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ARTICLES

Educating Russia's Future Lawyers— Any Role for the United States?

Jane M. Picker*
Sidney Picker, Jr.** †

ABSTRACT

In the wake of the devaluation of the Russian ruble in 1998 and the resulting flight of foreign investment, which was exacerbated by allegations of massive corruption and capital flight at the highest levels of government in 1999, the question of an appropriate role for the United States in helping Russia to establish an environment able to attract and retain foreign and domestic capital, to maintain a viable globally integrated market-based economic system, and to create a stable civil society, is under discussion.

The authors believe that a viable market economy will not flourish in Russia until a more stable legal environment, based on the rule of law, is in place. No fully developed economy currently exists that is not firmly rooted in the rule of law. However, the focus of U.S. aid should support the rule of law not merely as a necessary, indeed essential, support to business, but also as a pre-condition to the development of a civil society.

In recent years, United States law-based assistance to Russia has been based principally on the training of judges and the provision of computer technology through various aid

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programs. The United States has also made scholarships available to Russian lawyers, enabling them to pursue Master of Laws' degrees in the United States. When and if these lawyers return home, most practice law in Western law firms or are employed in international joint ventures. An increasing number have begun to seek employment outside Russia as that country's economy spirals downward. By 2000 virtually no programs provide the opportunity for undergraduate law students those who, unlike Russian lawyers, must return in order to complete their legal education and obtain their credentials to study in the United States.

But are these endeavors enough? The core building block of the rule of law rests not so much on the legal profession as on legal education. While legal education must include a continuing process of curricular and methodological review, it necessarily rests on its teachers who impart legal values to future members of the profession.

While there is now a compelling unmet need to address Russia's legal infrastructure in a fundamental way, this article proposes that attention be focused immediately on the training of Russia's future law teachers. Current U.S. government programs do not address this need. Few of the judges or lawyers trained under existing exchange programs become law teachers in Russia. A U.S. Master of Laws degree, while it may be excellent preparation for those wishing to practice law with a Western law firm, is not considered adequate preparation for a law teaching career in Russia. A small number of U.S. government university partnership grants do provide funds for a handful of Russian law teachers—for whom the rule of law undoubtedly was an alien concept during their legal training—to visit law schools in the United States. No program, however, focuses on the need to nurture, develop, and train Russia's future law teachers by introducing them, through legal education in the United States, to American concepts of the rule of law, including its importance both to a market economy and to the development of civil society.

This article takes note of Russia's unmet need for well-trained lawyers who fully understand the critical importance of the rule of law to the development of Russia's economic system and civil society. The article also describes Russia's system of legal education and university governance, as well as those few U.S. programs that have brought Russian law teachers and law students to the United States for training. It then proposes development of a partnership of law schools, foundations, and corporations, together with the U.S. government, to train a meaningful number of Russian law

students in the United States in preparation for their post-graduate study and academic-based careers in Russia.

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I. INTRODUCTION

Since the breakup of the Soviet Union in 1991, the U.S. Government has pointed to the need for economic aid to provide assistance to Russia to modernize its economy and institutions and to bring the "rule of law" to Russia. In the post-Soviet era, the International Bank for Reconstruction and Development (World Bank), the International Monetary Fund (IMF), and the U.S. Government have provided billions of dollars in economic assistance to the Russian Federation.¹ Private organizations and individuals have also provided aid.

1. The U.S. effort—stated a year ago to have been \$15 billion over the decade—was described as "weak and half-hearted" in comparison to the \$90 billion that helped provide for the reconstruction of Europe under the Marshall Plan at the end of World War II. Fareed Zakaria, *Our Hollow Hegemony: Why*

A well-developed legal system based on the rule of law underlies and supports every post-modern, sophisticated, fully developed state in the world. Russia's business environment, however, has consistently been characterized as one in which U.S. businesses fear to venture, in large measure because of a perceived uncertainty of legal protection for their investments. In 1996, the Report of the Stanley Foundation's Thirty-Seventh Strategy for Peace Conference noted that the lack of adequate tax and legal regimes is a major impediment to business investments.² This report elaborated on the need to encourage legal reform in Russia:

Adequate business investment, equitable and transparent ownership, and joint ventures will not happen in Russia until tax codes, customs agreements, commercial codes, and production-sharing agreements are not only decreed but ratified and implemented. The picture in these realms is still discouraging, and while such reforms must be effected by Russians themselves, the U.S. government can reinforce its efforts to help the process along. Moreover, it is wise for the United States to cultivate values, legal structures, and management styles that are compatible with our own.³

