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Dilorom Akhmedzhanova: The Problem of Collective Action inside Homeowners' Associations in Russia

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Abstract

This paper presents the results of my Ph.D. research, which was conducted from 2005 to 2007. The research question for this investigation concerns the contradiction between the formal rules of establishing and running homeowners' associations and the actual practices with respect to decision-making processes in such associations. This problem was examined within the context of collective action theoretical frameworks and thus addresses the concepts of public goods, collective action, free riders, community sanctions, mechanisms of access to common goods, and rules systems. Among the research methods are in-depth interviews with homeowners' association leaders and members and experts in housing reform as well as document analysis. Thirty-one interviews were conducted covering twelve cases of homeowners' associations in St Petersburg (Russia). From the results I was able to discern six models of rule production and execution. These models are based on formal/informal combinations of rules. The field data suggest that the most effective strategy for homeowners' associations is a balance between formal and informal norms and practices. In other words, according to the logic of collective action, formal norms alone are insufficient for collective action and the organization of decision-making processes, but if solely informal norms are used, the community enters into illegal territory and becomes vulnerable and unstable.

The adoption of transparent management systems in homeowners' associations can raise the level of participation. In periods when the community's identity is not fully formed, the impact on free riders is lower, because only the ideology of the group can influence the associations' members when they are confronted with contradictory laws or loopholes.

1. Introduction

Homeowners' associations in Russia are based on joint property ownership and are intended to promote self-governance. They are non-commercial organizations whose main goal is to create more effective management systems for apartment houses.

These kinds of civic organizations first emerged in Russia in 1996 when the 'Homeowners' Associations Law' was passed. This law stipulated the mandatory creation and registration of homeowners' associations in newly constructed apartment houses. But a more active process was inspired by the new Housing Code of 2004, in which three forms of housing management were formulated – direct management (whereby owners sign a contract with a service organization), management companies and homeowners' associations. Creating and developing such associations is one of the main goals of contemporary housing reform in Russia. It means that all owners should participate in decision-making processes as well as in different events, like cooperative projects; regular payments for services is another important parameter. This kind of participation constitutes the lowest level of civic activity. In these associations people receive elementary skills in cooperation, raising requirements and making arrangements. These skills could be carried to the municipal level assuming that they have been successfully learned on the apartment house level. However, because many experts are involved, not all of the owners are expected to participate in these activities. On the other hand, homeowners' associations have improved and formally maintain legal norms about quorums in decision-making processes. Thus, the main goal of this investigation is to examine and explain the process of collective action within homeowners' associations.

2. Methods and field data

Two methods were used to collect data: in-depth interviews and document analysis. In-depth interviews are useful for reconstructing actors' positions and intentions within homeowners' associations (directors, owners; active and non-active). In-depth interviews were also used to collect data from selected experts, i.e. officials, journalists and NGO representatives.

The document analysis consisted of two parts: an analysis of Russian housing law, which provided insight into the official frameworks that guide the functioning of homeowners' associations (rights and responsibilities of owners, management and control systems, etc.); and an analysis of the associations' internal documents (reports, advertising materials, protocols and meeting decisions).

The field study was conducted during the 2005–6 academic year. Thirty-one interviews were given, representing a minimum of twelve cases of homeowners' associations in St Petersburg (Russia). Nine experts agreed to be interviewed. This high proportion of expert interviews is due to the novelty of the investigated phenomenon; at the time, homeowners' associations were a non-institutionalized form of civic activity.

The collected cases could be classified according to two general characteristics. First, there are 'in-new' and 'in-old' multi-apartment house homeowners' associations. The 'in-new' associations were formed after 1996, when the 'Homeowners' Associations Law' was passed, whereas the 'in-old' associations were created before 1996. The distinction is determined by the different ways of forming the associations as well as their different developmental paths. This will be described in more detail later.

The second distinction concerns the location of the homeowners' associations: some were created in the centre of the city and others were formed in the outskirts. This division is linked to the conditions of the buildings (i.e. their varying states of disrepair) and most importantly, to the dramatic difference in property values in downtown St Petersburg and the suburbs. Most conflicts concern the downtown properties because they are so much more expensive than those on the outskirts.

