setting constraints on the economic actors' pursuit of their goals and substituting hierarchy for anarchy.

In Russia, there is a centuries-old tradition of strong statehood. However, sweeping political change in the 1990s undermined the state and, with it, administrative and legal constraints. Anarchic competition and strong economic actors who sought to capture the weak state and use its resources in fierce competition for assets were the result. The first years of the twenty-first century saw a decisive effort to strengthen the state, inevitably involving confrontation. The state constituted new powers by trust-busting and partially nationalizing assets. Along with a general description of early-capitalist economic practices, I seek to explore and compare the periods of contention accompanying state formation in the United States and Russia.

Early Capitalism in the United States

The United States between 1865 and the early twentieth century is the model case of rapid capitalist modernization and transition from a loose agrarian confederation to an industrialized nation united by a railroad system and a common market. This period featured extreme contradictions and tensions created by explosive early capitalism. Large trusts dominated the U.S. economy—they monopolized the production and distribution of most vital products, including railroads, oil, steel, sugar, whiskey, and tobacco. The public largely perceived the concentration of ownership and wealth among a few business leaders, known as the “robber barons,” as originating from illicit business practices and political corruption. Politics became just another business. For several decades, the ideology of social Darwinism supplanted the religious ethic of small communities.

Mark Twain captured the contradiction between the powerful external appeal and dynamism of America's early capitalism and its dark, seamy side in his famous novel *The Gilded Age*, which gave the period its historical name.⁵ The monopolies and power politics that resulted from unregulated market competition threatened the fabric of society. By the early 1900s, the new economic order caused mass alienation and the loss of individual agency. Society's reaction to the market's destructive forces culminated in the Progressive movement, which demanded that the socially destructive private pursuit of wealth end and government play an increased state role in the economy. The beginning of the twentieth century saw the federal government initiate several important trust-busting cases, and the Standard Oil case was the biggest. The government's prosecution of these companies reflected early capitalism's evolution, which eventually resulted in a new model, represented by the New Deal. The structural features constituting America's early capitalism

included: high but unstable growth; sharp inequalities and disproportions; the domination of acquisitive interest; weak constraints on the means of advancing this interest; no institutional divide between economic and political undertakings; and economic and political spheres driven by “strong actors.”

Economic Structures and the Robber Barons

In the first comprehensive study of causes and forms of concentration in U.S. industry during the Gilded Age, published in 1912, Charles Van Hise suggested that most contemporary leading industries had an inherent tendency toward monopolization. Infrastructure and the utilities sector, which included railroads, electricity, telephones, and so on (“natural monopolies”), could be run more efficiently as monopolies. Competing parallel lines would be a clear waste of resources. Businesses dependent on limited and localized natural resources (coal, oil, ore) were similarly disposed to monopoly, as were industries producing highly standardized goods distributed over a wide territory, such as tobacco, sugar, or steel.⁶

The key technological inventions’ industrial potential, such as that of the steam locomotive, the use of coke in steel production, and the development of oil-refining technologies, pipeline transportation, and electricity necessitated large capital investments, which, in turn, required new forms of economic organization. Limited-liability joint-stock companies, which were introduced as early as 1848 but developed only in the 1860s, proved to be the solution. Corporations in which every stockholder’s liability was limited to his or her investment in the stock allowed thousands of people to mobilize their savings, increasing capitalization to millions of dollars and creating large enterprises capable of big and often adventurous projects.⁷

Joint-stock companies created opportunities for quick personal enrichment through purposeful overcapitalization (“watered stock,” or stocks issued at a higher value than the enterprise’s real value) and speculation. Corporate ownership made enterprises vulnerable to hostile takeovers and fraudulent manipulations of stock. Ownership in such corporations was highly dispersed, but a small team of managers who controlled the enterprise was quick to invent multiple self-enrichment schemes at the expense of minority shareholders. Managers also discovered that combination allowed them to eliminate competition, making it possible to control sales and “fix” prices. The revolutionary managerial innovation of the time was to integrate all cycles, from mining raw materials to production to distributing finished products, into one corporation. This effectively removed the most repetitive and vulnerable transactions from the market’s realm and placed them under direct administrative control, increasing predictability and efficiency.⁸ This produced horizontally and vertically integrated trusts. At first, the trusts existed as informal agreements among several industry leaders or as networks of stock cross-ownership. In the 1890s, they evolved into large holding companies whose sole function was to own stock and control a vast network of other companies and subsidiaries across the country. In such a system, tracing ownership was difficult; many companies posed as independent, although they were actually part of large monopolies.

Thus, industrial and transport innovations, combined with new forms of ownership and organization, created a peculiar field of entrepreneurial opportunities. The robber barons successfully seized these opportunities and grasped the new economic logic. Carl Schurz, the former Missouri senator named Secretary of the Interior by President Rutherford B. Hayes, frequently used the term “robber baron” in his 1882 public speeches, which journalist Henry Lloyd and his critical essays in the *Atlantic Monthly* and *Chicago Tribune* had

inspired.⁹ Both men compared contemporary big-business leaders, especially railroad and oil magnates, to the aggressive nobility of the medieval Rhine, who robbed travelers passing through their land. The comparison implied that the business leaders knew no limits or constraints in their acquisitive practices.¹⁰

In the early 1900s, Progressive journalists published renewed criticisms of the robber barons, generating public support for state policies that would undercut the trusts' power. Matthew Josephson's 1934 book *The Robber Barons*, published during the Great Depression, firmly established the term and with it the general attitude toward the Gilded Age and its main actors. In the preface, Josephson characterized the book's subjects:

They were aggressive men, as were the first feudal barons; sometimes they were lawless; in important crises, nearly all of them tended to act without those established moral principles which fixed more or less the conduct of the common people of the community. At the same time, it has been noted, many of them showed volcanic energy and qualities of courage which, under another economic climate, might have fitted them for immensely useful social constructions, and rendered them glorious rather than hateful to their people. These men were robber barons as were their medieval counterparts, the dominating figures of an aggressive economic age.¹¹

“[The robber barons’] entrepreneurial style, which intertwined predatory activities with large-scale construction efforts, became the hallmark of the Gilded Age.”

Chester Destler classified and ranked the robber barons' dominant incentives. The acquisitive drive's preeminence came as no surprise; the “monopoly profit” motive occupied first place for twenty-five of his forty-three leading entrepreneurs. The second most significant motive, clearly present in nineteen cases, was imperialism—that is, expanding one's power domain, which, according to Destler, was meaningfully distinguishable from mere acquisition. The promoters' profits ranked third with fifteen seekers, and manufacturing, transportation, and speculative profits tied for fourth place, each of the three traits representing a significant motive for twelve entrepreneurs. A combination of easy profiteering, such as looting corporations or railroad machinations, completes the list. Destler concluded that “profits from the routine production and services for consumption held a decidedly tertiary place.”¹²

The capacity to move goods fast, far, and inexpensively from production sites to markets was one of the key factors in explosive capitalist growth. The first cohort of robber barons emerged as a result of multiple speculations, stock manipulations, and hostile takeovers accompanying new post-Civil War railway construction projects.¹³ Their entrepreneurial style, which intertwined predatory activities with large-scale construction efforts, became the hallmark of the Gilded Age. By 1867, Cornelius Vanderbilt had consolidated the railway system around New York City, issuing watered stock for his merged New York Central and Hudson River Railroad. He was determined to build new routes to connect the East Coast with the industrial and agricultural production around the Great Lakes. He sought control over the existing Erie Railroad system, a large share of which belonged to James “Big Jim” Fisk, Daniel Drew, and Jay Gould. The trio issued new stock to extend

the railway eastward and secure the strategic route for themselves. Having learned about the rival plan, Vanderbilt attempted a hostile takeover, secretly purchasing Erie bonds and securing a decision from a New York court prohibiting any additional issuing of Erie stock. Fisk, Drew, and Gould, the “Erie ring,” learned about Vanderbilt’s actions and struck back. First, they sold large numbers of Erie bonds at a high market price, which Vanderbilt quickly bought, pushing the price up. Then, just when Vanderbilt thought he had acquired enough to take over the railroad, the Erie ring, in defiance of the court prohibition, printed 5 million additional bonds, flooding the market and dramatically reducing both the price of bonds and Vanderbilt’s share of them. This led to a typical early-capitalist corporate conflict, the 1867–68 “Erie War.” Vanderbilt responded by having the court issue arrest warrants for his competitors. To escape arrest, the Erie ring hired armed guards and fled to New Jersey. The warring parties spent huge sums on attorneys and bribes to New York judicial authorities, while different courts issued conflicting decisions forbidding and legalizing the Erie railroad bonds. The outcome was determined by the price the parties were prepared to pay to judicial authorities, and when Vanderbilt was no longer prepared for further expenditure he suggested a settlement. He agreed to sell much of his Erie stock to Fisk and his partners at a favorable price, and in so doing secured two seats on the Erie railroad system’s board of directors.

