Reforms in legislation governing judicial organization in the Soviet Union and in present-day Russia: The new law “On the Status of Judges in the Russian Federation”

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Foreword

While Westerners laud the sweeping reform efforts of Michael S. Gorbachev because of their reputed introduction of democracy into the former “Evil Empire,” Russians view the situation from quite a different perspective. To the average Russian citizen, the most visible effects of such reforms have been, and continue to be, astronomical price increases, an invasion of overpriced Western goods, a disintegration of Russian culture as it smothers under the influence of the attractive Western way of life, and perhaps most notably of all an abrupt and wide-spread rise in crime. The following were among several trials observed as research for this paper in St. Petersburg’s Kuibyshevskii Regional People’s Court during the summer of 1993: two minors accused and convicted of stealing incredible amounts of merchandise and personal property over several months amounting to almost three million rubles (equivalent to about only 3,000 American dollars, but an unfathomable sum to most Russians at the time of the robberies); a mother, her son, and his accomplice accused and convicted of stealing several thousand rubles’ worth of food from St. Petersburg kindergartens, selling the food at the market, and using the money to buy vodka; a drunk convicted of assaulting a medic as she attempted to tend to his wounds acquired as a result of an earlier brawl in the subway; and two old men accused and convicted of stealing food from houses in their area (the men repeatedly asserted that the motivation for their crimes was hunger resulting from insufficient pension allowances). Under the old regime, all of these defendants would have undoubtedly served serious time behind bars (or in the Russian zona work camps), most likely following “suggestions” to the judge from Communist Party officials regarding sentencing. Today, however, the burdensome era of “Communist hegemony” has come to an abrupt end, and the pendulum now swings in the other direction.

All of the defendants listed above, as well as several others observed but not mentioned, were freed from custody immediately after trial. Although almost all had pleaded guilty, even those who hadn’t done so received either acquittal or suspended sentences involving no incarceration. Barry notes that police and journalists refer to this pattern of judicial leniency as “acquittal bias” on the part of Russian judges. He cites the number of acquittals rendered in Russia in 1989 at more than double the total in 1984 (Barry 1992, 266). Even taking into consideration a moderate rise in crime over five years’ time, the number of acquittals following the Gorbachev reforms
reflects an unmistakable tendency toward judicial independence from the rigid conservatism previously demanded by Party representatives, especially concerning sentencing of convicted criminals.†

Judges in Russia today are free to render whatever kinds of judgments seem most fitting to them, rather than deferring to summary justice rendered from above. What's more, advances in judicial financial standing have undoubtedly affected the attitude of Russian judges who may now concentrate on the carriage of justice, rather than worrying about how they will manage to eke out a living after work. Such changes have come about as a result of forward-looking reforms in Russian legislature, most notably a new law concerning judicial status adopted in the summer of 1992. Although the Kuibyshevskii court and numerous other tribunals like it throughout the country remain unbearably overburdened by a multitude of cases and plagued by often vague and inadequate legislation and deficiencies in technology, incredible progress has been made which continues today. Some may argue that greater control has to be regained over the judiciary in order to curb the new crime streak which plagues Russia, and such concerns may well be the subjects of further reform to come. But for now Russia's judiciary remains a vastly altered entity compared to its former self, and the justice rendered today, although perhaps lenient, is arguably more desirable than the injustice which reigned just a few years ago.

Much scholarly work has been done in the area of Soviet-era law and legal procedure, and this paper attempts to make a continuing contribution to that effort in the new era of the Russian Federation. Drawing upon first-hand experience in the Kuibyshevskii court, this paper will attempt to shed some light on the recent reorganization of the judiciary in Russia by revealing and analyzing very recent changes in the new law concerning the status of judges in Russia. Along the way some speculations on the initial and continuing impact of these reforms on Russian criminal justice will be offered as well.

† See page 13.
Introductory Overview

The advent of yet another in a series of reformative statutes on judicial organization and control has once again altered the system significantly. Under previous legislation, like the Law on the Fundamentals of Legislation on the Judicial System of the USSR and Union and Autonomous Republics of 25 December 1958 (hereafter referred to simply as “Fundamentals”) and the similar Law on Court Organization of the RSFSR¹ (hereafter simply Law on Court Organization), judges found themselves under tremendous pressure from the state and especially from the Communist Party. According to G. Shakhnazarov, “the principle of complete party hegemony ... reigned” (quoted in Huskey 1992, 35). One of society’s most important elements had been effectively debilitated professionally, as judges were denied the independence necessary to efficiently and effectively perform their duties.

Moreover, judges were even more egregiously deprived at home than at the office; their material situation was horrendous, even by Soviet standards. Many of Russia’s supreme agents for the carriage of justice had been relegated to a substandard social stratum, lacking the material comforts necessary to enjoy even a marginally comfortable home life. Adding insult to injury, judges occupied a precarious and often disrespected position vis-à-vis both government and citizens, who traditionally “looked askance at law, which [had] traditionally been associated not with justice but with proizvol, or tyranny” (Huskey 1992, 38). Solomon comments that most Soviet citizens (and present-day Russians, for that matter) see law “not as a supreme value but as an instrument of power that ought to serve their personal views of morality and justice” (1990, 193).

With these facts in mind, in order to “…strengthen the legal foundation of the life of the state and society, ensure strict observance of socialist law and order, and improve the work of judicial bodies,” on 1 December 1988 the Supreme Soviet of the USSR adopted several amendments to the 1977 Soviet Constitution concerning judicial election and independence. Subsequently, the most significant judicial reforms were inaugurated on 4 August 1989 with the passage of the Law of the USSR “On the Status of Judges in the USSR,” the first law of its kind in Soviet history defining the status of judges and people’s assessors (Henderson 1990, 305).

Following the collapse of the Communist Party in the Soviet Union, Gorbachev and his team had

¹ Russian Soviet Federated Socialist Republic.
been able to replace Party despotism with law as a new basis for political control, placing even the historically inviolable leader of the USSR under the law (Solomon 1990, 185 and 189). Innovative legislation enacted during this period represented the next great stride along the Soviet path toward a so-called pravovoe gosudarstvo.\(^2\) In subsequent analyses and reviews of the Soviet Law on Status, scholars generously praised the broad steps undertaken by Soviet legislators in the passage of the law, but they also addressed the law’s many shortcomings.\(^3\)

Presently, the vast majority, if not indeed all, of these criticisms have been addressed and largely satisfied by the passage of the Russian Law “On the Status of Judges in the Russian Federation” on 26 June 1992.\(^4\) The adoption of this revolutionary law will undoubtedly have far-ranging and dramatic effects on the continued functioning of the Russian judiciary, for better or worse. Satisfying complaints raised about its predecessor, the new Russian law on Status offers a great deal of autonomy to the judicial community and undertakes serious measures to attract new recruits to the sparse field of judicial professionals by offering judges impressive material and social benefits. The new Russian Law on Status addresses not only the number, but also the quality of judicial appointees, which will hopefully result in a stronger and more respectable judiciary. The test of time will bear witness to the effectiveness of this monumental new law, but from the present vantage point it seems that at least some measure of progress is assured.

### Education and Process of Entry Into the Legal Field.

One of the greatest stumbling blocks for legal reform in Russia is the acute shortage of legal professionals. In order for any of the reforms of the Russian Law on Status to have a positive, productive effect on the system, enhanced and expanded legal education must play a primary role in contributing to the expansion of the corps of lawyers and judges in Russia, a society with fewer lawyers per capita than almost any other European nation (Solomon 1990, 193). Only after the

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\(^2\) This term had been used in reference to the Soviet state as early as 1982 in an “authoritative treatise” on the 1977 Soviet Constitution, and Mikhail Gorbachev contributed to its propagation at the July 1988 19th Conference of the Communist Party of the Soviet Union (Huskey 1992, 33 and 40 at footnote 37; Henderson 1992, 306). Another term commonly used is the German “Rechtstaat” (Solomon 1990, 184), loosely translated as “rights state,” or simply a law-ruled and law-based society.

\(^3\) Some of these criticisms will be discussed later, including those of Eugene Huskey, Peter Solomon, and especially Jane Henderson (see Bibliography for full citations).

legal ranks have been augmented can Russia turn its attention to more specific matters.

The vast majority of this paper could not have been written without the invaluable contributions of a young woman named Julia Genadiievna Parfenieva, who was at the time working as consultant to the Kuibyshevskii Court in St. Petersburg while awaiting imminent conferral of judgeship. Since her time on the bench was rapidly approaching and she had already personally passed through all of the obligatory stages prior to judicial appointment, she offered a very detailed and insightful description of the process of entering the legal field in Russia. Parfenieva explained that the process of acquiring specialized legal education and becoming qualified to practice law begins in Russia directly after graduation from high school, usually at age 17. Whereas American law school study is conducted almost exclusively at the graduate level, prospective Russian legal professionals pursue their legal education as undergraduates. Once accepted into the university Department of Jurisprudence, one normally studies for a term of five years. Courses encompass all areas of the law, including legal history, philosophy of legal thought, and study of the legislative codes, upon which the entire practice of the law in Russia is based. Judging from perusal of legal textbooks and current and former students’ descriptions of the law curriculum, it seems that law professors in Russia rely much less, if indeed at all, on the case method than do American instructors. S. G. Kelina and A. M. Yakovliev described the university law curriculum as being founded upon a large theoretical basis prepared through the application of “modern methods of sociology, psychology, and computer-assisted statistical methods to analyze in depth trends in crime as a whole and of separate categories of crimes” (Bassiouni and Savitski 1979, 93 and 96). Recent innovations in the legal community, as well as increased contact with, and advice from, Western legal organizations may have already had an effect on legal pedagogical methods and materials in Russia, but the courses in St. Petersburg State University’s Department of Jurisprudence, as characterized by current students, reflect the same theoretical emphasis and reliance on other fields noted by Kelina and Yakovliev. Not only does the law curriculum differ from that in the U.S., but the environments in which students acquire legal training contrast sharply as well.