This advice was neither the earliest nor the most recent publicizing the need for law. Earlier, the Russian Ambassador to Washington, Yuri Vorontsov, addressing the American Bar Association's (ABA) Standing Committee on National Security Law on November 28, 1995, had invited the American legal profession to assist Russia in the refurbishing of its legal system, stating:

We have made progress with respect to freedom of the press, and political parties, but there has been no progress in the juridical system—the thinking is the old way, and practices are terrible old ones—we need *serious* help in all aspects of juridical change.⁴

Some within the Russian legal academy have also recognized the need for a valid and stable regulatory basis to promote foreign investment.⁵ Well-known Russians in various fields have also commented on the problem. Aleksandr Solzhenitsyn has asked, "What kind of 'democracy' is this?" answering that neither a free

Foreign Policy Can't be Left to the Market, N.Y. TIMES, Nov. 1, 1998, § 6 (Magazine), at 44.

2. See STANLEY FOUNDATION, REBUILDING RUSSIA: THE NEXT PHASE—REPORT OF THE THIRTY-SEVENTH STRATEGY FOR PEACE U.S. FOREIGN POLICY CONFERENCE 10 (1996).

3. *Id.* at 14.

4. ABA, *Russian Ambassador Laments Lack of U.S. Support*, NAT'L SECURITY L. REP., Winter 1996, at 2.

5. See B. N. Topornin, *Pravovaia Reforma i Razvitie Vysshého Iuridicheskogo Obrazovaniia v Rossii*, [Legal Reform and the Development of Higher Legal Education in Russia], GOS. I PRAVO, July 1996, at 34, 44.

market nor democracy has as yet been established in Russia.⁶ Boris Berezovsky, after recently receiving an arrest warrant, contemptuously stated that he “thinks that the law in the West is much stronger than in Russia.”⁷ Even the Auditor of the Account Chamber of the Russian Federation admits that Russia doesn’t have a “normal” legal system.⁸ Indeed, Russia’s present legal system has been described as “incapable of checking government.”⁹ Most recently, after stating that Yeltsin’s government was uninterested in enforcing Russia’s laws protecting shareholders, the head of its Federal Securities Commission resigned.¹⁰

In the West, George Soros refers to Russia’s current economic system as that of “robber capitalism,”¹¹ while Robert Conquest, noting Russia’s market size as equivalent to that of Denmark, has called it “pre-capitalist.”¹² George Selgin, viewing Russia’s economic system as a phony form of free markets, calls it “Potemkin capitalism.”¹³ Alan Greenspan, Chairman of the U.S. Federal Reserve Bank, has pointed out that, without establishment of the rule of law, the disappearance of the U.S.S.R.’s central planning does not, *a priori*, lead to democratic capitalism.¹⁴ According to World Bank Senior Vice President and Chief Economist Joseph Stiglitz, “issues of legal infrastructure . . . are absolutely central” to the development of market economies.¹⁵ Indeed, the popular press recognizes the problem,¹⁶

6. Aleksandr Solzhenitsyn, *What Kind of ‘Democracy’ Is This?*, N.Y. TIMES, Jan. 4, 1997, at A23.

7. *Russian Tycoon Berezovsky Says Prosecution “100-Percent Fake”*, BBC WORLDWIDE MONITORING, Apr. 7, 1999.

8. See Veniamin Sokolov, *Privatization, Corruption, and Reform in Present Day Russia*, 6 DEMOKRATIZATSIYA 664, 670 (1998).

9. Karl W. Ryavec, *Weimar Russia?*, 6 DEMOKRATIZATSIYA 702, 705 (1998).

10. See Thomas L. Friedman, *Playing Russian Roulette*, N.Y. TIMES, Oct. 24, 1999, § 4 (News of the Week), at 15.

11. GEORGE SOROS, *THE CRISIS OF GLOBAL CAPITALISM: OPEN SOCIETY ENDANGERED* 154 (1998); George Soros, *The Capitalist Threat*, ATLANTIC MONTHLY, Feb. 1997, at 45, 53.

12. Jim Christie & Ed Carson, *Russia’s Upheaval in the Kremlin Reflects A Very Battered Economy*, INVESTOR’S BUS. DAILY, Aug. 11, 1999, at A4.