When strong agents enter into property conflict in conditions of high autonomy and weak constraints on the choice of means, the outcome may be decided through violence. Control over transportation networks and financial flows that connected mining enterprises to markets provided an opportunity to control these enterprises without owning them; this became a common stratagem later employed by Rockefeller. The war over the Pennsylvania route between Fisk-Gould and rivals Joseph Ramsey and J. P. Morgan similarly manifested the anarchy characteristic of early capitalism.¹⁴ Morgan emerged triumphant in this corporate war, established his business reputation, and began his rise to economic leadership. Railroad construction was the main breeding ground for robber barons, although they were for the most part financial manipulators, not track builders.¹⁵

In contrast to these early speculators and promoters, who amassed large fortunes but created little value, the cohort of robber barons who came of age in the 1880s and 1890s was more socially productive—they developed large-scale manufacturing and introduced technical innovations. Even though monopoly profits and imperialism were their major incentives, the inevitable by-products of these pursuits were economic growth and industrial modernization. Werner Sombart regarded American robber barons (alongside people like Cecil Rhodes) as models of a new type of capitalist actor whose chief obsession was “to see their business thriving,” and, “as for acquisitiveness, it was forced upon them, even though they may never have set out with that as their goal.”¹⁶ This preoccupation with business development is what Destler identified as the imperialist motive distinguishable from mere profiteering—that is, when expansion of the enterprise rather than personal enrichment becomes the chief goal. The leaders of this cohort were Andrew Carnegie, Morgan, and Rockefeller. But their constructive role was acknowledged only later, during the period of American revisionist historiography in the 1950s. Before then, they were widely seen as proponents of fraudulent and conspiratorial business methods and engines of corruption.¹⁷ The reason may have been that whereas successors judged the results, contemporaries focused on their methods of accumulating wealth—the means by which “empires” were built—and their lifestyles.

Politics and the State

Economic interests dominated political decision making in the Gilded Age; politicians could reap financial spoils, fomenting corruption.¹⁸ Terms such as “rent seeking” and “state capture” perfectly fit Gilded Age American politics, and they were regarded as the norm rather than as a deviation. In the context of the prevailing acquisitive motives and a widely shared belief that income equaled success, the merger of politics and business did not pose a large moral problem. Pennsylvania Senator Boies Penrose described the relationship between politics and business: “I believe in the division of labor. You send us to Congress; we pass laws under the operation . . . of which you make money; . . . and out of your profits you further contribute to our campaign fund to send us back again to pass more laws to enable you to make more money. It is your duty to help keep us here and our duty to legislate.”¹⁹ According to Destler’s “trial balance,” political corruption to secure favorable government action was practiced by at least thirteen of the forty-three business leaders he studied, “a number that would be swelled if heavy campaign contributions were included in the definitions of the practice.”²⁰

Elected officials’ participation in large business enterprises—the state’s direct involvement in entrepreneurial activities—is another important feature of early capitalism. Structurally, this can be understood as the absence or weakness of a boundary between the economy and the polity, between business and the state. During Western Europe’s early capitalist period, state resources were widely invested in large construction and trade projects, with state officials acting as capitalist entrepreneurs. Large trading companies performed governing and military functions and were heavily armed. In Western Europe, state formation proceeded in the “classic” order: the central state’s consolidation of power, bureaucratic specialization, democratization, and popular participation. The state developed economic initiatives, particularly during the mercantilist period, and only later shifted to civil (bourgeois) society.

In U.S. history, state formation followed a different path. Broad political participation and party-based democracy came first; the civil service and autonomous bureaucracy came later (circa the late 1870s), and the strengthening of federal authority concluded the process (from 1900 onward).²¹ Although business and politics were institutionally undifferentiated, as in the European early-capitalist pattern, the United States displayed an inverse dynamic: business groups had power over the state in the nineteenth century, and the state began to establish economic initiative and regulative capacity only in the twentieth century. European intellectuals such as Georg Wilhelm Friedrich Hegel, Alexis de Tocqueville, and Karl Marx refused to acknowledge the existence of anything resembling a state in the Gilded Age United States, seeing it as either absent or fictional.

The federal state’s weakness was balanced by strong local governments and a strong civil society. For the majority of rural American citizens, order and regulation emanated from community mechanisms and courts, aided by local executives and sheriffs. On the national level, parties and their influential representatives in Congress dominated politics. Party bosses, senators, and congressmen also influenced legislation at the state level. Such a system could have suited a localized society of small entrepreneurs, but concentration and industrialization allowed newly emerging strong actors to dominate this system. The robber barons’ intentional efforts at “state capture” created a culture of party politics and the system of patronage. Federal authorities had neither the capacity nor the political will to set constraints and introduce regulations matching the new forms of large-scale economic activity.²²

Party machines and congressmen exercised far more real power than did presidents. The executive branch not only did not have an administration to carry out independent policies, but also did not have any assistants. Until the end of the nineteenth century, the central state's efforts to regulate business were irresolute and inconsequential. Stephen Skowronek referred to state activity as "patchwork."²³ American politicians limited themselves to a few federal regulations and commissions, such as the 1887 Interstate Commerce Act and the Interstate Commerce Commission and the 1890 Sherman Act, to respond to concrete problems and the public pressure to address them. These measures were generally ineffectual.

By 1900, industrialization, large corporations' consolidation of economic power, and the formation of new national markets—the forces that determined the lives of human communities—transcended rural community institutions, causing widespread alienation. The incomprehensible methods used by corporations to control the economy, politics perceived as unresponsive to the public interest, and growing class tensions were the main reasons for the Progressive movement's emergence.²⁴ The new urban middle class became the main force demanding that (1) politicians improve their moral standards, (2) government free itself from the influence of special interest groups, and (3) government increase public control over corporations. According to Robert Wiebe, by 1900, "enough bitter conflict and blasted dreams had combined with a vague sense of diminishing bounty to generate a strong demand for order."²⁵ As the federal government began to meet the demands of the Progressive movement, the (re)construction of the state became the central political process.

The State versus Standard Oil

In the 1860s, the American oil sector consisted of a multitude of relatively small independent companies engaged in oil extraction, refining, transportation, and distribution, with rates and prices left to the free play of market forces. The rise of the Standard Oil Company began with several Ohio-based refining companies merging into a partnership (Rockefeller, Andrews, and Flagler) in 1867.²⁶ Three years later, it turned into Standard Oil of Ohio, with capitalization reaching \$1 million. The growth of scale, achieved through combination, brought further strategic advantages over competitors, as it allowed market prices of refined products to stabilize by controlling a large proportion of supply and manipulating prices when it was necessary to knock out competitors. To secure its domination, Standard Oil sought to control "bottlenecks," that is, critical transactions. Instead of trying to buy out oil wells, Rockefeller turned to routes and means of transporting crude oil. Controlling transportation addressed several of Rockefeller's problems at once: it allowed him to dictate terms of trade to crude oil suppliers, to eliminate competing refineries, and to create a distribution network, bypassing retailers on the way to consumers.

When Standard Oil began in 1867, it controlled less than 10 percent of the refining business; ten years later, it controlled about 90 percent of it. Transportation was the main instrument of control and later became a monopoly itself. When those opposed to railroad monopolies pressed the federal government to introduce regulations and forbid price discrimination, Standard Oil switched to building oil pipelines (a recent innovation), connecting oil fields, refineries, and distribution infrastructure. The system of oil pipelines gave Standard Oil a complete monopoly over the cheapest form of transportation and price control over crude oil producers, strong leverage over railway companies that did not want pipelines parallel to railways, and domination over consumers who had nowhere else to go.²⁷

Throughout its early history, Standard Oil confronted episodic but fierce resistance from independent companies, state courts, and federal commissions, nonetheless managing to ward off the attacks in court or invent new organizational forms, such as front companies, to escape prosecution. It remained impregnable against both state and federal governments whose administrative capacity was minimal. Several states adopted antitrust acts, but these failed to cause significant damage. Standard Oil had operated on a national scale and soon expanded to become global, far exceeding the jurisdiction of state governments.