Rather than spending seemingly endless hours at school, Russian law students have the alternative of receiving a legal education through correspondence, which remains quite an attractive option. Many students previously chose to receive legal training from the All-Union Law
Correspondent Institute in Moscow, whose offices reached over the entire Soviet Union (Bassiouni and Savitski 1979, 96). Little mention was made anywhere else of the continued existence of this institution, but in view of the persistent high rate of correspondence study, it seems highly probable that it has not yet ceased its activities. Advising that preference be given to full-time university law students when replacing judges, Valery Savitski claimed that the low level of Russian legal professionalism resulted from the fact that in 1990, 70 percent of law students studied law by correspondence (Savitski 1992, 379-80). Although Savitski's conclusion about the detrimental effects of correspondence study may be a bit extreme, the percentage of correspondence students cited is nonetheless extremely high. Eugene Huskey points out that still in 1991, 56 percent of all law students in Russia received their education by correspondence (Huskey 1991, 60). If one trusts the accuracy of these figures, a decrease in correspondence study appears to have been achieved, although the situation seems to be changing very slowly. Many current students maintained that they had received, or were receiving, their education either partially or wholly through correspondence, often attaining a degree in six, rather than the customary five, years.

Whether students elect to receive an education at the university directly or by correspondence, their study of the law is typically supplemented by practical experience in the field. Russian students are quite often behooved to receive "on the job" experience from the outset of their careers, as economic and other factors compel them to immediately seek employment, rather than concentrating exclusively on their studies. Working in the summer and even during the academic year, often in the area of one's future profession, is not only common, but seemingly an integral part of the system. If a student has not found some form of future employment by graduation, she faces great difficulty obtaining employment simply by merit of her academic achievements or prowess. Even if assertions made by Kelina and Yakovlev (Bassiouni and Savitski 1979, 98) that law schools themselves provide students with practical experience in their fields and even with jobs after graduation were true during Brezhnev's term, they seem to carry little weight today. Students cannot rely on their universities to secure them employment. They must take steps on their own to make the necessary contacts. In a country where the old adage "It's not what you know, but who you know" rings truer than anywhere else, contact with prospective employers is essential to success in any facet of the legal profession. This holds true nowhere more so than on the judicial bench5.

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5 Discussed in more detail on pages 8-10.
Qualifications and Appointment Procedure

Despite numerous amendments to previous laws over the years, early qualification requirements had changed very little until the present. The only qualifications required of candidates to judicial posts were possession of Soviet citizenship and achievement of 25 years of age by the day of election (Article 9, Law on Court Organization; Article 29, Fundamentals). Election requirements were the same for the lay jurors, or “people’s assessors,” who played an integral part in the trial, theoretically possessing influence over decisions equal to that of the judge. Until the passage of the Soviet Law on Status, one was not even required to possess a higher legal education to become an entry-level judge. The most important unwritten requirement was Party membership in good standing, which permitted candidates to obtain the approval of the staff of the local Party committee for selection to judicial office (Solomon 1990, 185-6). One can imagine the kind of judiciary that might have resulted from such appointment policies.

Realizing that reform had to begin at the very foundations of the system, the Supreme Soviet went directly to the Constitution, altering the requirements for judicial appointment at their source (Article 152). These changes, which are reflected in Article 8 of the Soviet Law on Status, were undertaken in an attempt to eliminate any doubt about judicial quality (Henderson 1990, 320). Both documents reiterate the previous age and citizenship requirements, but additionally require, for the first time in Soviet history, the possession of higher legal education, completion of a qualifying examination, and a term of service in a juridical specialty of not less than 2 years for people’s judges, and five years in a juridical specialty (of which, “as a rule,” no fewer than two of those years must be as a judge) for judges of higher courts. While the vast majority of candidates may have previously possessed higher legal education, only in 1989 did it become a codified requirement. The institution of a qualifying examination further refined the candidate field and will undoubtedly have a considerable positive effect on future judicial performance.

6A Pravda article published on Thursday, 17 April 1976 at the bottom of the front page, columns 2-5, claimed that of 9230 district court judges elected at a recent judicial election, 94.8% had received higher legal education and all had practical legal experience. Incidentally, the article further claimed that 32.7% of those elected were women, of which 24.5% had been elected for the first time.
Article 4 of the Russian Law on Status makes some minor changes to the 1989 legislation, eliminating initial term requirements for People’s Judges and increasing term and age requirements for judges of higher courts:7

**Article 4. Requirements of Candidates for Judicial Positions**

1. Any citizen of the Russian Federation having attained 25 years of age, possessing a higher legal education, having passed the qualifying examination, and not having permitted himself any disreputable actions may be a judge. Moreover, any citizen of the Russian Federation having attained 30 years of age and possessing a term of service in legal specialization of no less than 5 years may be a judge of a higher court, while a candidate to the Supreme Court of the Russian Federation and the High Court of Arbitration of the Russian Federation must have attained 35 years of age and possess a term of service in legal specialization of no less than 10 years.

3. Any individual fulfilling the requirements stipulated in the present Article shall be considered a candidate to the respective judicial position upon receipt of recommendation of the Qualifying College of Judges.

With more stringent qualification requirements in place, legislators moved to reform the actual process of judicial appointment as well. Before the passage of the Russian Laws on Status, documents addressing judicial appointment observed that the process was to be conducted on the basis of election, in strict accordance with Constitutional demands. Article 7 of the Fundamentals (pursuant to Articles 105-109 of the 1936 Soviet Constitution and Article 152 of the 1977 Soviet Constitution) and Article 8 of the Law on Court Organization (pursuant to Articles 110-113 of the Constitution of the RSFSR) made this expressly clear.8 Candidates to the main and beginning link of the judicial process, the district or city “people’s courts,” were directly elected by the population of their district or city “on the basis of universal, equal, and direct suffrage by secret ballot” (Article 28, Law on Court Organization). In comparison, candidates to higher courts were elected by the Soviet of People’s Deputies at their respective levels (Article 33, Law on Court Organization and Article 112, RSFSR Constitution), with the exception of candidates to the Supreme Courts of the RSFSR and of the USSR, who were elected by the corresponding Supreme Soviets (Article 110, Constitution of the RSFSR; Article 153, 1977 Constitution of the USSR; Article 49, Law on Court Organization; and Article 26, Fundamentals). It must be kept in mind, however, that even though the Soviet people (or electing bodies) cast their votes for candidates to people’s courts in strict observance of the law, this was just one more in a long line of Soviet scams in which

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7 All translations of the Law “On the Status of Judges in the Russian Federation” are those of the author.

candidates had already been chosen by the Communist Party hierarchy and faced no opposition in the ensuing mock elections. *Pravda*, on Thursday, 17 April 1976, ran an article which clearly displays this phenomenon. Under a headline that read “Worthy Elected Officials,” the Article claimed a 99.98 percent voter turnout, with an “absolute majority” of 99.87 percent of those voting for the candidates presented.9 The conclusion drawn in this article should come as no surprise to anyone familiar with the Soviet press:10

The results of the elections, and friendly voting for the candidates to the people’s courts, once more displayed the high political awareness of the Soviet people and their unanimous approval of the domestic and foreign politics of the Communist Party of the Soviet Union, steadfastly conducted according to the party line toward further perfection of the Soviet State system, social democracy, and the resulting strengthening of law and order.

With the collapse of Communist power, Soviet legislators were finally empowered to free judges from the fetters of constituent accountability. The Soviet Law on Status provided for initial recommendation of (or literally, conclusion on) candidates, preceded by examinations and personal interviews, by a kind of Bar Association exclusively for judges, the Qualifying College of Judges (Solomon 1990, 186). Additionally, the power of election of candidates to territorial, regional, city, and district (city) courts was transferred from the general populace to the corresponding superior Soviet of People’s Deputies. Candidates to the Union and Republic Supreme Courts would still be chosen by the respective Supreme Soviet. These reforms reflected highly debated changes in the Soviet Constitution in December 1988. Originally, the Soviet on the same level as each court was to elect judges to that court, but ultimately that responsibility was delegated to the superior Soviet with the aim, in the words of General Secretary Mikhail Gorbachev, “that in the future local authorities should not be allowed to interfere in the work of judges” (quoted in Henderson 1990, 308). Judges were also required for the first time to swear an oath of office (Henderson 1990, 321).

The Russian Law on Status again modifies its predecessor, describing in more detail the role of the Qualifying College and the administration of the qualifying examination, and initiating further reform of the election procedure.

Article 5. Selection of Candidates for Judicial Positions
1. Selection of candidates for judicial positions shall be realized on a competitive basis.
2. Any citizen of the Russian Federation possessing higher legal education and having attained 25

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9 One might wonder for whom the other 0.11 percent cast their votes!
10 Translation of the *Pravda* article by the author.
years of age shall have the right to take the qualifying examination for the position of judge. The qualifying examination for the position of judge shall be administered by an examination committee, under the auspices of an organ of justice, the personal composition of which [the examination committee] shall be established by the Qualifying College of Judges.

4. The qualifying examination shall be taken by an individual who is not a judge. Results of the qualifying examination shall be valid for a duration of three years from the moment of its administration and during the entire period of an individual's service in the position of judge.

5. Each citizen of the Russian Federation fulfilling the requirements demanded of a candidate for the position of judge in the respective court shall have the right to apply to the Qualifying College of Judges for recommendation to that position.

6. The Qualifying College of Judges, within the bounds of its competency, shall review the application of an individual pretending to the corresponding position of judge and, taking into account the results of the qualifying examination, shall present a conclusion on recommendation for the given individual. Repeat application to the Qualifying College of Judges shall be admitted no earlier than one year after the day of presentation of this recommendation.