An additional basis for classifying the cases concerns the distinction between elite/and non-elite apartment houses. This classification is not very relevant for this research, however, because there were only two cases of elite houses in my sample. Nevertheless, some information about these cases will be presented later on.

3. Theoretical approach

The theory of collective action is the theoretical framework of this analysis. General concepts of this theory include common goods, collective action, free riders, community sanctions, mechanisms of access to common goods, and rules systems.

First, let me define the concept of common goods. Mancur Olson defines a common good as 'the characteristic organizational goods, for ordinary noncollective goods can always be provided by individual action, and only where common purposes or collective goods are concerned is organization or

group action ever indispensable.¹ But Olson also cites the problem of what he calls 'free riders'. In most cases, individual interests discourage participation in the production of common goods.

In my research, 'collective action' refers to actions intended to produce common goods and solve problems inside the community. Meanwhile, rules are classified into two categories, formal and informal. Formal rules are stipulated by Russian law or produced by the community itself. Informal rules may be peculiar to a community, division or type of organization.

Sanctions in a community may be specified either by law or by the community itself. Some of these mechanisms are at odds with the formal rules.

The chief objective of this research is to outline the common goods for communities like homeowners' associations and to investigate the rules systems and mechanisms of the communities' impact on their members' behaviour.

This approach allows me to analyse and explain the general scheme of the homeowners' associations' development. From this point of view, the creation of public goods in homeowners' associations is an ongoing process of establishing and improving the conditions in apartment houses. The owners participate not only in common meetings and joint projects in the courtyards; participation in homeowners' associations also entails regular payments for communal and additional services, for example security guards. The same level of comfort has become a public good in separate homeowners' associations, but now there are a lot of free riders inside them. The division of common goods in this sphere is a very complicated process because the system of communal services in Russia was designed for common consumption. In most cases, especially in old apartment houses, there are no systems of individualized access to communal services, and individual water and heating metres are very rare in apartment houses. It is therefore impossible to limit access to these services, which leads to free riding. Homeowners' associations thus need to find other techniques to solve the free rider problem – in particular political instruments to penalize free riders and non-active owners. This phenomenon is a serious problem in Russia. Investigating this topic is therefore one of the keys to understanding the collective logic within homeowners' associations.

Other forms of participation in homeowners' associations include partaking in decision-making processes, i.e. micro-political interactions. Here a widespread phenomenon is observed: a very low level of owner participation. According to experts, most owners are not interested in decision-making processes. There are common ways of solving this problem in different associations. These methods can also be researched with concepts of collective action theory.

Homeowners' associations' activities are regulated by federal and regional law, including the Russian Housing Code of 2004. By law, homeowners' associations have some opportunities to manage the participation process; for example, they can initiate court proceedings against free riders who evade obligatory payments. However, going through the courts is a very slow and ineffective way of recouping these payments. In addition, there are no effective methods for involving owners in micro-political processes in homeowners' associations. This means that the associations need to form their own methods for implementing democratic practices at this micro-level of civic activity. The current lack of

¹ Olson, Mancur: *The Logic of Collective Action. Public Goods and the Theory of Groups*, Cambridge/MA, London: Harvard University Press, 1965, p. 16.

transparent processes leaves plenty of room for abuse and corruption among the managers and leaders of homeowners' associations.

4. Creating homeowners' associations. Main phases in community development

There are four main phases in homeowner association development. The first entails creating a government. One immediately sees a distinction between houses that were built before and after 1996 ('old' and 'new' are relative categories due to Russian housing law). In new apartment buildings, homeowners' associations are initially registered by construction companies. After that, the owners need to establish a new government that is independent from the construction company. In old houses, the inhabitants need to establish their homeowners' association from the moment of registration.

The second phase concerns gaining autonomy. Again, there is a difference between old and new houses. In old houses, managerial responsibility is transferred from the municipal government to the homeowners' associations. In new houses, autonomy comes when the construction company leaves, at which point the responsibility for maintenance and repairs shifts to the homeowners or homeowners' associations. The relationship with the construction company also changes: communication now occurs on the basis of the commercial contract or not at all. It is then up to the homeowners or homeowners' associations to cope with breakdowns and disrepair.

