

Assessing the Courts in Russia: Parameters of Progress under Putin

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Abstract: On the basis of a set of general criteria for assessing court systems (independence, power, accountability, accessibility, efficiency, procedural rules, and public assessment), this article analyzes the achievements and shortcomings of judicial reform in the Russian Federation during the Yeltsin and Putin eras. It goes on to dissect the state of the courts at the end of Putin's presidency, including public attitudes toward them, and to suggest a series of changes in Russia's judicial system that would constitute or reflect further improvements, including a decline in the power of chairs of courts, more effective recruitment and training of judges, and a new approach to their evaluation. The article argues that there have been substantial improvements in management and support of courts and the judiciary in the Russian Federation over the past fifteen years, while at the same time informal practices continue whereby powerful persons see courts in instrumental terms and from time to time try to exert inappropriate influence on the outcome of cases.

Keywords: criminal justice, judicial independence, judicial power, judicial reform

The Soviet legacy included courts that were dependent and weak, whose reform had only just begun. The Yeltsin era witnessed considerable progress in making judges more independent and powerful, but the efforts were seriously constrained by budgetary shortcomings and paralysis in the legislative approval of needed procedural changes. The Putin administration overcame both of these obstacles and at the same time began addressing the thorny question of how to make courts and judges accountable without undue harm to their independence. The administration also started to address the skepticism about the

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courts among a significant part of the public through efforts to improve media coverage, make information about courts more available, and make courts user-friendly. Although praiseworthy and bound to improve the reality and the perception of the administration of justice overall, these initiatives did not end attempts to exert influence on judges and case outcomes by powerful people (in the public and private sectors) or the mechanisms that facilitated their efforts.

I begin by identifying criteria for assessing the quality of the administration of justice in any country, including in the post-Soviet world, and suggesting specific markers (usually qualitative) connected to each of the criteria developed above. Then, I provide an account of relevant policy initiatives in judicial reform undertaken first under Yeltsin and then in the Putin years. After that I provide an assessment of the state of the courts in the Russian Federation in 2007 in light of the criteria and markers supplied in the first section. I conclude with a look to the future and the identification of crucial markers of change for the post-Putin era.

Criteria of Assessment and Markers

The purpose of courts is to provide to members of the public the opportunity to obtain the impartial resolution of disputes (mainly through adjudication, but sometimes through mediation) in a timely manner. Courts must act fairly and expeditiously, and the design of judicial systems should contribute to these ends.

I propose seven criteria for assessing a court system, some of which break down into a number of components, each of which can serve as markers.¹ They are the independence of judges and courts; procedural law aimed at ensuring equality among the parties; the power of the courts; the system of judicial accountability; accessibility of the courts; efficiency of performance (and the factors that encourage it); and public attitudes toward the courts.

By judicial independence I mean structural arrangements that improve the chances of impartial outcomes by reducing or eliminating potential lines of dependence of judges, both on external sources and on others within the judicial system. Three basic markers of an independent judiciary (necessary, but not necessarily sufficient to produce impartiality) are (1) a system of tenure that reduces a judge's potential fear of reprisal for decisions (such as tenure to the age of retirement with dismissal only for serious cause at the hands of one's peers) and minimizes the impact of any disciplinary proceedings; (2) sufficient financing of the courts so that judges receive good salaries, have good staff support, and hold sway in buildings that enhance rather than detract from their authority; and (3) a reasonable degree of control by the judiciary over the provision of administrative support to the courts. In judicial systems of the civil law type, where judges pursue careers in the courts, biases are commonly introduced through systems of evaluation of their performance (often involving higher courts) and through the exercise of power by the chairs (presidents) of courts. In the post-Soviet world, chairs of courts are especially powerful, often controlling discretionary perks and benefits for their judges, and are in a position to help their judges get promotions or hurt them through disciplinary initiatives, including recommending dismissal. At the same time, chairs represent a conduit for requests from the outside regarding particular cases, and they often control the assignment of at least important or hard cases.²

At least in criminal cases Soviet procedural law introduced a strong prosecutorial bias, which informal practices reinforced. In both the pretrial and trial phases, the sides were far from equal (a consequence of the distorted Soviet form of neoinquisitorialism), and

already in the 1991 Conception of Judicial Reform, reform-minded jurists pushed for a more adversarial system. The extent to which the practice of criminal justice (as opposed to the law) is truly adversarial and defense has rights comparable to the prosecution represents another criterion of fairness. At the same time, an end to the discouragement of acquittals (a key informal practice dating from the late 1940s) would also mark a significant improvement.³