7. The Qualifying College of Judges shall present to the Chief Judge of the respective court a conclusion for each of the recommended candidates. In the case of disagreement of the Chief Judge of the court with the conclusion, it shall return for repeat review to that very same Qualifying College of Judges. In the case of repeat positive conclusion of the Qualifying College of Judges, candidature shall be presented for review to the corresponding Soviet of People's Deputies.

Article 6. Procedure of Endowment of Powers to Judges

1. Judges shall be elected by law-regulated procedure from the number of candidates for the corresponding judicial position.

2. Judges of the Supreme Court of the Russian Federation, territorial, regional, Moscow and St. Petersburg city Courts...shall be elected by the Supreme Soviet of the Russian Federation through representation of the Chief Justice of the Supreme Court of the Russian Federation.

4. Judges of district (city) courts shall be elected by territorial, regional, Moscow and St. Petersburg city Soviets of People's Deputies...through representation of the corresponding Chief Judges of territorial, regional, Moscow and St. Petersburg city courts....

Whereas the Supreme Soviets and Soviets of People's Deputies at least theoretically possessed real power concerning the election of judges to office before, Article 6 redistributes that power, perhaps in anticipation of a decrease in authority of such bodies. Although the Article seems at first to vest the Congresses of People's Deputies and Supreme Soviets with control over election decisions, in actuality these political bodies now decide solely on ratification or non-ratification of the decision of the respective judicial leaders. Responsibility for judicial appointment has been reassigned to actual judicial representatives who are truly qualified to make such decisions, bespeaking a real devotion to the rule of law by Russian legislators. This trend has its origins in a transfer of power from Party to state organs which occurred following the nineteenth Party Congress in June 1988 and the opening of a competitively elected parliament in May 1989 (Huskey 1992, 35). Despite this new dedication to law, however, the theory contained in the wording of the law may not offer the best representation of the reality that exists in the system.

Apparently hard and fast rules may often be swept under the rug in deference to real

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The wording of the law here is particularly vague and imprecise and seems to be contradictory. One may indeed take the exam before the age of 25 (cf., Article 4 (1) ...having passed [finished] the qualifying examination...!). Occurrences of such imprecise and insufficient wording are not rare in current legislation, as inexperienced lawmakers are forced to turn out legislation quickly in order to take control of often directionless situations. See Solomon 1990, 192 and Huskey 1992, 39.
problems in need of effective and expeditious solutions. As she was nearing the final stage of the appointment process, Parfenieva explained that simply being qualified to serve as a judge is far from a guarantee of appointment but that, ironically, appointment is sometimes not even immediately necessary. During her service in the Kuibyshevskii court, first in the department charged with collecting fines, and then as consultant to the court, she had gotten to know the person with whom every prospective judge must become acquainted: the Chief Judge of her court. While she may have been simply acquiring the experience in juridical specialization necessary to become a judge under the 1989 law, a connection that Parfenieva had thus gained was evidently another pivotal qualification for judicial appointment. According to Parfenieva, even if one has finished law school, passed the qualifying examination, and managed to receive the consent of the Qualifying College of Judges, if one has not secured a position in a specific court through its Chief Judge, one will be hard-pressed to find employment in the judiciary. The final stage of the process, receipt of consent of the Soviet of People's Deputies, is purely a formality, for the decision is made through representation by the specified Chief Judge or Justice, who will doubtfully offer endorsement to a candidate without assurance that she has already secured a prospective position and received the requisite consent of the Chief Judge of the court to which appointment is sought. In the case of the Supreme Court, its Chief Justice personally selects justices and offers recommendations directly to the Soviet. In all other cases, court leaders more than likely know each other and undoubtedly decide the fate of candidates long before presentation of any conclusions to the Soviet. Despite the wording in Article 5 (7), instances in which the Qualifying College endorses a candidate despite the negative position of the respective Chief Judge are reputedly incredibly rare. Even if such a case were to emerge, the Soviets have no real power without the consent of the corresponding Chief Judge anyway. Even though the Soviets possess theoretical control over the composition of courts, the Chief Judges who directly control the courts have been ultimately vested with the real responsibility for appointment of new judges.

Additionally, although she had failed her first administration of the qualifying examination and was not scheduled to repeat the test for several months, upon her 25th birthday Parfenieva was to begin “fulfilling the obligations of judgeship” in the court. By order of the Chief Judge, she would be acting in every capacity as a full-fledged judge. A severe shortage of qualified judges, exacerbated by an incredible workload, resulted in Parfenieva's conditional acceptance into the
court, even without having completed the appointment process. The final word seemingly rests exclusively with the Chief Judge of the court in which one wishes to practice, exclusive of other factors. Another judge of the court, Vadim Feliksovich Shchevchenko, had reputedly been appointed to his judgeship in the court directly upon graduation from law school, partly because of a serious shortage of judges, partly because of his exemplary academic record and abilities, but surely upon direct request of the Chief Judge of the court. At the very least, it seems that the new Law on Status assures that qualified judges are appointed to positions by those who have the expertise and judgment to determine judicial qualification or lack thereof, rather than by voters, who rely more on political ideology than on legal expertise in their decision-making process.

Environment for Justice: Guarantees of Independence

The major impetus for the inauguration of both of the laws on judicial status was the need for increased independence for judicial organs from the detrimental influence of government agencies and especially the Communist Party. Expanded independence would contribute to the generation of a new environment in the judicial community which would be more conducive to the administration of justice. Under the rigid control of the Procurator’s office, the unwavering observation of the Communist Party, and the constant threat of disciplinary action or removal from office, Soviet-era judges did not previously occupy what might be called an envious position.

According to Article 9 of the Fundamentals and Article 7 of the Law on Court Organization (pursuant to Article 155 of the 1977 Constitution of the USSR and Article 116 of the Constitution of the RSFSR), judges were allegedly “independent and subordinate only to the law.” But despite the fact that such a promise had also existed in the previous Constitution of 1936 (at Article 112), under both Stalin and his successors these allegations had remained largely empty declarations, lacking any enforcement mechanism and completely subject to the random will of the Communist Party. Measures were taken to alter the situation when a complete legal recodification effort initiated under Khrushchev took place in 1953 after the death of Stalin. The process was finally concluded under Brezhnev, but more intensive reform remained in the future, as the position of judicial independence had improved little, if at all (Huskey 1992, 29-32). Judges still practiced in

Shchevchenko is, incidentally, one of the most well-liked and respected judges in the court. He now has extensive experience on the bench and is known to be one of those few judges who consistently refuse to accept the ubiquitous bribes proposed to almost every figure of authority in the Russian Federation.
constant fear of removal or other disciplinary action from the many control organs placed over them, including superior courts, the Procuracy, the Ministry of Justice, Communist Party organizations, the KGB, and even to a certain extent the press and the wrath of the people\(^{13}\) (Ioffe and Maggs 1983, 302). If the unwavering scrutiny of these myriad agencies of state and private control didn’t disquiet the courts sufficiently, constitutionally based threats of removal from office like that contained in the Law on Court Organization probably did. Articles 19 and 20 of that law contained unmistakable threats of early recall or removal from office for judges who displeased electors, or electing bodies, such as the Soviets of People’s Deputies. Even less subtle is the wording of Article 64: “For dereliction of duty and unworthy acts undermining the authority of justice, judges shall bear disciplinary responsibility.” Furthermore, Article 18 provided for direct accountability of judges to the bodies that elected them, and Article 17 required that judges issue periodic reports of judicial activity to these bodies, placing judges in no uncertain terms in a subordinate position in relation to voters. Although the power of recall possessed by the general public was probably principally theoretical, that of the Soviets was definitely genuine, and even the threat of such an electoral lynching undoubtedly affected judicial performance, undermining any alleged judicial independence or exclusive submission to the law.

Despite the lack of effective enforcement mechanisms, these words were constantly quoted, as Barry puts it, “as if the incantation itself would make a difference” (1992, 257). Savitski, for example, claimed that judicial independence was actually ensured by popular judicial election, obligatory periodical reports of court activity by judges to the electors, and provisions for criminal prosecution, removal or arrest of judges (Bassiouni and Savitski 1979, 11). Even as he made grandiose claims of judicial freedom, Savitski described the incredible process of recall for judges and people’s assessors. At meetings of public organizations or at general meetings of “working people” voters, at their own initiative, could demand a recall vote. Of course the local Ministry of Justice also enjoyed the right to recommend judicial recall. The respective Soviet of People’s Deputies then examined the accusations and demands for recall and scheduled a vote. In the event that the case continued all the way to a recall vote by the electors, the voting was conducted by a

\(^{13}\) Barry cites several widely reported cases of public pressure on courts. The first involved a group of bus drivers in Novorossiisk who in effect forced the judge to change the sentence she had imposed on another bus driver convicted of killing a pedestrian. They went on strike, tying up traffic throughout the city, until the sentence was changed. Another example involved the case of a man being tried for the murder of a young Ukrainian girl. An angry mob congregated outside the courtroom and attacked the accused and his police guard when they emerged from the courtroom. Such acts, Barry comments, have led to a comparison with “lynch law” in the old West (269).
simple show of hands (12)! It is difficult to see how such a situation offered any measure of independence to judges. Rather, the Fundamentals, the Law on Court Organization, and the Constitutions of the RSFSR and USSR greatly limited the self-sufficiency of judges and subjugated them to the fickle will of electors and of the Communist Party. Of course, that was exactly what Soviet legislators had in mind when they drafted the laws.