When New Jersey adopted a law permitting corporations to purchase shares of corporations in any other state, New Jersey-based holding companies developed elaborate ownership structures uniting other companies across the country. Between 1898 and 1903, 183 New Jersey-based holding companies had total capitalization of \$4 billion—one-twentieth of the United States' total wealth, nearly twice the amount of money in circulation in the country, and more than four times all manufacturing combinations' capitalization between 1860 and 1893.²⁸

While business developed new forms of consolidation, the Sherman Act was, for a decade, generally regarded as a failure. As Hans Thorelli concludes in his comprehensive study of antitrust policy, “efforts to enforce the law were generally haphazard, sporadic and uncoordinated in addition to the fact that they were frequently half-hearted.”²⁹ The executive branch did not provide leadership or coordination to enforce the law. Congress believed laws should be self-enforced and did not allocate any funds for antitrust enforcement. District courts and attorneys had no experience in applying the law to corporations, no personnel, and no resources to collect the complex evidence needed to litigate against corporations whose resources and scale were incomparably greater than the courts.³⁰

By the early 1900s, reforms initiated in 1883 produced their intended effect—the depoliticization of the civil service.³¹ After numerous media revelations of corruption and monopoly policies, public opinion turned firmly against trusts. Several legal instruments, including the Sherman Act, were available, but no potent political leadership yet existed. In 1900, Roosevelt strongly stated that “nothing needs closer attention, nothing deserves to be treated with more courage, caution, and sanity, than the relations of the State to corporate wealth, and indeed to vast individual wealth.”³² When President William McKinley was assassinated in 1901 (the third presidential assassination during the Gilded Age), Roosevelt ascended to the presidency and implemented antitrust policies. To implement his agenda, Roosevelt had to break free from the Republican Party's influence. Roosevelt rejected Senator George Clement Perkins's and Senator Marcus Hanna's requests to downplay strong antitrust rhetoric in his first presidential address (both were major brokers between the federal government and Wall Street) and positioned himself as a national, rather than a party, leader. Roosevelt transferred political authority to the executive branch and strengthened the organization, particularly the Department of Commerce and Industries and the Department of Commerce and Labor (the first new department since the Civil War). Roosevelt also revived the Interstate Commerce Commission and induced Congress to pass several important acts enhancing the powers of federal offices and commissions.

The government inaugurated the era of trust-busting in February 1902, opening proceedings against the Northern Securities Company, a holding company for five major railroads, jointly controlled by Harriman, Hill, and Morgan. The main reason for initiating the case was to assert the federal government's supremacy over corporations. Roosevelt

wrote in his 1913 memoirs: “When I became President . . . [t]he absolutely vital question was whether the Government had power to control [interstate corporations] at all. . . . It was useless to discuss methods of controlling big business by the National Government until it was definitely settled that the National Government had the power to control it.”³³ As the Northern Securities case gained momentum, Morgan visited the White House, hoping to settle the issue, but Roosevelt insisted that the case be settled in court and allegedly remarked that Morgan “could not help regarding me a big rival operator, who either intended to ruin all his interests or else could be induced to come to an agreement to ruin none.” In 1904, the Supreme Court ordered the dissolution of Northern Securities, establishing the Sherman Act’s first successfully applied precedent and tremendously boosting Roosevelt’s popularity.

By the time the Bureau of Corporations opened investigations into Standard Oil in 1906, Roosevelt’s overwhelming 1904 electoral victory and a record of successful trust-busting cases boosted his power and popularity tremendously. Public opinion was decisively against Standard Oil after Lloyd and Ida Tarbell’s series of magazine articles and books were published. Tarbell’s two volumes on the *History of the Standard Oil Company* (1904) catalogued the company’s business practices and made its abuses known to the critical public well before the Bureau of Corporations published the results of its own investigation. Roosevelt used the bureau’s report to justify railway regulation. Hoping to reach an agreement and avoid further attacks, Standard Oil canceled most of the rates that the bureau had condemned. However, the antitrust campaign reached its high point as several cases against Standard Oil were initiated and the bureau launched a new investigation focused on the oil industry. It soon produced another electrifying report describing price-cutting practices, collusive agreements, public deception, and other practices. This report served as the basis for the lawsuits that followed. By the summer of 1907, the federal government had seven lawsuits pending against Standard Oil and its subsidiaries, in addition to the cases that state attorneys initiated. The suit to dissolve Standard Oil under the Sherman Act, filed in the Missouri Circuit Court, proved fatal for the corporation. In 1911, Standard Oil was separated into thirty-eight independent companies, their stock divided among shareholders, and management reorganized to divide control. Exxon Mobil, Chevron, and Amoco—today’s largest oil companies—all subsequently emerged from this breakup after many permutations.

Some scholars view Standard Oil’s dismemberment as purely political because, rather than having a positive effect, it further benefited the owners and damaged consumers. In a 1912 speech, Roosevelt noted: “All companies are under the same control. . . . The Price of stock has gone up over one hundred per cent. . . . At the same time, the price of oil to the consumer has gone up by leaps and bounds.”³⁴ It is now recognized that, from an economic standpoint, the corporation’s division was meaningless—if not harmful—but the government consistently pursued the policy, and the public faithfully supported it.

The rationale for antitrust policy comes from the context of Roosevelt’s state-building efforts. Reviewing the application of the Sherman Act, Thorelli notes that, under conditions of insufficient resources and inadequate experience, it “will be difficult for any administration to steer clear of charges of being susceptible to undue political influence.” Strengthened presidential powers enabled the systematic attack on the biggest corporations; Roosevelt’s efforts to create a strong administration and to act outside party politics with overwhelming popular support made trust-busting possible. Trust-busting was itself

part of state-building, however. In this sense, trust-busting was not only a critical test of state capacity but also a means of gaining and institutionalizing that capacity.

Early Capitalism in Russia

In Russia, assive, rapid voucher privatization between 1992 and 1994 turned most former state enterprises' managers and employees into the legal owners. Many former Soviet state and Communist Party officials also benefited from the change. They had privileged access to key industrial assets' privatization. Because the technical rules and procedures of privatization were determined ad hoc and nobody conducted a valuation of the assets, transferring enterprises to new owners was often a matter of private exchange between those who had cash and those who assumed the right to sell. Many buyers came from the Komsomol and were engaged in servicing financial flows for state enterprises—converting noncash rubles into cash to benefit themselves and their directors—along with currency exchange and consumer goods imports. They were among the first to establish banks. Most future oligarchs were cash-rich by the start of the first round of the privatization. The Menatep Bank's 1994 Apatit plant privatization was typical of privatization schemes. Enterprises were exchanged for some cash (probably including informal payments) and promises of investment (counted as payment) that no one intended to fulfill.³⁵

The government introduced private property but failed to draft laws and institutions that specified and protected the rights of ownership. The arbitration court system did not work, and the police lacked the experience and the incentive to protect private property and enforce rights. Without legal institutions, emerging markets rested on multiple governing orders, most of which were highly localized or connected with preexisting social networks—professional (managers, the Communist Party, Komsomol, the military, the KGB, and former schoolmates), ethnic, criminal, friendship, and so on. When these governing orders did not function, new economic agents operated according to a kind of common law that used criminal concepts of justice (*poniatiya*). State institutions, including justice and law enforcement, virtually collapsed, and private enforcers dominated large segments of the emerging markets.³⁶ Industrial enterprises were hit by cash deficits and the breakdown of economic ties, so most large fortunes were made in export-import operations, cash flow management, state budget funds transactions, and other intermediary operations. A large proportion of private businesses operated in the shadows, informally paying private enforcers or state officials. Tax authorities operated arbitrarily. Regional authorities acquired de facto sovereignty over their territories, closing off the economic space, stopping transfers to the central budget, and drafting regional constitutions. The state failed to enforce any significant regulation or develop a policy, lacking the funds and executive capacity to influence social groups or reach territories.³⁷ The Kremlin could not rule even in Moscow; the political machine of city boss Yuri Luzhkov essentially controlled them. The president and the federal government increasingly focused on distributing quotas and concessions, permissions and exemptions (chiefly on imports or exports) in exchange for private rents to state officials, while securing large IMF and World Bank credits to subsidize the budget deficit.

By the mid-1990s, Russia had early capitalism's essential dynamics. Moral and institutional collapse, absence of laws, and the state's withdrawal created an environment favoring strong agents and high returns on predatory and aggressive forms of enrichment. Organized force and political connections became essential for primitive capitalist accumulation, while a small number of elites received a growing concentration of wealth,

allowing them to exert influence nationally. These conditions emerged differently in Russia and the United States; the latter had no legacy of a heavily industrialized economy and gigantic state apparatus. But by the mid-1990s, these legacies had been reduced to institutional wreckage in Russia and no longer exerted any decisive structural influence. By 1997, strong actors coalesced into competing political-economic groups, each consisting of owners of large assets either in finance, industry, or the media. These actors formed alliances with the central government officials and regional administrators. Once the strong actors had gained control of power and resources in an environment with few, if any, institutional constraints (moral, legal, or bureaucratic), their interaction inevitably assumed the features of anarchic competition.

