

# The New Justices of the Peace in the Russian Federation: A Cornerstone of Judicial Reform?

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The first years of Putin's presidency witnessed a major acceleration of the reform of the courts in Russia, which was marked by significant increases in funding, attempts to make judges more accountable as well as independent, the expansion of trial by jury, and new power for judges (for example, in deciding on the use of pretrial detention). Judges also dealt with an increasing number of challenges to the legality of actions of government officials.<sup>1</sup> Less well known, though, is the fact that the nature of the courts and judges with whom most members of the public had contact also began changing through the establishment of a new layer of the court system: justice of the peace (JP) courts.

The JP courts gained legislative authorization from the federal government at the end of 1998, but their creation required further legislation in the center and regions, as well as budgetary authorization. Yet by the end of 2002 nearly 5,000 justices of the peace had been appointed, most of whom had begun work, representing an increase in the total number of judges in the country by more than a quarter (in two-and-a-half years). Moreover, plans were underway (within the leadership of the Supreme Court of the Russian Federation and the Judicial Department) to gain authorization and budget to add another 4,500 justices, so that one out of every three judges in the country would be a justice of the peace.<sup>2</sup> The rest of the existing court system remained in place: the Constitutional Court (and republican constitutional courts); the *arbitrazh* courts; and the courts of general jurisdiction, Supreme Court, the eighty-nine regional and republican supreme courts, and the approximately 2,000 district courts. But a significant part of the latter's jurisdiction was assumed by the JPs, making possible a reduction in caseload and improvement in the quality of the handling of more serious or complicated cases.

The establishment of JPs in Russia in the twenty-first century represented the fulfillment of the vision of Russian judicial reformers of the early 1990s, who sought the revival of tsarist institutions that the Bolsheviks had discarded.

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Although post-Soviet JPs might be seen as revivals, their resemblance to their tsarist forerunners turned out to be small.

Justice of the peace courts command further attention because of their unusual status within Russia's federal system of government. The new justice of the peace courts are hybrid courts, for which the governments of the federal government and those of the subjects share responsibility in a unique blend.

In this article, I explore the prehistory of the contemporary JP courts, from the romantic adoption by reformers of a piece of the tsarist past through a series of changes in conception and design that produced the law on justices of the peace in 1998. I then analyze the actual establishment of the courts in various parts of the Russian Federation, including the choice and recruitment of justices and the role of regional and republican governments in the administration of the courts. Finally, I examine the actual practice of the justices of the peace, their impact on the rest of the court system and their larger significance.

### **From Reformers' Dreams to Legal Authorization**

The idea of establishing justices of the peace gained public attention in Russia in fall 1991, when it was included in the judicial reform agenda set out in the Conception of Judicial Reform approved by the Supreme Soviet of the RSFSR in October. That document had been written over the course of a year by a group of nine jurists, including academic specialists in criminal procedure, at the request of the Supreme Soviet's Committee for Legal Affairs. One of the goals of the group was to democratize the administration of justice in Russia, and toward this end the group fastened on reviving from the tsarist past both trial by jury and justices of the peace, two institutions that the Bolsheviks had dismantled.<sup>3</sup>

During 1991 the revival of justices of the peace appeared as well in the Suggestions for a Conception of Judicial Reform prepared by a working group of the Organizational Committee for the First Congress of Judges, including members of the Supreme Court and officials from the Ministry of Justice. At the first Congress, which convened in October shortly before the Supreme Soviet's approval of the Conception of Judicial Reform, President Boris Yeltsin's speech included the words "Probably the time has come to revive the institution of Justices of the Peace stopped after 1917."<sup>4</sup>

But what was that institution, and what did the Russian judicial reformers of 1991 envisage in its revival? The tsarist forerunner, established as part of the Judicial Reform of 1864, was a court for minor civil and criminal cases (with punishments of up to one-and-a-half years of confinement) that was meant to apply customary as well as statutory law, to use mediation where possible, and to instruct the public in the formal law. The justices were public servants of a modest rank who received low salaries and were elected to their posts for three-year terms. To qualify for the post, aspirants had to be twenty-five, male, have Russian citizenship, live in the district, have graduated from high school, and own some real estate. In short, justice of the peace courts were part of the judicial system and the justices were full-time employees of the state, but they were amateurs as far as knowledge of the law was concerned. Although intended to

mediate and involve the parties in dispute resolution, justices at busy urban courts rarely had time for such niceties and quickly decided the many cases of personal insults and domestic disputes that members of the public brought to them. In one sense, though, they were separate from the other courts. Appeals from the justices of the peace were heard by the so-called congresses of JPs and could not be brought to any of the higher courts.<sup>5</sup>

The judicial reformers of 1991 envisaged justices of the peace hearing the same kinds of cases (including “cases of personal accusations,” the Soviet version of insults). They also liked the idea of judges who would be close to the people, elected by them (in real competitive elections), and of the people in the sense that they were not jurists. Instead of legal education they would have “professional preparation,” which meant any form of higher education.

The collapse of the Soviet Union led to the promulgation in Russia during 1992 and 1993 of a series of laws advancing the judicial reform cause, *inter alia* establishing life appointments for most judges, giving judges expanded jurisdiction over the legality of administrative acts and of procuratorial decisions on pre-trial detention, and reviving trial by jury.<sup>6</sup> Although justices of the peace were not a priority at that stage, an attempt was made to begin spelling out details of their form and operation. As part of the drafting of a new Criminal Procedure Code in 1993, a high official in the Ministry of Justice, Sergei Romazin, undertook the task. He reported a few years later that at that early stage his drafting group had envisaged reviving “congresses of justices of the peace” to hear appeals from decisions rendered by individual justices. But readers of the draft code in the regions objected to a “closed system” of justices of the peace, and insisted that appeals from them go to the regular courts. This led Romazin in 1994 to include in a memorandum on the draft criminal procedure code the provision for appeals from justices of the peace to be handled by three judge panels higher in the court system.<sup>7</sup> That change also had the effect of strengthening the leverage of federal judges over the justices of the peace.