The Communist Party routinely interfered directly in cases “sub judice” (Huskey 1990, 36). Local Party bosses wielded enormous power over judges, extending even to their removal from office, or at the very least to prevention of their reelection by blocking repeat nomination. Political and Party leaders could usually engineer the removal of any judge “whom they disliked” (Solomon 1990, 186). Even democratically minded officials like former Moscow Mayor Gavriil Popov were guilty of such tactics, or at least of considering them. Once on a televised program, Popov responded to a question raised by a Moscow citizen by advising the listener to “take up [her] problem with the court.” He continued brazenly, “If the court makes a wrong decision, we shall recall the judge” (Feofanov 1992, 374). Backed up by such incredible influence, politicians’ occasional requests regarding verdicts or sentencing in particular cases, or that the judge abide by desired punishment norms in compliance with law enforcement campaigns were usually entertained by the judiciary (Solomon 1990, 186). Popular election of judges, the ensuing responsibility and accountability to constituents, and threats of arbitrary disciplinary action and dismissal at voter initiative deprived judges of necessary professional freedom, confidence, and security, rendering them docile, Communist-controlled stooges.

Harvard Law School professor Alan Dershowitz, while working within the Soviet criminal justice system for a short time, was confronted by this very problem. In one of his books Dershowitz describes his experiences while working on the appeal for a case of a Jewish dissident who was serving a five-year sentence in a Soviet prison for allegedly overcharging for his carpentry services. The charges were obviously trumped up and the trial a sham, as all of the witnesses had testified that the man had always done fine work and charged the fair market price. The truth was finally revealed when Dershowitz traveled to Israel to meet with one of the lay assessors who had presided during the hearing. The woman, Riya Mishayeva, emotionally recounted that she had actually saved the carpenter from a seven-year sentence. She revealed that “[t]here was absolutely no evidence that he overcharged. The whole case was a fabrication. We were under instructions to
find him guilty unless he renounced his application to emigrate [to Israel]” (Dershowitz 1982, 258). Despite his innocence, the carpenter had been sentenced to five years in prison, and the Soviets’ contempt for law and justice had been clearly revealed.

Against incredible odds, some judges dared to defy the system, as in one other fine example of Soviet-era political meddling. This incident occurred in Sverdlovsk (its former name has been returned and is now again Ekaterinburg), a description of which appeared in Izvestiia on 16 December 1988 (quoted in Henderson 1990, 314-15). An unauthorized rally had allegedly taken place in Sverdlovsk, and a hearing of the case had been assigned to People’s Judge Kudrin by the Chief Judge of the district people’s court, Nikitin. The assignment was accompanied by the instruction that the judge was to find the defendants guilty and impose a sentence of five days in jail for each of the offenders. After Kudrin had allowed an adjournment so that certain documents could be examined concerning the terms of the ban on the rally, he was summoned for consultation with the head of the city Party Committee Department of Administrative Agencies, the district Procurator, the police chief, and Nikitin. Kudrin was informed of the content of the documents, which were not accessible to him, berated for allowing the adjournment, and received repeat direction from the Party representative to sentence the ralliers to five days in jail. When the trial reconvened two days later, Kudrin not only disregarded the Party directive, but in fact dismissed the charge on the basis that no rally had even taken place, it had only been a group of people holding a discussion. That very day Kudrin received a visit from the head of the Sverdlovsk Province Department of Justice, Dmitriyev. The next day Kudrin resigned his judicial position, as well as his Party membership. Following appeal and retrial, the accused ralliers each received the originally prescribed five days in jail, but Kudrin's colleagues didn’t let him down. They supported his action, and a special commission was set up. The RSFSR Ministry of Justice eventually reprimanded Dmitriyev and refused Kudrin’s resignation request, although Kudrin himself understandably refused to return to work under such conditions of professional impotence and external pressure. The Izvestiia article continues, citing that the only thing unusual about the situation had been Kudrin’s resignation. Judicial independence was repetitively openly flouted and those who did so were able to escape retribution quite easily, even when such cases had become public knowledge. For decades, regular Soviet judges had found themselves under the controlling influence of powerful political figures through so-called “telephone law”, wherein politicians
exercised frequent power to dictate case outcomes over the phone to judges without fear of legal reprisal (Barry 1992, 258). The need for serious legislative reform was obvious, and Gorbachev-era legislators introduced it.

Guided by motives significantly different from those of their predecessors, Soviet lawmakers included an enhancement of Article 155 in the 1988 constitutional reforms. While the old article simply stated that “judges and people’s assessors shall be independent and subordinate only to the law,” the new article added to this, assuring judges “conditions for the free and effective discharge of their rights and duties,” and making any interference in the judicial activity of judges and people’s assessors expressly “impermissible” and “punishable by law” (Henderson 1990, 309). Although laudable, the reforms concerning judicial independence in the Soviet Law on Status fell a bit short of the mark. Article 1(2) still plainly stated that judges and people’s assessors remained responsible and accountable to the bodies or individuals that elected them. It would take further extensions of judicial independence by the new Russian Law on Status to achieve a more desirable position.

**Article 1. Judges — Bearers of Judicial Power**

2. Judicial power shall be independent and shall function independently of legislative and executive branches of government.

4. In their activity in the administration of justice judges shall be independent, subordinate only to the law, and accountable to no one.

5. Display of contempt to the court or to judges shall result in law-regulated responsibility.

6. The demands and orders of judges relating to the administration of their powers shall be obligatory for all government agencies, public associations, officials, and other juridical and physical individuals.

Information, documents, and copies thereof required for the administration of justice shall be made available upon judicial demand gratuitously. Failure to fulfill the demands and orders of judges shall result in law-regulated responsibility.

**Article 9. Guarantees of Independence of the Judge**

1. The independence of judges shall be provided for by:
   - the law-regulated procedure for the administration of justice;
   - the prohibition of interference by any party in the official administration of justice;
   - the established procedure for the termination and suspension of judicial powers;
   - the right of judges to resignation/retirement;
   - the inviolability of judges;
   - the system of organs of the judicial community;
   - the provision of material and social security to judges at government expense, according to their elevated status.

2. The judge, members of his family and their possessions shall be located under special governmental protection. Organs of Internal Relations shall be obliged to take necessary measures for the provision of security to the judge and members of his family and protection of his personal belongings, if the judge issues such an appropriate declaration.

4. Guarantees, regulated by the present Law, of the impartiality of the judge, including measures for his legal defense and the provision of material and social security, shall be equally extended to all judges in the Russian Federation and cannot be abrogated or lessened by any normative acts of the Russian Federation or republics contained therein.

**Article 10. Inadmissibility of Interference in the Activity of the Judge**

1. Any kind of interference in the activity of judges in connection with the administration of justice shall be punishable by law.
2. The judge shall not be required to offer any kind of explanation of the content of cases already heard or currently being heard, nor shall he be required to allow any person to become acquainted with their content other than in certain cases and by procedure stipulated by procedural law.

Article 12. Irremovability of the Judge

The Judge shall be irremovable. He shall not be subject to transferal to another position or to another court without his consent, and his powers may not be suspended or terminated for any reason or according to any procedure other than those stipulated by the present Law.

Now, finally, legislators have taken the final step toward complete judicial independence. A pivotal part of that effort appears at the very beginning of the law with the addition of the all-important phrase that judges are to be accountable to no one—neither to electors nor to the influence of the Communist party or other government agencies. Article 9 clearly outlines assurances of judicial freedom, repeating many provisions contained in its Soviet predecessor. Additional provisions, however, have been included, while expanded and more detailed descriptions of these privileges appear in later Articles (to be discussed shortly). Already in the Soviet Law on Status judges had been empowered to demand documents and other materials necessary for the conduct of hearings, and refusal to comply with judicial requests entailed legal responsibility. Also, interference in specific cases and disrespect to the court had for the first time in 1989 been assigned criminal responsibility. A separate law, enacted on 1 December 1989, “On responsibility for disrespect to the court” designated various sanctions, including hefty fines, correctional labor, and even incarceration, for offenses of contempt of court. The law even goes so far as to classify some of the worst offenses as crimes (Henderson 1990, 319). Finally, Article 12 of the new law now duplicates the situation, like in France, where a judge need not fear transferal to a less desirable district or position in the event of disagreement with government or other officials. Savitski has disparaged the claim that “unchangeability” favorably influences judicial independence (15-16), but few could argue that a judge who is allowed to practice without the fear of official backlash in the form of unfavorable relocation will deliver more impartial and objective judgments.

Terminating judicial responsibility and accountability to electing bodies and freeing judges from the prying eyes of outside organizations, Russian lawmakers effectively altered former legislation to the point of allowing almost too much freedom and independence to the judiciary in the opinion of many.\(^\text{14}\) Whether it offers inordinate judicial license or not, this innovative law represents sorely needed reform, finally offering judges important, fundamental provisions for their

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\(^{14}\)See commentary on Article 16, pages 22-24. Incidentally, this situation exists to some extent in the U.S. as well (see Barry 1992, 258).
professional and legal independence.

Inviolability or Anarchy?

Some have contended that the unprecedented commitment to a new rule of law exhibited in Article 16 of the Russian Law on Status represents a shining example of traditional Russian extremist reaction, correcting an undesirable situation only by arming judges with an overabundance of freedom from law enforcement agencies. Previous legislation addressed the question of judicial inviolability from quite a different perspective. Article 36 of the Fundamentals and Article 63 of the Law on Court Organization are practically identical; the latter simply repeats specific provisions for Russian Republic judges. Both begin with a broad guarantee of judicial inviolability: "Criminal proceedings may not be instituted against judges nor may they be removed from their posts in such connection or subjected to arrest," but both also continue by allowing the institution of criminal proceedings against judges subject to the consent of higher authorities. For most courts, that consent came from the Presidium of the Supreme Soviet of the republic, while criminal charges against Supreme Court Justices required the consent of the respective Supreme Soviet itself (unless it was not in session, then responsibility fell back on the Presidium). The Soviet Law On Status altered the former procedure only in that it reassigned primary responsibility from the Presidia to the Supreme Soviets in all cases, not only in relation to Supreme Court Justices. The Presidia took on the obligation only when the Soviets themselves were not in session. Hence, the Soviet law again fell short of freeing the courts completely from external control and decisively allowing them necessary professional autonomy.