The Oligarchs

A new round of economic and political empowerment for a select group of private owners took place in 1995–97. The “loans-for-shares” auctions, reportedly invented by Anatoly Chubais and Vladimir Potanin, were designed to raise money for the state budget and President Boris Yeltsin’s electoral fund for the 1996 elections. The plan involved transferring twenty-nine large state enterprises to private banks in exchange for “loans” that would not be repaid. As a result, selected banks with connections to the government received valuable assets at a price far below market value (including Yukos and Sibneft). When Yeltsin was reelected, the bankers who contributed to his campaign rushed to claim posts in the government and further privatization opportunities. Boris Berezovsky’s famous interview with the *Financial Times* on October 29, 1996, was the first public manifesto of the rising oligarchs: “We hired Anatoly Chubais. We invested huge amounts of money in the election campaign. We secured Yeltsin’s election victory. Now we have the right to assume posts in the government and enjoy the fruits of our victory.”³⁸ He named bankers who controlled half of the Russian economy: Khodorkovsky, Potanin, Alexandr Smolensky, Vladimir Gussinsky, Vladimir Vinogradov, Mikhail Friedman, and himself.

In Russian, there are no terms equivalent to “robber baron” or “oligarch,” perhaps because there has been no comparable group of economic actors in Russian history. The term *oligarkhi* became popular in 1997 in publications by Alexander Solzhenitsyn, publicist Alexander Privalov, and liberal government minister Boris Nemtsov. The first cohort of oligarchs consisted of a few individuals who controlled large banks, enterprises, and media resources in different combinations. Smolensky’s and Vinogradov’s assets were mainly concentrated in the banking sector; Berezovsky’s and Gussinsky’s assets came from banking, enterprise financial flows, and the media; Potanin and Khodorkovsky collected natural-resource sector assets. Russia’s first cohort of oligarchs obtained their wealth and influence by controlling financial and information flows. They relied on the political influence that they either bought or acquired in exchange for lending their media power to politicians to maintain their property and expand their power. At the same time, they jealously watched one another and waged wars for political influence, natural resources, and communications (e.g., the “wars” over Norilsk Nickel and Sviazinvest in 1997). The 1998 financial crisis ruined the oligarchs’ banking business and the groups that heavily depended on it, such as SBS-Agro (Smolensky) and Inkombank (Vinogradov). The survivors’ core assets—industrial, rather than financial (Gazprom, Interros-ONEKSIM, Yukos, LUKOil)—grew stronger, as did the new financial-industrial business groups (Sibal, Alfa, and Moskovsky Delovoi Mir [MDM]).

Hostile Takeovers

Scholars gave the massive redistribution and consolidation of property in 1999–2003 much less attention than the previous era of ownership change.³⁹ If the first wave of privatization gave unconditional advantages to “insiders,” that is, former Soviet directors and workers, the new round of competition for economic assets featured the aggressive advance of “outsiders,” that is, new business groups that used all available means, including fraud and violence, to change the management and achieve control over thousands of industrial enterprises, including the largest ones. Large industry required a much greater degree of concentration if it was to be restructured and efficiently managed. The ownership structure changed within about four years. A dozen new business groups concentrated industrial assets among themselves, leading to the appearance of a new cohort of business leaders.

The 1998–2002 transition was made possible by the Russian government’s *laissez-faire* policies: Moscow focused on reducing the excessive regional sovereignty, leaving the oligarchs to compete for assets. The ultraliberal 1998 bankruptcy law triggered a rise in hostile takeovers, which reached nationwide proportions by 2001, involving thousands of cases each year. It receded after 2003, when a revised bankruptcy law increased state supervision.

Enterprise takeovers were typically framed as either bankruptcy proceedings, involving the use of the 1998 “Law on Bankruptcy,” or as legal actions in defense of the minority shareholders’ rights, using the “Law on Joint-Stock Companies.” Both laws enabled the new oligarchs to quickly and creatively advance their interests. The 1998 law provided a relatively easy way of changing an enterprise’s management—a procedure critical for the success of any hostile takeover. It permitted arbitration courts to initiate bankruptcy procedures against enterprises when their outstanding debts exceeded the equivalent of 500 minimum-wage payments—about 42,000 rubles in 1999 (about \$15,000), and were not repaid within three months of the due date.⁴⁰ In the aftermath of the barter economy, many companies, especially utilities, had large debts. After the August 1998 crisis, the extremely low debt threshold carried enormous potential for seizing weaker owners’ major assets. By the end of the 1990s, many enterprises were *de facto* bankrupt and used by their managers for personal enrichment; after 1998, they were bankrupted *de jure* and expropriated by more resourceful actors.

The practice became known as “contract bankruptcies” (*zakaznye bankrotstva*), implying a hidden economic agenda (other than improving economic performance of the enterprise) and the instrumental use of law. In 2001, there were approximately 1,400 contract bankruptcies.⁴¹ Of these, a fair proportion—probably more than half—were connected with hostile takeovers and attempts to avoid repaying debts to outside investors or taxes to the state. Other cases, in which external management was liquidated, may have disguised takeovers undertaken to strip assets. Given that the hostile takeover targets were mainly medium and large enterprises significant to Russia’s economy, the estimated figure of 1,400 points to an immense redistribution of wealth and resources.

Target selection for hostile takeovers was governed by the logic of vertical integration (policies of concentrating assets in a given industry) and by long-term profits or short-term asset stripping. The major targets were:

- Profitable export-oriented enterprises (e.g., aluminum, steel, or cellulose production and electric machine-building);

- Enterprises of the “fuel and energy complex” (oil and gas mining facilities, oil-processing plants, electric power plants, etc.);
- Ore-processing plants (vanadium, strontium, etc.) and similar enterprises that supplied vital ingredients to metallurgical enterprises and were therefore vital for creating vertically integrated business groups;
- Enterprises in consumer industries with stable markets (alcohol, food, cosmetics, etc.);
- Any enterprise possessing valuable assets that could be profitably sold.

This scheme’s most prominent cases took place in the metallurgy, oil, and gas industries, and also in the cellulose and paper industries, and involved the largest enterprises of the Soviet and post-Soviet economy. Among the most prominent cases were Siberian Aluminum’s (Sibal) acquisitions of the Novokuznetsk Aluminum Plant (NKAZ), the Kuznetsky Metallurgical Plant in Kemerovo region, and the Krasnoyarsk Aluminum Plant. Sibal belonged to Oleg Deripaska and Mikhail Chernoi’s business group and was supported by “copper group” head Makhmud Iskanderov.⁴² Other takeovers included the Leningrad Metal Plant by Potanin’s Interros and several takeovers of ore-, gas-, and oil-processing plants by Friedman’s “Alpha-Eko” group, including the notorious 1999 bankruptcy takeover of the oil company Chernogorneft, and the gas-extraction enterprise Rospan (eventually taken over by Yukos). These represent just a few examples.⁴³ Bankruptcy procedures as part of enterprise takeovers were also used during the violent dispute over the Kachkanar vanadium ore-processing plant in the Urals, the mineral fertilizers plant Fosforit, and in the corporate war for the huge cellulose plants in Bratsk and Kotlass between Sibal and Ilim Pulp Enterprise in 2002–4.⁴⁴

Key features of enterprise takeovers included the instrumental use of arbitration courts to create a semblance of legality and reliance on special police forces and regional administrations to enforce the change of management and ownership—physical and administrative coercion. The media frequently reported violent clashes in and around enterprise offices. The methods and practices are best illustrated by the NKAZ case. The summer 2000 assault on NKAZ demonstrates the application of the bankruptcy scheme backed by coercion.⁴⁵ According to press reports, the energy company Kuzbassenergo (subordinated to the state-owned United Energy System headed by Chubais) initiated the bankruptcy procedure against NKAZ, which allowed “Sibal” to change the NKAZ’s management and appoint its representatives. Kuzbassenergo used managerial control to influence the owners. The new management swiftly linked the enterprise to their own trading companies and redirected its financial flows, thus acquiring de facto control of its supplies, sales, and finances, coercing the brothers Mikhail and Yuri Zhivilo, whose company MIKOM owned the controlling interest of NKAZ, to sell it to “Sibal.” The Procuracy of Kemerovo *oblast* assisted in coercing the brothers by initiating a criminal investigation against Mikhail Zhivilo, accusing him of planning Kemerovo Governor Aman Tuleev’s assassination. The investigation was conducted by the West-Siberian antiorganized crime directorate. Zhivilo left the country to avoid arrest; MIKOM’s assets (NKAZ and a number of coal mines) were transferred to Deripaska and Makhmudov through additionally issued shares and other techniques.⁴⁶ In this case, press reports alleged that the regional governor was directly involved in assisting the takeover by supplying local administrative resources and claiming to be the target of an assassination attempt.⁴⁷

The April 2002 attempt to change the management of the Taganrog Metallurgical Plant (Tagmet) in Rostov *oblast* represents another typical corporate conflict of the period—management with a majority or controlling share and an outside investor seeking full ownership and control over the enterprise. The business group Alfa-Eco attempted to increase its 42 percent share of Tagmet by trying to arrange for the Federal Securities Commission to annul the previous share issue to reduce Tagmet director Sergei Bidash's share from 54 percent to slightly over 40 percent. Bidash disputed the decision in court and refused to cede control to Alfa-Eco. Alfa-Eco then attempted to take the enterprise by force, using special police units—essentially antiriot police. The enterprise's security service and workers' militia defended the plant in a violent clash. To prevent further violence, the president's representative in the Southern District had to intervene and compel the sides to return to court. Following several months of litigation and negotiations, Bidash sold his share to Alfa's major competitor in the metallurgical industry, the MDM business group, whose administrative resources matched Alfa's, making the plant less attractive to the latter.⁴⁸

These episodes are reminiscent of the concentration of industrial assets and vertical integration created during America's Gilded Age. In some cases, Russian oligarchs used precisely the same schemes as did the robber barons. The similar aims and methods of achieving them were produced by the structural situation of early capitalism. Anarchic competition, approaching a war of all against all, allowed preservation and expansion (earlier referred to as "imperialism") to override the motive of mere enrichment. In the Russian case, the oligarchs undertook vertical integration to ensure that their core enterprises remained stable and to prevent takeovers by competitors. Consolidation aimed to secure technologically critical transactions through direct ownership. Control over bauxite mining enterprises and power stations were crucial for maintaining an aluminum plant. Absent such control, energy and bauxite providers would have leverage over the plant. Protecting one's own assets required seizing those of others.