At the request of the State Duma in summer 1996, a working group that included Romazin undertook the writing of the first draft law on the justices of the peace. That exercise took place at a sensitive time in the politics of judicial reform, when leaders of some subjects of the federation were fighting for greater control of courts and judges and federal authorities were resisting. It was decided that although none of the existing court system would be shifted to the subjects (and that the term “federal judges” referred to all existing judges), new courts such as the justice of the peace courts and republican constitutional courts (regional charter courts) could be assigned to the governments of regions and republics to administer (and finance). With the justices of the peace initiative acquiring new significance as part of a federal bargain with the subjects, legislators wanted a draft law quickly produced and approved. Apart from making the justices of the peace part of the court systems of the subjects, the draft law of 1996 reflected the conventional wisdom of the time, featuring elected justices (for five-year terms at first, and up to ten years for reelection; a model law on electing justices was supplied) from candidates who had reached their twenty-

third birthday and graduated from higher education. However, the jurisdiction of the JPs was not spelled out in the draft law but left for future legislation. Even an accompanying set of amendments to the existing criminal and civil procedure codes dealing with the procedures for the justice of the peace courts failed to specify jurisdiction. A meeting of the Presidential Council of Judicial Reform on 9 October approved sending the draft law to the Duma for discussion, and it was published in January 1997.<sup>8</sup>

During 1997, the draft law changed in fundamental ways through its rewriting by a working group headed by State Duma deputy and member of its Committee on Legislation, Vladimir Kaliagin, and including representatives of the Supreme

Court and the Presidential Administration. To begin, the JPs lost their status as amateurs. Candidates for the position would have to meet the same qualifications as those for any other judgeship—including being twenty-five years of age, possessing higher *legal* education, and having five years experience working at a legal post. Reportedly, jurists

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in the presidential administration insisted that the lesser standards previously envisaged contradicted the 1993 Constitution of the Russian Federation. Second, instead of being elected to their posts, justices of the peace would be appointed (or elected) in the manner chosen by the subjects of the federation. Finally, although the JP courts would remain courts of the subjects, the federal government would participate in their financing by paying the salaries, benefits, and perks of the justices, leaving the subjects to support the staff of the courts, court buildings, and other costs. A new provision established that the governments of subjects would determine the number and boundaries of the districts for JPs.

That version of the law was adopted by the Duma and approved by the Council of the Federation in December 1997, but was then vetoed in January 1998 by President Yeltsin. The grounds for the veto, published a month later, featured, along with some technical matters, the failure of the law to elaborate the jurisdiction of the courts and the inadvisability of passing the law in isolation from a review of procedural legislation.<sup>9</sup>

It would take another ten months before the president would finally sign a revised version of the law, which included a more detailed (although far from final) listing of the jurisdiction of the justices. The actual law also gave more attention to the districts of individual justices, insisting that those be established in federal law (on requests from the subjects) and specifying that the population of districts fall into the range of 15,000–30,000 persons.<sup>10</sup>

The idea of reviving justices of the peace gained initial support among reform-minded jurists and politicians because of the tsarist connection and the attraction

of a less-professional, simpler form of justice (ironically, that was precisely what had motivated the Bolsheviks after the revolution to establish “people’s courts”).<sup>11</sup> But once the justices of the peace gained a place on the policy agenda, their nature and rationale changed. The conversion of the justices from amateurs to judges with full legal education—necessary, if they were to implement criminal law and incarcerate convicts—meant that the new courts had become a vehicle for expansion of the court system. In fact, at least from 1996, the leaders of the Russian judiciary (especially at the Supreme Court) embraced the JP courts and became their most vigorous promoters because they represented an answer to the increasing caseload that was overburdening the district courts.<sup>12</sup> And the top judges proved right. Although shortage of funds made it difficult for the federal government to approve new positions in the district courts, the appeal of justices of the peace as a new court close to the people overcame that hurdle.

The elimination of the requirement of elections of JPs came in response to lobbying from governments of the subjects, many of which did not want even to contemplate the cost and bother of organizing elections. They had enough trouble handling elections to local and regional governments without tackling justices of the peace, and the shortage of jurists in some regions suggested that it would prove hard to find recruits for the posts. As of January 2003 not one subject had chosen to elect its JPs.<sup>13</sup>

The conversion of the justices of the peace into courts of the subjects, and the adoption of the funding formula calling for participation by two levels of government, added a new distinguishing feature to the justices of the peace and may well explain the rapid development of the new courts in many (although not all) parts of the country.

### **The Establishment of JP Courts**

It is one thing to pass a law authorizing the formation of nearly 6,000 new courts, but quite another actually to implement the law—to recruit the justices and their staff, find and equip premises, and provide administrative support. The task of establishing the JP courts was complicated by the large role to be played by the governments of eighty-nine subjects of the federation and by delays in rewriting the procedural law (civil, criminal, and administrative) that would establish their precise jurisdiction and guide their work.

Before any justices could be hired or premises leased, a series of new laws had to be drafted and approved, starting with federal laws establishing the number and boundaries of the districts for each justice. According to the plan, each JP was to be responsible for cases that involved disputants in a particular geographical district, and his or her court located within it. The number of JPs in a region or republic could vary from one per 30,000 of the population to one per 15,000, and the number that would be established had to be negotiated between the government of the subject and the federal government (both of which would share in the costs). When during 1999 the governments of sixty-four subjects made requests for allocations, authorities in Moscow decided that they could afford no more than one justice per 22,500 of the population and made this the basis for

allocations of districts in federal laws. The federal budget for the year 2000 included support for some 4,000 justices of the peace.<sup>14</sup> In addition, each subject of the federation had to pass a law specifying how its JPs would be selected and for what terms (within the limits set by federal law), authorize a budget to pay for staff, rent and equip premises and support operations, and make arrangements for provision of administrative support to the JP courts. Only then could the appropriate officials turn to the practical matters of actually finding space and hiring the justices.

