

## Marina Kurkchiyan

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This book is a long overdue contribution to Russian-language work in the field of sociolegal studies. It offers a selection of empirically based investigations of the Russian judiciary, cast within the “law in action” paradigm that scrutinizes how things happen in the real world rather than how they are intended or ought to happen. The volume makes a significant step away from the stereotypical black-and-white accounts of the Russian legal system often produced by Western and Russian scholars alike. Here the authors provide an analytical approach to the subtleties of how verdicts are reached in Russian courts. The comparative method that most of the authors employ is also valuable in situating findings on Russia within a global perspective.

The main theme of the volume is the independence of the Russian judiciary from external institutional, social, and political influences. Several authors examine the high conviction/low acquittal rates typical of the Russian courts and ask why judges continue to be so accommodating to prosecutors’ requests.

Aleksei Troshev compares statistics from a number of postcommunist countries. He argues that regardless of the path of transition, judges in all such countries continue to act as junior partners in the law enforcement process. At first glance, his comparative statistics are fascinating. But on reflection, the reader is not fully convinced. Troshev’s comparison of acquittal rates in ex-communist EU countries with some Western countries (52) shows that the differences are not very significant. And the author himself admits that one has to be very careful with this type of statistical comparison, because countries have different mechanisms for filtering out cases before they reach court. Many other factors could also be in play. Although the findings about Russia do seem plausible, the use of thinly spread statistics to reach conclusions for all countries invites methodological reconsideration.

In the first part of his chapter, Mikhail Pozdniakov provides a gripping analysis of the evolution of the concept of “the trend towards conviction.” By analyzing how the term has been used over time he identifies a transformation from the legal meaning of the term into a populist one about the shortcomings of the judiciary. In the second part of the chapter, which reads as a separate, self-contained contribution, the author explains why one should be careful about using acquittal rates as an indicator of the quality of judicial decision making. He argues persuasively that to understand the reasons for the trend towards more convictions one has to look at the entire institutional structure of the justice system and the role of the court within it.

Ella Paneiakh considers how judges respond to the pressures imposed on them by prosecutors. She finds that judges tend to compromise by using their rights of discretion. They avoid outright acquittals so as not to undermine the work of the prosecution, but they offset that bias by using suspended sentences, pushing many cases to out-of-court settlements and in serious cases reducing sentences. This is an insightful observation but the reader is left wondering how different those strategies are from the behavior of Western judges, who enjoy even wider discretion and often use it in the same way. If the author could have shown the contrast between the practice of Western and Russian judges, that would have strengthened the author's argument that in the Russian case this could be explained by the tendency of judges to find a compromise between prosecutors' pressure and professional integrity. Otherwise the claim remains speculative.

Vadim Volkov and Arina Dmitrieva choose to analyze the judiciary as a corporate community. Theirs is an informative chapter, presenting a contemporary profile of the profession supported by a survey-based examination of the values and priorities of Russian judges.

Peter Solomon directs his spotlight to the growing tendency of Russian defendants to acknowledge their guilt before trial in return for more lenient punishment, comparing the trend with Western practice. On the basis of a number of well-informed assumptions, the author provides a stimulating account of the questions that still need to be researched on how such deals are reached, what promises are given to the defendants and in what circumstances, and the role that judges, lawyers, and prosecutors play.

How does the participation of lay people in the legal process affect the outcomes of the cases? And how do judges react to trial by jury, so novel for Russia? These questions are raised by Elena Maslovskaja. She argues that jury trials do make acquittal more likely. They weaken the links between judge and prosecutor and expose deficiencies in their work. This, according to the author, explains why judges reject the institution of juries. To make the argument convincing, it would have been helpful if Maslovskaja had looked at previous attempts to transplant the institution of juries from the common law tradition into the Continental law system. It is doubtful that she would have found successes.

Does more political openness in transitional countries also suggest strength in the legal system? Mariia Popova argues that the opposite is true. Unless democracy is firmly in place, stronger political competition imposes more pressure on the courts and increases the probability of politically biased judgments. To test this, she compares statistics on Ukrainian and Russian judgments in libel cases and in election-related disputes. The assumption was that the more cases won by the party in office, the higher the level of judicial dependency. The problem with this approach is that it takes the law out of consideration. For example, English libel law imposes the burden of proof on the defending party, making it easier to win cases, whereas the First Amendment of the American Constitution makes it extremely hard to win libel cases. Although the differences between Ukraine and Russia in their libel and electoral laws may not be significant, careful methodology requires that they should be examined before they can be disregarded.

In the contribution by Kirill Titaev, the spotlight moves on to the courts of appeal for commercial cases. Examining which cases are taken there, the expectations of litigants, and how the cases are treated, Titaev considers the actual roles that are performed by the various levels of court and assesses the implications. This well-designed study exposes the discrepancies between institutional blueprint and institutional performance.

How often do Russian judges express views that go against the main consensus? How does the system react to those views? By studying the records of the Russian Constitutional Court, Aleksandr Vereshchagin traces the incidence of such views over time and assesses what we can learn from it as a forum for the expression of nonconformist views. The reader looks forward to further and hopefully more nuanced studies of this subject.

Although distrust in the legal institutions among the Russian public is well documented, the number of court cases is steadily increasing. To resolve this puzzle Kathryn Hendley has studied court users, the motives they have in taking cases to court, and the trust they have in the law system as a factor in starting litigation. Concerning the last question, she comes to a negative conclusion. Based on the analysis of the empirical data she demonstrate that in Russia, just like anywhere around the world, people go to court because they have to or because they know how—not because they trust the judicial system.

One might expect that social forces external to Russia have an impact on how cases are decided there. The volume touches upon two possible sources of external influence: the European Convention on Human Rights, to which Russia is a signatory, and legal norms that determine the direction of reforms across the European Union. On human rights, a study by Anton Burkov argues that the ECHR's influence cannot be significant because Russian legal professionals have little knowledge of it. As for EU norms, Daniela Piana reminds us that transplants inevitably go through radical adaptation and any significant change depends on the microcontext in which reforms take place.

Overall, the strength of this volume lies in its objectives and methods. It seeks to make empirically based generalizations arrived at by quantitative methodology and analysis of the available statistics. However, the assumptions often lack the support that a scrutiny of in-depth case studies would provide and thus remain speculative, at least in some chapters. The book also makes an attempt to bridge the Western and Russian academic traditions. At a superficial level, it brings together prominent Russian and Western scholars with research interests in Russian law and society. At a deeper level, many of the contributors refer to theoretical approaches developed across both academic traditions and then place their findings on Russia in comparative perspective. It only remains to hope that such integration will continue in days to come and that there will be more in-depth use of the rich knowledge and understanding built up through studies and discussions in Western sociolegal scholarship.

The critical comments above should not be read as shortcomings of the volume but rather as evidence that the book is a thought-provoking contribution inviting serious discussion and engagement. The volume would be of interest to any sociolegal scholar studying Russia.