

# DO LAWYERS MATTER IN RUSSIA?

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As the transmission belt between citizens and their government, lawyers are a critical component of civil society. Yet their relevance depends on society's willingness to call upon them and on the state's openness to being challenged. In the U.S., we take the political importance of lawyers for granted. Elsewhere, especially in authoritarian countries, lawyers play a more peripheral role. This Essay focuses on Russian lawyers. Although there is a large literature on various types of Russian lawyers, their status in society has not been much explored. The Essay tracks the evolution in societal attitudes towards lawyers in Russia, beginning with the Soviet period (1917–1991) and continuing through the post-Soviet period (1992–present). Drawing on memoirs, public opinion polling, and surveys, the Essay documents lawyers' low status in the Soviet Union. The introduction of market institutions in post-Soviet Russia opened the door to new types of lawyering, many of which are highly remunerated. The effect has been to increase the attractiveness of the profession to Russian youth and their parents and increase its esteem more generally.

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## INTRODUCTION

In theory, lawyers serve as a transmission belt between state and society. Their training equips them to mobilize the law on behalf of laymen, most of whom have little understanding of how the legal system works. When working in countries with functioning democracies, lawyers are able to use the law to hold the political and economic elite accountable.

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Many have grown rich and powerful themselves. Over time, legal professions in many democracies have managed to simultaneously earn the respect and contempt of the citizens they ostensibly serve. In the U.S., for example, public opinion polls document both that most parents with children under 18 would encourage these children to become lawyers<sup>1</sup> and that less than a quarter of Americans rate the honesty and ethical standards of lawyers as “high.”<sup>2</sup> Lawyers frequently serve as the butt of jokes that portray them as driven solely by winning (both in terms of the outcome and the damages awarded).<sup>3</sup> Many Americans resent what they perceive as the tendency of lawyers to file frivolous lawsuits.<sup>4</sup> On the other hand, many admire the willingness of lawyers to speak truth to power and to lead the charge for social change.<sup>5</sup>

Lawyers typically play a different role under authoritarianism. Like much of the rest of society, they fear the repercussions of challenging authority. These range from disbarment to criminal prosecution and imprisonment.<sup>6</sup> While iconoclasts may emerge who are willing to take on unpopular causes,<sup>7</sup> most lawyers prefer to fade into the background,

1. Hannah Pollack, *6 in 10 Americans Say Lawyer Is a Prestigious Occupation*, THE HARRIS POLL (Apr. 12, 2016), <https://theharrispoll.com/according-to-a-november-2015-harris-poll-6-in-10-americans-say-lawyer-is-a-prestigious-occupation/> [<https://perma.cc/75JE-WJTU>].

2. *Honesty/Ethics in Professions*, GALLUP, <https://news.gallup.com/poll/1654/honestyethics-professions.aspx> [<https://perma.cc/6PZF-7CG6>] (last visited, Feb. 13, 2021) (Lawyers compare favorably to Members of Congress and advertising practitioners, whom 8% and 10%, respectively, view as honest. But lawyers suffer in comparison to nurses and engineers, whom 89% and 66%, respectively, view as honest).

3. See generally Marc Galanter, *The Faces of Mistrust: The Image of Lawyers in Public Opinion, Jokes, and Political Discourse*, 66 U. CIN. L. REV. 805 (1998). See also Danny Van Horn, *If You Don't Have Something Nice to Say . . .*, 47 TENN. BAR J. 3 (2011).

4. See generally Howard N. Myers, Jeffrey P. Sweetland & Laura C. Suess, *Are We Really Raising the Bar?*, 76 WIS. LAW. 18 (2003); Alan M. Dershowitz, *Lawyer Bashing*, 71 NAT'L F. 16 (1991).

5. See, for example, Carrie Menkel-Meadow, *Can They Do That? Legal Ethics in Popular Culture: Of Characters and Acts*, 48 UCLA L. REV. 1305 (2001), for a detailed analysis of the admiration of fictional lawyers, such as Atticus Finch. See also Thomas L. Shaffer, *The Moral Theology of Atticus Finch*, 42 U. PITT. L. REV. 181 (1981); BRYAN STEVENSON, *JUST MERCY: A STORY OF JUSTICE AND REDEMPTION* (2014). See GILBERT KING, *DEVIL IN THE GROVE: THURGOOD MARSHALL, THE GROVELAND BOYS, AND THE DAWN OF A NEW AMERICA* (2012), for a detailed analysis of high-profile public interest lawyers, such as Thurgood Marshall.

6. See, e.g., SIDA LIU & TERENCE C. HALLIDAY, *CRIMINAL DEFENSE IN CHINA: THE POLITICS OF LAWYERS AT WORK* 122–43 (2016); Peter Finn, *Russia's Champion of Hopeless Cases Is Targeted for Disbarment*, WASH. POST (June 3, 2007), <https://www.washingtonpost.com/wp-dyn/content/article/2007/06/02/AR2007060201135.html?nav=E8> [<https://perma.cc/8VAM-JFST>].

7. See generally Li Kege, *Do Birds of a Feather Flock Together? Rights Protection (Weiquan) Lawyering in China*, 7 ASIAN J. OF L. & SOC'Y 127 (2018). See also

representing clients in routine matters. What is less clear is how society regards these lawyers. This Essay explores that question through a case study of Russia.

The Essay begins with an overview of the structure of the Russian legal profession and tracks the reshaping of the profession in the wake of the collapse of the Soviet Union. I then turn to the question of how lawyers are viewed by society in general as well as by other lawyers. The highly segmented nature of the profession requires the analysis to be disaggregated by specialty. The fundamental changes in the institutional environment that came with the transition from state socialism to market democracy in the 1990s requires a separate analysis of attitudes towards lawyers in the Soviet and post-Soviet periods. This chronological approach allows me to track the growth in respect for lawyers in recent years. The reasons are difficult to untangle. Young lawyers differentiate between their colleagues in the public and private sectors. As to the former, their respect seems grounded in the authority that judges and other lawyers in government service enjoy. As to the latter, their esteem hinges on the massive increases in earning potential for lawyers in private practice.

Public attitudes towards lawyers have not been much explored. Instead, the voluminous literature on Russian lawyers has taken a more functional approach. Scholars have detailed the day-to-day realities of many different types of lawyers with an eye to their relationship with the

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Freek van der Vet, *"When They Come for You": Legal Mobilization in New Authoritarian Russia*, 52 *LAW & SOC'Y REV.* 301, 301–36 (2018); DINA KAMINSKAYA, *FINAL JUDGMENT: MY LIFE AS A SOVIET DEFENSE ATTORNEY* (Michael Glenny trans., 1982).

state.<sup>8</sup> The vantage point is that of the lawyer, not society.<sup>9</sup> Yet buried in these studies are insights about how lawyers are seen by themselves and by laymen. In this Essay, I weave these together to create a clearer picture of the status of various types of lawyers. To the extent possible, I supplement these findings with information from surveys and memoirs. Although there are a number of pithy memoirs by close observers of Soviet lawyers<sup>10</sup> and by Soviet lawyers themselves,<sup>11</sup> mostly published in the West, surveys were few and far between under communism.<sup>12</sup> They have, however, become a regular feature of post-Soviet life and yielded helpful information about how Russians view lawyers and how Russian lawyers view themselves.

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8. These include studies of *advokaty* (legal professionals who represent clients in court), *prokurory* (prosecutors), and judges (*sud'i*) in the Soviet and post-Soviet periods. See Michael Burrage, *Advokatura: In Search of Professionalism and Pluralism in Moscow and Leningrad*, 15 LAW & SOC. INQUIRY 433 (1990) (Soviet period *advokaty*); EUGENE HUSKEY, *RUSSIAN LAWYERS AND THE SOVIET STATE: THE ORIGINS AND DEVELOPMENT OF THE SOVIET BAR, 1917–1939* (1986) (Soviet period *advokaty*); TIMUR BOCHAROV & EKATERINA MOISEEVA, *BYT' ADVOKATOM V ROSSII: SOTSIOLOGICHESKOE ISSLEDOVANIE PROFESSII* [TO BE A LAWYER IN RUSSIA: SOCIOLOGICAL STUDY OF THE PROFESSION] (St. Petersburg: Evropeiskii universitet v Sankt-Peterburge 2016) (post-Soviet period *advokaty*); PAMELA A. JORDAN, *DEFENDING RIGHTS IN RUSSIA: LAWYERS, THE STATE, AND LEGAL REFORM IN THE POST-SOVIET ERA* (2005) (post-Soviet period *advokaty*); GORDON B. SMITH, *THE SOVIET PROCURACY AND THE SUPERVISION OF ADMINISTRATION* (1978) (Soviet period *prokurory*); LAUREN A. MCCARTHY, *TRAFFICKING JUSTICE: HOW RUSSIAN POLICE ENFORCE NEW LAWS, FROM CRIME TO COURTROOM* (2015) (post-Soviet periods *prokurory*); George Ginsburgs, *The Soviet Judicial Elite: Is It?*, 11 REV. OF SOCIALIST L. 293 (1985) (Soviet period judges); V. VOLKOV, A. DMITRIEVA, M. POZDNIakov & K. TITAEV, *ROSSIISKIE SUD'I: SOTSIOLOGICHESKOE ISSLEDOVANIE PROFESSII* [RUSSIAN JUDGES: A SOCIOLOGICAL STUDY OF THE PROFESSION] (2016) (post-Soviet period judges).

9. But see Michael Newcity, *Why Is There No Russian Atticus Finch? Or Even a Russian Rumpole?*, 12 TEX. WESLEYAN L. REV. 271 (2005) (exploring the image of lawyers through 19th century Russian literature).

10. E.g., ROBERT RAND, *COMRADE LAWYER: INSIDE SOVIET JUSTICE IN AN ERA OF REFORM* (1991); LOUISE I. SHELLEY, *LAWYERS IN SOVIET WORK LIFE* (1984); GEORGE FEIFER, *JUSTICE IN MOSCOW* (1st ed. 1964).

11. E.g., SIMONA PIPKO, *BALTIC WINDS: TESTIMONY OF A SOVIET ATTORNEY* (2002); KAMINSKAYA, *supra* note 7; KONSTANTIN M. SIMIS, *USSR: THE CORRUPT SOCIETY: THE SECRET WORLD OF SOVIET CAPITALISM* (1982).

12. I could locate only one survey conducted prior to 1985, the year Gorbachev became General Secretary of the Communist Party and ushered in greater openness. It was published only as of 2013 in an article that compares findings from surveys in 2005 and 2010 with those conducted in the 1970s. The author finds no statistically significant differences in the prestige assigned to various types of lawyers. T.A. Bondarenko, *Ierarkhiia prestizha iuridicheskikh professii* [*The Hierarchy of Prestige of the Legal Professions*], 8 SOTSIOLOGICHESKIE ISSLEDOVANIIA 96–100 (2013).