It took politicians in most subjects some time to tackle those challenges, whether because of inertia, shortage of funds, or dislike of the whole idea. But there was a small number of subjects where either politicians or leaders of the courts jumped at the opportunity and moved to establish JPs as quickly as possible. Those included the pioneers Rostov and Briansk, as well as some autonomy-minded republics such as Tatarstan, which accomplished all or most of the legislative and other preparation during 1999 and began operations in 2000. In most of the subjects, the JP courts started in 2001 or 2002; at the start of 2003, a small minority of subjects had no courts at all (only Chechnya had failed to pass the requisite law), but there were others that had not yet chosen some or all of their judges. While the leaders included autonomy-minded republics and regions whose oblast court chairs were energetic and well connected to the Supreme Court, the laggards were a motley group that included both well-off and poorer regions.<sup>15</sup>

The question of administrative support for the JP courts posed a special challenge. The district courts, previously the lowest rung of the court system and supported by the regional offices of the Ministry of Justice, were from 1999 administered by the new judicial departments of the regions. But the new departments were field offices of a federal agency, and had no connection at all to regional government (whereas in some places the justice administrations came under dual subordination).<sup>16</sup> Yet to establish a new administrative unit within the regional or republican government to support the JPs represented a considerable expense, not to speak of the challenge of finding skilled staff.

On that matter, the governments of the subjects showed considerable creativity. Some created their own separate administrations to support JPs (for example, Rostov, Cheliabinsk, Saratov, and Moscow region); others (republics such as Chuvashia and Bashkortostan) set up administrative units within their own republican "ministries of justice," which either continued dual subordination or had no connection to federal agencies. Finally, a whole series of subjects (Tatarstan, Samara, Komi, Kaluga, Kursk) chose to enter into agreements with the judicial departments in the region or republic and contract out the support for the JPs.<sup>17</sup> The constitutionality of those arrangements was called into question, first by the Ministry of Justice in Moscow, and then by the procurator of Daghestan, who challenged his republic's law on JP courts for passing a responsibility of a subject government to a federal agency. But the Supreme Courts of both Daghestan and the Russian Federation rejected his challenge.<sup>18</sup> In the case of Briansk, a separate "department for administration of the justices of the peace" was established by agreement in the judicial department. Even where the judicial departments did not handle the administration,

they were still responsible for collection of statistics from the JP courts, and the divided responsibility led to disputes over which agency (level of government) was to pay for the statistical forms.<sup>19</sup>

The body that assumed responsibility for the JP courts had to recruit and train justices and find and equip their premises. As indicated, no subject government opted for elected justices, but chose to have them appointed for initial terms of three-to-five years, usually by the legislature, sometimes on presentation by the chairman of the regional court, and all candidates had to be cleared by qualification commissions that handled the appointment of federal judges, which required passing an examination. Most of the subjects organized some training for the new justices of the peace, often in the form of an internship at the district court.

When the law on the JPs was first passed, some prophets of doom wondered whether persons could be found to take the jobs.<sup>20</sup> In previous years, positions on many district courts had gone unfilled. In most parts of the country, however, there was

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no problem attracting candidates, and often there was serious competition. The five years legal work requirement assured that hardly any were fresh graduates of daytime law faculties. In fact, many of the candidates for JP had considerable experience working either as a lawyer in some context (advokat, juriconsult, notary, investigator, procurator, or teacher) or at least as a policeman or court secretary. Out of 169 JPs working in Bashkortostan in mid-2002, forty had backgrounds in law enforcement, thirty-four in state service, thirty-five as advocates, twenty-six working in the courts, nine as juriconsults, thirteen as notaries, and four as teachers. Their average age was thirty-nine, and there were ninety-three women and seventy-six men. In Saratov 30.9 percent had worked as advocates and another 21 percent in the apparatus of the courts, and many others from the Ministry of the Interior and procuracy. In the city of Kaluga in November 2002, the four JPs consisted of two former investigators (one with twenty years experience), a former court secretary and judicial enforcer, and a jurist from the prison system. In other places new JPs were younger, but their average age nationally was well over thirty.<sup>21</sup>

Why should experienced jurists want to work as justices of the peace? The salaries were slightly less than those of district court judges, but the package of benefits supplied by the federal government (including pensions) was the same. And during the Putin years (especially starting in 2002), the salaries (and eventual pensions) of all judges experienced a sharp increase.<sup>22</sup> Some subjects gave themselves the right in their laws on JPs to supply supplementary benefits to their justices, which could make their total compensation higher than that received by

district courts judges. (One might question the legality of this action).<sup>23</sup> For some jurists, the opportunity for a change of pace and new work challenges may prove attractive, and working as a JP implies a good deal of autonomy. In theory at least, each justice works separately, with his or her own staff of two (a stenographer and a clerk). And at least in some regions the new justices obtained better working conditions than the old judges of the district courts.

As of the start of 2003, the physical situation of the JP courts varied dramatically. In some places (especially in very large cities where space is scarce and expensive), the JPs are crowded into corners of other court buildings (supposedly temporarily). In most rural districts, JPs occupy separate premises and have little regular contact with their peers. But in many cities (small and middle sized included), there has been a tendency to place a number of justices (and their staffs) in a single location. In Kaluga, the whole first floor of a major government building was converted into elegant quarters for the four justices, each of whom has a small but fresh and bright courtroom, a comfortable office with a computer, and separate quarters for the staff (who have been promised computers by next summer). Each justice is still responsible for cases from particular districts, but they have the advantage of being able to share experience and help each other.<sup>24</sup> This increasingly popular model (dubbed as creating a "Dom Mirovykh Sudei" or House of Justices of the Peace) stands in contrast to an earlier vision of the justice of the peace courts' occupying ground floor apartments in residential blocks to maximize accessibility. But according to a JP in Voronezh, this works better for most of the citizens involved in disputes. Frequently the claimant and respondent live in different districts of the city (normally the residence of the respondent rules), and sometimes there are multiple respondents in different districts.<sup>25</sup> In an urban country, the prerevolutionary physical arrangements make little sense.