13. Brian Mitchell & David Sanders, *Russia’s Phony Market Economy*, INVESTOR’S BUS. DAILY, Aug. 11, 1999, at A1.

14. See Jonas Bernstein, *Privatizing the Soviet State*, ST. PETERSBURG TIMES, June 24, 1997, at 15.

15. Robert Lyle, *Has Transition Failed in Former USSR?*, RFE/RL NEWSLINE END NOTE, Vol. 3, No. 83, April 29, 1999.

16. According to Michael Specter, Co-Chief of the Moscow Bureau of the N.Y. TIMES, “Russia has one of the weakest legal systems on earth.” Michael Specter, *Moscow on the Make*, N.Y. TIMES, June 1, 1997, § 6 (Magazine), at 48.

and the link between government corruption and the lack of a rule of law is now taken as a given.¹⁷

Businessmen participating in joint ventures in Russia are all well aware that the rule of law is far from established. David Reuben, Chairman of the Trans-World Group, has argued that renationalization of companies that have invested in Russia is threatened under the guise of national security "aimed at confiscating certain foreign investments and facilities without due process."¹⁸ Tales of the trampling of rights of shareholders include share dilution schemes,¹⁹ extortion of shareholder rights of foreign investors,²⁰ and accounts of the inability of minority shareholders to receive enforceable judicial protection.²¹ The Russian Government has cancelled contracts with joint ventures,²² and a St. Petersburg court has ordered renationalization of a company in which U. S. Investors had acquired a majority stake.²³ Bankruptcy proceedings in Russia allegedly have been used "more often to strip assets rather than to rework debt and pay creditors."²⁴ Provisions of Russia's new Civil Code have been viewed as inadequate, at least in some respects, to promote foreign investment.²⁵ Anders Aslund notes that "tax legislation is contradictory and full of loopholes, and

17. "Weak and corrupt government means that Russia has no rule of law." *End of a Road for Russia?*, ECONOMIST, Sept. 5, 1998, at 45, 45.

18. David Reuben, *Foreign Investment in Russia in Peril: An Open Letter to U.S. Vice President Albert Gore and Russian Prime Minister Viktor Chernomyrdin*, N.Y. TIMES, Mar. 2, 1997, at F9. This battle over the entitlement of outside investors to information and seats on the board of one of Russia's largest steel mills has been described as "an important test of [Russia's] nascent securities laws and judicial system." Steve Liesman, *Russian Steel Mill Fight Pits Foreigners Against Management and Each Other*, WALL ST. J., Mar. 10, 1997, at A15.

19. See David Hoffman, *Russian's Manipulation of Oil Shares Reported*, INT'L HERALD TRIB., June 4, 1999, at 15.

20. See Neela Banerjee, *Investors Charge Shakedown in Vladivostok*, INT'L HERALD TRIB., June 17, 1999, at 15.

21. For one court's refusal to enforce rights of minority shareholders allegedly for antitrust reasons, see Floyd Norris, Editorial, *The Russian Way of Corporate Governance*, N.Y. TIMES, Apr. 5, 1999, at A20. In some instances, a court order may simply be disregarded. See John Varoli, *Electrosila Partners Battle for Control*, ST. PETERSBURG TIMES, Nov. 10, 1998 <<http://www.times.spb.ru/current/electrosila.htm>> (visited Nov. 10, 1998).

22. See Russell Working, *Russian Dispute Roils Fishing Industry*, N.Y. TIMES, Aug. 18, 1999, at C4.

23. See Neela Banerjee, *Russian Court Ruling Is New Blow to Foreign Investment*, N.Y. TIMES, Oct. 12, 1999, at C4.

24. Neela Banerjee, *From Russia, With Bankruptcy, A High Cost for BP Amoco's Investment in an Oil Concern*, N.Y. TIMES, Aug. 13, 1999, at C4.

25. See generally Jason J. Kilborn, Note, *Securing Russia's Future: A Plea for Reform in Russian Secured Transactions Law*, 95 MICH. L. REV. 255 (1996) (focusing on how the Civil Code hurts creditors by requiring a collateral sale after foreclosure).

many collectors work beyond the law . . . [F]undamental tax reform has been urgently needed for years."²⁶

Jeffrey Sachs, the economist who directs Harvard's Institute for International Development (HIID) and who has served as an advisor to the Russian Government, has succinctly stated, "Russia doesn't need economists. It needs lawyers."²⁷