The Sibal group consolidated and secured aluminum production assets (also taking Roman Abramovich's aluminum enterprises and naming the combination Russian Aluminum). Friedman's Alfa/Renova achieved concentrated ownership in oil, steel, the food industry, and telecommunications; Melnichenko's MDM consolidated coal, steel, pipes, banking, and insurance businesses; Potanin's Interros created a new electric energy machine-building holding, Power Machines; and Makhmudov and Abramov's Ural Steel and Mining Combine (UGMK) and Evraz-Holdings accumulated assets in nonferrous metal production and coal. The steel industry's powerful new actors emerged around two large plants—the Novolipetsky steel combine (Lisin) and the Cherepovetsky combine and ore supplier (Mordashev). Not every attempt was successful: Sibal failed to gain control of major pulp-and-paper enterprises, losing a dramatic three-year corporate war against Ilim Pulp Enterprise, which negotiated a favorable agreement in 2004.

Between 1998 and 2003, a new cohort of oligarchs joined the 1998 crisis survivors and 2000's political changes, principally, Putin's election. As with the second cohort of the American robber barons, the Russian oligarchs were industrialists (although not industrializers), compared with the more speculative and parasitical first cohort. Both employed similar methods of concentration, especially with regard to using control over technologically critical transactions and forced bankruptcies. If the robber barons used regional courts and lobbyists in legislatures to exploit or create laws to advance their interests, their Russian counterparts added various private or state police units to enforce property transfers. The

Russians appear to have been more conscious of the media's importance; American business leaders largely ignored the media and public opinion (Standard Oil invested in public relations only during the last two years before its demise), but the main Russian business groups bought significant media resources to advance their property interests. The similarities are, nonetheless, enormous. Both groups actively exploited the holding companies' organization to consolidate ownership and control, and to conceal their ownership structure. Ultimately, the property and wealth accumulated by both groups has been seen largely as illegitimate.

In a World Bank study of industrial concentration in Russia that depicted the situation in 2003, the country's twenty-two largest private owners were estimated to account

“If the robber barons used regional courts and lobbyists in legislatures to exploit or create laws to advance their interests, their Russian counterparts added various private or state police units to enforce property transfers.”

for 42 percent of employment and 39 percent of annual sales. Their assets tended to be in sectors with higher levels of concentrated ownership. The top ten ownership groups held assets representing 60.2 percent of Russia's stock market. By 2004, Russia had nineteen individuals whose wealth was in excess of \$1 billion. The survey also established that oligarch-controlled enterprises displayed a modestly higher efficiency (8 percent) than average private firms and performed significantly better than firms

under government control.⁴⁹ None of Russia's new business groups achieved a degree of monopolization in a given industry comparable to the near complete control enjoyed by Rockefeller, Carnegie, Vanderbilt, and a few others. The natural resource monopolies, Gazprom and Unified Energy System, are predominantly state-owned, whereas the railway system was split into several independent operators. Otherwise, key industries have at least two or more competing core groups.

Politics and the State

With Putin's 2000 ascension, strengthening the state became the top priority. This policy had several key dimensions: the subordination of regional governors to federal control; restoration of vertical executive power structures; the “dictatorship of law”—regulation by laws rather than selective informal agreements—and separating politics from business. The policies addressed the key problems of state building: capacity, procedure, and autonomy. The issue of resource bases had already been addressed, and a new tax code was prepared. The change in leadership occurred against a growing popular demand for law and order.

The government “equidistanced” the oligarchs almost immediately. Masked tax and security police staged a dramatic May 11, 2000, raid on Gussinsky's Media-Most offices in downtown Moscow, just four days after Putin's inauguration. This was followed by Gazprom demanding the \$400 million it had lent to Gusinsky's NTV. In July, Gusinsky made a secret deal with Press Minister Mikhail Lesin and the head of Gazprom-Media, Alfred Kokh, agreeing to cede control of NTV in return for canceling its debts and dropping criminal charges. He then fled the country. On May 31, Berezovsky published an open letter denouncing Putin's federal reform plans. In June, under pressure to repay a

\$100 million loan from the state-owned Vneshekonombank, Berezovsky agreed to transfer his 49 percent stake in the ORT television company back to the state. In July, procurators started an investigation of Berezovsky in connection with Aeroflot's foreign currency accounts; by November 2000, he had gone into exile and Abramovich had bought out his share in Sibneft.⁵⁰ Tax police and tax inspectors visited LUKOil and Sibneft offices in the summer of 2000, and Potanin was pressured to pay more for his acquisition of Norilsk Nickel. These measures were intended to display resolve, demonstrate the government's capacity for independent political action, and impose tax discipline. Above all, they established the state (and its leader) as an independent actor. The pressure on the first cohort of oligarchs was combined with a radical tax reform that lowered the personal income tax to a 13 percent flat rate and the profit tax to 24 percent.

After the change of power, the central question posed by big business was: Would they have immunity for their Yeltsin-era acquisitions? In 2000, the president and oligarchs concluded an implicit contract. The government mysteriously referred to it as the "new social contract." Later, Khodorkovsky would recall in his last public interview before his arrest that the problem of privatization's irreversibility was "kind of solved in the year 2000, when the President, having gathered big businessmen, said that we are creating a watershed: that which was before 2000 is now subject to history, and now, after 2000, let us live according to a different set of laws. But if someone does not want to live according to them, then we will sort them out (*budem razbiratsia*). I think that this social contract was that which allowed a stable development of society over three years."⁵¹

The contours and logic of this contract are clear enough. The state would not review previous privatization deals; private business groups would not interfere in public politics or buy officials; because the state protects property laws, large businesses would invest; the state would reduce the tax and bureaucratic burden; and businesses would pay taxes (cease tax-evasion schemes). Putin also revived the Union of Industrialists and Entrepreneurs as a corporate lobby and representative of large business in negotiations with the government. Gussinsky's and Berezovsky's dispossession and pressure on other companies were examples of enforcing the contract.

In practice, both sides had difficulty abiding by the contract's terms. First, both the state and the big businesses are collective entities lacking internal cohesion. Each experienced collective-action problems. The state could not enforce order in its own ranks and failed to discipline agencies that marketed their administrative and coercive capacity for private gain. During the period of hostile takeovers, business groups actively formed alliances with regional governors and administrators to gain advantage in the fierce competition for assets. Observers identified at least three different competing factions, even within the president's office and the government. The state did not successfully restrain its rent-seeking bureaucrats, who systematically interfered in property disputes. Business groups, in turn, continued lobbying and sought tax optimization.

Second, both parties continued to perceive their relationship with the other as a zero-sum gain, despite the rhetoric of partnership. The state strengthened the executive branch with a contingent of officials transferred from the Federal Securities Bureau and accountable to the presidential administration.⁵² The state also consolidated its own economic assets by creating state holdings in strategic branches (e.g., military and aerospace) and reorganizing the management of state enterprises and those companies with a significant state share (Gazprom, Transneft, and Rosneft). Fearing the state's growing power, busi-

ness groups turned to large foreign investors, and some renewed attempts to move assets offshore.⁵³ However, both parties generally preferred to see the contract respected rather than broken, especially because its implicit nature allowed enough room to renegotiate details and to adjust to new circumstances. The resulting equilibrium helped produce an impressive economic recovery that benefited all parties. But there were exceptions.