## I. EVOLUTION OF THE RUSSIAN LEGAL PROFESSION

Whether there is a coherent Russian legal profession is much debated. Like much of continental Europe, Russia has a divided bar.<sup>13</sup> Those who consider themselves lawyers (*iuristy*) share a common educational experience, but upon graduation, they splinter into different groups.<sup>14</sup> Each has its own professional standards.<sup>15</sup> In the Soviet era, these included prosecutors (*prokurory*), litigators (*advokaty*), in-house lawyers (*iuriskonsul'ty*), notaries (*notariussy*), judges (*sud'i*), and lawyers working for the state bureaucracy.<sup>16</sup> With the exception of *advokaty*, all of these lawyers worked for the state (as did virtually all Soviet citizens). *Advokaty* had more independence than other lawyers but were still closely monitored by the Communist Party.<sup>17</sup> Unlike in the U.S., where those who practice law generally identify as “lawyers,” Soviet—and now Russian—legal professionals are more likely to feel a sense of kinship with those who work in the same specialty than with everyone who practices law.<sup>18</sup> As a result, some scholars argue that they are not part of a single group but instead are best seen as “castes of warring factions.”<sup>19</sup>

Moving from one specialty to another was almost impossible in the Soviet period, further cementing the balkanized sense of identity. A young person who began his career as a prosecutor was very unlikely to shift to defense work as an *advokat* (or vice versa).<sup>20</sup> As the state began to lose its iron grip on authority in the late 1980s under Gorbachev, the barriers

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13. JOHN HENRY MERRYMAN & ROGELIO PÉREZ-PERDOMO, *THE CIVIL LAW TRADITION: AN INTRODUCTION TO THE LEGAL SYSTEMS OF EUROPE AND LATIN AMERICA* 104–05 (4th ed. 2019); Lisa A. Granik, *Legal Education in Post-Soviet Russia and Ukraine*, 72 OR. L. REV. 963, 966–73 (1993).

14. See MERRYMAN & PÉREZ-PERDOMO, *supra* note 13, at 104–05.

15. See *id.* at 105 (“Those involved in one branch of the legal profession come to think of themselves as different from the others. They develop their own expertise, their own career image, their own professional association.”).

16. See MERRYMAN & PÉREZ-PERDOMO, *supra* note 13, at 104; SMITH, *supra* note 8; HUSKEY, *supra* note 8, at 3; Ekaterina Mishina, *Russia: Twenty Years of Private Notaries*, INST. OF MOD. RUSS. (Apr. 22, 2013), <https://imrussia.org/en/rule-of-law/440-russia-twenty-years-of-private-notaries> [<https://perma.cc/Q5HB-DQKG>]; Ginsburgs, *supra* note 8.

17. See Eugene Huskey, *Between Citizen and State: The Soviet Bar (Advokatura) Under Gorbachev*, 28 COLUM. J. TRANSNAT'L L. 95, 104–06 (1990).

18. See Kathryn Hendley, *Mapping the Career Preferences of Russian Law Graduates*, 25 INT'L J. LEGAL PRO. 261, 261 (2018) [hereinafter Hendley, *Mapping Career Preferences*].

19. Ekaterina Mishina, *Mnogolikiye Rossiiskie Iuristy [Multi-Faceted Russian Lawyers]*, in KAKOGO ETO – BYT' IURISTOM? [WHAT IS IT – TO BE A LAWYER?] 6 (Ekaterina Mishina ed., 2010).

20. See Kathryn Hendley, *The Role of In-House Counsel in Post-Soviet Russia in the Wake of Privatization*, 17 INT'L J. LEGAL PRO. 5, 8–9 (2010) [hereinafter Hendley, *Role of In-House Counsel*].

between specialties became more permeable.<sup>21</sup> Adherence to preexisting norms began to wane. The monopoly that *advokaty* had enjoyed in representing citizens in court was ignored with no adverse repercussions.<sup>22</sup> Non-*advokaty* started to take on private clients. Even law students began working as *advokaty*.<sup>23</sup>

With the introduction of market incentives under Yeltsin, the state's role in administering the work of lawyers was dramatically reduced. No longer did the state dictate where law graduates were to work, nor did it set the fees to be paid by citizens for legal assistance. Instead, young people were expected to find their own jobs and experienced lawyers were freer to change jobs.<sup>24</sup> Some specialties underwent qualitative transformations and other specialties came to Russia for the first time in decades. Each specialty reconsidered its requirements for admission. But just as in the Soviet era, few imposed any prerequisites other than a university-level law degree.<sup>25</sup> Only *advokaty*,<sup>26</sup> judges,<sup>27</sup> and notaries<sup>28</sup>

21. IGOR PETRUKHIN, VAM NUZHEN ADVOKAT [YOU NEED A LAWYER] 26–27 (1993) (stating that in 1990, over a thousand lawyers who worked in the court system and the Ministry of Justice transitioned into the *advokatura*).

22. IGOR PETRUKHIN, PROBLEMY ROSSIISKOI ADVOKATURY. SBORNIK STATEL, [PROBLEMS OF THOSE WHO WORK AS RUSSIAN ADVOKATY: A COLLECTION OF ARTICLES] 12–13 (1997).

23. The chairman of the Moscow regional bar association complained that law students were being accepted into unofficial bar associations (known as “parallel kollegii”). He commented that it “[s]eems that anyone can become an *advokat*.” *Id.* at 31. A Western observer similarly noted that students had created their own firms, though she notes that students typically left the poorly remunerated courtroom work to *advokaty*. Granik, *supra* note 13, at 972.

24. *See id.* at 971–73; Katerina P. Lewinbuk, *Perestroika or Just Perfunctory? The Scope and Significance of Russia's New Legal Ethics Laws*, 35 J. LEGAL PRO. 25, 37 (2010).

25. *See* Jane M. Picker & Sidney Picker, Jr., *Educating Russia's Future Lawyers—Any Role for the United States?*, 33 VAND. J. TRANSNAT'L L. 17, 31–34 (2000); Granik, *supra* note 23, at 973–74.

26. Becoming an *advokat* requires a law degree, two years of legal experience, and success on the qualifying exam. Art. 9, Federal'nyi Zakon RF ob advokatskoi deiatel'nosti i advokature v Rossiiskoi Federatsii [Federal Law of the Russian Federation on Lawyers' Activities and the Legal Profession in the Russian Federation], 2013, [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_36945/](http://www.consultant.ru/document/cons_doc_LAW_36945/) [<https://perma.cc/39X7-CV8V>].

27. At a minimum, becoming a judge requires a law degree, five years of legal experience, and success on the qualifying exam and the background check. The number of years of experience, as well as the minimum age, increases for higher level courts. Requirements to become a judge vary based on the type of court. Art. 4–5, Federal'nyi zakon RF o statuse sudei v Rossiiskoi Federatsii [Federal Law of the Russian Federation on the Status of Judges in the Russian Federation] 1992, [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_648/](http://www.consultant.ru/document/cons_doc_LAW_648/) [<https://perma.cc/V7B7-9Z8E>]. Vacant judicial posts are advertised and interested candidates apply.

28. Becoming a notary requires a law degree, five years of legal experience, and success on the qualifying exam. The minimum age is 25. Art. 2, Federal'nyi zakon RF

established professional organizations that regulated admissions, typically requiring successful candidates to pass rigorous written and oral exams, to have a minimum number of years of experience in the legal field, and to pass a background check.

The Party's power dissipated along with the Soviet Union, essentially privatizing the *advokatura* (those who worked as *advokaty*). As young law graduates and more experienced lawyers interested in career changes took on the traditional work of *advokaty* by representing citizens and legal entities, many saw no need to jump through the hoops required to become an *advokat*. Instead, they hung out their own shingles or joined together with other like-minded lawyers to create law firms.<sup>29</sup> Such law firms did not exist in the Soviet era.<sup>30</sup> They were initially modeled on the Western law firms that had migrated to Moscow to service their corporate clients who were exploring the new Russian marketplace.<sup>31</sup> By 2020, these *konsul'tanty*, as lawyers in private practice who exist outside the *advokatura* are known, are rumored to number in the hundreds of thousands.<sup>32</sup> With no professional organization to represent them, however, they have proven difficult for scholars to study.

Two other subsets of lawyers that have shifted from the state to the private sector in post-Soviet Russia are in-house lawyers (*iuriskonsul'ty*) and notaries (*notariussy*).<sup>33</sup> The rationale is the same for both. The turn to the market required the privatization of the bulk of former state enterprises and, with that change, their *iuriskonsul'ty* automatically transitioned from state employees to employees of a private entity. The work of notaries likewise changed. No longer were they rubber stamping transactions preapproved by Party officials. In post-Soviet Russia, notaries became the gatekeepers for any and all deals, ranging from inheritance claims to

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Osnovy zakonodatel'stva Rossiiskoi Federatsii o notariate [Federal Law of the Russian Federation Fundamentals of Legislation of the Russian Federation About Notaries] 1993, [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_1581/](http://www.consultant.ru/document/cons_doc_LAW_1581/) [<https://perma.cc/LG47-WPNT>]. The governing body for notaries sets the number of notaries and those interested must wait for vacancies.

29. See Granik, *supra* note 13, at 972; Susan Carle, Gayane Davidyan, Thomas McDonald & Delphine Nougayrède, *The Reform of the Russian Legal Profession: Three Varying Perspectives*, 42 *FORDHAM INT'L L.J.* 271, 282 (2018). This distaste among some for complying with the regulations governing *advokaty* persists to the present day. See BOCHAROV & MOISEEVA, *supra* note 8, at 39–40.

30. See Kathryn Hendley, *Continuity or Change? The Role of Gender in Career Preferences for Young Russian Lawyers*, 37 *WIS. INT'L L.J.* 249, 282–83 (2020) [hereinafter Hendley, *Role of Gender*].

31. See *id.*; Carle, Davidyan, McDonald & Nougayrède, *supra* note 29, at 282.

32. Carle, Davidyan, McDonald & Nougayrède, *supra* note 29, at 276.

33. See Hendley, *Mapping Career Preferences*, *supra* note 18, at 265–67; Carle, Davidyan, McDonald & Nougayrède, *supra* note 29, at 277 n.18.

transfers of real property to mergers of large businesses.<sup>34</sup> As such, they entered the world of private practice.

The profile of legal specialists who remained in the state sector, such as judges, prosecutors, investigators, and state bureaucrats, underwent fewer changes. To be sure, reforms were made to disengage the tentacles of the Communist Party. For example, the heavy hand of the Party was removed from the process of judicial selection in favor of more apolitical judicial qualification commissions.<sup>35</sup> Yet, removing political influence from the courts and, more specifically, from the criminal justice system, has proven an elusive goal. The practice of bypassing law when deciding cases with political resonance grew less common but never entirely disappeared.<sup>36</sup> This so-called “telephone law” did not reach the vast majority of mundane cases. Indeed, surveys of veterans of the contemporary Russian civil justice system show that most feel that they were treated fairly.<sup>37</sup> The institutional bias in favor of conviction in criminal cases, inherited from the Soviet Union, persists.<sup>38</sup>

The number of Russians pursuing legal education and, consequently, the number of Russians working as lawyers, increased drastically in post-Soviet Russia. In the 1980s, there were approximately 50 law faculties,<sup>39</sup>

34. See Ekaterina Mishina, *Russia: Twenty Years of Private Notaries*, INST. OF MOD. RUSS. (April 22, 2013), <https://imrussia.org/en/rule-of-law/440-russia-twenty-years-of-private-notaries> [<https://perma.cc/4MPD-42JS>].

35. Alexei Trochev, *Judicial Selection in Russia: Towards Accountability and Centralization*, in APPOINTING JUDGES IN AN AGE OF JUDICIAL POWER: CRITICAL PERSPECTIVES FROM AROUND THE WORLD 375, 375–76 (Kate Malleson & Peter H. Russell eds., 2006).