Pioneer regions in the development of the JP courts such as Briansk and Rostov, and many later comers as well, take pride in their courts, and one can detect a healthy competition among them and some of the neighboring regions or republics. When one takes initiative and invests in its JP courts, neighbors may well imitate. Among the subjects that have developed their JP courts well are Tatarstan and Bashkortostan, whose leaders pressed for a larger piece of the judicial pie. President Shamiev of Tatarstan has personally supported his courts, and they seem to be assuming the maximum possible number of cases within their legal jurisdiction, especially in the criminal realm.<sup>26</sup>

### **The Practice of Justices of the Peace**

The practice of any court depends first on its jurisdiction. The 1998 law on the justices of the peace included a list of the types of cases that they were to examine. These included (a) the most common civil cases, including most family matters (divorce where there was no conflict over children or division of property); property disputes for values not exceeding five hundred days minimum wage; labor disputes (excluding restoration to work), and disputes on the use of land; (b) criminal cases where the maximum punishment did not exceed two years

imprisonment; and (c) all administrative cases (that is, violations of federal administrative law entrusted to courts, such as petty hooliganism, public drunkenness, and serious, noncriminal traffic violations). As a rule, observers estimated that 60 percent of civil cases heard at the district courts and 20 percent of criminal cases would move to the justices of the peace, along with the 1.4–1.5 million cases a year of violations of federal administrative law and those of the subjects.<sup>27</sup> That was to be the exclusive jurisdiction of the JPs, as soon as all of their courts were operational, leaving district courts to hear appeals from the JPs.

The actual caseload of the JP courts in their first few years of operation (through 2002) was shaped by political developments. First, consideration of administrative cases was delayed until the new Code on Administrative Violations was adopted (in late December 2001) and went into effect on 1 July 2002.<sup>28</sup> Second, the criminal jurisdiction of JPs changed twice in that period, first with a narrowing and then a broadening of their capacity. As of 10 August 2000, amendments to the Criminal Procedure Code excluded from the JPs one-third of the offenses that had punishments under two years, leaving the JPs to handle cases of personal accusations, hooliganism, and the least-complicated offenses. The crimes excluded often involved lengthy trials, such as murder committed in exceeding the limits of necessary defense, criminal violations of authors' rights, violations of economic regulations, and falsification of evidence, a charge belonging to the jurisdiction of the regional court. This change suggested that the JP courts would hear 10 percent of criminal cases overall, rather than 20 percent. However, in July 2002 a new criminal procedure code (approved at the end of 2001) went into effect, which extended the jurisdiction of the JPs to criminal cases with a maximum of three years imprisonment, minus a list of exclusions. Entering the JP courts for the first time were cases of simple theft (small amounts, first time), simple fraud, and simple embezzlement. The extension more than compensated for the earlier narrowing of jurisdiction.<sup>29</sup> Finally, the delays in establishing JP courts in some subjects of the federation assured that even in the year 2002 the JPs overall had not yet reached full strength or made their full impact.

During 2001, when less than half of the planned complement of 6,500 JPs had been appointed and worked for most of the year (in twenty-one subjects they had not started at all), the JPs courts nationally had heard more than 1,316,000 civil cases (about a quarter of the total) and 162,600 criminal cases (nearly one-sixth of the total cases started, although only 5.3 percent of criminal convictions), and they had heard some 43,400 administrative cases as well (63 percent of them violations of laws of the subject). The figures for criminal cases seem higher than expected, given the narrowing of jurisdiction midyear, but may be explained by significant regional variations. Subjects within the Privolzhskii and Southern federal districts (including autonomy-minded Tatarstan and Bashkortostan, Orenburg, Krasnodar, and Rostov) heard especially high levels of criminal cases.<sup>30</sup> According to sources from Tatarstan, its JPs heard 24 percent of the criminal cases heard in the republic (and 41 percent of all civil cases). That might suggest special efforts to direct more caseload to the "courts of the republic." Likewise, the hearing by JPs of violations of federal administrative law such as

petty hooliganism and petty theft, not yet authorized by the federal government, happened mainly in Privolzhie (including Tatarstan and Bashkortostan).<sup>31</sup>

As expected, civil cases fell heavily into the areas of divorce and alimony, disputes over wages, disputes over damages or failures to repair apartments and apartment buildings, and violations of tax law. For cases heard in JP courts in the first nine months of 2002 (over 1.6 million), only 2.4 percent went to the district courts on appeal. Of those, 0.44 percent were cancelled and 0.27 percent changed.<sup>32</sup>

The major categories of criminal cases consisted of cases of personal accusations, deception of consumers, and hooliganism. In 2001, one-half of the cases overall were stopped by the justices, often in cases of personal accusations because of successful mediation, and only 44.7 percent ended in convictions. Of the 65,200 persons to receive punishments, only 2.9 percent (1,845) were sentenced to imprisonment: 1,055 for terms under one year; 619 for one to two years; 94 for two to three years; 55 for three to five years; and 22 for five to fifteen years. Other convicts received corrective work (13,580), fines (20,711), or suspected sentences of imprisonment (15,188) or corrective work (13,930). As with civil cases, the rate of appeal was low, averaging around 3 percent in 2001 and fixing at 3.6 percent for the first nine months of 2002. Appeals from criminal convictions at the JP courts were more successful than those against decisions in civil disputes: 1.5 percent of verdicts overall were cancelled and another 0.8 percent of sentences were changed.<sup>33</sup>

The appellate procedure used for cases coming from the JP courts differs from the standard Soviet version of a cassation. It involves a fresh examination of the whole trial record and results in a new decision; cases cannot be returned to the JP courts for reconsideration. Although the law on the JP courts discarded the earlier idea using three judge panels to hear appeals and substituted a single judge at the district court, some observers were concerned lest many cases would lead to new trials on appeal. The low level of appeals to the district court in the practice of both civil and criminal cases was good news for all concerned. On one hand, it suggested a high degree of satisfaction among the public with the work of those courts. It also meant that the JP courts really would help to cut heavy caseloads at the district courts.