Only recently has the judicial community finally received its long-awaited and sorely needed freedom as the Russian law finally shifts decisive power away from the hands of government to the Qualifying College.

Article 16. Inviolability of the Judge

1. The person of the judge shall be inviolable. The inviolability of the judge shall be extended equally to his residence and official chambers, transport and means of communication used by him, as well as to his correspondence, possessions and documents belonging to him.

2. The judge may not be subjected to administrative or disciplinary responsibility [proceedings]. The judge may not be held in any way responsible for opinions expressed during the administration of justice or for judgments delivered, unless guilt of the judge's criminal abuse of power has been established by a judicial decision which has entered into legal force.

15 See the section on the press conference with Kalmykov on the following pages (17-18).
3. A criminal case in relation to the judge may only be initiated by the Procurator General of the Russian Federation, or by an individual fulfilling his responsibilities, with the consent of the corresponding Qualifying College of Judges.

4. The judge may not be subjected to criminal responsibility [proceedings], incarcerated, or taken into custody [taken before a court] without the consent of the corresponding Qualifying College of Judges. Incarceration of judges is allowed only with the sanction of the Procurator General of the Russian Federation, or an individual fulfilling his responsibilities, or by a judicial decision.

5. The judge may not in any case whatsoever be detained, or in like manner forcibly delivered to any governmental agency whatsoever in the course of conducting a case relating to administrative infractions of the law. A judge detained in suspicion of infractions of the law, detained or delivered to organ of Internal Affairs or other governmental agency in the course of conducting a case relating to administrative infractions of the law must be immediately freed upon establishment of his identity.

6. Penetration into the residence or official chambers of the judge, into his personal transport or into transport used by the judge; examination, search, or confiscation conducted there; monitoring his telephone conversations; personal examination and personal search of the judge; as well as examination, seizure and confiscation of his correspondence, personal belongings and documents may be conducted only with the sanction of the Procurator of an appropriate level or by judicial decision, and only in connection with the conduct of a criminal case in relation to that judge.

7. A criminal case in relation to the judge, upon his demand declared at the beginning of judicial proceedings, must be heard only by the Supreme Court of the Russian Federation.

Article 16 contributes immeasurably to judicial independence, allowing judges unheard-of and perhaps inordinate legal safeguards and immunity. Consequently, such provisions have become the focal point for criticism of this law. During a press luncheon on Friday, 3 September 1993 with the members of the Foreign Correspondents Association, Minister of Justice of the Russian Federation Yuri Gamzatovich Kalmykov addressed the problem of abuse of judicial independence and inviolability. He claimed that general court judges have interpreted guarantees of independence incorrectly, resulting in an anarchic trend of official abuse of legal immunity. If a judge passes through a red light in her car, Kalmykov cited, traffic policemen do not even have the right to stop her, and even if they do, they cannot detain her. He quipped that, when visiting other countries and describing this situation, foreigners laugh and say that Russian judges are "excellent," while he feels that judges in Russia are too independent, and that this overabundant independence has resulted in "opposite results." In response to reporters' questions about the overpoliticization of the judicial system, Kalmykov denied such an evaluation. He cited that problems have emerged precisely as a result of absolute judicial independence from political influence: "So to say that they are over politicized or they are afraid of something... They are afraid of nothing. This independence has turned into independence from the law." He continued by stating that the Ministry of Justice and the Supreme Court have undertaken a goal to implement changes in the law in order to discipline judges. Although thankful that judges have finally

16A translated transcript of the press conference was obtained through Lexis/Nexis, WORLD International News library, SOVNEWS Kremlin International News Broadcasts file. This transcript is under copyright of the Federal Information Systems Corporation.
“shrugged off” political tendencies, Kalmykov feels that control needs to be reestablished: “We don’t want to interfere in their work, how they handle a case, what they do—that’s where they have their independence. But discipline and subordination to law—that’s what is important for our courts now.”

The Russian Law on Status addresses judicial inviolability in a way never seen in Soviet legislature. Article 16 particularly offers judges unheralded protection from the historical animosity of government and the public. While judicial officials could be arrested at Stalin’s random will and subjected to summary trial and punishment, modern judges have at last been afforded protection from such governmental terrorism. Some have argued that the ends may justify the means, as such judicial freedoms are arguably long-past overdue, particularly independence from political meddling. Such a view, however, should not be allowed to stifle the fact that further reform is necessary to regain control over the rebellious judiciary. Just as additional legislation was required to improve on the inadequate provisions of the Soviet Law on Status, Russian legal professionals must find the proverbial “golden middle” through further reforms of the Russian law in order to achieve a truly desirable solution to their legal woes.

**Supervision of Judicial Activity and the New Role of the Qualifying College of Judges**

Along with a redistribution of responsibility for election of judges, both of the Laws on Status undertake a transfer of supervisory power over judges as well, although to vastly differing extents. Under the Soviet law, electing bodies and government agencies retained considerable power over judges, manifested in several ways. First, electors and electing bodies retained powers of premature recall of judges. Valid reasons for dismissal included “violation of socialist legality” and “commission of unworthy actions, inconsistent with [judges’] high calling” (Article 17(1)). Legislators passed the buck here to other USSR legislation for determining the procedure for recall and premature release of judges, but electing bodies nonetheless made the initial decisions, keeping judges effectively under their thumb. Furthermore, consent for subjecting a judge to criminal responsibility and arrest, as well as responsibility for decisions on subjecting judges to criminal proceedings (and simultaneously deciding on the question of suspension of the judge’s authority), although in many cases transferred from union authorities to republic authorities, remained with
electing bodies (i.e., the Soviets of People's Deputies or Supreme Soviet). Even though the Soviet law made mention of the Qualifying College and offered it some token authority, its influence was obviously secondary at best.

Reform of the judicial community, with the Qualifying College of Judges at its focal point, represents an extremely important innovation in the relationship between Russian society and the courts. While organs of the judicial community had already been established by the Soviet Law on Status, descriptions of the roles of these agencies have now been more completely developed, and the authority of the Qualifying College has been considerably expanded and enhanced. The Qualifying College of Judges has evolved from a subordinate, advisory committee into a powerful, regulating organ.

**Article 17. Organs of the Judicial Community**

1. For the expression of the interests of judges as bearers of judicial power, organs of the judicial community shall be formed by them [the judges].
2. The following shall represent organs of the judicial community:
   - The All-Russian Congress of Judges, and during the period between congresses, the Soviet of Judges of the Russian Federation elected by the All-Russian Congress of Judges;
   - meetings of the Supreme Court of the Russian Federation and the Higher Arbitration Court of the Russian Federation;
   - congresses (conferences) of courts within the boundaries of the Russian Federation, territories, regions, the cities of Moscow and St. Petersburg, autonomous regions...and, in the period between congresses, soviets of judges elected by them [the congresses].
3. Organs of the judicial community shall:
   1) discuss questions of judicial practice and perfection of legislature;
   2) conduct general expert examinations of projects of laws and other normative acts relating to judicial activity and the status of judges;
   3) examine current problems of judge's work, their organizational and resource provisions, as well as the legal and social positions of judges;
   4) represent the interests of judges in state agencies and general associations;
   5) elect the corresponding Qualifying College of Judges.
4. On the subjects of questions discussed [by them], organs of the judicial community shall make decisions, and also appeals requiring examination within a month to state agencies, public organizations and officials.
5. Organs of the judicial community shall conduct their work in strict [rigorous] observation of the principles of judicial independence and non-interference in judicial activity.
6. The procedure for the formation and organization of the work of organs of the judicial community shall be determined by the All-Russian Congress of Judges.

**Article 18. The Qualifying College of Judges**

1. For the examination of problems relating to:
   - selection of candidates for judicial positions;
   - suspension or termination of judicial powers;
   - termination of resignation [retirement benefits] of judges;
   - the carrying out of judicial attestation and the awarding of qualifying classes;
   a Higher Qualifying College of Judges shall be created, along with a Qualifying College of Judges of the Supreme Court of the Russian Federation, Judges of republics within the boundaries of the Russian Federation, territories, regions, the cities of Moscow and St. Petersburg, [and] autonomous regions...
2. The procedure for the organization and activity, as well as the powers of the Higher and other Qualifying Colleges of Judges, shall be determined by a statute on Qualifying Colleges of Judges, affirmed by the Supreme Soviet of the Russian Federation.
Berman describes the continuous historical transfer of “organizational guidance” responsibility over courts, which has now culminated in the passage of the Russian Law on Status. A year after the restoration of the Ministry of Justice in 1970, Soviet legislation was amended to transfer to the Ministry some directional power over courts and other judicial organs formerly entrusted to the Supreme Court of the Soviet Union and the Juridical Commissions of the Republican Councils of Ministers (Berman 1972, 93). At the same time, a new provision (Article 38(1)) was added to the All-Union Fundamentals on Court Organization:

The Ministry of Justice shall:
(a) draft proposals on questions of the organization of judicial agencies and the conducting of elections of judges and people’s assessors;
(b) direct work with cadres of judicial agencies;
(c) check on the organization of the work of judicial agencies;
(d) study and generalize judicial practice, coordinating this activity with the Supreme Court of the USSR;
(e) organize the work of keeping judicial statistics.

The Minister of Justice of the USSR shall have the right to introduce in the Plenum of the Supreme Court of the USSR proposals concerning the issuance to courts of guiding explanations on questions of the application of legislation.