36. See generally ALENA V. LEDENEVA, CAN RUSSIA MODERNISE?: *SISTEMA*, POWER NETWORKS AND INFORMAL GOVERNANCE (2013); ANNA POLITKOVSKAYA, PUTIN’S RUSSIA (Arch Tait trans., 2004); OL’GA ROMANOVA, BUTYRKA (2011). Examples of enemies of the Kremlin who were targeted through criminal prosecution include: Mikhail Khodorkovskii, Aleksei Naval’nyi, and the members of Pussy Riot. All were convicted. Tom Parfitt, *Mikhail Khodorkovsky Sentenced to 14 Years in Prison*, GUARDIAN (Dec. 30, 2010, 18:56), <https://www.theguardian.com/world/2010/dec/30/mikhail-khodorkovsky-jail-term> [<https://perma.cc/RK3J-2JTS>]; Lucian Kim, *Kremlin Critic Navalny Sent to Prison on Old Conviction*, NPR (Feb. 2, 2021, 8:50 AM), <https://www.npr.org/2021/02/02/963160053/kremlin-critic-navalny-faces-court-hearing-could-see-3-5-years-in-prison> [<https://perma.cc/TCQ4-FPY3>]; Laura Smith-Spark, *Russian Court Imprisons Pussy Riot Band Members on Hooliganism Charges*, CNN (Aug. 18, 2012, 11:24 AM), <https://www.cnn.com/2012/08/17/world/europe/russia-pussy-riot-trial> [<https://perma.cc/HXJ7-VDGS>].

37. Kathryn Hendley, *Justice in Moscow?*, 32 POST-SOVIET AFFS. 491 (2015) [hereinafter *Justice in Moscow?*].

38. Peter H. Soloman, Jr., *Understanding Russia’s Low Rate of Acquittal: Pretrial Screening and the Problem of Accusatorial Bias*, 40 REV. CENT. & E. EUR. L. 1, 4–9 (2015).

39. Susan Finder, *Legal Education in the Soviet Union*, 15 REV. OF SOCIALIST L. (1989). As in other European countries, Russian legal education is an undergraduate

ensuring a relatively low number of annual graduates and giving rise to shortages among all specialties.<sup>40</sup> The combination of increased interest in law among young people and the inability of the state to limit new entrants to the legal education marketplace led to an explosion in the number of law faculties. By 2017, they exceeded 1,000.<sup>41</sup> Quality is remarkably uneven.<sup>42</sup> The carryover state-funded institutions from the Soviet era continue to turn out well-trained lawyers, but many of the newer faculties are more interested in generating profit from their tuition-paying students. Complaints about an oversupply of lawyers have become commonplace.<sup>43</sup>

Young Russians are flocking to law faculties for many reasons. A 2016 survey of law students on the cusp of graduation (the “2016 Survey”) indicates that a desire to be rich and successful was the most important.<sup>44</sup> That hardly marks Russian youth as unique. It suggests that the opportunity to earn high salaries is spurring the growth in interest in becoming a lawyer. As we will see, it may have spilled over into more general societal attitudes, prodding parents to see the legal profession as a more desirable path for their children. On the other hand, the lack of importance assigned to a desire to become influential by these surveyed law students hints at a sense that this is not a viable goal which, in turn, reveals the lingering social and political obscurity of lawyers.<sup>45</sup>

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enterprise. *Id.* Most are not known as “law schools,” but as law faculties or law institutes. *Id.* I use the term law school here to make it easier for American readers.

40. This was more of a problem in regions that were less desirable, as the Far North and eastern portions of Siberia. SMITH, *supra* note 8, at 22–23; Dmitry Maleshin, *The Crisis of Russian Legal Education in Comparative Perspective*, 66 J. LEGAL EDUC. 289, 296 (2017).

41. Maleshin, *supra* note 40, at 296–97.

42. Olga Shepeleva & Asmik Novikova, *The Quality of Legal Education in Russia: The Stereotypes and the Real Problems*, 2 RUSSIAN L.J. 106 (2014).

43. In 2011, then-President Medvedev said, “It is time for our institutions of higher education [*vuzy*] to cease the endless production of lawyers. . . . We have many, too many of them.” *Medvedev: strane nyzhny inzheneri, a ne iuristy* [*Medvedev: The Country Needs Engineers, Not Lawyers*], VESTI (Feb. 15, 2011), <https://www.vesti.ru/doc.html?id=428866> [<https://perma.cc/MS2E-HS8G>]; *see also*, Vladimir Vashenko, *Iurist ne nyzhen: vuzam dostalos' za gumanitariyev* [*A Lawyer Is Not Needed: Universities Are Sufficient for the Humanities*], GAZETA (Jan. 29, 2018), <https://www.gazeta.ru/social/2018/01/29/11629591.shtml?updated> [<https://perma.cc/UE4B-YL8U>].

44. The 2016 Survey, which was organized by the author together with several Russian colleagues, queried 2,176 Russian law students in their last year of study about how important several possible goals were when they made their decision to study law. They were asked to assess importance on a four-point scale, with higher scores indicating greater importance. The mean score for being rich and successful was 3.5. These data are on file with the author.

45. The mean score for the goal of becoming an influential person was 2.9.

## II. ATTITUDES TOWARDS LAWYERS IN THE SOVIET UNION

Although trained as a lawyer,<sup>46</sup> Vladimir Lenin held them in contempt. Writing in 1905, he cautioned a colleague who was then imprisoned: “You have to rule lawyers with an iron rod and put them in a state of siege, for this intelligentsia scum often plays dirty. . . . It’s better to fear lawyers and not trust them.”<sup>47</sup> The hostility of Lenin and his comrades in the Communist Party towards lawyers was reflected in a November 1917 decree that essentially abolished the courts and the legal profession.<sup>48</sup> After a chaotic experiment with reshaping them to serve the revolution, the Communists came to realize the value of having laws and courts that kept society on an even keel (though they never abandoned the prerogative to dictate case outcomes based on political exigencies). This required them to rebuild the various branches of the legal profession. Having disenfranchised many of the lawyers from the pre-revolutionary period due to their class roots as members of the intelligentsia (rather than coming from families of workers or peasants), it took decades to populate the ranks of legal officialdom with qualified individuals.<sup>49</sup> Having over 90% with legal education for prosecutors and judges was not achieved until 1973 and 1980, respectively.<sup>50</sup>

This lack of formal training in the early years of Soviet power helps explain why lawyers were generally held in low regard. But as I noted earlier, it is perilous to speak of lawyers as a group. Instead, an assessment of each variant of lawyer will paint a more accurate picture. As we will see, status often depends on the vantage point of the assessor.

*Prosecutors (Prokurory).* Writing in 1968, Donald Barry and Harold Berman, two of the leading students of the Soviet legal system, argued that: “the procuracy is the cornerstone of the Soviet legal profession. It probably contains abler people than any other branch, and it has higher responsibilities.”<sup>51</sup> In his monograph on prosecutors published a decade

46. HUSKEY, *supra* note 8, at 37 (“Lenin worked for a year and a half as an advocate-in-training in his provincial home town of Samara . . . , where he applied himself to his new trade with something less than enthusiasm.”).

47. Jane Burbank, *Lenin and the Law in Revolutionary Russia*, 54 SLAVIC REV. 23, 29–30 (1995).

48. HUSKEY, *supra* note 8, at 35–79.

49. World War II once again decimated the ranks of lawyers. In 1946, the Central Committee of the Communist Party adopted a resolution calling for “a dramatic increase in the production of jurists, in part to work in the courts and procuracy.” The number of students accepted to law faculties was tripled to 6000. Many studied while working full-time. The quality of this correspondence education was questionable. PETER H. SOLOMON, JR., *SOVIET CRIMINAL JUSTICE UNDER STALIN* 338–41 (1996).

50. SMITH, *supra* note 8, at 23–24 (stating that in 1923, only 29% of prosecutors had higher legal education); Ginsburgs, *supra* note 8, at 308.

51. Donald D. Barry & Harold J. Berman, *The Soviet Legal Profession*, 82 HARV. L. REV. 1, 24 (1968).

later, Gordon Smith agreed, noting that “[p]rocurators . . . enjoy the most prestige of any legal profession.”<sup>52</sup> This view persisted. In his ethnography of the *advokatura* of the late 1980s, Robert Rand wrote: “[t]he *procuracy* . . . is powerful and prestigious and wields enormous influence over the courtroom proceedings and . . . over courtroom judges. It is an elitist group. . . . Its members, many of them quite young, have some of the best minds in the Soviet state.”<sup>53</sup>

Though their stated goal is to seek the truth, institutional incentives strongly encouraged them to pay more attention to conviction rates than to actual guilt or innocence. Given that most Soviet prosecutors were members of the Communist Party,<sup>54</sup> they toed the line. During the Stalinist era, this meant that they were active participants in the transmission belt of ill-fated citizens to the gulags.<sup>55</sup> To object would be to ensure their own arrest. Acquittals remained exceptional in mundane cases as well. Ordinary citizens’ respect for *prokurory* was heavily laced with fear.<sup>56</sup>

Upon graduation, the Soviet state “distributed” law students according to societal needs, both by specialty and by location.<sup>57</sup> They were legally required to stay at these assigned jobs for at least three years, but many ended up staying for their entire careers.<sup>58</sup> In her memoir of life as a Soviet *advokat*, Dina Kaminskaya reports that while she was attending the law faculty in the late 1930s, “the overwhelming majority of my classmates asked to be sent to the procuracy.”<sup>59</sup> Not much had changed by the 1970s, when the dean of the law faculty of Leningrad State University reported that becoming a *prokuror* was the most popular career path for Soviet law students.<sup>60</sup> But it was not for everyone. Jewish lawyers were not typically welcomed.<sup>61</sup> In addition, procurators’ offices were masculine

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52. SMITH, *supra* note 8, at 25; *see also* Finder, *supra* note 39. In her 1989 article, obviously written as the Soviet Union was crumbling, Susan Finder likewise contends that “[t]he Procuracy is the most prestigious and powerful specialty among law the law-enforcement agencies, and therefore in the profession.” *Id.*

53. ROBERT RAND, *COMRADE LAWYER: INSIDE SOVIET JUSTICE IN AN ERA OF REFORM* 3 (1991).

54. Barry & Berman, *supra* note 51, at 24; *see also* SMITH, *supra* note 8, at 25 (“The Procuracy has maintained a consistently high level of party saturation since its inception in 1922. In January 1923, the Commissariat of Justice of the RSFSR reported that 97.6% of *guberniia* procurators and 78.9% of all procurators were party members. Figures of the Institute of the Procuracy indicate that as of 1973, 82% of all procurators are party members.”).

55. *See* Barry & Berman, *supra* note 51, at 24–25.

56. *Id.*; SMITH, *supra* note 8, at 20–22.

57. Finder, *supra* note 39, at 198.

58. *See id.* at 211.

59. DINA KAMINSKAYA, *FINAL JUDGMENT: MY LIFE AS A SOVIET DEFENSE ATTORNEY* 12 (Michael Glenny trans., 1982).

60. SMITH, *supra* note 8, at 25.

61. RAND, *supra* note 53, at 3.

enclaves that were notoriously inhospitable to women.<sup>62</sup> Others doubted that they were suited to the work. Kaminskaya did an internship with the procuracy as a student, but resisted taking the veil, feeling that she could not unquestioningly follow orders. She asked whether the state should be prosecuting hungry people for stealing food—“When I pictured myself standing up in court and demanding in the name of the state that these people be mercilessly punished, I realized that I simply could not do it.”<sup>63</sup>

*Advokaty*. Kaminskaya instead chose to become an *advokat*.<sup>64</sup> These were the quasi-independent lawyers who represented individuals in legal matters. They were most closely associated with their criminal defense work. Although U.S. legal history gives us many examples of criminal defense attorneys whose willingness to speak truth to power has made them heroes to many, Soviet *advokaty* were not similarly venerated. Kaminskaya learned this lesson as a law student.

If the defense attorney was ever mentioned in those lectures [at the law faculty], it was only in the role of a wretched, defeated opponent. I am sure that it was also because, although we had not yet fully realized how abysmally low in status the profession of defense counsel was, we were very well aware of its unpopularity among the public at large.<sup>65</sup>

As a student intern, her initial impression was reinforced and deepened.