That has already started to happen. According to global data for the Russian Federation, in 2001 the district courts heard 6 percent fewer criminal cases than in 2000 and 30.7 percent fewer civil cases, this despite increases in some categories of cases (such as challenges to the legality of normative acts, actions of officials, and imposition of fines, that is, administrative justice cases). The impact on district courts in particular regions or republics was reportedly much greater. In Tatarstan, for example, the average caseload of a judge decreased in criminal cases from 13.1 to 9 between 2000 and 2001, and in civil cases from 26.7 to 15.4 in the same period. In Bashkortostan during the first half of 2002, JP courts handled more than 30 percent of all criminal cases and 71 percent of civil cases handled by courts of general jurisdiction. Just a few years ago all of those cases would have fallen to the district courts. In the Komi republic, in the first nine months of 2002 the criminal caseload of district courts reportedly dropped by 60 percent

and civil caseload by 65 percent. Finally, in the first nine months of 2002 in the Briansk region, one of the first to establish JP courts a few years earlier, the JPs heard 44 percent of criminal cases and 72 percent of civil. The average caseload for a justice of the peace stood at 58.1 cases per month, 3.45 times higher than that for a federal district court judge.<sup>34</sup>

From summer 2002 the district courts gained new responsibility for reviewing all procuratorial requests for pretrial detention or its extension, for which they were supposed to receive additional judges. Whether or not those new judgeships materialized, the district court judges were much better off. The drop in cases coming to the district courts, combined with the hiring of clerks for a large number of judges, the decline in their informal meetings with the public to advise on potential cases, and the gradual computerization of the courts, meant that most judges at the district courts had more time not only to manage their caseload and avoid backlogs but also to concentrate on the cases that they did hear, research the jurisprudence on difficult or new issues, and write more thoughtful decisions. However, in some rural district courts, where caseload pressure had not been great to start with, district court judges lacked enough work to keep them occupied.<sup>35</sup>

In contrast, the caseloads at some JP courts in the cities were already large and threatening to get out of hand once the transfer of administrative cases had taken place. To address this problem, the leaders of the Supreme Court of the Russian Federation decided, with support from the subjects, to introduce legislation to increase the number of districts for JP courts in many parts of the country and seek a budget from the federal government to cover the new posts, as well as the remainder of unfilled ones from before. According to draft legislation awaiting approval, the number of JPs will be increased from the current total of just under 5,000 to some 9,500. If the new laws are approved by fall 2003, the expansion can be accommodated in the 2004 budgets of the federal government and governments of the subjects.<sup>36</sup>

The costs of the new JP courts, especially for the subjects, may well escalate further as governments respond to some of the operational problems that have emerged. Disputes have arisen over which government should pay for trips to the scene of the crime, witness compensation, the building of holding cells for accused persons at the JP courts, and convoys to transport offenders from jails elsewhere.<sup>37</sup> To be sure, only a tiny fraction of the accused receives custodial punishments for crimes, but even if only a handful of persons are held before trial (for example, on hooliganism charges), such facilities are required. Curiously, they may be more in demand once administrative cases arrive at the doorstep of the JPs, for a surpris-

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ingly large proportion of these cases end in a sentence of up to fifteen days in jail (what is called administrative arrest).<sup>38</sup> There is reason to believe that often the convicts have already served their time in the pretrial lockup.

Naturally, many other problems have emerged in the first years of practice of the JPs. These include questions of when the law allows mediation, the use in JP courts of the new shortened trial (the Russian version of plea bargaining introduced with the new Criminal Procedure Code in July 2002), controversies over jurisdiction in certain civil matters, and many issues of procedure. In addition, there are organizational matters, such as how to handle a serious imbalance in caseload due to peculiarities of particular districts (maybe one contains a railroad station) or an extended illness of a JP. Someone, either the chair of the district court or perhaps a "senior" JP, needs to have the authority to redistribute cases. The Supreme Court has proposed an amendment to give such authority to the district court chair. Or a more radical solution, favored by a responsible official in the Judicial Department in Moscow, would change the existing system of small districts for each individual JP and replace it with larger districts served by two or three justices.<sup>39</sup>

Other issues include security—will bailiff-guards be provided for the JP courts and who will pay—and adding more staff, clerks, and consultants to ensure that the JPs themselves spend less time on nonjudicial functions, such as the preparation of statistics and case flow management. Of course, it becomes easier to respond to such problems when a set of JPs is grouped in the same building.<sup>40</sup> The more serious the work of the JPs becomes, the less feasible the series of one-judge courts scattered in different neighborhoods.

A particularly serious problem that is likely to persist is the glaring differences in the working conditions and support for JPs from one subject to another. As we have seen, a series of regional and republican governments have embraced the idea of having their own courts, and for reasons of either local pride or an urge to autonomy have invested heavily in the JPs. At the same time, there are many others who lag behind and for one reason or another do not find or allocate the appropriate resources.<sup>41</sup> The growing inequality of conditions among JP courts has led some agency or deputy (with access to financial data) to propose a fundamental change in the law on JPs to shift responsibility from the subjects to the federal government for paying staff and providing material technical support.<sup>42</sup> It is unlikely, however, that this initiative will find much support, for it is their status as courts of the subjects that has assured significant contributions from the governments of many subjects and helped to spread the financial burden of supporting the court system, without compromising the primacy of the federal government.