The Yukos Affair: Carthage Must Be Destroyed

The dramatic unfolding of the Yukos affair has received extensive coverage, so there is no need to reconstruct it here in detail.⁵⁴ After Lebedev's and Khodorkovsky's detention, the Procuracy froze their stock as collateral for assumed damage to the state and proceeded to build a criminal case against them (charges included the creation of an organized criminal group, fraud, and tax evasion). Two other top Yukos officials—Leonid Nevzlin and Vassily Shakhnovsky—were charged with tax evasion. The former left the country; the latter pleaded guilty and paid tax debts. The cases against the two top officers were brought to court, and after several months of hearings, Khodorkovsky and Lebedev were sentenced to eight years' imprisonment.

The Tax Ministry produced tax claims, starting with over \$3 billion for 2000. As the value of Yukos stock continuously fell, tax claims increased to a level comparable with the assets' value. In June 2004, Yukos attempted to repay its outstanding tax debt and announced that it would no longer use tax optimization schemes. By July, it became clear that Yukos could not pay the 2000 debt. State authorities were not willing to restructure it, and bankruptcy appeared to be the only option. Putin and a number of other officials, however, asserted that no one was interested in bankrupting Yukos. As the total outstanding tax debt reached \$10 billion (it rose to \$14 billion), however, it became clear that auctioning off Yuganskneftegaz, Yukos's core oil-producing asset, was imminent. On December 26, 2004, Yuganskneftegaz was auctioned and sold to a front company for the state oil holding, Rosneft, for \$9.35 billion.

We have outlined an implicit contract that created a fragile three-year equilibrium between the key players in Russian politics and business. What led to the equilibrium's breakdown and to the contract's cancellation? We should separate structural causes from specific events and the short-term interests of participants. In an anarchic environment, strengthening one or several of the participating units' power is perceived as a threat to others and compels them to act, either by creating new alliances or through direct confrontation. It remains to be understood how these perceptions played out during 2003, leading to direct confrontation that eventually destroyed Yukos. According to the logic of anarchic competition, the state perceived Yukos's rise as a threat to its interests, while Yukos perceived the state as an obstacle to its further growth. This becomes apparent if we look at Yukos's growth and its policies from the state's standpoint.

Yukos's Growth

The company was created by the 1992 merger of Yuganskneftegaz and Samarneftegaz, and Khodorkovsky acquired the company in December 1995 for \$160 million in cash and a promise of \$150 million in investments. David Hoffman offers a graphic description of the deal and characterizes it as theft—Khodorkovsky's price was far below the company's value and part of the money came from Yukos's unpaid taxes and loans for future oil supplies.⁵⁵ Later, Yukos acquired control over east Siberian oilfields. By 2003,

Yukos's capitalization was approaching \$30 billion. It was Russia's largest company in terms of its assets' market value, the second largest in terms of profits, and fourth in sales. As Khodorkovsky once boasted, Yukos fueled every sixth car in Russia. Yukos's growth came from several sources: (1) the rise of oil prices after 1999 tripled oil revenues; (2) large investments, chiefly from foreign credits, made it possible to increase production and acquire new assets (Tomskneft, Talakan oil fields); (3) elaborate tax optimization schemes saved approximately \$2 billion per year; and (4) the creation of an efficient management structure with the highest proportion of foreign citizens among top management and shareholders of any Russian company. Yukos was partly owned by Menatep and by two offshore companies, Yukos Universal Limited and Halley Enterprises, both based on the Isle of Man. As in many companies, the real owners and beneficiaries were hidden behind a multilevel holding structure.

Yukos and Sibneft's merger was a defining moment. Plans for the merger were first announced in early 1998 (when Berezovsky still owned Sibneft), in preparation for auctioning state oil company Rosneft; but these were abandoned four months later, as oil prices dropped. Rosneft remained under state control. As the oil sector recovered, so too did the planned merger. By the summer of 2003, Yukos completed the deal with Sibneft and was on the verge of creating the largest Russian oil company and the fourth largest in the world, paving Yukos's way to global leadership. Yukos paid \$3 billion plus 26 percent of its own stock for 92 percent of Sibneft.

Yukos's postmerger enlargement increased its share of oil production and its market value. Negotiations were under way to sell a large share (40 percent or higher) of the newborn giant to U.S. investors, either Exxon-Mobil or Chevron-Texaco. Such a deal could have firmly secured property rights for Khodorkovsky and his associates, because putting pressure on or confiscating a company with a large foreign share, especially American, was beyond the Russian state's capacity at the time. By increasing the company's size, introducing international transparency standards, and involving foreign investors, Khodorkovsky was clearly moving toward a much stronger and independent position vis-à-vis the state, perhaps strong enough to be able to ignore the implicit contract.

For the state (and especially security-minded people, whose presence increased during the Putin administration), this was clearly a threat. An economically powerful actor within the state's boundaries created the potential for unpredictable shifts in the power balance and political consequences. It does not matter whether Khodorkovsky really intended to change the political regime or to claim a top executive position for himself, as the first cohort oligarchs did. The ruling elite saw that he was acquiring the capacity to do so. Additionally, the government feared that U.S. oil transnationals would gain control over a large share of Russian oil, and in the eyes of Russian statesmen, American transnationals, the White House, and the Pentagon are all part of the same entity. Another dangerously uncertain issue was what Khodorkovsky could do with \$10–15 billion once the share of Yukos was sold. The government believed there was a high probability that this money would end up in offshore accounts. The paradox is that each stage of the Yukos reorganization could be justified in terms of economic efficiency and profit, but the total result points to core national security issues on which the state claims a monopoly. According to Nevzlin's latest revelations, Abramovich's actions sent Yukos down.⁵⁶ In short, Abramovich wanted to sell Sibneft to Yukos at a high price, so

he convinced Khodorkovsky that they could then sell it to Americans at an even higher price, claiming that he had already secured a go-ahead from the Kremlin. Abramovich either lied or overestimated his influence, so that when the Kremlin learned about the negotiations between Khodorkovsky and the U.S. multinationals, it decided to destroy Yukos. Abramovich called back the merger agreement, walking away with a \$3 billion advance from Yukos and his company still intact.

Competition in the Oil Sector

Another contentious situation emerged as the oil business became ultraprofitable from rising prices. During this period, the state increased its influence over the oil sector, actively pushing for new legislation and supporting expansion of the state-owned oil company, Rosneft. Apart from legislative measures and direct participation in the sector, the state followed Rockefeller's lead and maintained control of pipelines, all of which were controlled by Transneft, a company wholly owned by the state.

Under Sergey Bogdanchikov's leadership, and with the Putin administration's support, Rosneft was resurrected and began to look for new assets. In 2001, it competed bitterly with Sibneft for Slavneft and with Yukos for eastern oil fields. The state company lost both contests, and in one episode, Yukos instigated criminal investigations against a Rosneft manager. At the same time, Rosneft won the auction for Severnaya Neft, a relatively small oil company, but paid an excessively high price. This episode received much public attention when it caused a sharp personal exchange between Khodorkovsky and Putin. Khodorkovsky publicly questioned the efficiency of the state's acquisition of Severnaya Neft, hinting that the high price included private payoffs to state officials. Putin harshly replied that the state-owned company needed new oil reserves, whereas Yukos had plenty of them already, acquired under possibly dubious circumstances.⁵⁷ The competition between state and private oil companies was shifting in favor of the latter, as Yukos secured foreign investments and was about to go ahead with mergers. From the state's standpoint, this was a purely political issue and another threat to the state's interests.

The Kremlin's approach toward big business is very different from its policy toward medium and small businesses. The latter have enjoyed autonomy and relative security, being the major beneficiary of the liberal economic policy. Large businesses, however, are perceived as strategic sectors that have to work hand in hand with the government on large domestic and foreign projects. This kind of partnership apparently works well with LUKOil, Surgutneftegaz, and even TNK but clearly failed with Yukos.

As oil production grew, all parties developed an interest in expanding a pipeline system with insufficient capacity because it was limiting exports. At the end of 2002, the government and the oil industry leaders discussed an eastern pipeline route. Khodorkovsky actively lobbied for a Datsyn route leading from its east Siberian oil fields to China and thus linking them directly to the largest Asian oil market. Yukos suggested private or joint ownership of the pipeline and promised investments. Rosneft and state officials opted for a route to Nakhodka, supplying Russian oil to a range of possible competing consumers in Asia, China being one of them. The Yukos option stressed the pipeline project's economic efficiency, but ignored foreign policy interests. These were the state's priorities and could easily be turned into security arguments, especially combined with the realization that the private pipeline project would enhance Yukos's autonomy.