Two months of student practice were enough to show me the utterly unenviable status of the advocate in the Soviet legal system. No one bothered to conceal it, either in the courtroom or outside. During a trial the judge would rudely interrupt an advocate or forbid him to put questions whose necessity was obvious even to me. Yet the same judge would never permit himself to treat a prosecutor that way. During a recess the prosecutor would freely and confidently head for the judge’s chambers, which no advocate could enter.<sup>66</sup>

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62. Eugene Huskey, *The Limits to Institutional Autonomy in the Soviet Union: The Case of the Advokatura*, 34 SOVIET STUDS. 200, 202 (1982) (“As one female law student at Moscow State University told me last year, many women, having completed a degree in law, do not wish to work in the ‘masculine atmosphere’ of the prosecutor’s or investigator’s offices.”).

63. KAMINSKAYA, *supra* note 59, at 23–24.

64. *Id.* at 11–13.

65. *Id.* at 12.

66. *Id.* at 13. This differential in status was not an artifact of Stalinism. In his ethnography of the *advokatura*, conducted in the late 1980s, Rand comments: “[t]he *procuracy*, as the state prosecutor’s office is called, is everything that the practicing bar is

Nonetheless, when faced with the choice between the *advokatura* and the *prokuracy*, she opted for the former, even while recognizing the “preeminent status” of the latter.<sup>67</sup> She did so because the *advokatura* “offers the greatest possible degree of freedom (although, of course, it is far from total) that exists in the Soviet state.”<sup>68</sup> The *advokatura* did not challenge the status quo. A majority of *advokaty* were Party members and the Party exercised veto power of leadership positions within the *advokatura*.<sup>69</sup> But as Simona Pipko wrote in her memoir of life as a Soviet *advokat*, it was “probably the only profession in the Soviet Union that required individual initiative and tenacity.”<sup>70</sup>

Social scientists concur with these memoirists about the reasons for the low status of *advokaty*. The most basic is their role in the system. As Kaminskaya’s experience as an intern reveal, *advokaty* were outsiders.<sup>71</sup> Judges and prosecutors worked hand in glove; defense lawyers were barely tolerated.<sup>72</sup> The assumption driving the Soviet criminal justice system in non-politicized cases was that any indicted defendant was guilty.<sup>73</sup> The system was set up to generate convictions and, in theory, *advokaty* represented a wrench in those gears.<sup>74</sup> Their function was not to agitate for their clients’ innocence, but to advocate for the most lenient sentences.<sup>75</sup> Rand puts it succinctly: “A verdict of guilt on reduced charges? Conceivable. Acquittal? Not likely.”<sup>76</sup> In a 1987 article, two Soviet *advokaty* who had, by then, emigrated to the U.S., noted: “The

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not. It is powerful and prestigious and wields enormous influence over the courtroom proceedings and . . . over courtroom judges. It is an elitist group.” RAND, *supra* note 53, at 3.

67. KAMINSKAYA, *supra* note 59, at 11–13, 35.

68. *Id.* at 24.

69. Huskey, *supra* note 17, at 104–06.

70. SIMONA PIPKO, BALTIC WINDS: TESTIMONY OF A SOVIET ATTORNEY 17 (2002).

71. Kaminskaya, *supra* note 7, at 13–14.

72. *Id.*

73. See generally Peter H. Solomon, Jr., *The Case of the Vanishing Acquittal: Informal Norms and the Practice of Soviet Criminal Justice*, 39 SOVIET STUDS. 531 (1987).

74. See *id.* at 531.

75. See *id.* at 539–40.

76. RAND, *supra* note 10, at 2. Rand wrote about mundane cases. The role of *advokaty* in politically charged cases was more dicey. Defense lawyers were mostly absent during the purges. In the post-Stalin era, political repression lessened, but those who opposed the state—the so-called “dissidents”—were prosecuted. Only *advokaty* who passed muster with the KGB would be given “access” (*dopusk*) to such cases. Pushing for acquittals came with a risk of being disbarred. See Kaminskaya, *supra* note 7, at 13–14; NATAN SHARANSKY, FEAR NO EVIL 172, 176, 182 (Stefani Hoffman trans., 1988); George P. Fletcher, *Justice Thwarted: Shcharansky’s Case*, 1 SOVIET JEWRY L. REV. 3, 5 (1980).

advocate's position as a champion of individual rights has not earned him the respect and support of his fellow countrymen."<sup>77</sup>

The conditions in which *advokaty* worked telegraphed their low status. According to Rand, "[t]he [waiting] room resembles the reception area of an inner-city welfare office in the United States. The floor is covered with scuffed brown linoleum. Orange plastic chairs stand rigidly against three of the room's veneer-paneled walls. The atmosphere is functional."<sup>78</sup> *Advokaty* did not have permanent offices. Much like the modern shared workspaces, *advokaty* rotated in and out and would use a curtained area to meet clients.<sup>79</sup> They kept their files at home or, for those lucky enough to have a car, in the trunk of their car.<sup>80</sup>

Much of the comparative literature on the legal profession focuses on lawyers' selection of clients. In yet another indicator of their low status, Russian *advokaty* lacked this privilege.<sup>81</sup> They were expected to take all comers.<sup>82</sup> The state dictated the fees charged.<sup>83</sup> Often *advokaty* were required to provide consultations at no charge.<sup>84</sup> When fees were allowed, they tended to be minimal.<sup>85</sup> Supplemental under-the-table payments had become the norm by the 1960s.<sup>86</sup> Rand tells us that, "[c]lients expected to pay it; what better way to obtain competent counsel? And advocates accepted it as an economic perk."<sup>87</sup> But it was illegal and, even though rarely prosecuted, it gave the state leverage over virtually all *advokaty*.<sup>88</sup>

A final sign of the low status of *advokaty* was their openness to women. First permitted to become *advokaty* by the Provisional Government following the February 1917 Revolution,<sup>89</sup> women grew to constitute 29% of the *advokatura* by 1975.<sup>90</sup> By 1990, they made up almost half of this group but as was true throughout Soviet society, the numerical

77. Simona Pipko & Roman Pipko, *Inside the Soviet Bar: A View from the Outside*, 21 INT'L LAW., 853, 855 (1987).

78. RAND, *supra* note 10, at 11.

79. *Id.* at 9, 14.

80. *See id.* at 14.

81. Pipko & Pipko, *supra* note 77, at 869.

82. *See id.*

83. *Id.*

84. Of the seven million oral consultations conducted by *advokaty* in 1981, six million were provided at no charge. *Id.* at 869.

85. RAND, *supra* note 10, at 9, 12 (reporting that the initial consultation fee was two rubles (at a time when the average national monthly wage was 200 rubles)).

86. Pipko & Pipko, *supra* note 77, at 870.

87. RAND, *supra* note 10, at 12. Kaminskaya agrees. She says that few regarded accepting MIKST (illegal under-the-table payments) as immoral, though described it as "humiliating." Kaminskaya, *supra* note 7, at 30.

88. This sort of suspended punishment was a common feature of the Soviet system. *See* RAND, *supra* note 10, at 12.

89. HUSKEY, *supra* note 8, at 32.

90. JORDAN, *supra* note 8, at 40.

domination of women in Soviet Russia did not translate into power or influence within the profession. They held few leadership posts.<sup>91</sup>

*Judges.* Women were likewise plentiful in the Soviet judicial corps. Between 1975 and 1984, they accounted for a third of all judges.<sup>92</sup> Ginsburgs argues that this contributed to the low status of the judiciary within society.<sup>93</sup> He notes that ordinary citizens did “not exalt womanhood and public opinion will count the presence of female judges more as a minus than a plus in rating the stature of the department.”<sup>94</sup> Just as with *advokaty*, Soviet women judges mostly languished in low level courts; few were found in any of the republic supreme courts or the USSR Supreme Court.<sup>95</sup>

But gender was not the sole reason why Ginsburgs concluded that Soviet judges were not part of the elite. They were selected through single-candidate elections.<sup>96</sup> Candidates were “carefully screened by competent [Communist] Party agencies who automatically favor tried and tested fellow members.”<sup>97</sup> They served five-year terms.<sup>98</sup> Although most came to the bench in their 20s and stayed for their entire careers like civil service-style judges across continental Europe, they lacked job security.<sup>99</sup> If they failed to toe the line in the eye of the Party, they would be cast aside at the next election.<sup>100</sup> This left them on a short leash that prioritized loyalty over competence. The traditional role of judges as guarantor of justice was usurped by the procuracy. In his words: “From the point of view of who stands closer to the throne, there is no doubt that the procuracy outranks the judiciary, is routinely entrusted with the task of translating the Party’s wishes into legal policy, and enjoys preferential treatment as the Party’s pet in the law ménagerie.”<sup>101</sup> Judges’ lack of prestige was also reflected in their low salaries.<sup>102</sup> The appeal of the job lay in the social benefits, which included housing.<sup>103</sup>

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91. *Id.*

92. Ginsburgs, *supra* note 8, at 308.

93. *Id.* at 309–10.

94. *Id.* at 309.

95. Shirley R. Bysiewicz & Louise I. Shelley, *Women in the Soviet Economy: Proclamations and Practice*, in SOVIET L. & ECON. 72 (Olimpiad S. Ioff & Mark W. Janis eds., 1987).

96. JOHN N. HAZARD, *THE SOVIET SYSTEM OF GOVERNMENT* 176 (3d ed. 1964).

97. Ginsburgs, *supra* note 8, at 300.

98. Karel Hulicka, *The Judicial System in the U.S.S.R.*, 42 SW. SOC. SCI. Q. 162, 162 (1961).

99. Ginsburgs, *supra* note 8, at 307–09.

100. *Id.* at 300.

101. *Id.* at 303.

102. Kaminskaya, *supra* note 7, at 59.

103. Mishina, *supra* note 19, at 17.

More generally, the inability of Soviet citizens to trust in the inviolability of law undermined their faith in courts and damaged the prestige of judges. As Ginsburgs notes, “when policy and law commingle, law always comes out second best . . . .”<sup>104</sup> Though most judges spent their lives dealing with mundane cases with no political implications, the very fact that courts served as a way station to the gulags besmirched the reputation of the Soviet judiciary.<sup>105</sup>

*In-House Lawyers.* The role of in-house lawyers or *juriskonsul'ty* under state socialism was remarkably different from what we are accustomed to in market economies. Plan fulfillment, not profit, was the measure of success. When shortages of inputs inevitably arose, the solution was not litigation but the use of “pushers” (*tolkachi*) to locate replacements through quasi-legal methods.<sup>106</sup> *Juriskonsul'ty* typically played no role in these maneuvers. Instead, they were left to handle labor issues and other bureaucratic matters.<sup>107</sup> They were required to report any illegal behavior to the authorities, leaving them vulnerable to charges of being disloyal to management.<sup>108</sup>

Few Soviet law students dreamed of becoming *juriskonsul'ty*. In her 1984 monograph on *juriskonsul'ty*, Louise Shelley found that it was rarely anyone's first career choice; it “was instead a legal specialty they were forced to enter as a result of their nationality or their subordination to their husband's career.”<sup>109</sup> Put more bluntly, in-house jobs were the dumping grounds for law graduates that no one wanted. Sometimes this was due to being Jewish, which foreclosed most government jobs.<sup>110</sup> Other times it was grounded in gender.<sup>111</sup> When young couples were assigned jobs after finishing their education, the wife was an afterthought.<sup>112</sup> Thus, despite outnumbering *advokaty*,<sup>113</sup> *juriskonsul'ty* were close to the bottom of the pecking order when it came to prestige, at least among their fellow lawyers. Management generally shared this view. Shelley notes that “[i]f

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104. Ginsburgs, *supra* note 8, at 297.

105. *See generally* Solomon, *supra* note 73.