Finally, in the long run, there is the danger that some JPs might come under the influence of regional or local politicians or officials. Unlike federal judges, JPs must face reappointment, not only after an initial term of three to five years, but also later in their careers; they do not get appointments for life. Perhaps the prospect of review before reappointment may influence the conduct of some JPs in ways that go beyond appropriate forms of accountability. At the same time, the provision of supplementary perks and benefits by regional and republican governments

is subject to abuse if those governments allocate them not to all JPs but as rewards for good performance. Still, in comparison with judges on district and regional courts, not to speak of judges on the *arbitrazh* courts that hear business disputes, JPs hear very few cases that matter to either political officials or their clients and friends. It is unlikely, in my view, that such abuses will be common.

### Conclusion

As of the start of 2003 the justice of the peace courts in the Russian Federation constitute an important new layer of the court system, soon to hear more cases than any other courts, including criminal and civil cases that, although simple, have considerable import. When fully operational, the JPs will represent the first, and typically the only, court with which most members of the public come into contact. To be sure, the JP courts of post-Soviet Russia do not fulfill the romantic ideals of elected, amateur judges working on their own and close to the people. But the combination of a funding formula involving the subjects of the federation as well as the federal government and local pride has led to serious investment in the JPs and in some places conditions that are better than in the district courts. At the same time, the caseload of district courts has fallen to reasonable levels, allowing the overcoming of backlogs and an increase in the quality of adjudication.

The JP courts have the potential to make an even larger contribution to judicial and legal reform in Russia through their impact on public attitudes toward courts. Despite the improvements in the court system in the 1990s, public opinion toward the courts has remained lukewarm and ambivalent, as the majority picture the courts as inefficient and expensive, if not also subject to inappropriate influences.<sup>43</sup> Nor is the public aware of its chances of success should its members decide to challenge the legality of the actions of state officials. To be sure, improving public attitudes toward the courts may require serious efforts at providing education about their work, undertaken in part by the judiciary itself. But the actual experience that people have dealing with the courts matters. Should most persons dealing with the JP courts come away pleased with their treatment there, the reputation of the courts generally will benefit.

It is important, therefore, that the justices of the peace have the wherewithal to develop into friendly and efficient courts not only in regions or republics that have sufficient local pride, but also across the country as a whole. Paradoxically, the hybrid nature of the JP courts, as creatures of the subjects as well as the federal government, is both their strength and their weakness, as it makes uneven development and differences in conditions among JP courts in different parts of the country inevitable. Hopefully, the bulk of those differences will soon be overcome, and the justice of the peace program will not only expand throughout the Russian Federation but also will invigorate that country's judicial system.

### NOTES

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1. Peter H. Solomon Jr., "Putin's Judicial Reform," *East European Constitutional Review* 11, no.1/2 (Winter/Spring 2002): 117–24; Solomon, "Courts in Russia: Independence, Power and Accountability," in *Judicial Integrity*, edited by Andras Sajo (Dordrecht: Kluwer, 2003); Solomon, "Judicial Power in Russia: Through the Prism of Administrative Justice," paper presented at the 2002 Meeting of the American Political Science Association, Boston, August 2002.

2. Federal'nyi zakon RF, "O mirovykh sud'iakh v Rossiiskoi Federatsii," 17 dekabria 1998, *Rossiiskaia gazeta*, 22 December 1998, 4; meeting with Vladimir Maximov, deputy head of the Judicial Department of the Russian Federation, 25 November 2002; interview with A. Perepechenov, head of the Chief Administration for Organizational-Legal Support of the Courts, Judicial Department of the Russian Federation, 28 November 2002; Aleksandr Bogomolov and Georgii Il'ichev, "Verkhovnyi sud prosit udvoit chislo mirovykh," *Izvestiya*, 2 December 2002.

3. *Kontsepsiia sudebnoi reformy v Rossiiskoi Federatsii* (Moscow: Respublika, 1992); and in English translation, see *Statutes and Decisions: The Laws of the USSR and its Successor States* 30, no.2 (March-April 1994). On the revival of jury trials see Sarah Reynolds, "Drawing upon the Past: Jury Trials in Modern Russia," in *Reforming Justice in Russia, 1864–1996: Power, Culture and the Limits of Legal Order*, edited by Peter H. Solomon, Jr. (Armonk and London: M.E. Sharpe, 1997), 374–96.

4. "Predlozhenie po kontsepsii sudebnoi reformy," (June 1991), GARF, f.10026, op.4, d.1118, 1–9, especially 4; "Pervyi vs Rossiiskii s'ezd sudei: Stenogramma zasedanii, 17–18 oktriabria 1991 goda," (unpublished typescript), 10.

5. The most thorough recent Russian account is I. G. Sharkova, "Mirovoi sud'ia v dorevolutsionnoi Rossii," *Gosudarstvo i pravo* 9 (1998): 79–85. The best account in English is Joan Neuberger, "Popular Legal Cultures: The St. Petersburg *Mirovoi Sud*," in *Russia's Great Reforms, 1855–1881*, edited by Ben Eklof, et al. (Bloomington, Ind.: University of Indiana Press, 1994): 231–46.

6. See Peter H. Solomon Jr., and Todd S. Foglesong, *Courts and Transition in Russia: The Challenge of Judicial Reform* (Boulder: Westview, 2000), 9–19.

7. Sergei Romazin, "Pravovoi status, kontsepsiia formirovaniia i funktsionirovaniia intsituta mirovykh sudei Rossiikoi Federatsii," paper presented at the roundtable "Sudebnaia sistema v Rossiiskoi Federatsii," 14 March 1997 at the MacArthur Fund office in Moscow; Romazin, "Zapiska o polnomochiiakh sudebnykh instantsii sudov Rossiiskoi Federatsii po rassmotreniiu uglovnykh del (po proektu Ugolovno-protsessualnogo kodeksa Rossiiskogo Federatsii)," unpublished.