Taxes and Politics

Khodorkovsky's alleged political ambitions and Yukos's unabashed lobbying and tax optimization can also be viewed as direct subversion of state policies. In the Duma, Yukos stakeholder Vladimir Dubov chaired the tax subcommittee. Yukos distributed its political investments among all key Duma factions, including the Communists. The Yukos lobby successfully resisted the government's policy of abolishing tax exemptions and internal offshore loopholes that oil companies used for tax optimization. The tax reform was central to government economic ministers Alexei Kudrin and German Gref's liberal economic package and presupposed abolishing tax exemptions in return for transparent and equal taxation rules for all. Having succeeded in pushing through new tax laws, the government nonetheless failed against the oil lobby, leaving intact three regional tax havens, Chukotka, Mordovia, and Kalmykiya, where Sibneft and Yukos traders made major profits. According to the Finance Ministry's estimates, the effective tax rate for Yukos and Sibneft was three or four times less than that for LUKOil and Rosneft. German Gref noted in an interview with Reuters: "First they buy loopholes in legislation, then they buy officials, and then they optimize taxes. Our oil tycoons will use any means to drill these loopholes."⁵⁸ Yukos's pursuit of economic advantage through lobbying meant the government's tax policy would fail. Khodorkovsky not only antagonized hard-liners in the Putin administration but also the government's liberal wing. Consequently, the state declared those tax optimization schemes illegal and filed the tax claims that destroyed Yukos.

Before the first round of Yukos arrests in 2003, the Center for National Strategy (CNS), an allegedly independent think tank, published an analytical report titled "The State and the Oligarchs." In the opening section, it bluntly stated that the oligarchs, having completed privatizing Russia's major economic assets, had now turned to privatizing Russia's political space. The institution of the presidency, the report argued, was the major obstacle to the new oligarchic rule. The oligarchic scenario of regime change, according to the report, included giving the Duma additional constitutional powers at the expense of the president. This would be achieved by bringing the major political parties under oligarchic control. The 2003 Duma elections would then bring about a parliamentary majority and thus a government controlled by Russia's oligarchs and acquiescent to their political will. Khodorkovsky was named as the main advocate of this scenario and, accordingly, as the likely head of the new government. A widely publicized Yukos charity campaign that donated to parties across the political spectrum in spring 2003 gave some credence to the CNS report, which the mass media occasionally quoted throughout the summer. When Khodorkovsky allegedly donated \$70 million to the Communist Party, in addition to his conventional donations to Yabloko and the pro-free market Union of the Right Forces, the case for Khodorkovsky's political ambitions gained further strength.

Khodorkovsky's political ambitions were last among the Yukos affair's causes. For a number of years, the company was actively converting its growing economic power into political gains or threatening to do so in the future. The General Procuracy initially investigated the case on its own, but the political leadership later backed it up. Khodorkovsky remained defiant well after his arrest, rejecting any informal settlement. This defiance may have been a result of his perception, or misperception, of being strong enough to put aside previous agreements. Various state agencies' proceedings against Yukos began as early as December 2002, and at that time there probably were still some possibilities for a settlement. But the state leadership had made its decision, and the fate of Yukos was sealed by

the end of summer 2003. On December 23, 2004, at a press conference that took place just a few days after the Yuganskneftegaz auction, Putin described his vision of the outcome: “the state, using absolutely legal market mechanisms, secures its interests.”⁵⁹

Conclusion

Comparing early capitalism in the United States from the 1870s to the first decade of the twentieth century and Russian early capitalism between 1992 and 2005 reveals similar structural conditions that produced similar actors and outcomes. The rapid accumulation of capital proceeded under weak moral and legal constraints and led to the ascension of extraordinarily powerful economic actors. The state’s weak and highly regionalized political system provided ample opportunities for converting economic power into political power, further undermining the divide between economy and polity. This situation subjected Russia to particular business groups’ interests and threatened to turn the state itself into a business enterprise. Robber barons and oligarchs initially emerged because of predatory, mediatory, and redistributive practices in a weak institutional environment that rewarded aggressive and predatory behavior. At a later stage, especially in the American case, a second cohort of business tycoons’ further concentration of economic power was predicated on aggressive managerial policies in industry and high rates of growth. Public attitudes toward business leaders remained largely negative, irrespective of their actual contribution to the accumulation of national wealth. Growing social tensions and mass alienation caused an increased demand for stronger political states in the United States and Russia. The state’s rise in the field of unregulated competition led to multiple conflicts with existing strong actors as the state constituted itself as the agency endowed with powers to regulate, set the rules, and pursue economic policies. Both the 1902–12 trust-busting cases in the United States and Russia’s selective pressure and 2000–5 administrative campaigns against oligarchs were more political than economic in nature; the key issue was the state’s establishing sovereignty at the expense of big business, rather than generating public benefits through regulation.

There are also significant differences between these periods in U.S. and Russian history. The Standard Oil case highlights the stronger constraints on the state’s actions in the United States. At no stage in the Standard Oil proceedings did the American government contemplate expropriating assets or pressing criminal charges against their owners. The principle of respect for private property shaped the course and outcome of trust-busting. The American state could not conceivably go as far as the Russian state in prosecuting owners and managers, even though the robber barons were involved in a number of illicit business practices. The Standard Oil case, and other trust-busting cases, changed the power balance between the economy and polity but reinforced the power of private property as an ethical and legal principle. In Russia, Yukos’s destruction generated growing concerns about the security of property rights.

The international context is another major difference and another factor that shaped the outcomes. I discussed its role only when unavoidable, as in discussion of some Russian tycoons’ strategic international partnerships. Although Standard Oil was one of the world’s leading oil exporters by 1900, its transnational scale did not play a decisive role in its power politics and defensive strategies vis-à-vis the government. Rockefeller could not move capital freely across the globe; thus, Standard Oil was largely America’s internal affair. Yukos was quite different in this regard. The internationalization of Yukos’s business

activity and foreign pressure in the company's defense only made matters worse for the company because it amplified painful sovereignty concerns, making the Russian state less inclined to compromise.

NOTES

1. For an overview of the Standard Oil cases, see Bruce Brinhurst, *Antitrust and the Oil Monopoly: The Standard Oil Cases, 1890–1911* (Westport, CT: Greenwood Press, 1979).

2. For an overview of the Yukos collapse, see “Timeline: The Rise and Fall of Yukos,” BBC News, May 31, 2005, <http://news.bbc.co.uk/2/hi/business/4041551.stm> (accessed July 30, 2008).

3. Karl Marx introduced the term “primitive accumulation.” “Wild capitalism” is a common journalistic catchphrase.

4. This vision goes back to the neorealist theory of international politics formulated by Kenneth Waltz. See Kenneth Waltz, *Theory of International Politics* (Reading, MA: Addison-Wesley, 1979). Waltz sought to explain international politics' logic, arguing that anarchic environments will produce this type of competition and politics irrespective of the nature of participating units. In contrast to that, in hierarchically organized and institutionally constrained environments, as within states, politics will differ significantly. In such environments, peaceful economic competition and cooperation will develop. Central to neorealism is the divide between international politics and domestic politics and that between states and markets. Here, I assume that the divide between international politics and internal politics is historically contingent and, under certain circumstances, the neorealist analysis is applicable to the internal political-economic realm.

5. For the general exposition of the period, see Sean Cashman, *America in the Gilded Age: From the Death of Lincoln to the Rise of Theodore Roosevelt*. 3rd ed. (New York: New York University Press, 1993).

6. Charles Van Hise, *Concentration and Control: A Solution of the Trust Problem in the United States* (New York: Macmillan, 1912), 31–34.

7. *Ibid.*, 21.

8. For the analysis of vertical integration's causes, see Oliver Williamson, *The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting* (New York: Free Press, 1987).

9. See Henry Demarest Lloyd, “The Lords of Industry,” *North American Review* 331 (June 1884): <http://www.fordham.edu/halsall/mod/1884hdlloyd.html> (accessed July 25, 2008).

10. The most prominent figures in the roster of robber barons were railroad owners Cornelius Vanderbilt, James Hill, Collis Huntington, John Fisk, Jay Gould, Leland Stanford, and Edward Harriman in the first cohort. The second cohort consisted of Rockefeller, the creator of the Standard Oil monopoly; steel monopolist Andrew Carnegie; bank magnate J. P. Morgan; and meat producer Philip Armour. There were more than thirty smaller and less notorious business leaders—all together forty-three men, according to the list composed by the economic historian Chester Destler. Fifteen were railroad magnates, fourteen were manufacturers, five were bankers, and the rest were promoters or speculators. See Chester Destler, “Leadership among the Robber Barons,” in *The American Past: Conflicting Interpretations of the Great Issues*, ed. Sidney Fine and Gerald S. Brown (New York: Macmillan, 1961), 2: 49.

11. Matthew Josephson, *The Robber Barons: The Great American Capitalists 1861–1901* (New York: Harcourt, Brace and Co., 1934), 3.

12. Destler, “Leadership among the Robber Barons,” 49.

13. See Thomas Cochran, *Railroad Leaders, 1845–1890* (Cambridge, MA: Harvard University Press, 1953).

14. Josephson, *The Robber Barons*, 131.

15. See Bradford DeLong, “Robber Barons,” Brad DeLong's Personal Web Site, January 1, 2008, http://econ161.berkeley.edu/Econ_Articles/carnegie/delong_moscow_paper2.html (accessed June 17, 2008).