The third stage concerns the house's form of service. The last phase of development pertains to the property surrounding the apartment house.

5. Common goods in homeowners' associations

The main goal of normal homeowners' associations is to increase the level of efficiency of housing management. From this point of view, the most significant common goods produced by homeowners' associations are, as one of the association leaders put it, 'cleanliness and beauty'. These simple goods encompass a large number of actions, however.

The common good of 'cleanliness' entails choosing a cleaning company for the apartment house; otherwise the house can organize its own cleaning process by hiring individual cleaners and maintaining working relations with them. In this context, 'cleanliness' also means the absence of malfunctions in the house's infrastructure and engineering. Keeping a house running smoothly is one of the most important and difficult tasks for any homeowners' association regardless of the house's age or type. Poor building construction abounds in Russia, even in houses that are supposedly 'elite' (as in one case in my sample). Russian law stipulates a two-year guarantee period for construction work, e.g. roofing or refurbishment of outside walls. However, construction companies make every effort to sidestep responsibility for their work.

'Old' houses suffer from the same shoddy construction. During the Soviet period, all housing materials were worthless for the most part. Houses in downtown St Petersburg are in an especially dilapidated condition.

All of these facts signify that practically almost all of the homeowners' associations need to make constant repairs to a variable degree. This leads to all kinds of problems. First, there is the problem of par-

ticipation in the decision-making process. By law, all decisions about any new expenses for homeowners must be supported by a minimum of 51% of the associations' members. Here the problem of free riders arises. A more detailed description of this process will be given later.

The second sort of common good in homeowners' associations is 'beauty'. Maintenance of this category may vary from association to association and include different elements, such as flowers in courtyards, new walls and various repairs. These goods may be produced individually or by the entire community.

Here we can also observe the phenomenon which I call the 'symbolic significance of a community'. This is the system of significance belonging to a given community. The elements of this system include the history of the house, aesthetics, symbols (national or local), celebrity tenants, exclusivity and comparison with other houses. All of these elements form a community's identity. This identity can become one of the impact mechanisms vis-à-vis free riders.

Both 'cleanliness' and 'beauty' require participation – either in the form of payments or participation in improvement projects. At this point, the main problem in the production of common goods becomes apparent: free riders. Even though it is easy to identify free riders in a given homeowners' association (they are not as anonymous as, say, free riders on public transport; it is obvious when a tenant does not participate in any cleanliness or beautification activities), it is still difficult to remedy the problem. Methods for coping with this issue will be presented later.

The largest obstacle to the creation common goods in homeowners' associations is, according to one leader, 'people's mentality'. During the Soviet era, the concept of common goods meant 'something to be used' without regard for the second aspect of common goods: collective concern about these goods. Indeed, the question of what constitutes a common good in the post-Soviet space is very interesting and has not yet really been conceptualized. Access to public and common goods was unlimited within the Soviet economic system. The main slogan with respect to consumption of these goods was 'Conscience is the best inspector'. In other words, an 'honour system' was in place; people were trusted not to take more than their fair share. All responsibility was transferred to the individual, and any sign of external control mechanisms was absent. Due to the ubiquity of these goods, people were not in the habit of participating in their production.

6. Free riders in homeowners' associations

There are two ways to participate in homeowners' associations. The first is regular payments for services and repairs. The second is participation in association activities, e.g. participation in common meetings and decision-making processes or participation in voluntary house and courtyard improvements.

The problem of free riders was found in all of my case studies, even in the elite apartment houses. The first part of the problem concerns the collection of payments. There is usually an average of 20% free riders. The owners end up paying not only for additional services (for example for guards or gardeners), but also for standard services like water and heating. The owners frequently have a hard time collecting payments for the latter services. Previously, it was assumed that free riders tend to be poor – pensioners, families with many children, etc. But the experts and association leaders debunked this stereotype by pointing out that the defaulters are in fact from the middle class and not the lower middle class.