The empowerment of courts and judges represents a mark of their importance in government and society. In my lexicon, judicial power refers to scope of jurisdiction (Does it include sensitive matters such as constitutional interpretation, administrative justice [complaints against government actions], and high-profile commercial disputes?), the degree of discretion (including right to interpret laws), and the authority of judges, as reflected in the extent to which their decisions are implemented.⁴

The more power judges exercise, the more other actors seek to make them accountable for their actions, but most forms of accountability come only at the price of compromises with judicial independence. This is true of judicial elections (as used in many parts of the United States) and of the systems of evaluating judges found in countries of Western Europe. Yet, any attempts to reduce corruption in the administration of justice involve increased accountability. To ensure that measures of accountability do more good than harm, fair adjudication calls for striking careful balances. Another kind of accountability can be provided by the publication or posting on Web sites of court decisions, a new practice in the post-Soviet world for all but the highest courts.

To perform their social functions, courts must also be accessible to most of the population and for more than just defense against a criminal charge. In most Western countries courts are too expensive for ordinary citizens and legal aid programs are limited in their coverage. One marker is the nature of legal aid and public defender systems. Another is the extent to which the courts themselves are user-friendly institutions with an ethic of service. Signs of this include good buildings with adequate waiting areas and washrooms for the public, places to pay court fees, access to photocopiers, good signage and easy access to information about filing cases, convenient hours of access in the registries, and even electronic kiosks that enable court users to track their cases. Information about court activity may also be provided on court Web sites.

The efficiency of courts also matters to their users, who react strongly to unreasonable delays. The requirements of procedural law help keep most cases under control, but increases in caseload can lead to temporary problems (especially in the arbitrazh courts). The raw data on length of cases and backlogs are useful for intercourt comparisons within Russia, but, as we shall see, they do not suggest any systemic problems due to more hiring of justices of the peace. Still, the efficiency of courts and the quality of service they provide the public are affected by such markers as the nature and quality of staff, the judge-centered system of case management, and requirements of procedural law. The low salaries for court staff, including the new post of court administrator, weaken the operations of the courts by encouraging turnover.

Finally, whereas the public's assessment of the courts reflects a negative view of government in general, public opinion data and gossip about the courts can serve as a crude way of measuring change. In fact, the current Russian government plan for the improvement of the courts has made annual improvements in public attitudes into a metric for measuring the plan's success.⁵

Courts and Their Reform under Yeltsin

In the nine years of Boris Yeltsin's presidency, starting before the USSR broke apart, Russia embarked on systematic reform of the courts and judiciary that involved simultaneously empowering the courts and establishing many of the conditions associated with judicial independence. During the window of opportunity for radical change, 1990–93, courts of one kind or another assumed jurisdiction over constitutional, administrative, and commercial disputes. At the same time, judges on most courts gained life appointments (after a probationary stage) with release only for cause and after review by their peers on the Judicial Qualification Commissions (bodies established in 1988). Later in the decade, the administration of the courts moved out of the executive branch into a judicial department under the Supreme Court, and a major expansion of the court capacity was authorized through the creation of justices of the peace, themselves creatures of the subjects of the Federation. These later achievements resulted from the political efforts of the judicial community, realized through the Council of Judges and periodic Congresses of Judges.

The progress of reform was held back, however, by the drastic shortage of funds for the courts and the failure of jurists and the legislature to agree on new codes of criminal and civil procedure. Before and especially during the financial crisis, courts overall received miserly budgets, and lost parts of those through sequestration. Some courts had no money left after paying salaries, and in the mid- and late 1990s it was common for courts on the federal budget to receive significant supplementary funding from local governments and private firms, despite the troubling implications for judicial independence. Equally important, the courts remained shabby places, as repairs were not undertaken and little automation attempted. Caseloads rose, but neither new judges nor extra staff were recruited. The prestige of judges remained low, and most new judges came from work in law enforcement or as court secretaries. Hardly any graduates of full-time day law faculties became judges. At the same time, the authority of courts was limited, as revealed by the problems securing implementation of many Constitutional Court decisions and especially the arbitrazh courts' decisions in disputes among private firms. Officials sometimes ignored decisions of the former, and the loser firms in debt collection cases often succeeded in hiding assets from the bailiffs, leading the victors to turn to private enforcement. Moreover, the laws themselves were often vague and contradictory.