8. Solomon and Foglesong, *Courts and Transition*, 14–16; Romazin, "Pravovoi status;" "Proekt federal'nyi konstitutsionnyi zakon 'O mirovykh sud'iakh v Rossiiskoi Federatsii,'" 18 September 1996, unpublished, then published in *Rossiiskaia iustitsiia* 1 (1997): 54–55. See also "Proekt model'nyi zakon, 'O vyborakh mirovykh sudei v Rossiiskoi Federatsii,'" and "Proekt federalnyi zakon 'O vnesenii izmenenii i dopolnenii v Ugolovno-protsessualnyi kodeks RSFSR v sviazi s vvedeniem instituta mirovykh sudei,'" (both unpublished, late 1996).

9. "Proekt federal'nyi konstitutsionnyi zakon, 'O mirovykh sud'iakh v Rossiiskoi Federatsii,'" vnositia deputatami Gosudarstvennoi Dumy-chlenami Komitetat Gosudarstvennoi Dumy po zakonodatel'stvu i sudebno-pravovoi reforme, n.d. (fall 1997); "Komu podchiniautsia mirovye sud'i," Prezidentskoe veto ot 8 ianvaria 1998, *Rossiiskaia gazeta*, 2 February 1998, 5.

10. "Federal'nyi zakon RF, 'O mirovykh sud'iakh.'"

11. See Peter H. Solomon Jr., *Soviet Criminal Justice under Stalin* (Cambridge and N.Y.: Cambridge University Press, 1996), chapter one.

12. See for example Vladimir Radchenko, "Dostupnoe pravosudie," *Chelovek i zakon*, no. 4 (1999): 29–32, and V. Demidov, "Federal'nyi zakon deistvuet—ochered za

sub'ektami Federatsii," *Rossiiskaia iustitsiia* 5 (1999): 2–4.

13. Interview with A. Perepechenov; Vladimir Khitrak, "Gde zhe ty, mirovoi sud'ia?" (interview s Velntinom Voronovym), *Iuridicheskii vestnik* 4 (1999): 3. Deputy chairman of the State Duma's Committee on Legislation Vladimir Kaliagin considers the failure to elect JPs a betrayal of the concept. Ol'ga Pleshanova, "Mirovoi sud'ia dolzhen izbirat'sia neseleeniem," *Kommersant*, 18 February 2002, 6. For thoughtful reflections on the desirability and feasibility of electing JPs, see Nikita Kolokolov, "Ne klerk—mirotvoret!," *Iuridicheskii vestnik* 7 (2002): 5–6.

14. V. V. Demidov and V. M. Zhuikov, *Kommentarii k zakonodatel'stvu o mirovykh sudi'iax* (Moscow: Iurist, 2001), 9.

15. Rostov passed its law on JPs in April 1999 (published in A.F. Izvarina, *Mirovyie sud'i Rossii nachala XXI veka* [Rostov-na-Donu: "Mar T," 2002], 134–40) and the rest of the relevant laws later in the year. On the experience of Briansk, see V. I. Radchenko, "Mirovaia iustitsiia: vpered i Briansk, pozadi Moskva," *Rossiiskaia gazeta*, 5. On Tatarstan, see Iuliia Andreeva, "'Spasatel'nyi krug' dlia Fedmidy gotov," *Vechernyi Kazan*, 16 March 2000, and "Budut mirovyie sud'i," *ibid.*, 12 July 2000. Subjects that lagged in the creation of JP courts included Tver, Tula, the city of Moscow, Leningrad oblast, the Altai republic, Karelia, Primorie, Murmansk and Sakhalin. V. Stepanov, "Problemy realizatsii Federal'nogo zakona o mirovykh sudi'iax I puti ikh resheniia," *Rossiiskaia iustitsiia* 7 (2002): 42.

16. On the judicial departments, see Solomon and Foglesong, *Courts and Transition*, 58–61.

17. Examples of these three arrangements include: "Soglashenie mezhdou glavoi respubliki Komi i Sudebnym Departamentom pri Verkhovnom sude Rossiiskoi Federatsii o peredache polnomochii po osushchestvleniiu organizatsionnogo, kadrovogo, finansovogo i material'no-tehnicheskogo obespecheniia deiatel'nosti mirovykh sudei v respublike Komi" ot 30 iunია 2000g. (v. red. 18.10.2001 g.) in *Zakonodatel'stvo Respubliki Komi. Spravochno-pravoivaia sistema*, #16874; "Postanovlenie Pravitel'stva Moskovskoi Oblasti ot 25 ianvaria 2001 No.15/3 'Ob upravlenii po obespecheniiu deitale'nosti mirovykh sudei Moskovskoi Oblasti," *Informatsionnyi vestnik Pravitel'stva Moskovskoi Oblasti* 3 (March 2001); "Polozhenie o ministerstve iustitsii Chuvashskoi Respubliki," Uтверzh. Postanovleniem Kabinetа Ministrov Chuvahskoi Respubliki ot 01.12.2000, No. 236.

18. V. Terekhin, "Pochemy 'urezana' kompetentsiia mirovykh sudei," *Rossiiskaia iustitsiia* 10 (2000):2–3; S. Somov, "Razvitie instituta mirovykh sudei i balans interesov Fedratsii I regionov," *Rossiiskaia iustitsiia* 1 (2002): 39–40; interview with A. Perepechenov.

19. "Polozhenie ob otdеле po organizatsii deiatel'nosti apparata mirovykh sudei Brianskoi oblasti," (unpublished, 2000); interview with A. Perepechenov.