106. *See* JOSEPH S. BERLINER, *FACTORY AND MANAGER IN THE USSR* 209–11, 214 (1957).

107. Hendley, *Role of In-House Counsel*, *supra* note 20, at 27.

108. *See id.* at 47–48. Many of the *juriskonsul'ty* that Shelley interviewed knew of others who had been fired for this sort of “insubordination.” *Id.* at 48.

109. *Id.* at 24.

110. *See id.* at 24–27.

111. *See id.* at 46.

112. *See id.* at 24.

113. In a 1988 interview, the Chairman of the USSR Supreme Court estimated that there were 25,000 *advokaty*, and 70–80,000 *juriskonsul'ty*. Vladimir Terebilov, *May Justice Be Done!*, *NEW TIMES*, Oct. 1988, at 27.

an organization had to cut its staff, the iuriskonsult and the cleaning woman would be the first to go.”<sup>114</sup>

*Notaries.* Much like the rest of Europe, being a notary required a law degree in the Soviet Union.<sup>115</sup> Yet notaries scraped the bottom of the barrel in terms of status.<sup>116</sup> When law graduates were receiving their assignments, the “least attractive [option] . . . was a job in a notary’s office.”<sup>117</sup> The work was uniformly viewed as unfulfilling: it was “characterized by . . . high-pressure work with a very low salary and almost no opportunities for advancement.”<sup>118</sup> Unsurprisingly, upwards of 90% of notaries were women.<sup>119</sup> As one male law student told an ethnographer in the late 1980s, “this is women’s work because it demands attention to detail.”<sup>120</sup> Female notaries concurred.<sup>121</sup>

*Prestige of Soviet Lawyers: Summing Up.* Several themes emerge through this review of the literature on Soviet lawyers. The first is that Soviet lawyers enjoyed little prestige. Buttressing this general impression is the fact that, when young people were asked about their career aspirations, the law was rarely mentioned.<sup>122</sup> The second is that, among the different types of lawyers, the percentage of women correlates with their relative levels of status. Women tended to occupy support roles within the procuracy; men had the showier jobs. Unsurprisingly, *prokurory* were uniformly viewed as having the highest status. At the other end of the spectrum were notaries, both in terms of the predominance of women and the dearth of prestige.

### III. SOCIETAL ATTITUDES TOWARDS LAWYERS IN POST-SOVIET RUSSIA

The collapse of the Soviet Union brought many changes. Russia and the other republics of the former USSR gained their independence. The Communist Party lost its iron grip on these countries. Thanks to the introduction of market institutions, profit replaced plan fulfillment as the

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114. SHELLEY, *supra* note 10, at 46.

115. Ekaterina Mishina, *Russia: Twenty Years of Private Notaries*, INST. OF MOD. RUSSIA (Apr. 22, 2013), <http://imrussia.org/en/rule-of-law/440-russia-twenty-years-of-private-notaries> [https://perma.cc/Z6B4-56L2].

116. *Id.*

117. *Id.*

118. *Id.*

119. DAVID H. LEMPERT, *DAILY LIFE IN A CRUMBLING EMPIRE: THE ABSORPTION OF RUSSIA INTO THE WORLD ECONOMY* 1182 (1996).

120. *Id.*

121. *Id.*

122. DAVID L’VOVICH KONSTANTINOVSKII, *DINAMIKA PROFESSIONAL’NYKH ORIENTATSII MOLODEZHI SIBIRII: OPYT SOTSIOLOGICHESKOGO ISSLEDOVANIIA* [THE DYNAMICS OF PROFESSIONAL ORIENTATION OF SIBERIAN YOUTH: THE EXPERIENCE OF SOCIOLOGICAL RESEARCH] (1977).

basic marker of success. Less well understood is the profound impact of the transition on the legal profession. As the Party's control ebbed away in the late 1980s, the rigidity of the boundaries between different specialties loosened and lawyers were free to chart their own career paths.<sup>123</sup> Lawyers—both *advokaty* and non-*advokaty*—began to form private and unregulated law firms. The market gave rise to legal specialties that were new to Russia, such as corporate lawyers, as well as lawyers who focused on intellectual property and bankruptcy.<sup>124</sup> Existing specialties, such as in-house lawyers and notaries, took on qualitatively different responsibilities following the privatization of Russia's industrial enterprises during the 1990s.<sup>125</sup>

As an overall matter, the stock of lawyers rose dramatically. A 2018 national poll asked Russians what they considered to be the most prestigious profession. Lawyers came in third place with 14%, behind doctors and teachers.<sup>126</sup> This survey also revealed that Russians view law as the best paying profession.<sup>127</sup> Given these beliefs, it is hardly surprising that, when Russians with growing children or grandchildren were asked what profession they desired for them in a series of national polls from 2005 to 2017, becoming a lawyer (*iurist*) consistently ranked in the top five.<sup>128</sup> Russian parents are loathe to cede control of their children's future.<sup>129</sup> The 2016 Survey confirmed that parental advice was the most influential factor on the choice of respondents to study law.<sup>130</sup>

123. The practice of assigning graduating students to their first job and requiring them to stick with it for at least three years ended in 1987. Mishina, *supra* note 19, at 9.

124. See Carle, Davidyan, McDonald & Nougayrède, *supra* note 29.

125. Mishina, *supra* note 19, at 12–13, 20.

126. *Prestizh i dokhod: kakie professii vybiraiut rossiiane?* [*Prestige and Income: What Professions Are Russians Choosing?*], VTsIOM (Oct. 24, 2018), <https://wciom.ru/index.php?id=236&uid=9387> [<https://perma.cc/A4NT-YQG5>]. Despite their conflicted feelings about lawyers, a 2015 Harris poll revealed that 62% of Americans view practicing law as a prestigious occupation. Pollack, *supra* note 1.

127. The response for lawyer included both the general term (*iurist*) as well as *advokat* and *prokuror*. In previous surveys in 2006, 2009, and 2012, lawyers were clearly the top choice. For reasons that are obscure, the percentage who saw lawyers as most prestigious took a nosedive from 23% in 2012 to 14% in 2018. *Prestizh i dokhod: kakie professii vybiraiut rossiiane?* [*Prestige and Income: What Professions Are Russians Choosing?*], VTsIOM (Oct. 24, 2018), <https://wciom.ru/index.php?id=236&uid=9387> [<https://perma.cc/W8QW-KNL9>].

128. *Professional'nyi vopros* [*Professional Question*], VTsIOM (Mar. 30, 2017), <https://wciom.ru/analytical-reviews/analiticheskii-obzor/professionalnyj-vopros> [<https://perma.cc/EC2E-XVNQ>]. This tendency is not unique to Russia. A 2015 Harris poll found that 70% of Americans would encourage a child to become a lawyer, including nearly four in five parents with children under 18. Pollack, *supra* note 1.

129. *Professional'nyi vopros*, *supra* note 128. Only 4% of those surveyed in 2017 were willing to stay out of their children's career choice. *Id.*

130. Respondents were asked to assess the influence of seven different factors on their decision to study law on a four-point scale, with higher scores indicating greater

The popularity of studying law skyrocketed in the post-Soviet era. The regulatory chaos of the late 1980s and 1990s facilitated an unprecedented expansion in the number of Russian law schools.<sup>131</sup> They grew from 50 in 1987<sup>132</sup> to over 1,000 by 2012.<sup>133</sup> The quality of education is remarkably uneven.<sup>134</sup> Many of these new institutions had no particular expertise in law but saw an opportunity to profit by taking in tuition-paying law students. Nevertheless, the expansion in access to legal education is unmistakable. While there were forty candidates for every available slot at a Soviet law school, often requiring applicants to call on their political connections to gain admission,<sup>135</sup> there are presently only two candidates for each available slot.<sup>136</sup>

The reasons why Russians are flocking to law schools overlap with the appeal of law to their parents. The 2016 Survey asked graduating law students to evaluate the importance of various career goals on their decision to attend law school. In first place was being rich and successful; it outpaced the desire to help people and left fulfilling familial desires far behind.<sup>137</sup>

Having hordes of young people clamoring to be lawyers, with parents urging them on, is no guarantee that society more generally holds lawyers in high esteem. In Russia, we also have the thorny problem of sorting out attitudes toward the various types of lawyers. Fortunately, the data about societal attitudes are richer in post-Soviet Russia.<sup>138</sup> The antipathy for

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influence. The mean for advice of parents was 2.4. See Kathryn Hendley, *A Profile of Russian Law Students: A Comparison of Full-time versus Correspondence Students*, 67 J. OF LEGAL EDUC. 1005 (2018) [hereinafter *Profile of Russian Law Students*] for a more detailed analysis on the survey. A 1981 survey of Soviet law students shows that parental influence was also critical in their decision to study law. M.A. Fedotov, *Professional'naia orientatsiia studentov-iuristov (opyt sotsiologicheskogo issledovaniia)* [*Professional Orientation of Law Students (Experience of Sociological Research)*], PRAV., no. 3, 69, 71 (1984).

131. Finder, *supra* note 39, at 204–05.

132. *Id.* at 205.

133. Maleshin, *supra* 40, at 297.

134. Shepeleva & Novikova, *supra* note 42.

135. Finder, *supra* note 39, at 205; Granik, *supra* note 13, at 964 n. 3; Mishina, *supra* note 19, at 6–23.

136. MOISEEVA EKATERINA, INSTITUT PROBLEM PRAVOPRIMENENIIA, IURIDICHESKOE OBRAZOVANIE V ROSSII: ANALIZ KOLICHESTVENNYKH DANNYKH [LEGAL EDUCATION IN RUSSIA: ANALYSIS OF QUALITATIVE DATA] 8 (2015), [http://enforce.spb.ru/images/Nauchnie\\_raboty/2015\\_analit\\_obzor\\_Jurid\\_obrazovanie.pdf](http://enforce.spb.ru/images/Nauchnie_raboty/2015_analit_obzor_Jurid_obrazovanie.pdf) [<https://perma.cc/L3XL-DNMR>].

137. For each reason, respondents were asked to assess the importance on a four-point scale, with higher scores indicating greater importance. See Hendley, *Profile of Russian Law Students*, *supra* note 130, at 1016–17. The means were 3.45, 3.17, and 2.27, for being rich and successful, helping people, and fulfilling parental wishes, respectively.

138. See KATHRYN HENDLEY, EVERYDAY LAW IN RUSSIA 21–22 (2017), for a detailed analysis of the restrictions on Soviet legal researchers.

sociological approaches to studying law has lessened over time. In 2008, a Moscow think tank, Information Science for Democracy or INDEM, fielded a national survey of 2,845 Russians (the “2008 Survey”) that sought their views about courts and lawyers.<sup>139</sup> As part of the survey, respondents were given a list of different legal specialties and were asked which was most respected. The results are set forth in Table 1.<sup>140</sup> Included are most of the Soviet-era specialties discussed above, but inexplicably left out were in-house lawyers, though respondents were asked about corporate lawyers, who were superfluous and, therefore, non-existent in the USSR. But the survey did include several specialties about which we lacked sufficient information to discuss in the Soviet period, such as criminal investigators and lawyers for the state. I begin by discussing the overall results and then segue into a discussion of the individual specialties, weaving in secondary literature.

What is immediately striking about the results of the 2008 Survey is that the most popular answer, with 18.5%, is “hard to say” (*zatrudniaius’ otvetit*).<sup>141</sup> This confirms that the distinctions among different types of lawyers that are second nature to those with legal education are obscure to many Russian laymen. This does not mark Russia as unique. Non-lawyers elsewhere would likewise be hard-pressed to explain what various breeds of lawyers do.