By the end of the Yeltsin years the courts had gained key elements of independence (tenure and self-rule) and power (new jurisdiction) but lacked others (financial security; authority to secure implementation). At the same time, severe underfunding and the delays in procedural reform held back progress in making the courts fair, efficient, and accessible. This state of affairs was reflected in low public appraisal of the courts and concerns about suspected corruption.⁶

Judicial Reform under Putin

Vladimir Putin's presidency has done much to improve the courts and advance judicial reform in Russia, compensating for the most serious omissions of the Yeltsin years. Although Putin's government had far more resources to put into the courts than did Yeltsin's (because of better tax collection and oil revenues), the decision to do so was largely that of the president, who was committed to improving law and the courts as mechanisms of governance and economic growth. Already in the first years, the new administration promoted hierarchy of laws and sought to reduce inconsistencies in the laws of different levels

of government, this as part of the plan to counteract slippage of power from the federal center. Further, the Putin government succeeded in convincing both the legal community and the legislature to compromise and approve new procedural codes, which went into effect in 2002 (criminal) and 2003 (civil). Although imperfect, they stand to have a long-term positive impact on fairness of court decisions, if only because of the new requirements for adversarialism. The most dramatic and significant contribution of the Putin government to judicial reform lay in the dramatic increase in funding of the courts, a process initiated in the Plan for the Improvement of the Courts, 2002–6 (more than 44 billion rubles) and continued in the analogous plan “Development of the Court System for 2007–2011.”

As we shall see, the new spending did much to improve the courts according to the criteria and markers outlined above. At the same time, the regime struggled with the accountability of judges, trying to find ways of discouraging improper conduct without excessive threats to judicial independence.

The new money provided in the first plan supported the following, among other things: significant raises in the salaries of judges (but sadly not also of court staff); partial support for the establishment of the planned network

of justices of the peace, who quickly took over a large share of ordinary cases (30 percent criminal; 65 percent civil; all administrative violations), leaving the district courts with reduced loads; the introduction of jury trials as an option in all regional-level courts, except Chechnya (a costly venture); significant expansion in the staff of courts of general jurisdiction, with the establishment of the position of clerk or judicial assistant; the repair of many court buildings; the provision of more bailiffs to enhance court security; and steps toward the computerization of the courts.

The second, or current, plan continues elements of the first plan (improvement of court buildings; computerization), but it adds to them a battery of measures to make courts more open and transparent and raise public trust in the courts. These include the development of court Web sites and databases, which are to include the written decisions in most cases and information about the courts and their work; the diffusion of the new post of press secretary of the court (press secretaries are now found even in some district courts); the development of specialized juvenile panels; and experiments with psychological services to help judges. The plan has an appendix that includes a set of indicators of success (metrics) that feature annual increases in the share of the public trusting the courts, along with a decline in the public’s experiencing rudeness on the part of court personnel.

The repeated initiation of new measures of accountability for judges—spurred in large part by the impulse to combat the appearance (or reality) of corruption—has come mainly from outside the court system, especially from the Ministry of Economic Development and Trade and specialists associated with it, and recently from the High Arbitrazh Court as well. Most of the ministry’s proposals have been controversial, arousing opposition from the judicial community, in part because its power and prerogatives were threatened. Thus,

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in 2002 the threat to life tenure of judges was countered, but the membership of the Judicial Qualification Commissions, which decide on judges' firing for cause, was changed so that instead of all judges, one third of the members would be jurists from outside the courts, and a presidential representative would also be included. In 2004 the head of the Federation Council, Sergei Mironov, proposed reducing the share of judges to half, but this suggestion was rebuffed. Also in 2002 judges lost their strong protections against the launching of criminal prosecutions against them and disciplinary measures short of firing were revived. After a fresh wave of finger-pointing about corruption in 2005, the new head of the High Arbitrazh Court, Anton Ivanov, urged that judges be forced to declare all sources of income and assets (an idea that may well be realized). Other proposed accountability measures include enforceable conflict-of-interest rules for lawyers and judges and having judges keep diaries of meetings with members of the public outside of the trial setting.⁷

The State of the Courts in 2007

What was the impact of judicial reform activity during the Putin era? To what extent were the various aforementioned criteria realized? The answer is to a considerable degree, but not entirely, and as usual the devil is in the details.