The free riders have all sorts of excuses for not paying their bills – no time to go to the bank, simple forgetfulness – but they do not say anything at all in most cases. As far as additional services are concerned, some free riders say that they do not need these services in the first place and therefore do not feel obligated to pay for them. This problem flows from the second form of free riding, which is non-participation in common meetings. As stated earlier, all decisions must be supported by a minimum of 51% of community members. If the free riders were to attend the common meetings, then they could vote against these additional services.

Many associations have created a more effective mechanism for decision-making about additional services: tenant surveys. This formal mechanism is not part of the legal system, but it saves homeowners' associations a lot of trouble.

The second group of free riders, those who avoid participating in common meetings and in voluntary house improvement projects, is larger than the group that defaults on payments for services.

The problem of participation in common meetings and decision-making processes is very important for any homeowners' association. There is no quorum in elite houses, and members do not want to be bothered with meetings about services – they simply want to have the services provided. They are ready to pay a larger fee in order to avoid discussion. In these associations, all decisions are made by a special paid manager and the owners never try to organize meetings.

Both 'old' and 'new' houses have problems organizing common meetings. Participation is not the only problem. If a house is large (sometimes containing hundreds of apartments), it is very difficult to find enough room for a huge meeting. Usually the association's manager rents large halls in schools or cinemas that are situated near the house. The second problem is scheduling the meeting. It is virtually impossible to find a meeting time that suits all members. Even if the association manages to solve these problems, there is no quorum for common meetings. Many owners are not interested in the decision-making process or lack the skills for such meetings. Before the housing reform, all houses were managed by service companies, and all owners were separate individuals whose main obligation was to pay for services. Even if the owners felt it necessary to participate in common meetings and make joint decisions, they would lack the ability to communicate with their neighbours in the decision-making process. As the experts said, a lot of meetings involve scandals and fights because the owners lack even the most elementary communication skills.

Who are the typical free riders in homeowners' associations? They are usually under thirty-five, well-educated, from the middle or upper-middle class, and in most cases have no children. This description fits most urban inhabitants in any ordinary European city. The problem of free riders is therefore not merely a legacy of the Soviet era. Aside from the trends of globalization and conspicuous consumption, the system of management and the relationships within the homeowners' associations might be perpetuating the problem. The next section of this paper will therefore deal with the rules and management systems in homeowners' associations.

7. Rules and management systems in homeowners' associations

Management systems in homeowners' associations can be examined from three angles – formal rules established by the law, formal rules created by the homeowners' associations themselves and informal rules that usually cannot be written down due to their illegality. Some of these actions are regulated by

legislation. For example, annual meetings to approve a new association's management team are regulated. Issues that come up at these meetings include financial matters, member responsibilities, penalties for non-payers and so on. The meetings also allow for discussions and information exchange between association members.

An important aspect of those meetings is that in some cases the decisions are made by the majority. However, sometimes it is the management team that handles the decision-making. The management's exclusion of the public from the decision-making process often raises a lot of criticism from its members. Nowadays, however, the public is playing a greater role in the process and there is more public voting on issues. Russian law requires that an annual meeting must be held at least once a year. Additional meetings can be initiated by activists if they feel it is necessary. Unfortunately, this rule creates fertile ground for the abuse of power and fraud in homeowners' associations. But even in homeowners' associations that hold one annual meeting per year, no absolute number of attendees is stipulated. The law requires minimal attendance of 50% of the association plus one member. But because actual attendance almost never meets this requirement, most associations falsify their protocols, which can become a source of conflict in controversial issues. However, it is very difficult even for state authorities to prove that protocols have been falsified.

The second formal rule concerns financial inspection. Once a year, a special commission checks the financial activity of homeowners' associations. This commission must contain at least two association members. But as I learned from my field material, this area is also susceptible to rampant corruption. In four cases the association's manager or leader colluded with commission members to conceal infringements.

Internal formal rules deal with the regulations of annual meetings, service rules, etc. In most cases contemporary homeowners' associations do not actively produce their own formal rules. They usually use standard forms of contracts and apply some of the regulations recommended by the authorities. However, it is difficult to introduce these regulations due to the associations' admission procedures for adopting new rules.