Turning to the substantive responses, the prize for most respected lawyers was shared by *prokurory* and *advokaty*, each of which attracted slightly under 18% of respondents. Judges were in third place with almost 15%. Notaries earned almost 12%. Less than 10% of respondents identified any of the other types of lawyers (corporate lawyers, lawyers for the state, and criminal investigators) as the most respected.

*Prosecutors (prokurory)*. The high marks for prosecutors represent a carryover from the Soviet era. In a 2010 comparative analysis of different legal specialties, Ekaterina Mishina characterized them as “the most formidable of lawyers” (*naibolee groznye iz iuristov*).<sup>142</sup> This adjective, which can alternatively be translated as “fearsome,” conveys a sense of

139. See A.K. GORBUS, M.A. KRASNOV, E.A. MISHINA & G.A. SATAROV, TRANSFORMATSIIA ROSSIISKOI SUDEBNOI VLASTI: OPYT KOMPLEKSNOGO ANALIZA [TRANSFORMATION OF RUSSIAN JUDICIAL POWER: EXPERIENCE OF COMPLEX ANALYSIS] (2010), for a full analysis of the survey. For more information about INDEM FOUNDATION, <https://indem.ru/en/index.shtml>.

140. See *infra* p. 332, Table 1. The subsequently discussed data are also presented in Table 1.

141. This response is commonplace on Russian surveys. Often it is offered in addition to “refuse to respond,” but in the 2008 Survey, it was the only way for respondents to opt out of providing a substantive answer. See Ellen Carnaghan, *Alienation, Apathy, or Ambivalence? “Don’t Knows” and Democracy in Russia*, 55 SLAVIC REV. 325 (1996), for an analysis of “hard to say” in Russian surveys.

142. Mishina, *supra* note 19, at 10.

grudging respect as a result of the power wielded by prosecutors.<sup>143</sup> *Prokurory* decide who will be charged. As was true in the Soviet Union, conviction rates in non-jury trials routinely exceed 95%, indicating that escaping the criminal justice system unscathed once indicted is almost impossible.<sup>144</sup> Few observers believe this is due to the skill of *prokurory* or the incompetence of defense lawyers (*advokaty*). Rather, they attribute it to the longstanding practice of judges and prosecutors (along with criminal investigators and police) of working hand in glove to ensure convictions.<sup>145</sup> According to the former General *Prokuror* of Russia, Iurii Skuratov, this so-called “accusatorial bias” (*obvinitel’nyi ukлон*) is a “chronic disease” of the criminal justice system.<sup>146</sup> The skewed nature of the system bolsters the power of *prokurory* and undergirds the societal respect for them.

Table 1 provides a glimpse into what sorts of Russians have respect for prosecutors. Those who have little faith in the integrity of law—who believe that it is impossible to live in Russia without violating the law—have a higher regard for *prokurory*. Perhaps this is an outgrowth of their cynicism and they look to prosecutors to maintain order. What is less expected is that those who have first-hand experience with the courts have greater respect for these officials. The literature paints a picture of *prokurory* who tend to go through the motions, which would hardly seem to warrant respect.<sup>147</sup> A deeper dive into the data shows that, among respondents who were part of criminal cases (37%), those who had the misfortune to be defendants or victims of crimes were less impressed. Instead, it is those who were more tangentially involved as observers or witnesses that came away admiring the prosecutors.

The prosecution service of present-day Russia mirrors that of the Soviet Union in that its leadership is male-dominated. A 2017 study of the top prosecutors of the 85 constituent parts of the Russian Federation

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143. *Groznyi* can also be translated as “terrible,” as the moniker Ivan the Terrible shows. In Russian, the nickname for Ivan IV, who ruled Russia in the 16th century, is Ivan Groznyi. WARREN BARTLETT WALSH, *RUSSIA AND THE SOVIET UNION: A MODERN HISTORY* 67–68 (1958).

144. Dada Lindell, Margarita Alekhina, Dmitri Serkov & Evgeni Tarasenko, *I k 466: pochemu rossiiskie sudy stali opravdyvat’ eshche rezhe* [I in 466: Why Russian Courts Have Begun to Acquit Even Less Often], RBK (Apr. 25, 2018, 8:05 AM), <https://www.rbc.ru/society/25/04/2018/5added539a79477ac3e23377> [<https://perma.cc/PH27-SEKM>]. See generally Ella Paneiakh, *Evolution of the Russian Judicial System in 2014*, 53 *RUSSIAN POL. & L.* 84, 93 (2015).

145. See JORDAN, *supra* note 8, at 145–52; STANISLAW POMORSKI, *JUSTICE IN SIBERIA: A CASE STUDY OF A LOWER CRIMINAL COURT IN THE CITY OF KRASNOYARSK* (2001).

146. Lindell, Alekhina, Serkov & Tarasenko, *supra* note 144.

147. See JORDAN, *supra* note 8, at 150, 171.

documented that only three were women.<sup>148</sup> This may have contributed to the elevated status of prosecutors in the eyes of the public. It also showed that most had spent their entire careers as *prokurory*, gradually rising up the ranks.<sup>149</sup> This confirms the persistence of the informal dividing lines between legal specialties in Russia.

*Advokaty*. Given the low esteem in which *advokaty* were held during much of the Soviet era, their virtual tie with *prokurory* for respect among the respondents of the 2008 Survey may come as a surprise. But the stature of *advokaty* had inched up steadily during the 1980s. By the time Michael Burrage was doing his field research in the winter of 1988–89, most of the law students he interviewed were keen to become *advokaty*.<sup>150</sup> Practicing lawyers' views had likewise softened. At around the same time, legal specialists from Stavropol Krai were asked what legal career they would advise a child who was determined to become a lawyer to pursue. A plurality of 31% said they would counsel them to become an *advokat*.<sup>151</sup> This indicates that the *advokatura* had risen in the esteem of society.

More recent evidence, including the results of the 2008 Survey, confirms this. Indeed, a survey published in 2005 that sought Russians' views of *advokaty*, found that 78% saw this as a prestigious profession.<sup>152</sup> In an interesting twist, fewer (55%) believed *advokaty* to be respected by society.<sup>153</sup> This gap may be motivated by confusion among respondents as to the proper role of an *advokat*. While over two-thirds agree that anyone under criminal investigation should be provided with an *advokat*, only half think that *advokaty* should represent defendants when the charges against them are fair.<sup>154</sup> In a follow-up focus group conducted in Moscow, one of the participants said that it was the *advokat's* job to figure out whether a client is guilty and to work only for the innocent.<sup>155</sup> A majority, however, disagreed, recognizing that all those accused are entitled to a defense.<sup>156</sup>

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148. Aleksei Knorre & Kirill Titaev, *Kasta prokurorov* [Caste of Prosecutors], VEDOMOSI (Jan. 26, 2017, 12:10 AM), <https://www.vedomosti.ru/opinion/articles/2017/01/26/674930-kasta-prokurorov> [https://perma.cc/NJ5T-ZDUD].

149. *Id.*

150. Burrage, *supra* note 8, at 440.

151. IA N. SOKOLOV, PROFESSIONAL'NOE SOZNIANIE IURISTOV [THE PROFESSIONAL CONSCIOUSNESS OF LAWYERS] 188 (1988). Other specialties that proved popular were judge (19%), criminal investigator (18%), and *prokuror* (12%). *Id.* No other career path earned more than 10% support from these Stavropol lawyers. *Id.*

152. Elena Vovk, *Professii: advokat* [Profession: advokat], BAZA DANNYKH FOM (July 7, 2005), <https://bd.fom.ru/report/cat/power/of052726/> [https://perma.cc/3NYY-YCYK].

153. *Id.*

154. *Id.*

155. *Id.* (in the survey, 18% supported this view).

156. *Id.* (in the survey, 69% supported this view).

The 2008 Survey reveals that veterans of court processes have a higher regard for *advokaty* than do neophytes. Just as with *prokurory*, it is possible that this experience opened their eyes to the value added by *advokaty*. In an interesting twist, those who represented themselves in non-criminal cases came away with a higher regard for *advokaty* than those who had hired an *advokat* to represent them.<sup>157</sup>

One caveat about *advokaty* is in order before moving on to other types of lawyers. Some Russians assume that any lawyer working in the private sector who is representing clients is an *advokat*.<sup>158</sup> This assumption would have been warranted in the Soviet era. But, as noted earlier, this monopoly of *advokaty* was disregarded in the late 1980s and 1990s and, eventually, having lawyers who had not been admitted to the *advokatura* represent clients became commonplace.<sup>159</sup> *Advokaty* retained their monopoly only with regard to criminal defense.<sup>160</sup> This distinction between *advokaty* and non-*advokaty* escapes most laymen and complicates the interpretation of the 2008 Survey.

*Lawyers in Law Firms (Corporate Lawyers)*. Respondents were asked about “lawyer[s] in law firms (corporate lawyer[s]).” Slightly under 9% found this category of legal work to be the most respected, putting them in fifth place.<sup>161</sup> It is possible that many of the respondents were puzzled by the category. Law firms, as such, are a post-Soviet innovation, as is the very idea of transactional specialists, like corporate lawyers.<sup>162</sup> They are becoming fairly common in the largest Russian metropolises but are largely non-existent in smaller cities and villages.<sup>163</sup> Even if a respondent had heard of law firms, they were unlikely to be aware of how lawyers who work there are different from *advokaty*. Both have degrees in law from institutions of higher education.<sup>164</sup> But only *advokaty* enjoy confidential relationships with their clients and are bound by ethical rules.<sup>165</sup> Of course, if non-*advokaty* run roughshod over their clients’

157. Almost half (43%) of respondents who were part of non-criminal cases represented themselves. 23% hired an *advokat* and an additional 11% benefitted from an *advokat* provided at no charge.

158. *Id.*

159. Pamela Jordan, *The Russian Advokatura (Bar) and the State in the 1990s*, 50 EUR.-ASIA STUDS. 765, 770–71, 773 (1998).

160. Ugolovno-Protsessual’nyi Kodeks Rossiiskoi Federatsii [UPK RF] [Criminal Procedural Code] art. 49 (Russ.), [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_34481/](http://www.consultant.ru/document/cons_doc_LAW_34481/).

161. *See infra* p. 332, Table 1.

162. *See* Hendley, *Role of In-House Counsel*, *supra* note 20, at 8–9.

163. The 2008 Survey did not ask respondents about their place of residence, making it impossible to determine whether those who identified lawyers who work at law firms as the most respected hail from Russia’s largest cities.

164. Jordan, *supra* note 159, at 765.

165. Federal’nyi Zakon RF [ ob advokatskoi deiatel’nosti i advokature v Rossiiskoi Federatsii,] [Federal Law of the Russian Federation on lawyers’ activities and

interests, they will likely be shunned by others and can be prosecuted for fraud. But in contrast to *advokaty*, non-*advokaty* need not worry about being disbarred.<sup>166</sup>

*Judges.* The 2008 Survey shows that, much like *advokaty*, judges have risen in the estimation of Russians over the years since the collapse of the Soviet Union.<sup>167</sup> Unlike *advokaty* (and other legal specialties), this rise is in part the result of a concerted effort by policymakers. Recognizing that judges were seen as instruments of the Communist Party, the selection process was reformed beginning in the late 1980s.<sup>168</sup> At present, qualification commissions sift through applications to join the bench, requiring candidates to submit to rigorous vetting and exams.<sup>169</sup> Their recommendations are then forwarded to the President who makes the final decisions.<sup>170</sup> In an effort to make the bench more appealing, judicial salaries were increased four-fold between 1999 and 2013.<sup>171</sup> Huge sums were poured into building new courthouses to replace the ramshackle quarters of judges in the Soviet era.<sup>172</sup> These gleaming new buildings, outfitted with the latest technology, were designed to symbolize the importance of courts in the new Russia.