The increases in salaries of judges (the base is now \$1,000 a month, a reasonably high salary in most Russian cities) and the improved funding of court operations—along with the life tenure and administration of the courts by the Judicial Department—means that all of the standard formal elements of judicial independence are in place. But informal practices still facilitate the occasional intervention of powerful persons in cases that matter to them. Russia remains a world based on exchange relationships, and even with better financial support, most chairs of courts need good relations with local officials and notables. In turn, those chairs remain extraordinarily powerful figures who bear legal responsibility for the management of their courts and who control their judges' careers. The chair's personal assessment of each judge is crucial to potential promotion, and should a judge fall from grace, the chair has many ways to punish her/him—within the court and beyond. In practice, chairs easily find pretexts to initiate firing for cause, and the judicial qualification commissions tend to listen to the chairs, even when they are not members. Often, the chair serves as conduit for outside requests, and with the power of case assignment he or she can ensure that a cooperative or mature judge handles the case. Chairs now serve for two consecutive six-year terms (previously the term was unlimited) and are appointed by the president after a lengthy review process.⁸ The attitudes of chairs also affect the extent of corruption in a particular court, along with the norms of local culture.⁹

Although the new criminal procedure code calls for adversarial trials and increases somewhat the legal resources of the defense during the pretrial phase, an accusatorial bias still colors the administration of criminal justice. The discouragement of acquittals remains in place and overall judges sitting alone give slightly more than 1 percent acquittals (up from .5 percent), despite the loss of the main alternative of a return to supplementary investigation and despite the fact that juries acquit at a rate of 15–20 percent. Judges still face other quantitative indicators of performance such as stability of sentences, which in turn promote conformist behavior in sentencing. The Criminal Procedure Code of 2001 put into place a modest version of plea bargaining (based on the Italian model), whereby for lesser offenses (five-year maximum) the accused could admit guilt and waive the examination of evidence at trial in exchange for a sentence in the bottom two-thirds of the legal range.¹⁰

In July 2003 the simplified procedure was extended to serious crimes (with ten-year maximums), although in 2006 the Supreme Court proposed eliminating this extension. This shortened procedure was used in 2006 in 37.5 percent of cases at district courts and 47 percent by justices of the peace. It is used especially in cases of theft, narcotics, weapons possession, misappropriation, and ecological crimes.¹¹

Despite threats (including an attempt to deprive the Constitutional Court of its power to declare laws null and void), courts in Russia have the full panoply of politically sensitive jurisdiction. Administrative justice has been the jewel in the crown, as various courts, including military tribunals and arbitrazh courts, have satisfied citizen complaints against officials at well above the 50-percent level. Even complaints against the legality of normative acts of ministries come out in favor of the complainant (and against the government) around 30 percent of the time. Most of the complaints have involved social benefits or the conduct of police; there are no separate data on complaints of a politically sensitive nature.¹² The Supreme Court has pushed for the establishment of a separate set of administrative courts under its aegis, but so far resistance from the High Arbitrazh Court and the State Legal Administration of the Presidency has stymied the initiative.

New appointments have made the Constitutional Court less daring than before, but it still plays a positive role in cases relating to federalism and human rights.¹³ The decision to move the Court to St. Petersburg struck many observers as an attempt to marginalize the body and start making St. Petersburg a second capital. Judges saw other branches' readiness to move a court against its will as a sign of political condescension toward the judiciary.¹⁴

Implementation of court decisions through formal procedures has improved somewhat in recent years, as the official numbers show, but far more parties to cases fail to comply with court decisions directly than should be the case, and the use of extra-judicial implementation services is still commonplace, though perhaps also on the decline.

The impact of the new accountability measures is hard to assess. I have seen no systematic studies of the conduct of the Judicial Qualification Commissions before and after their change in composition. The constant chatter about judicial corruption in 2005–6 and threats of various reactions likely put some judges on the defensive. The prospect of the posting of decisions on Web sites aroused opposition among many judges, who disliked the need to produce documents of a standard that their colleagues might read and perhaps feared that the occasional improper decision would be most noticeable.