With the advent of new developments augmenting the responsibilities of the organs of the judicial community, the Ministry of Justice will now be forced to share its commanding position with other agencies, working for and with them, rather than in spite of them. The 1989 Law on Court Structure describes a change of the Ministry’s responsibility from “organizational guidance” to “organizational maintenance” (Barry 1992, 268). Although the Ministry’s power has not been entirely usurped, Article 17 of the Russian Law on Status delegates at least a portion of the responsibility concerning questions of organization of the personnel and activity of the courts to organs of the judicial community. Furthermore, and perhaps more importantly, the Qualifying College now seems to play a vastly more important role in the recommendation and appointment of judicial candidates than does the Ministry. The Ministry of Justice may well continue to exercise a certain measure of control over the courts, but its former tyranny over them has apparently ended.

If the Ministry of Justice could be characterized as a relatively benign entity never really seriously encroaching upon court independence, the same cannot be said of the Procurator. Previously, the powers of this office were such that nearly 96 percent of protests by the Procurator
to organizations thought in violation of the law were immediately addressed by those organizations for fear of facing retribution from a higher power made aware of the situation by the Procurator (Ioffe and Maggs 1983, 313). Although the Procurator’s office presently retains supervisory powers over infractions of laws by judges, it must now conduct any investigations with the consent of the Qualifying College,17 and during any investigation the judge retains his judicial rights and privileges. The Law of the Russian Federation “On the Procurator of the Russian Federation,” passed on 17 January 1992, describes the continuing role of the Procurator’s office.18 Article 9 still provides for protest of judicial decisions having entered into legal force when such decisions have been made in opposition to the law, especially those involving infractions concerning the individual constitutional rights of the protester. Such protest must be made, however, by an individual “having the procedural right” to do so, and any investigation or action on the part of the Procurator must be accompanied by the consent of the Qualifying College. The Procurator’s office remains a powerful organization, but it, too, must now work in conjunction with the judicial system, rather than against it.

Thus, two of the most vehement of the court’s historical enemies have been virtually emasculated in their dealings with judges. Higher courts, particularly the Supreme Court, continue to fulfill the guiding role previously assigned to them by the Law on Court Organization, in particular concerning protest of termination of judicial powers and retirement status (see Articles 14(4) and 15(7)). Nonetheless, control from within by professional judicial organizations will be significantly more productive than governmental control from without.

As a result of the strengthening of the Qualifying College, the rules for the initiation of disciplinary action against judges, suspension and termination of judicial powers, and incarceration of judges have been rewritten, enhanced, and made more detailed. The Russian Law on Status finally removes authority from the hands of electors and government and rightfully assigns the majority of responsibility for judicial surveillance and direction to a professional organization of jurists. Although some influence still rests with the government (namely the Ministry of Justice and the Procurator), a major constructive transfer of power has nonetheless taken place. The present law removes the threat of arbitrary removal from office by groups unqualified to gauge judicial competence, and offers exclusive and decisive authority in such matters to the Qualifying

17 See Article 16(3), page 17.
18 The text of this law was contained in the same book as the Russian Law on Status. See footnote 4, page 2.
Article 13. Suspension of Judicial Powers
1. Judicial powers shall be suspended by decision of the appropriate Qualifying College of Judges in situations where:
   1) consent has been given by the appropriate Qualifying College of Judges for [the judge's] incarceration or for subjecting him to criminal responsibility;
   2) the judge engages in activity not compatible with his position\*;
   3) the judge has been subjected to compulsory measures of a medical nature or his activity has been restricted by an appropriate judicial decision having entered into legal force;
   4) if the judge has been declared missing according to law-regulated procedure by a judicial decision having entered into legal force.
2. Establishment of the presence of foundation for suspension of judicial powers shall be made by decision of the appropriate Qualifying College of Judges.
3. The decision of the Qualifying College of Judges on suspension of judicial powers shall remain in effect pending removal of foundation for their suspension.
4. A judge whose powers have been suspended may protest the respective decision of the Qualifying College of Judges to the Higher Qualifying College of Judges during the course of one month from the day of receipt of a copy of the decision of the Qualifying College of Judges. The decision of the Higher Qualifying College of Judges shall be final.
5. When incarceration has been chosen as the measure of restraint, suspension of judicial powers shall not entail suspension of payment or decrease of wages to the judge or reduction of the level of his material and social provisions, nor shall the judge be deprived of guarantees of immunity established by the present Law.

* Article 3. Demands Made of Judges
3. The judge shall not be allowed to serve as a People's Deputy, belong to political parties or movements, engage in entrepreneurial activity, or combine work in the position of judge with other paid work, aside from scholarly, educational, literary or other creative activity. A resigned or retired judge shall also be allowed to work in the sphere of justice.

Here we see some of the strongest indications of a renewed dedication on the part of Russian legislators to legal procedure, rather than to the will of government agencies or of the Communist Party. Control over judicial activity certainly still exists, but point two above, along with the parallel point in Article 14, explicitly places responsibility for judicial sanctions in the hands of a reliable judicial organ. In this and subsequent sections, the judge is also expressly guaranteed the right to protest sanctions in law-regulated order, no longer forced to rely on the intricate Soviet-era system of connections and bribes in order to rectify such situations. In view of the historical disrespect displayed by government and public alike for the court, and the coercion of and violence toward judicial officers that often resulted, the protection currently afforded to judges (particularly by Article 16, discussed later) is all the more striking. Even when a judge is incarcerated, he retains his official privileges and immunities including, ironically enough, his inviolability. It seems that the age of Soviet contempt for legal order and established procedure has been finally replaced by one of concern, and at least ostensible respect, for the law.

Article 14. Termination of Judicial Powers
1. The powers of the judge shall be terminated in the following situations:
1) his written declaration of resignation;
2) the judge’s continuance of activity not compatible with his office in spite of warnings from the respective Qualifying College of Judges or suspension of his powers;
3) expiration of his term as judge, the term of powers of which shall be established by legislation of the Russian Federation;
4) the emergence and entering into legal force of a judicial decision [sentence] against him [the judge];
5) pronouncement by judicial decision having entered into legal force of his incapability for work;
6) loss of citizenship of the Russian Federation by the judge;
7) declaration of his death by way of law-regulated procedure by judicial decision having entered into legal force;
8) the judge’s death;
9) perpetration of an act disgracing or defaming the honor and dignity of the judge.

2. Judicial powers shall be terminated by the decision of the appropriate Qualifying College of Judges.

3. The Qualifying College of Judges may terminate the powers of a judge in view of his incapacity during the course of a prolonged period to fulfill his judicial duties by reason of health condition or other valid reasons. The Qualifying College of Judges shall not be justified in making such a decision to terminate the powers of the judge on the given foundation if the judge has returned to the fulfillment of his duties.

4. A judge whose powers have been terminated may protest the decision of the Qualifying College of Judges to the Supreme Court of the Russian Federation during the course of one month from the day of receipt of a copy of the decision of the Qualifying College of Judges.

Dedication to legal procedure and order continues here, as the terms for cessation of judicial powers are clearly delineated. Whereas some of the bases for termination of judicial authority are the same as in the Soviet Law on Status, here again, power to take any necessary actions or make any decisions in this respect is expressly and exclusively delegated to the appropriate Qualifying College.

While judicial terms were extended from five to ten years under the 1989 legislation, lawmakers went one step further in 1992 to completely eliminate judicial term limitations. Article 11 of the Russian law reads: “The powers of the judge within the Russian Federation shall not be limited by a fixed period.” Huskey makes mention of “sloppiness and confusion” in hastily drafted and even “deliberately obfuscated” new legislation, reflecting the low level of elite legal culture in Russia (1992, 39, and see additionally footnote 9, page 10). Point three seems to exhibit just such sloppiness and ensuing confusion, for it must refer to obligatory retirement age, rather than to any arbitrary term restriction. Thus the “expiration of his term” most likely corresponds to the judge’s attainment of age sixty-five. Legislators have also provided themselves an escape clause, specifying that the duration of judicial terms may be regulated by future legislation. Here again, though, the only conceivable limitation which would not conflict with Article 11 would be an alteration of the national retirement age, a step which Russian legislators would probably be loathe
to take simply to influence the judiciary.

Entirely new to Russian judicial legislation, detailed provisions for retirement, attractive bonuses thereafter, and assurances of continued post-resignation observance of legal order assure the judge an easy and care-free retirement.

**Article 15. Resignation of the Judge**

1. Resignation according to the present Law is defined as honorable departure or honorable removal of the judge from office. For an individual having left office, the honorable title of judge, guarantees of personal immunity, and recognition of membership in the judicial community shall be retained.

2. Each and every judge shall have the right to resignation [retirement] by personal will independent of age. The judge shall be considered resigned or removed if his powers are terminated on foundations stipulated in subpoints 1, 3, and 5 of point 1, as well as point 3 of Article 14 of the present Law.

3. Departure benefits shall be paid to the resigned or removed judge in the amount of one month’s salary of [his] final position for every full year of work [performed] by the judge, but not less than six times the monthly salary for the resigned position. Additionally, for a previously retired or removed judge in such a case, only the term of work of the judge having passed from the moment of termination of his last discharge shall be considered [under the terms of the present point].

4. The right to free passage on public transport and also other rights for [his] judicial category stipulated by current legislation of the Russian Federation shall be preserved for the judge after his resignation or removal.

5. A pension shall be paid to the resigned [retired] judge on general foundations. To a resigned [retired] judge having a term of office in the position of judge of no less than 20 years shall be paid, by his choice, a pension on general foundations or a tax-free, lifelong monthly allowance in the amount of eighty percent of the salary of a judge [currently] working in [the resigned judge’s] corresponding [former] position. To a resigned [retired] judge having a term of office of less than 20 years and having attained the age of 55 (50 for women) the amount of the monthly lifelong allowance shall be calculated proportionally to the quantity of full years worked in the position of judge.