Notwithstanding these institutional reforms, Russians remain skeptical of the independence of the judiciary. Perhaps this distrust is warranted. In her assessment of the Russian courts in 2015, Paneiakh argued that judicial “appointments will be made in accordance with the principle of personal loyalty . . . .”<sup>173</sup> As part of the 2008 Survey, respondents were asked whether they thought judges were mostly independent from outside influence or were mostly controlled by outsiders.<sup>174</sup> Almost 60% doubted judges’ independence. Only 19% were convinced. The remaining 22% found it too difficult to express an opinion. I repeated the question as part of a module of law-related questions on the 2018 round of the Russian Longitudinal Monitoring Survey. The results

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the legal profession in the Russian Federation], 2019, art. 9, [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_36945/](http://www.consultant.ru/document/cons_doc_LAW_36945/) [<https://perma.cc/8H39-FJC9>].

166. See Hendley, *Mapping Career Preferences*, *supra* note 18, at 264.

167. See *infra* p. 332, Table 1; Hendley, *Mapping Career Preferences*, *supra* note 18, at 266–67.

168. Hendley, *Mapping Career Preferences*, *supra* note 18, at 266–67.

169. Trochev, *supra* note 35, at 383.

170. See Vadim Volkov & Aryna Dzmitryieva, *Recruitment Patterns, Gender, and Professional Subcultures of the Judiciary in Russia*, 22 INT’L J. LEGAL PRO. 166, 187 (2015); Trochev, *supra* note 35, at 389–90.

171. Volkov & Dzmitryieva, *supra* note 170, at 166–67.

172. Hendley, *Mapping Career Preferences*, *supra* note 18, at 267.

173. Paneiakh, *supra* note 144, at 89.

174. The data discussed in this paragraph were originally published in GORBUS, KRASNOV, MISHINA, & SATAROV, *supra* note 139, at 391.

suggest public opinion is changing, albeit slowly. Those who suspected judges of being under the thumb of political authorities had decreased to around 55%, while the percent who see judges as basically independent had risen to almost 25.<sup>175</sup>

These data would seem to undermine the results of the 2008 Survey. Given that a clear majority lack confidence in judicial independence, it is surprising that judges come in third place with the votes of almost 15% of respondents.<sup>176</sup> Perhaps it results from the dualistic nature of the courts.<sup>177</sup> When answering the question about the relative independence of judges, respondents may have been thinking of the Kremlin's open manipulation of the courts in cases with political overtones, such as the prosecutions of Mikhail Khodorkovskii,<sup>178</sup> Pussy Riot,<sup>179</sup> and Kirill Serebrennikov.<sup>180</sup> Public opinion polling indicates that Russians understand that the courts are being browbeat into convicting on doctored evidence.<sup>181</sup> On the other hand, when answering the question about respect for different types of legal work, respondents may have been thinking of the millions of mundane cases in which judges resolve disputes in accord with the written law. After all, participants in these routine cases generally emerge satisfied with their experiences.<sup>182</sup>

The results reported in Table 1 support this interpretation.<sup>183</sup> The trust that respondents have for courts tends to spill over onto judges. Those who trust the justice-of-the-peace courts (which are the entry-level courts that handle the vast majority of all cases) have greater respect for judges than do court doubters. By contrast, those who adhere to legal nihilism (believing that it is impossible to live in Russia without violating the law)

175. For more information about this survey, see *Russia Longitudinal Monitoring Survey of HSE*, RLMS-HSE, <https://www.cpc.unc.edu/projects/rlms-hse> [https://perma.cc/3BED-GPFW] (last visited Feb. 14, 2021).

176. See *infra* p. 332, Table 1.

177. See generally HENDLEY, *supra* 138, at 3–15, for more on dualism in the Russian legal system.

178. Richard Sakwa, *The Trials of Khodorkovsky in Russia*, in *POLITICAL TRIALS IN THEORY AND HISTORY* 369 (Jens Meierhenrich & Devin O. Pendas, eds., 2016).

179. See generally MASHA GESSEN, *WORDS WILL BREAK CEMENT: THE PASSION OF PUSSY RIOT* 161 (2014).

180. Andrew E. Kramer, *Prominent Russian Director Is Convicted of Embezzlement*, N.Y. TIMES, (June 26, 2020), <https://www.nytimes.com/2020/06/26/world/europe/kirill-serebrennikov-russian-director-embezzlement.html> [https://perma.cc/BHA4-C783].

181. E.g., *Rossiiane o dele Iukosa i protsesse nad Khodorkovskim i Lebedevym* [Russians on the Yukos Case and the Khodorkovskii and Lebedev Trial], LEVADA CENTER (Oct. 4, 2010), <https://www.levada.ru/2010/10/04/rossiyane-o-dele-yukosa-i-protsesse-nad-hodorkovskim-i-lebedevym-5/> [https://perma.cc/25CZ-VTWV].

182. Hendley, *Justice in Moscow?*, *supra* note 37.

183. See *infra* p. 332, Table 1.

would naturally be suspicious of courts. The survey substantiates this, showing that this group has less regard for judges.

*Notaries.* The notary profession changed dramatically in post-Soviet Russia. No longer were they faceless bureaucrats rubber stamping decisions of other faceless bureaucrats. Instead, they joined the private sector. Their blessing is required for virtually all financial transactions, ranging from sales of humble apartments to mergers of major corporations. Although Russians were initially suspicious of private notaries due to the high fees charged, the “introduction of accountability for private notaries and the requirement that they insure their professional activity not only affected the quality of notaries’ work but also increased people’s trust” in them.<sup>184</sup> As a result, notaries have become “one of the most prestigious legal jobs in existence today.”<sup>185</sup>

The results of the 2008 Survey generally support this thesis. Notaries emerge in fourth place behind the better-known specialties of *advokaty*, *prokurory*, and judges.<sup>186</sup> This suggests a widespread awareness of notaries and respect for the role they play. The contrast with criminal investigators, who won less than 4% of respondents’ votes,<sup>187</sup> indicating a societal distaste, brings this point into focus.

#### IV. YOUNG RUSSIAN LAWYERS’ VIEWS OF THE RUSSIAN LEGAL PROFESSION

The 2008 Survey provided insight into the varying degrees of respect that different types of lawyers enjoy among ordinary Russians. Equally intriguing are the views of lawyers themselves about their profession. This is not a much-investigated topic. The divided nature of the profession complicated the task of assembling a sample that includes all types of lawyers. In the 2016 Survey, I accomplished this by gathering the sample while the respondents were on the cusp of graduating from law school. The results of this survey give us a unique window into the thinking of newly minted Russian lawyers. I supplement these findings with an analysis of a set of 120 follow-up interviews with respondents from the 2016 Survey. These interviews allowed me to probe into the reasons behind their answers to the survey.

*Initial Career Path.* One powerful indicator of young lawyers’ respect is their own choice of specialty. Of course, some may ultimately settle for jobs that merely pay the bills. The 2016 Survey asked them to name the specialty they planned to pursue. Whether their responses reflect

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184. Mishina, *supra* note 115.

185. *Id.*

186. *See infra* p. 332, Table 1.

187. *See infra* p. 332, Table 1.

their deep-seated dreams or the job they believe to be within their reach is unknowable.<sup>188</sup> Even so, their answers, set forth in Table 2,<sup>189</sup> provide a window into their preferences, which can fairly be seen as loosely correlated with respect.

The strong interest of the 2016 law graduates in working with private clients, whether as an *advokat* or in a law firm setting, is consistent with the findings from the 2008 Survey. That Survey left out in-house lawyers (*iuriskonsul'ty*). The strong interest of law graduates in these jobs speaks to the enhanced prestige of corporate legal departments in post-Soviet Russia. Given the growing status and generous compensation of notaries in post-Soviet Russia, the low level of interest in this career path is unexpected. But five years of legal experience is required to be eligible to be a notary.<sup>190</sup> Working as an assistant in a notary's office (which also requires a law degree) is poorly paid and monotonous, which may explain respondents' disaffection. As I noted above, the boundaries between legal specialties have become increasingly porous. Some who begin their careers as *advokaty* or *iuriskonsul'ty* may later seek to become notaries.

Although almost three decades have passed since the state ceded control over the economy to the market, working in the state sector persists as the most popular option for law graduates.<sup>191</sup> With regard to these public service specialties, the findings of the two surveys diverge. The high respect accorded to judges in the 2008 Survey seems not to be reflected in the relative lack of interest in becoming a judge. As with notaries, the path to becoming a trial judge is long, requiring five years of legal

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188. Remembering that law is an undergraduate pursuit, giving these respondents an average age of 22, the significant number (13.3%) who are unsure of their future plans is to be expected. *See id.* at 149–50, 151 tbl.2.

189. *See infra* p. 333, Table 2.

190. *See* Osnovy Zakonodatel'stva Rossiiskoi Federatsii o Notariate [Fundamentals of the Legislation of the Russian Federation on Notaries] art. 2 (Russ.), Feb. 11, 1993 (amended Dec. 30, 2020), [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_1581/c5c2d712dac5b8b43c5677f1b997e99a6bdb1647/](http://www.consultant.ru/document/cons_doc_LAW_1581/c5c2d712dac5b8b43c5677f1b997e99a6bdb1647/) [https://perma.cc/6EWY-C95M]. Two years of legal experience is required to gain admission to the *advokatura*, but those working in the offices of *advokaty* as apprentices can make a good living and establish useful contacts. *See* Ob Advokatskoi Deiatel'nosti i Advokature v Rossiiskoi Federatsii [On Lawyers' Activities and the Legal Profession in the Russian Federation] art. 9 (Russ.), May 31, 2002 (amended July 31, 2020), [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_36945/78554e27c2bc62cb198661b252ae7eb77fbcd1c8/](http://www.consultant.ru/document/cons_doc_LAW_36945/78554e27c2bc62cb198661b252ae7eb77fbcd1c8/) [https://perma.cc/TNE7-K3NP].

191. In a separate analysis of the 2016 Survey, I found that respondents who sought jobs in the state sector differed significantly from those who opted for careers in the private sector. *See* Kathryn Hendley, *Nature Versus Nurture: A Comparison of Russian Law Graduates Destined for State Service and for Private Practice*, 41 L. & POL'Y 147, 154–62 (2019).

experience.<sup>192</sup> Some spend this time working as a court secretary or assistant. Doing so often gives them a leg up when they apply for a position as a judge because they are known to the judges who staff the qualification commissions.<sup>193</sup> For example, in the follow-up interviews, one of the respondents told us that “it is no accident that people go to work in the courts for a miserly salary in order to subsequently become a judge.”<sup>194</sup> But experience within the judicial system is not required, so many seek out other jobs. Along these lines, the easiest job for a new graduate to obtain is as a criminal investigator. Many see this position as a way station rather than a final destination. It serves as a springboard to become either a prosecutor or a judge. Investigators are rarely beloved by the public, as illustrated by the fact that only 3% of respondents in the 2008 Survey identified them as the most respected type of lawyer.<sup>195</sup> They are the officials who assemble the cases that prosecutors later bring to court. They tend to pursue their targets with single-minded zeal which does not endear them to those involved.<sup>196</sup>

*Specialties Identified as Most Prestigious in Interviews.* The best evidence of the legal specialties viewed as most prestigious by young lawyers is their responses in in-depth interviews conducted as a follow-up to the 2016 Survey. 120 such interviews were conducted in the summer of 2017 with a cross-section of survey respondents.<sup>197</sup> The transcripts of the audio recordings of these interviews served as the basis for the analysis.<sup>198</sup>

The interviewees were given a list of all legal specialties and were asked to name the top five most prestigious in rank order. Table 3 reports

192. Federal’nyi Zakon RF o Statuse Sudei v Rossiiskoi Federatsii [Federal Law of the Russian Federation on the Status of Judges in the Russian Federation] art. 5 (Russ.), June 26, 1992 (amended Dec. 30, 2020), [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_648/bf89037c79789d4e5d3fad961ebdbb1b3b78c925/](http://www.consultant.ru/document/cons_doc_LAW_648/bf89037c79789d4e5d3fad961ebdbb1b3b78c925/) [<https://perma.cc/9GXJ-DFVZ>]. The number of years of experience required increases for the various appellate courts. *See id.* art. 4, [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_648/efa6329a5506a579e3b9d2c9280b7b8f093922a9](http://www.consultant.ru/document/cons_doc_LAW_648/efa6329a5506a579e3b9d2c9280b7b8f093922a9) [<https://perma.cc/F6N3-AQT4>].