Meeting the challenge of making courts in Russia truly accessible is in its early stages. There are some examples of courts that are user-friendly (including model courts developed under Canadian and U.S. projects), but overall this is not the rule yet.¹⁵ Moreover, the system of legal aid, which was among the world's best in Soviet times, has declined. Eligibility for low-income persons is limited to criminal cases and a small group of civil cases; somewhat broader coverage is available to targeted social groups such as veterans and the disabled.¹⁶ No one receives legal aid to pursue complaints of mistreatment by government officials. However, it is still relatively easy to go to court without a lawyer. There is still a tradition of courts providing counsel to persons wishing to file cases, although more and more judicial assistants and consultants are replacing judges in providing the advice. Moreover, the justice of the peace courts were designed to be simple and accessible.¹⁷ Still, the designers of the new Plan for the Development of the Court System were correct to privilege accessibility, especially if they seek to improve public confidence in the courts.

The efficiency of courts matters greatly to their users everywhere. Even before the Putin-era initiatives of expanding the number of judges and adding staff and computerization, courts in Russia did much better on most parameters than did their counterparts in the West, at least for civil cases. The situation now is even better. The legal time frame for ordinary civil cases of three months was met most of the time (94 percent of cases in 2006), although there was variation from court to court. Arbitrazh courts also met the time-frame requirements in almost 95 percent of cases. In criminal cases the record was even better (in 2006, 97.1 percent overall), and the violations were usually not the fault of judges but stemmed from the need to postpone trials when victims or witnesses did not

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appear. The average time for a criminal case between the arrival of the file at court and disposition stood at two months in the district courts and for justices of the peace (2.6 months in regional courts); for a civil case 2.7 months in district court, 1.2 months by justices of the peace, and 2.2 months in regional courts. (I do not have comparable data for the arbitrazh courts. The average caseload for their judges doubled between 1992 and 2006, but many of these represented initiatives of the tax authorities, either to collect

fines or avoid returning overpayments, and legal changes from 2005 produced a major drop in these cases in 2006).¹⁸ Still, what made some cases long was not the trial phase, but what came before and after. Sometimes, investigators did not conclude their work within the required six months, and usually they could get extensions. Then, the posttrial appeals, whether cassation or supervisory in nature, added to the time line. Cassation and supervisory reviews in criminal cases could lead to new trials sometimes preceded by new investigations. The bottom line, though, was that the majority of cases were processed more quickly in Russia than in Western countries, and only a small share of cases became victim of overly complicated procedural norms.

The changes in the Putin years ensured that the courts could cope with a steady increase in the number of cases presented and improve their overall rate of performance. In some courts (especially district ones), judges reported getting off the conveyor belt, having time to do research about legal issues presented in cases, and, above all, to think. This was often not the case for justices of the peace, who faced large caseloads, or for judges on some basic-level arbitrazh courts (at the regional level), who faced an onslaught of petty cases involving fines for late payment of taxes. It is rumored that sometimes arbitrazh court judges received payments to speed up the processing of particular cases and give them priority, but few courts had serious backlogs.

One would not expect that public attitudes toward the courts would be especially good, given the overall quality of governance in the Russian Federation and cynicism about other government agencies and the fact that most courts were not yet user-friendly. However, the latest survey, conducted in early June 2007 by the Russian Academy of State Service, found that 26 percent trusted the courts, as opposed to 38 percent who did not. This finding

was better than typical public opinion reports from the previous five years, and considerably better than comparable data from a few years ago for Spain and Italy. Moreover, such national-level data likely concealed regional variation within the Russian Federation. A new survey conducted on the Web site of the Arbitrazh Court of St. Petersburg and Leningrad region found that 60 percent of the respondents trusted arbitrazh courts. Fifty percent expressed confidence in the decisions of all the courts of Russia.¹⁹

It is unclear to what extent survey respondents rely on gossip or an expectation that they should be critical of the courts. What is clear is that when members of the public have legal problems, they put aside their doubts and turn to the courts in droves. The number of civil cases heard in 2006 was more than 7.5 million, compared with 3.04 million in 1996 and 1.65 million in 1990.

Markers for the Future

Suppose one is concerned about the future of courts and judges in the Russian Federation. For what should one look? What potential changes would augur well, even herald the arrival of full-fledged independent and trustworthy courts? Here are a few candidates, which, taken together, would make a difference.