6. The judge shall be considered resigned [retired] as long as he observes the demands stipulated in point 3 of Article 3 of the present Law, preserves citizenship of the Russian Federation and does not allow [himself] actions discrediting [defaming] himself, in this way respecting the authority of judicial power.

7. The Qualifying College of Judges by area of former work or permanent residence of the resigned [retired] judge, having established that he [the judge] is no longer following the demands presented to judges by the present Law, shall terminate the resignation [retirement status] of the judge. A judge whose resignation [retirement status] has been terminated may protest the decision of the Qualifying College of Judges to the Supreme Court of the Russian Federation during the course of one month from the day of receipt of a copy of that decision.

8. Resignation [retirement status] of the judge shall also be terminated in the event of his repeat election to judicial office.

9. A judge whose resignation [retirement status] has been terminated retains the right to the provision of a pension in accordance with the legislature of the Russian Federation.

Like the sections preceding it, Article 15 attempts to create a career environment for judges which will be as comfortable as possible. Instead of fearing possible government assault and post-retirement financial and social instability, judges may rest easy in the knowledge that they will spend their final years in peace and security, even as those around them scrape to make ends meet in chaotic social surroundings on barely adequate pension allowances.

**Provisions for Material and Social Security**

Appearing last in the list, but pivotal in the reform effort of both Laws on Status, the final
two “guarantees” of judicial independence consist of extravagant material and social benefits desperately called for several years ago and finally offered today. Definitely one of the more formidable of the problems facing the judicial community is the question of poor material conditions of judges and courts and the ensuing negative public conception of judicial prestige. By raising the esteem of the court in the eyes of the public, the hope is that courts will not only exercise new independence, but that such independence will be publicly apparent, for aside from immediate amelioration of material maintenance of courts, the long-term consideration of improving public attitudes and behavior toward the court must also be addressed in order to raise public respect for the court as an institution, and belief in its efficacy as an instrument of crime deterrence (Barry 1992, 259).

Henderson presents excellent examples of the wide-spread media attention that this area of the Soviet reform attracted (311-314). She begins with an article in Izvestii from 11 April 1989 featuring RSFSR Deputy Minister of Justice Cheremnykh, who discussed the problems of high turnover in the court (at the time exceeding 50 percent) resulting in a deterioration of the quality of the judiciary. He quoted the average salary of court employees at 137 rubles per month, as compared to the national average of 217 rubles per month, and concluded that this situation was driving judges out of the judiciary into more lucrative advocatorial or cooperative jurisconsulting services. The average monthly salary for district judges may have been closer to 200 rubles, but this figure nonetheless fell short of the national average. The importance which Russians attach to money in general and salary in particular leaves little doubt about the low prestige of judicial office resulting from such insufficient remuneration.

Aside from salary, at that time more than 3,000 judges either remained without their own residence or survived “on the brink of homelessness” (312). Cheremnykh pointed out the startling fact that one in every five judges was given premature release from her position because of “nervous disorders” (313). He also added that the dilapidated condition of court rooms and buildings further detracted from judicial prestige. Comments similar to Cheremnykh’s concerning the poor condition of court buildings and rooms appear quite frequently from many different sources. Barry, for example, quotes an unidentified citizen in 1989 who asked, “why is justice in our country rendered in shacks?” (260). He also comments on the “shame and disgrace” experienced by Soviets when foreign guests visit Soviet courtrooms typically harried by “squalid
conditions...not to mention the primitive level of technology regarding record-keeping and recording of courtroom proceedings” (259-60). The Kuibyshevskii Court exemplifies Barry’s observations. The building itself is located on a dilapidated side street which branches off of St. Petersburg’s main thoroughfare, Nevskii Prospect. The façade is unremarkable, even unnoticeable, except for a small plaque identifying the building as Kuibyshevskii Raionnyi Narodnyi Sud. Smoke from the horrendous Russian papirosi, along with other unpleasant odors, permeates the murky interior, as papiros and cheap Western cigarette remainders overflow from make-shift coffee-can ashtrays onto the often mud-and-grime-covered floors. Marble stairways crumble from years of stomping feet and all restrooms in the building are virtually unapproachable due to the intense odor. Court employees have quarantined off one restroom where they retrieve water for morning and afternoon tea. The cramped courtrooms reverberate with the sounds of the city heard through open windows in the summer, and in the winter with the cracking of ancient, barely adequate and overworked heating pipes. Microphones formerly used to amplify the hesitant declarations of witnesses remain in a state of disrepair, forever awaiting a custodian who is probably engaged in augmenting his meager income by moonlighting during work hours. All records of the proceedings are taken by hand by the court secretary who then types the quickly scribbled notes along with the verdict after the trial. She (for the secretary is, in the vast majority of cases, female) is forbidden to use any kind of abbreviation in her transcription. One secretary explained that only the “most important” information is taken down, for no one could manage to keep up with the sometimes breakneck speed of the trial. Most delays before the announcement of verdicts result from simple logistical problems associated with manually typing the onion-skin documents on decades-old machines. The only computers available are usually located in Western “joint enterprises” and court funds are vastly inadequate for absorbing the astronomical cost of a computer in Russia. After the verdicts have been painstakingly typed, they are then categorized and stored using an overstuffed card catalog and huge shelves packed with hundreds of pages of files. The fact that court employees often misplace paperwork seems much less shocking in light of this “primitive level of technology” (although, conversely, one might often be surprised at their uncanny ability to retrieve needed files instantly from within the mound of identical manila folders). The condition of Russian

20 Anyone who has ever fulfilled the duties of secretary in Shchevchenko’s courtroom is quick to comment on his constant refusal to speak more slowly and clearly. His inability to correctly pronounce the Russian rolled ‘r,’ compounded by his lazy slurring of words and the incredible rate at which he talks, renders his speech singularly difficult to understand. Additionally, many secretaries admit that Shchevchenko’s is not the only courtroom in which transcription is a genuine challenge.
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court buildings indeed makes a strong negative impression on most Western visitors, as the Kuibyshevskii Court building closely resembles many other such facilities throughout Russia.

Near the end of July 1993, a remont (remodeling) began on the court and the street on which the building stands. Whether funds will be sufficient to finish the job, or even whether the remodeling will have the desired effects, remains open to speculation, but an attempt has nonetheless been initiated.

Henderson makes reference to another Izvestia interview with the USSR Minister of Justice, Yakovliev. The journalist posed the question, “Can we really talk of prestige of the courts if they are housed in buildings that are falling down, if they are filthy and in a state of neglect?” Yakovliev admitted that, of approximately 4,500 court buildings, one-third were “absolutely unsuitable for the administration of justice” (313). He continues:

"Questions concerning judge’s qualifications and professional training are tied directly to the status judges enjoy in society. If this is an honored profession, if this is a respected profession, if this is a profession that is valued highly by the state, then it follows that appropriate financial and other conditions should be provided."

It appears that Russian legislators have decided that their society must indeed highly value the judicial profession. Even in 1989 judicial salaries were almost doubled and measures, although painfully insufficient, were adopted in order to assuage judicial material tensions. Among the concluding provisions of the Soviet Law on Status, Article 20 pointed the finger to other legislation to alleviate remuneration problems. Salary, new bonuses for qualification class, and pensions were to be detailed in other “legislation of the USSR and union republics.” More specific and solution-oriented was paragraph two, which obliged local Soviets of People’s Deputies to procure adequate housing for judges in the form of a separate apartment or house no later that six months after their election to judicial office. While the material worries of judges had been momentarily eased, it would again take further and more detailed effort from later legislation to arrive at a truly amenable solution.

The 1992 Law on Status offers judges provisions for material support verging on the extravagant. These amenities without a doubt offer judges long-awaited and deserved material compensation and security. Any one of these material and social provisions could strongly attract prospective judges to the profession, and their combination, if realized, presents an extraordinary offer, especially in modern-day Russia’s difficult economic and social situation. The realization of
these pledges, however, may place very real financial strain on government organs, which may find themselves unable to shoulder such potentially massive burdens.


1. The judge’s wages shall consist of official salary and remuneration according to his qualifying class and term of office, which cannot be decreased. The sizes of official salary and remuneration according to qualifying class and term of office of judges shall be determined by the Supreme Soviet of the Russian Federation. The sizes of official salaries shall be determined according to their position on a percentile relationship to the official salary of the Chief Justice of the Supreme Court of the Russian Federation, as determined by the Supreme Soviet of the Russian Federation...and cannot be less than fifty percent of [the Chief Justice’s] salary. The official salary of the judge may not be less than eighty percent of the official salary of the Chief Judge of his respective court.

2. Judges shall receive yearly paid vacations of a duration of 30 working days, not including time spent in transit to and from the place of rest. Furthermore, travel costs to and from the place of rest shall be paid [by the government].

Judges working in areas categorized as regions of difficult and unfavorable climatic conditions shall receive yearly paid vacations of a duration of 45 working days, not including time spent in transit to and from the place of rest. Furthermore, travel costs to and from the place of rest shall be paid [by the government].

Judges shall receive additional paid vacation time of the following durations:
- after 10 years of work — 5 working days;
- after 15 years of work — 10 working days;
- after 20 years of work — 15 working days.

3. Local administration shall be obliged, no later than six months after endowment of powers to the judge and/or in case of necessity of amelioration of his living conditions, to provide for him, without [the usual wait in] line, according to the location of the court, a comfortable [well-equipped] place of residence in the form of a private apartment or a house, taking into account the judge’s right to additional living space in the amount of no less than 20 square meters, or in the form of a private room. After a full 10 years of work by the judge, the living area shall become his property free of charge.

With the consent of the judge, instead of presentation of living quarters, he may be given, from the resources of the federal budget, a no-interest loan for the acquisition or construction of living quarters, which will be liquidated at the expense of local budget resources upon condition [completion] of 10 years of work by the given individual as a judge.