193. Volkov & Dzmityrieva, *supra* note 170, at 174, 187 n.5.

194. *See also* Kirill Titaev, *Sushchnost’ Pomoshchnika Sud’i [The Essence of Judicial Assistants]*, VEDOMOSTI (Dec. 1, 2016), <https://www.vedomosti.ru/opinion/articles/2016/12/01/667666-suschnost-pomoschnika-sudi> [<https://perma.cc/UVZ8-UY2N>].

195. *See infra* p. 332, Table 1.

196. *See* Kirill Titaev & Maria Shkliaruk, *Investigators in Russia: Who Creates Practice in the Investigation of Criminal Cases?*, 54 *RUSSIAN POL. & L.* 112, 113–15 (2016).

197. In selecting the respondents to be interviewed, we sought to replicate the demographic composition of the original survey population and to include all possible career paths.

198. Interviews with cross-section of survey respondents (Summer 2017) (transcripts on file with author).

their responses.<sup>199</sup> A majority (51.2%) identified judges as being the most prestigious. *Advokaty* come in a distant second with 16.3%, followed by notaries with 13%. All other specialties are in single digits. When I widen the lens to ask which specialties were mentioned in the respondents' top five, the basic story remains the same. Almost all interviewees (87.8%) named judges. But nearly as many included *advokaty* (79.7%) and *prokurory* (76.4%). And well over 60% mentioned notaries and lawyers who work at law firms.

The beauty of interviews is the ability to probe into the reasons for opinions expressed. To that end, the interviewees were asked their rationale for picking a specialty as most prestigious. This sort of open-ended question can produce rambling responses. These were then coded into four general categories: (1) working conditions, including salary; (2) authority; (3) power; and (4) independence. Other reasons given, such as prior experience or fulfilling a childhood dream, were lumped into a catchall category. Table 4 summarizes this portion of the interviews.<sup>200</sup> The results for the full sample are distinguished from those for interviewees who identified judges or *advokaty* as being most prestigious.

As an overall matter, a plurality of the interviewees (40.37%) cited working conditions with an emphasis on salary as a key factor in driving prestige. This is, of course, consistent with the thinking of their parents, who pointed to salaries as a key reason for pushing their children to become lawyers. The authority wielded by lawyers was the second most commonly mentioned reason. Power and independence lagged behind.

More revealing are the variations in the results for those who see judges and *advokaty* as the most prestigious specialties. Some of the differences are expected. Private-sector lawyers are much better paid than are judges and others who work for the state.<sup>201</sup> It follows that salaries drive the belief in prestige for *advokaty*, while they are less important with regard to judges. By contrast, judges hold the fate of those who appear before them in their hands. For the interviewees, this translated into authority, which a plurality of 40% mentioned as the main reason why they saw the bench as the most prestigious career path for lawyers. They did not see *advokaty* as having authority. More surprising, at least to those unfamiliar with the Russian case, is the difference with regard to independence. As I noted earlier, many Russians doubt the independence

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199. See *infra* p. 334, Table 3.

200. See *infra* p. 335, Table 4.

201. Compare *Sredniaia zarplata srednego iurista: chto proiskhodit na rynke truda* [The Average Salary of the Typical Lawyer: What Is Happening in the Labor Market], PRAVO (Mar. 11, 2016, 3:00 AM) <https://pravo.ru/story/view/128896/> [<https://perma.cc/73XN-VSSA>] with Ekaterina Borzenkova, *Tsena sud'i: skol'ko poluchaiut rossiiskie sud'i* [The Price of Judges: How Much Do Russian Judges Make], PRAVO (Mar. 1, 2019, 8:04 AM) <https://pravo.ru/story/209079/> [<https://perma.cc/T2G8-DSCN>].

of the judiciary. This suspiciousness is evident in the responses of the interviewees: only 8% of those who saw the judiciary as the most prestigious specialty cited the independence of judges as a key reason. These newly minted lawyers put more stock into the autonomy of *advokaty*.

#### PRELIMINARY CONCLUSIONS

The breakup of the Soviet Union created the conditions that allowed for a rebirth of the Russian legal profession. These included the end of state socialism and the introduction of market mechanisms which, in turn, made lawyers matter in the economic realm for the first time. The power vacuum resulting from the collapse of the Communist Party and the inability of Yeltsin and his advisors to take control of the political agenda left private sector lawyers largely unregulated for the 1990s. These lawyers took advantage of this opportunity to build a qualitatively new legal profession to serve private clients, aimed at maximizing earnings and profits, following the basic goal of the new market-driven polity. Organizations aimed at providing legal services proliferated. By 2016, they numbered in excess of 100,000, only a quarter of which predated 2007.<sup>202</sup> Unsurprisingly, Russians took notice. They encouraged their children to chase this golden ring. Young people engaged in the study of law who saw private practice as prestigious justified their opinion by pointing to the salaries that could be earned.

There is little evidence that Russians' esteem for *advokaty* has risen because of the willingness of some to take on the defense of political dissidents. The reluctance to challenge the status quo and to support those who do persists from the Soviet era. A full discussion of why is beyond the scope of this Essay, but the reluctance is no doubt at least partially the result of the longstanding tradition of maintaining a division between one's private and public self. Their behavior reflects a modern version of what Stephen Kotkin labeled as "speaking Bolshevik" in his study of social behavior under Stalin. As he put it: "It was not necessary to believe. It was necessary, however, to participate as if one believed—a stricture that appears to have been well understood, since what could be construed as direct, openly disloyal behavior became rare."<sup>203</sup> The penalties for

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202. See EKATERINA MOISEEVA & DMITRII SKUGAREVSKII, INSTITUT PROBLEM PRAVOPRIMENENIIA, EUR. UNIV. AT ST. PETERSBURG, RYNOK IURIDICHESKIKH USLUG V ROSSII: CHTO GOVORIT STATISTIKA [THE MARKET FOR LEGAL SERVICES IN RUSSIA: WHAT THE STATISTICS SAY] 3 (2016), [http://enforce.spb.ru/images/lawfirms\\_report\\_e\\_version.pdf](http://enforce.spb.ru/images/lawfirms_report_e_version.pdf) [<https://perma.cc/3FKL-SZ93>].

203. STEPHEN KOTKIN, MAGNETIC MOUNTAIN: STALINISM AS A CIVILIZATION 220 (1995).

rocking the boat under Putin are much milder than they were under Stalin but remain meaningful. As a result, celebrating rugged individuals who take on the system (including lawyers) is not the norm in Russia.

The end of the Soviet Union had a very different, but no less profound, set of consequences for lawyers in government service. The Yeltsin regime took up the challenge laid down (but unfulfilled) by Gorbachev to work toward a rule-of-law governed state (*pravovoe gosudarstvo*). To that end, they worked to depoliticize the courts by remaking the judicial selection system and putting limits on the discretion of the police.<sup>204</sup> They too fell short of achieving their goals: the laws on the books improved dramatically, but the law in practice all too often fell into familiar patterns in which politics trumped law. As the creep of authoritarianism has accelerated under Putin, this trend has become more evident.<sup>205</sup> Notwithstanding this sort of backsliding, the status of judges has been enhanced in the post-Soviet era. The young lawyers interviewed pointed to authority as the key reason why the judiciary is prestigious. This is, of course, a double-edged sword. As I have argued elsewhere, most judges exercise their authority in line with the letter of the law, but when pressed by the political or economic elite, some twist their rulings to serve the interests of these elite actors.<sup>206</sup>

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204. Peter H. Solomon Jr., *Judicial Power in Authoritarian States: The Russian Experience*, in *RULE BY LAW: THE POLITICS OF COURT IN AUTHORITARIAN REGIMES* 261, 272–82 (Tamir Moustafa & Tom Ginsburg eds., 2008).

205. *See id.*

206. *See generally* HENDLEY, *supra* note 138 (explaining that Russian judges often follow the written procedural and substantive law in routine cases but sometimes subvert the rule of law in favor of those with political or economic power in nonroutine cases).

Table 1: Results from 2008 Survey to question about which legal specialty was most respected by Russians.

What type of lawyer is most respected in Russia?	Full sample	Respondent had court experience		Respondent believes it impossible to live in Russia without violating the law		Respondent trusts justice of the peace courts		Respondent completed university education	
		Yes	No	Yes	No	Yes	No	Yes	No
<i>Advokat</i>	17.96	19.80	16.96	18.22	17.81	18.05	17.85	20.97	17.27
Lawyer in law firm (corporate lawyer)	8.75	9.25	8.48	10.26	7.88	8.56	9.00	9.36	8.61
Notary	11.63	13.03	10.87	10.35	12.38	11.56	11.74	12.73	11.38
Judge	14.76	13.83	15.27	12.66	15.98	17.24	11.58	12.55	15.27
<i>Prokuror</i>	17.89	18.71	17.45	19.85	16.76	19.80	15.43	21.72	17.01
Investigator	3.23	1.89	3.97	2.21	3.83	3.94	2.33	2.62	3.38
Lawyer for the state	7.21	7.07	7.28	7.96	6.77	7.93	6.27	5.81	7.53
Hard to say	18.56	16.42	19.73	18.50	18.59	12.93	25.00	14.23	19.56
Full sample		35.33	64.67	36.66	63.64	56.27	43.73	81.23	18.77
Chi <sup>2</sup>		0.005		0.003		0		0.004	

*Table 2: Percentage of respondents from 2016 Survey who planned to pursue various legal specialties.*

	Percent (%)*
<i>Advokat</i>	10.8
Non- <i>Advokat</i> Litigator	3.5
Procurator	10.9
Investigator	13.7
Work in criminal justice sector, but not as procurator or investigator	3.1
<i>Iuriskonsul't</i> (in-house lawyer)	13.7
Corporate lawyer	6.9
Lawyer for state	7.9
Judge	7.9
Notary	3.3
Unsure	13.3
Not lawyer	5.2

\*As % of those who chose that specialty, within each sample

*Table 3: Responses of respondents from 2016 Survey who participated in follow-up interviews to question about which legal specialties they consider to be most prestigious.*

	Percentage of respondents who said it was most prestigious (%)	Percentage of respondents who identified it as prestigious [top 5 choices] (%)
Judge	51.2	87.8
<i>Advokat</i>	16.3	79.7
Notary	13	65
Prosecutor	8.1	76.4
In-house lawyer	4.1	39.8
Law firm lawyer	4.1	64.2
Investigator	2.4	35.8
Police	0.8	0.8
Lawyer for state organ	0	23.6
N	123	123

Table 4: Interviewees' responses as to the reasons why they regard a legal specialty as prestigious.

Reason for identifying a specialty as prestigious	Full sample	Respondents who think judge is most prestigious specialty	Respondents who think <i>advokat</i> is most prestigious specialty
Work conditions, including salary	40.37	26.67	62.5
Authority	30.28	40	6.25
Power	11.93	15	0
Independence	6.42	8.33	12.5
Other	11.01	10	18.75
Chi <sup>2</sup>		0.015	0.037

N=109