1. A decision to remake chairs of courts and their power through changes in their selection and tenure (short terms, elected by their peers); to become *primus inter pares* and rotate, rather than long-term directors or bosses
2. Improvement of the selection, promotion, disciplining, and firing of judges through either a reform of the procedures used by Judicial Qualifying Commissions or the creation of a new disciplinary body at a different level of the administrative hierarchy
3. The establishment of a special training program for judges (minimum of six months) and inclusion in its curriculum of training in psychology, international human rights norms, ethics, and judgment writing

(These first three suggestions appear in a draft law on judicial reform from the fall of 2006, produced by a group attached to the Ministry of Economic Development and Trade, which was rejected vigorously by the leaders of the judiciary and led to the appointment of Viktor Ivanov of the presidential administration as political curator for judicial reform matters.)

4. Improvements in the rates of implementation of civil and commercial decisions and in observance of decisions without the use of compulsory implementation, which would indicate enhanced judicial authority, likewise, an increase in the implementation of decisions of the Constitutional Court, on which the Court keeps its own data
5. A root and branch change in the system of evaluating the work of judges, including the abandonment of most statistical indicators of performance, and the use of qualitative indicators relating to the quality of decisions and the writing of judgements; the abandonment of the concept of judicial error
6. Significant improvements, including investment, in the system of legal aid; a change in the background of newly appointed judges: an increase in both graduates of full-time day law faculties and midcareer entries by former advocates and lawyers and a decline in former policemen, procurators, and court secretaries
7. Improvements in the treatment of the public at courts, and survey data showing public recognition of the changes

8. Continued improvements in public attitudes toward the courts, as anticipated in the Plan for the Development of the Judicial System, 2006–11

Although all of these changes would reflect improvements or themselves improve the administration of justice in the Russian Federation, they would not by themselves produce full-fledged legal order. One would need in addition a shift in the attitudes of public officials, if not also the public itself, toward law, including respect for law as a good in itself rather than simply a means of pursuing one's ends.²⁰ An instrumental approach to law dominated Soviet culture, but law served as an instrument mainly of the ruling party. In post-Soviet Russia law has become an instrument of a variety of powerful individuals and groups, but an instrumental approach to law still predominates.²¹

There is a view that strong legal institutions, especially those oriented toward protecting individual rights, appear only in democratic contexts, but there are also indications that some forms of political competition have dysfunctional effects on courts.²²

Clearly, the emergence of truly independent and effective courts requires changes in the broader culture and in the informal practices that connect to the work of the courts and help to shape its impact and meaning.²³ But the accomplishments of the Yeltsin and Putin years go a long way toward laying the groundwork for such courts.

NOTES

1. For a more intricate set of indicators of progress in judicial reform see the CEELI "Judicial Reform Index," which includes thirty different markers falling into six groups: quality, education, diversity; judicial powers; financial resources; structural safeguards, accessibility, and transparency; and efficiency. Teams of assessors have applied these tools of assessment to the courts of eighteen countries (mainly postcommunist), including Ukraine (twice), but not Russia, to produce standardized judicial reform index assessment reports. The assessment process includes a battery of interviews with participants in the judicial process, as well as legal analysis (see http://www.abanet.org/rol/europe_and_eurasia/). In her new book, Linn Hamnergren provides a thoughtful analysis of the varieties of judicial reform activities and their effects in reaching particular goals. See Linn Hamnergren, *Envisioning Reform: Improving Judicial Performance in Latin America* (University Park: Pennsylvania State University Press, 2007).

2. Peter H. Solomon Jr., "Informal Practices in Russian Justice: Probing the Limits of Post-Soviet Reform," in *Russia, Europe, and the Rule of Law*, ed. Ferdinand Feldbrugge, 79–92 (Leiden, Netherlands: Martinus Nijhoff, 2007).

3. See Peter H. Solomon Jr., "The Criminal Procedure Code of 2001: Will It Make Russian Justice More Fair?" in *Ruling Russia: Law, Crime and Justice in a Changing Society*, ed. William Pridemore, 77–100 (Lanham, MD: Rowan and Littlefield, 2005).

4. Peter H. Solomon Jr., "Courts in Russia: Independence, Power and Accountability," in *Judicial Integrity*, ed. Andras Sajo, 225–53 (Leiden, Netherlands: Martinus Nijhoff, 2004).

5. The plans are available on the Web site of the High Arbitrazh Court (<http://www.arbitr.ru>) under the heading "Federal'nye tselevye programmy."

6. On Yeltsin era judicial reform, see Peter H. Solomon Jr. and Todd S. Foglesong, *Courts and Transition in Russia: The Challenge of Judicial Reform* (Boulder, CO: Westview, 2000).