Also without [the usual wait in] line, matters of installation of a home telephone and provisions for places in local preschool institutions shall be resolved at the expense of the local budget.

4. The judge, having retired or resigned with a term of practice as a judge not less than 20 years, or having become an invalid during the period of his work and wishing to move to permanent residency in another area, shall be provided, without [the usual wait in] line, with a comfortable [well-equipped] place of residence by the local administration in the form of a private apartment or home at the expense of the federal budget. He shall also receive the opportunity to enter, without [the usual wait in] line, as a member into the residential-construction cooperative, which shall afford him cooperation in individual residential construction.

5. The judge and members of his family shall possess the right to medical service and sanatorium-resort medical treatment, which for judges shall be paid for at the expense of the resources of the federal budget. Such a right shall also be preserved for the judge after his departure (removal) or retirement. In such case, medical service shall be conducted for the judge and members of his family in the very same medical institutions at which they were [previously] registered.

6. In the incident of termination of the judge’s powers on the basis of the factors stipulated in subpoints 7 and 8 of point 1 Article 14 of the present Law, his family shall be paid an extraordinary grant in the amount of one year’s wages of the judge.

7. The judge shall possess the right, upon presentation of service identity card, to free usage of all means of city, suburban, and special regional public transportation [except taxis] within the territory of the Russian Federation. Judges shall also enjoy the right to reservations and receipt, without [the usual wait in] line, of places in hotels and public transportation passes for all means of transport.

8. Judges and judicial workers, possessing classifying rank, are provided with free service uniforms, according to the norms determined by the Government of the Russian Federation.

The importance of these material provisions cannot be overstated. Whenever one speaks with a Russian today, the subject of money will almost certainly come up in conversation. Whether
it manifests itself in the form of a comment about skyrocketing prices or measly salaries, such a topic normally generates a vast array of negative emotions. Professionals and highly educated people like doctors and engineers in Russia have traditionally occupied the lower end of the pay scale. Now, however, thanks to the new Law on Status, Parfenieva estimated that as of July 1993 district court judges make a fairly decent living, earning around 60,000 rubles per month (about $600, or twice the average salary for working people), and higher court judges undoubtedly make even more than this. Combined with bonuses for qualifying class and term of service, judicial pay is at least comparable to that of other professions, if not superior. Serving not only to attract judicial recruits, these provisions also attempt to counteract extraneous monetary influences on the judge from the ubiquitous mafia structure, which represents an extremely prevalent and powerful force in Russian politics and law today.

The dearth of adequate housing, especially in Russia's large and densely populated major cities, occupies a problematic position at least on par with basic financial burdens. Provisions for free housing must be an incredible factor in the decision of a young Russian student to pursue a career in the judiciary. Moreover, bureaucratic processes like the ones for relocation and obtaining housing often extend over long, torturous months and even years, making the innovative stipulation here and elsewhere about avoiding the wait in line particularly remarkable.

Judges don't even have to worry about the trip to and from work. On unbearably congested roads, public transportation is the only viable means of travel in the cities. Buses, trolleys, and trams are often crowded, but extremely convenient. The cost of a monthly public transportation pass in St. Petersburg and Moscow has recently risen to 3,000 rubles (one tenth of an average monthly salary) and continues to rise with no end in sight. The availability of free passes, again with no wait in long lines, is an extremely generous and important provision for urban judges.

Finally, with the recent institution of a capitalistic system of medical treatment in an already unstable economic and social environment, Russians have been further thrust into a frightening and unsure situation concerning their health. Provisions for especially post-retirement health care are the icing on the legislative cake of lavish judicial perks. By expeditiously providing much-needed and sought-after private housing and medical treatment to judges, not to mention incredible vacation benefits, Russian lawmakers have undisputedly created economic conditions greatly appealing to prospective judicial recruits.
Another Russian student, Mikhail Morozov, was asked whether he thought that benefits like those described above could realistically be provided to judges in light of the desperate economic situation in which Russian federal and local agencies find themselves. What if, as Barry points out, the local authorities refuse to cooperate, or if there is really no decent housing available (1992, 263)? Morozov hypothesized that although such agencies might abandon common Russian people, judges and similar quasi-legislative professionals would probably be taken care of, most likely at the expense of the middle and lower classes. If this turns out to be the case, the lower classes may very well suffer, as Russian government has made rather significant economic commitments with these impressive guarantees of judicial security. Exuberant insurance protection described in Article 20 presents further potential for weighty governmental fiscal obligations:

### Article 20. Measures of Social Protection of the Judge and Members of His Family

1. The life and health of the judge shall be subject to mandatory governmental insurance at the expense of the federal budget of the Russian Federation in the sum of 15 years' wages of the judge.

2. Governmental insurance agencies shall deliver insurance payments in the following cases:
   - Death (decease) of the judge during the period of his work or after discharge from duty if death resulted from bodily injury or other health detriment suffered in connection with the fulfillment of his official duties—to his heirs in the sum of 15 years' wages of the judge;
   - Incurrence by the judge of mutilation or other health detriment precluding further professional activity in connection with the fulfillment of his official duties—in the sum of three years' wages of the judge;
   - Incurrence by the judge of bodily injury or other health detriment not resulting in permanent [serious] loss of capacity for work which would preclude further opportunity to engage in professional activity in connection with the fulfillment of his official duties—in the sum of one years' wages of the judge.

3. In the event of incurrence by the judge of mutilation or other health detriment precluding further opportunity to engage in professional activity in connection with the fulfillment of his official duties, he shall be paid monthly compensation in the amount of the difference between his salary and his prescribed pension, above and beyond payments received from governmental insurance.

4. In the event of death (decease) of the judge, including those who have retired or resigned, caused by bodily injury or other health detriment incurred in connection with the fulfillment of his official duties, those members of his family without the capacity to work who had [previously] relied on his maintenance shall be paid compensation in the amount of the difference between that portion of the judge's salary which will further fall under their excess responsibility as a result of loss of benefactor and his prescribed pension, above and beyond payments received from governmental insurance.

5. Loss suffered through destruction or damage to possessions belonging to the judge or to members of his family in connection with his official activity shall be subject to compensation in full to him or to members of his family.

6. Payments presented in compensation of damage stipulated in points 3, 4, and 5 of the present Article shall be made at the expense of resources from the federal budget.

Although Russians have had little if any experience with the new concept of so-called strakhovanie, they will surely soon realize that provisions for insurance protection offer judges an increasingly important benefit in Russia's new era of economic and social upheaval. Even the root of the word itself, "strakh," meaning fear, represents the essence of the motivation behind acquiring such protection, as many Americans know all too well what can ensue without it. Thanks to Articles 9(2) and 20, the judge's life, health, and property, as well as the property of her family,
are protected by law and insured by the federal budget. Moreover, the judge has received assurances that she and her family will be taken care of in the event of her incapacitation or untimely death. Who wouldn’t be strongly attracted by such incredible fringe benefits? Such provisions cannot but contribute positively to the number of new judicial initiates.

**Conclusion**

In adopting the Laws on Status, first Soviet legislators and then their Russian successors have created an unprecedented atmosphere of judicial freedom and prestige, and in so doing they have exhibited an increased commitment to humanitarian law and détente with the western world. New requirements, including the judicial examination and a revamped process of appointment, rather than election, of judges, will undoubtedly play a pivotal role in the improvement of the quality of judicial ranks and ensure their accurate selection according to intellectual and professional merit. Additionally, the institution of the Qualifying College and other organs of the new judicial community and a monumental transfer of power from governmental organs to these judicial agencies will ensure professional handling of the affairs and concerns of Russian courts. Judges have been afforded incredible pledges of personal and professional freedom, independence, and security, along with provisions for impressive material and social support which cannot but attract new judicial candidates, add to to the prestige of the court and of the judicial office, and contribute to a new era of devotion to law-regulated conduct of judicial proceedings. Hopefully these reforms will take root and come to fruition quickly, operating not only to the advantage of judges, but also for the benefit of people appearing in court, who will now find themselves in an environment dedicated to upholding the rule of law and justice, rather than the ideals of the Communist Party and its representatives.

Solomon commented quite accurately that the appearance of greater positive effects ensuing from current reforms will necessarily be preceded by a long period of transition. Describing the 1990s as a “time of troubles,” an apt translation of the Russian “smutnoe vremia,” a term used to refer to the tumultuous transitional period following the deaths of Ivan the Terrible, his simple-minded son, and Boris Godunov, Solomon made a convincing comparison between the beginning of the twentieth century and that of the seventeenth (192, 194). In light of recent developments on...
the political and economic fronts. Solomon's comparison applies even more accurately now than when he made it in 1990. The political, social and legal uncertainty and instability issued into Russia by Gorbachev continue today under Yeltsin, and with the recent Parliamentary victory of the ultra-rightist, fascist party of Vladimir Zhirinovski, Russia's newest legal reforms may again be doomed to tempered success or even complete failure, especially if Zhirinovski or someone of his ilk were to be elected president of the Russian Federation at the upcoming elections in 1996 (or even in 1994 if Zhirinovski has his way). With a swift stroke of the newly empowered executive pen, all could be quickly lost for the Russian judiciary. All that remains is to hope for the best, and Russians have become accustomed to doing just that over the decades.

Although the Laws on Status represent immeasurably important progress both within the Russian judiciary and in the legislature, further and more stable progress will require that legislative bodies learn to draft more effective legislation, even though, as Vladimir Entin points out, most delegates lack experience in lawmaking technique and procedure (Entin 1992, 360). The Chairman of the Moscow Bar affirmed this observation in 1990 when, glancing at the volumes of tsarist codes on his shelves, he noted that the introduction of a true law-regulated state in Russia can happen only "as soon as we have developed the technical expertise to write law of that quality" (quoted in Huskey 1992, 39). A long road lies ahead for Russian judges, and for the Russian people as well.
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