16. Werner Sombart, *The Quintessence of Capitalism: A Study of the History and Psychology of the Modern Business Man* (New York: Howard Fertig, 1967), 172.

17. See Edward Kirkland, "The Robber Barons Revisited," *The American Historical Review* 66, no. 1 (1960): 68–73.

18. See, for example, Matthew Josephson, *The Politicos, 1865–1896* (New York: Harcourt, Brace and Co., 1938); John Dobson, *Politics in the Gilded Age: A New Perspective on Reform* (New York: Praeger, 1972).

19. Cited in Gilbert C. Fite and Jim E. Reese, *An Economic History of the United States* (Boston: Houghton Mifflin), 297.

20. Destler, "Leadership among the Robber Barons," 54.

21. Samuel Huntington made this observation, which was cited in Richard Bense, *Yankee Leviathan: The Origins of Central State Authority in America, 1859–1877* (Cambridge, England: Cambridge University Press, 1990), 4–5.

22. Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920* (Cambridge, England: Cambridge University Press, 1982); Morton Keller, *Affairs of State: Public Life in Nineteenth Century America* (Cambridge, MA: Belknap, 1977).

23. Skowronek, *Building a New American State*, 123.

24. Arthur Link and Richard McCormick, *Progressivism* (Arlington Heights, IL: Harlan Davidson, 1983).

25. Robert Wiebe, *The Search for Order, 1877–1920* (New York: Hill and Wang, 1967), 186.

26. This exposition is based on several sources. See Allan Nevins, *Study in Power* (New York: Scribner's, 1953); Ida Tarbell, *The History of the Standard Oil Company* (New York: McClure, Phillips & Co., 1904).

27. Van Hise, *Concentration and Control*, 104–6.

28. Cashman, *America in the Gilded Age*, 56.

29. Hans Thorelli, *The Federal Antitrust Policy: Origination of an American Tradition* (Baltimore, MD: The Johns Hopkins University Press, 1955), 587.

30. See also Bringhurst, *Antitrust and the Oil Monopoly*.

31. Leonard White, "In Retrospect," *The American Past*, 192.

32. Thorelli, *Federal Anti-Trust Policy*, 414.

33. Theodore Roosevelt, "The Big Stick and the Square Deal," in *Theodore Roosevelt: An Autobiography* (New York: MacMillan, 1914), <http://www.bartleby.com/55/12.html> (accessed July 25, 2008).

34. Cited in Nevins, *Study in Power*, 383.

35. For more on privatization deals and the oligarchs' rise, see David Hoffman, *The Oligarchs: Wealth and Power in the New Russia* (New York: Public Affairs, 2001).

36. See Vadim Volkov, *Violent Entrepreneurs: The Use of Force in the Making of Russian Capitalism* (Ithaca, NY: Cornell University Press, 2002).

37. Cynthia Roberts and Thomas Sherlock, "Bringing the Russian State Back in: Explanations of the Derailed Transition to Market Democracy," *Comparative Politics* 31, no. 4 (1999): 477–98.

38. Cited in Andre Piontkovsky, "What Went Wrong: Asian Flu or Russian Pneumonia?" *Prism* 5, no. 12 (1999): http://www.jamestown.org/publications_details.php?volume_id=6&issue_id=376&article_id=3669 (accessed September 4, 2008).

39. See Andrew Barnes, "Russia's New Business Groups and State Power," *Post-Soviet Affairs* 19, no. 2 (2003): 154–86; Vadim Volkov, "Hostile Enterprise Takeovers: Russia's Economy in 1998–2002," *Review of Central and East European Law* 29, no. 4 (2004): 527–48.

40. One of the 1992 bankruptcy regulation's major shortcomings was that it established the debt threshold at the level of the enterprise's assets' value, which was too burdensome to calculate, and was thus regarded as an obstacle to the bankruptcy process. It also favored debtors' interests over creditors'. The 1998 law removed this obstacle.

41. Volkov, "Hostile Enterprise Takeovers: Russia's Economy," 531.

42. Nataliya Gotova, "Temnaya loshadka" [The Dark Horse], *Kompaniya*, August 21, 2000, <http://www.ko.ru/document.php?id=2015> (accessed July 30, 2008).

43. John Varoli, "LMZ Creditors Signal Financial Health," *St. Petersburg Times*, September 26, 2000, http://www.sptimes.ru/index.php?action_id=2&story_id=12687 (accessed July 30, 2008);

Alexandr Tutushkin, "TNK vziala Rospan" [TNK Has Taken Rospan], *Vedomosti*, January 15, 2003.

44. See Dmitry Sivakov and Konstantin Semin, "Semeinyi konflikt" [The Family Conflict], *Ekspert*, February 7, 2000, <http://expert.ru/printissues/expert/2000/05/05sex-kachgok/> (accessed July 30, 2008); Nikolai Ulyanov, "Khronika provintsialnogo konflikta" [The Chronical of a Provincial Conflict], *Ekspert-Ural*, August 28, 2000, <http://expert.ru/printissues/ural/2000/05/05ur-kachkan/> (accessed July 30, 2008)

45. Nataliya Gotova, "Delo biatlonista-otrovitelia" [The Affair of a Biatlonist-Poisoner], *Kompaniya*, August 14, 2000, <http://www.ko.ru/document.php?id=1999> (accessed July 30, 2008).

46. Gotova, "The Dark Horse."

47. Having fled abroad, Zhivilo appealed to New York's district court, which accepted the case, setting the claim amount at \$2.7 billion. In April 2003, the court refused to process the case further, arguing that the case should be considered in Russia.

48. Sergey Kisin, "Kak zashchishchalas stal" [How Steel Was Defended], *Kommersant*, April 2, 2002, <http://kommersant.ru/doc.aspx?DocsID=316672> (accessed July 30, 2008); Pavel Arabov and Alexei Ivanov, "Tagmet eshche povoiuet" [Tagmet Will Continue Fighting], *Kommersant-Dengi*, April 24, 2002, <http://kommersant.ru/doc.aspx?DocsID=319669> (accessed July 30, 2008).

49. Sergey Guriev and Andrei Rachinsky, "The Role of Oligarchs in Russian Capitalism," *Journal of Economic Perspectives* 19, no. 1 (2005): 131–50.

50. For details on Gussinsky's and Berezovsky's ousting, see Hoffman, *The Oligarchs*.

51. Mikhail Khodorkovsky, "Poslednee intervyyu," Mikhail Khodorkovsky's personal Web site, July 7, 2003, <http://www.khodorkovsky.ru/speech/732.html> (accessed June 18, 2008).

52. Olga Kryshstanovskaya and Stephen White, "Putin's Militocracy," *Post Soviet Affairs* 19, no. 4 (2003): 289–306.

53. See Alexander Radygin, "Rossiya v 2000–2004 godakh: Na puti k gosudarstvennomu kapitalizmu?" [Russia in 2000–2004: On the Path to State Capitalism?], *Voprosy Ekonomiki* 13, no. 4 (2004): 42–66.

54. See, for example, Andrew E. Kramer, "Russian Oil Magnate Forced to Sell to Putin Loyalist, He Says," *New York Times*, July 31, 2007, <http://www.nytimes.com/2007/07/31/business/worldbusiness/31russneft.html> (accessed July 25, 2005).

55. Hoffman, *The Oligarchs*, 301–8.

56. Leonid Nevzlin, "Yukos razrushili troe" [Three Destroyed Yukos], *Vedomosti*, April 18, 2005.

57. David Woodruff, "Khodorkovsky's Gamble: From Business to Politics in the Yukos Conflict," Program on New Approaches to Russian Security Policy Memorandum, no 308. 2003, http://www.csis.org/media/csis/pubs/pm_0308.pdf (accessed July 25, 2005).

58. Cited in Vadim Visloguzov, "Deputat barreliia" [Deputy of the Barrels], *Kommersant-Vlast*, December 8, 2003, 26.

59. Vladimir Putin, "Press Conference," December 23, 2004, http://www.president.kremlin.ru/appears/2004/12/23/1414_type63380type82634_81691.shtml (accessed June 18, 2007).

Nationalism influenced the emergence of civil societies in the industrially developed countries of Europe. Yet in Russia, the growth of nationalism has not been accompanied by political mobilization and the term is often negatively associated with ethnic intolerance.Â The Case of Standard Oil and the Case of YUKOS Vadim Volkov The case of Standard Oil and the Yukos case are two examples of the state destroying major oil companies. The author analyzes these two events, separated by nearly a hundred years and taking place in absolutely different historical and cultural situations, in the context of early capitalism. Comparing them makes it possible to regard early capitalism as a socio-historical formation in which individual players are stronger than institutions.