20. Sergei Pashin, "Mirovoi sud'ia vozrashchaetsia," *Chelovek i zakon* 5 (1999): 44–48; and 6: 38–44.

21. "Respublika Bashkortostan. V proshlom gody byli izbrany I pristpili k rabote 169 mirovykh sudei," <<http://www.volgainform.ru/allnews/22236/>>; G. Bakhirev, "Cho meshaet bystromu stanovleniiu instituta mirovykh sudei?" *Rossiiskaia iustitsiia* 1 (2001): 41–42; personal meeting at the combined JP court in Kaluga, 25 November 2002.

22. Article 10 of the 1998 Law on JPs established their salaries at 60 percent of the salary of the chairman of the Supreme Court of the RF (64 percent for JPs working in major cities), while district court judges received 67 percent of the chairman's salary.

23. See Solomon, "Putin's Judicial Reform;" Izvarina, *Mirovyie sud'i; Zakon Moskovskoi Oblasti*, "O vnesenii izmenenii i dopolnenii v Zakon Moskovskoi Oblasti 'O poriadke naznachenii na dolzhnost i deiatel'nosti mirovykh sudei v Moskovskoi Oblasti,'" 23 oktiabria 2002 g. n.12/34.

24. Interview with A. Perepechenov; personal meeting with JPs in Kaluga.

25. Valentina Ivanovna Sukhavheva, "Mirovyie sudy v deistvii: Vzgliad s mesta," *Obshchestvo, Zakon, Pravosudie* (Voronezh) 1 no. 3( 2000): 35–36.

26. L. Ageeva, "Sud skoryi, no pravyi?" *Respublika Tatarstan*, 12 February 2002; "Nash Prezident uvazhaet mirovykh sudei i arkhitektorov," *Respublika Tatarstan*, 10 September

2002; Shamil Valeev, "Sud s chelovecheskim litsom," (Beseda s Liroi Zakharovoi, mirovoi sudia sudebnogo uchastka #2 Demskogo raiona Ufy), *Trud*, 22 June 2001.

27. Federal'nyi zakon "O mirovykh sud'iakh," article 3; Demidov, "Federal'nyi zakon deistvuet."

28. "Kodeks Rossiiskoi Federatsii ob administrativnykh pravonarusheniakh," *Sobranie zakonodatel'stva RF*, 2002, no.1, chast 1, st.1.

29. Federal'nyi Zakon RF ot 7 avgusta 2000 "O vnesenii izmenenii i dopolnenii v Ugolovno-protsessual'nyi kodeks RSFSR," *Rossiiskaia gazeta*, 10 August 2000, 13–14; Federal'nyi Zakon RF ot 18 December 2001 No. 174, "Ugolovno-protsessual'nyi kodeks Rossiiskoi Federatsii," *Rossiiskaia gazeta*, 22 December 2001.

30. "Sudebnaia statistika za 2001 god," *Rossiiskaia iustitsiia* 8 (2002): 65–70, especially 69–70.

31. Ageeva, "Konferentsiia sudei Tatarstana"; "Sudebnaia statistika za 2001 god."

32. "Statisticheskie dannye o deiatel'nosti raionnykh sudov po rassmotreniiu ugovolnykh i grazhdanskikh del v apeliatsionnom poriadke za 9 mesiatsev 2002 g.," (unpublished, 2002); "Sudebnaia statistika za 2001."

33. "Sudebnaia statistika za 2001"; "Statisticheskie dannye o sudimosti za 12 mesiatsev 2001 goda," (unpublished, 2002); "Statisticheskie dannye o deiatel'nosti raionnykh sudov." See also, "Obshchaia kharakteristika sudimosti v Rossii v 2001 godu," *Rossiiskaia iustitsiia* 9 (2002): 77–78.

34. "Sudebnaia statistika za 2001: 67–69; Saliakhov, "Sud skoryi, no pravyi?"; "Respublika Bashkortostan: Mirovye sud'i stali rabotat bystree," *Regions.Ru*, 1 August 2002, <[www.regions.ru/newsarticle/news/id/802120.html](http://www.regions.ru/newsarticle/news/id/802120.html)>; Elena Balygina, "Ob'em raboty federal'nykh sudei Komi sokratilsia bolee chem na polovinu blagodaria mirovym sud'i-am," *Komiinform*, 22 October 2002 <[www.komiinform.ru](http://www.komiinform.ru)>; Ermolaev, "Oni byli pervymi. . ." *Voronezhskie novosti*, 17 December 2002.

35. Interview with A. Perepechenov.

36. See, for example, "Poiaasnitel'naia zapiska k proekty federal'nogo zakona 'O vnesenii izmeneiia v stat'iu 1 Federal'nogo zakona 'Ob obshchem chisle mirovykh sudei i kolichestve sudebnykh uchastkov v sub'ektakh Rossiiskoi Federatsii,'" (unpublished, November 2002).

37. Ol'ga Pleshanova, "Miorvoi sud'ia podoben uchaskomy vrachu," (beseda s mirovoi sud'oi Alloi Semaevoei) *Kommersant*, 18 February 2002, 6; interview with A. Perepechenov.

38. "Sudebnaia statistika za 2001."

39. K. Grankin and A. Sushinskikh, "Opreделение подсудности по уголовным делам," *Rossiiskaia iustitsiia* 11 (2001): 41–42.

40. G. Borisov and A. Khapilin, "Ot mirovykh sudei—k mirovym sudam," *Rossiiskaia iustitsiia* 3 (2002): 39–40.

41. Stepanov, "Problemy realizatsii Federal'nogo zakona o mirovykh sud'iakh."

42. "Proekt federal'nogo zakona N 208267-3 'O vnesenii izmenenii i dopolnenii v Federal'nyi zakon 'O mirovykh sud'iakh v Rossiiskoi Federatsii,'" and accompanying "poisnitel'naia zapiska" (unpublished, late 2002).

43. On public opinion toward the courts in Russia through 1999 see Solomon and Foglesong, *Courts and Transition*, 82–84.