Unwritten rules take more forms than formal rules. The first such group of rules concerns distribution. For example, in two cases, lots were drawn to distribute parking spaces among association members. This mechanism is objective and thus very effective. But for a lot-based decision to become legitimate, some requirements must be met. First, a committee has to be organized by the members. Second, the procedure must be as transparent as possible. Third, it is necessary to document all the results just after the lots are drawn.

In general, proper documentation is an important aspect for communities like homeowners' associations. It helps to legitimize accepted decisions and readily allows members to refer to existing documents in case of disputes. Documents and protocols enable members to 'visualize the will of the community'. How open an association's documents are quantifies the level of democracy in the community. Denying access to these documents increases the risk of internal conflicts in the community and may result in revolts, e.g. the changing of management staff and director.

The ability to access the documents directly affects the transparency of decisions and the overall work of the management team. From the collected data, I conclude that the more transparent the management process is and the more accessible these documents are to the members, the more effective the

association tends to be, with a reduced risk of internal conflicts and a higher degree of integrity within the community.

However, in some cases I observed miscommunication in the documents or had difficulty obtaining access to them. These violations are usually meant to conceal financial malfeasance.

The free rider problem is also covered by some rules. Technically, the majority of housing resources are constructed in such a way that it is not possible to restrict access to water or heating for non-payers. The problem of common goods in homeowners' associations in most cases is connected with the indivisibility of these goods. Officially, homeowners' associations can take legal action against free riders, but the Russian judicial system is very slow and ineffective. All of the experts and association leaders who were interviewed for this project agreed that under current conditions the legal process is not a viable solution for this problem.

Many associations have therefore created informal methods of dealing with free riders. Among such methods are attempts to limit access to other common goods, such as parking places, plumbing services and so on. The second way is to post public lists of the non-payers' names; the lists are usually displayed in common areas, e.g. courtyards, entrances and announcement desks. Sometimes these lists do not merely contain the names of the non-payers, but also warn tenants that the entire apartment house could have its water and heating services cut off if the free riders do not start paying their bills. However, such methods are only effective the first time around. After the third or fourth such announcement, nobody pays any attention to these lists.

The third way of addressing the problem is to engage in endless talks with the free riders, but these are equally ineffective. As stated, all experts seem to agree that there is currently no effective mechanism of impact for free riders in Russia.

8. In absentia voting in homeowners' associations

In absentia voting has had a long official history in homeowners' associations. After the introduction of the housing reform, it became clear that in most cases it is impossible to obtain a quorum at the annual meetings. In absentia voting was viewed as a solution to this problem. On the other hand, this sort of voting also became a venue for violations.

In 2006 this procedure was ordered by law, but no control mechanisms were stipulated. Now this procedure is based on trust. In absentia voting has become more and more popular among homeowners' associations. The procedure saves money, time and organizational resources vis-à-vis the decision-making process and also raises the level of participation in the associations.

Some associations have created their own internal order to govern this kind of voting. These protocols concern the procedure of voting itself, the content of commission and other control mechanisms.

9. Participation and collective action in homeowners' associations. Conclusion

As the field data shows, the problem of collective action organization and participation in homeowners' associations is very pressing at this moment.

There are some methods of impact for association members: restriction of access to other goods, judicial sanctions and community censure. However, as I observed in my case studies, the judicial avenue is largely ineffective due to the inefficiency of the Russian judicial system.

Economic incentive is a more effective approach. All members want to limit costs for services, so saving resources has become an important argument.

The third method of impact, community censure, is effective only in communities with strongly developed senses of identity and symbolic significance.

Nowadays, most interactions in homeowners' associations are based on trust. However, the level of this trust in the associations' management depends on the degree of transparency in managerial functioning.

In my opinion, it is unrealistic to expect the laws to change. A more effective approach would be to combine the existing formal rules with written rules produced inside the community. Creating and developing a sense of symbolic significance within the association is also a necessary element for success.

Associations that take this approach are more sustainable, have less internal and external conflicts and exercise more effective financial management. In these associations the level of participation is much higher than in associations that only make use of standard laws.