7. See Peter H. Solomon Jr., "Putin's Judicial Reform: Making Judges Accountable as Well as Independent," *East European Constitutional Review* 11 (2002): 101–7, no. 1/2; "Courts and Federalism in Putin's Russia" (with Alexei Trochev), in *The Dynamics of Russian Politics: Putin's Reform of Federal-Regional Relations*, ed. Peter Reddaway and Robert Orttung, 91–122 (Lanham, MD: Rowan and Littlefield, 2005); "Threats of Judicial Counterreform in Putin's Russia," in *Remaking the Role of Law: Commercial Law in Russia and the CIS*, ed. Kathryn Hendley, 1–40 (Huntington, NY: Juris, 2007).

8. Solomon, "Informal Institutions"; 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, eds. Kate Malleson and Peter H. Russell, 375–94 (Toronto: University of Toronto Press, 2006).

9. Note that payments to judges often constitute service fees more than bribes and often do not affect the outcome of cases. Both sides may pay; the real winner may be “taxed”; or the decision may be reversed by a higher court.

10. Solomon, “The Criminal Procedure Code of 2001.”

11. Data from 2006 on the work of regional and district courts and the justices of the peace are on the Web site of the judicial department (<http://www.cdep.ru>), under the “statistika” heading.

12. Peter H. Solomon Jr., “Judicial Power in Russia: Through the Prism of Administrative Justice,” *Law and Society Review* 38 no. 3 (2004): 549–82.

13. See Alexei Trochev, *The Role of the Constitutional Court in Russian Politics, 1990–2006* (Cambridge: Cambridge University Press, 2008).

14. Solomon, “Threats of Judicial Counterreform.”

15. Peter H. Solomon Jr. and Pamela Ryder-Lahey, *Model District Courts in Action: Achievements and Lessons in a Russian-Canadian Collaboration* (Ottawa: Office of the Commissioner for Federal Judicial Affairs, 2004); Vladimir Maksimov and Peter Solomon, eds., *Rol' administratorov v organizatsionnom obespechenii deiatelnosti sudov obshchei iurisdiktsii: Prakticheskoe posobie* (Moscow: Sudebnyi Department, 2005).

16. See Pamela Jordan, *Defending Rights in Russia: Lawyers, the State, and Legal Reform in the Post-Soviet Era* (Vancouver: University of British Columbia Press, 2005); and Eugene Huskey, “The Bar’s Triumph or Shame? The Founding of Chambers of Advocates in Putin’s Russia,” in *Public Policy and Law in Russia: In Search of a Unified Legal and Political Space*, eds. Robert Sharlet and Ferdinand Feldbrugge, 149–68 (Leiden, Netherlands: Martinus Nijhoff, 2005).

17. Peter H. Solomon Jr., “The New Justices of the Peace in the Russian Federation: A Cornerstone of Judicial Reform?” *Demokratizatsiya* 11, no. 3 (2003): 363–80.

18. Data in this paragraph come from the Web sites of the Judicial Department of the Russian Federation and the High Arbitrazh Court (see notes 6 and 11).

19. Anastasia Kornia, “Sudam ne veriat,” *Vedomosti*, August 9, 2007; “Posetiteli saita arbitrazhnogo suda veriat v pravosudie,” *Fontanka.ru*, August 22, 2007; Jose Juan Toharia, “Evaluating Systems of Justice through Public Opinion,” in *Beyond Common Knowledge: Empirical Approaches to the Rule of Law*, ed. Erik Jensen and Thomas Heller (Stanford, CA: Stanford University Press, 2003).

20. See Peter H. Solomon Jr., “Law in Public Administration: How Russia Differs?” *Journal of Communist Studies and Transition Politics* 24 (March 2008): 115–35.

21. Alena Ledeneva, *How Russia Really Works: The Informal Practices That Shaped Post-Soviet Politics and Business* (Ithaca, NY: Cornell University Press, 2006).

22. Maria Popova, “Judicial Independence and Political Competition: Electoral and Defamation Disputes in Russia and Ukraine” (PhD diss., Harvard University, 2006).

23. See Marina Kurkchian, “The Illegitimacy of Law in Post-Soviet Societies,” in *Law and Informal Practices: The Post-Communist Experience* (Oxford: Oxford University Press, 2003), 25–46.

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