Although Russian institutions are addressing the need to train more lawyers, they are doing so in somewhat unexpected ways. As a shadow economy has developed in business,²⁸ an educational system parallel to the traditional state university law faculties also has been developing. New private educational institutions are now sanctioned by law.²⁹ Too often, however, the

26. Anders Åslund, *Russia's Collapse*, FOREIGN AFF., Sept.-Oct. 1999, at 64, 65.

27. Talbot "Sandy" D'Alemberte, *Our Eastern European Challenge: Providing Technical Assistance to Struggling Democracies*, A.B.A. J., Mar. 1992, at 8. Topornin notes that the number of lawyers in Russia is much smaller than in developed countries. See Topornin, *supra* note 5, at 45. Yet the call is generally still for businessmen rather than lawyers. An article in *The Economist* recently urged the West to "pay for cohorts of young Russians to come to Western countries to learn about decency in business." *Russia, Financial Outcast*, ECONOMIST, Feb. 6, 1999, at 17, 18. Others have urged the establishment of "professional schools offering Western-style education and training—especially business management and public administration." Alexei Bayer & Alexander Shaknovich, *How to Help Russia Without IMF Loans*, WALL ST. J., Apr. 7, 1999, at A22.

28. See, e.g., Michael R. Gordon, *The Russian Economy: Notes from the Underground*, N.Y. TIMES, May 18, 1997, at E4 (explaining that when Russia's underground economy is taken into consideration, Russia appears to have experienced economic growth).

29. The federal law On Education (Law No. 3266-1) of July 10, 1992, first provided for the establishment of private educational institutions and broadened the independence of educational institutions and introduced self-governance. See Federal'nyi Zakon ob obrazovanii [On Education], Vedomosti Fed. Sobr. RF, 1992, No. 30, Item 1797 [hereinafter On Education]; see also I. L. Petrukhin, *Problemi Iuridicheskogo Obrazovaniia v Rossii* [Problems of Legal Education in Russia], GOS. I PRAVO, Sept. 1996, at 3, 6. This law also defined the principles of state policy and methods of regulation of education, including the requirements for obtaining a license to operate an educational institution, and provided for the subsequent requirement of accreditation. Topornin, *supra* note 5, at 46. On Education (Law No. 12-F3), which took effect January 13, 1996, incorporated the 1992 legislation with changes and additions. It sought to clarify various ambiguities in the 1992 law and also to equalize conditions for the operation of private and state educational institutions. See Federal'nyi Zakon ot 13 Ianvaria 1996 r. No. 12-F3 "Vnesenii Izmenenii Dopolnenii v Zakon Rossiiskoi Federatsii 'Ob Obrazovanii'" [Federal Law of 13 January 1996 No. 12-F3 on "Amending the Law of the Russian Federation On Education"] (as amended 16 November 1997), Sobr. Zakonod. RF, 1996, No. 3, Item 150 [hereinafter Federal Law On Education]. The Law On Higher and Post-Graduate Professional Education (Law No. 125-F3) took effect Aug. 22, 1996, and is the current legislation governing universities (together with their law faculties) and independent law schools. See Federal'nyi Zakon ot 22 Avgusta 1996 r. No. 125-F3 "O Vysshem Poslevuzovskom Professional'nom Obrazovanii" [Federal Law of 22 August 1996 #F-3 "On Higher and Post-Graduate

instruction offered by the private sector is accused of focusing only on the turning out of larger numbers of lawyers, while neglecting the quality or substance of their instruction. How to design law school curricula in both the traditional state and new private legal educational institutions to meet Russia's current needs, and how to find law teachers trained to teach new subjects as well as to employ new methodologies, are issues that remain unresolved even for those law faculties wishing to implement reform.

Only by building a society based on the rule of law rather than on the rule of relationships,³⁰ by establishing law as an instrument not of government but of society (as a shield of rights as well as a sword of policy), will Russia be able to create the foundations for the post-modern, fully developed state that it wants to be. Aryeh Neier, President of the Open Society Institute, has stated that while significant headway has been made towards establishing the rule of law in some of the countries of Central Europe, the countries of the former Soviet Union

remain essentially countries where the rule of law is not established and where enormous efforts are required and efforts that have to be extended over many years before one could effectively say that the rule of law has been established.³¹

It has been the stated concern of the U.S. Government to help Russia develop not only a market-based society, but also one based on the "rule of law."³² Yet to date it is on economics and

Professional Education"], *Sobr. Zakonod. RF*, 1996, No. 35, Item 4135 [hereinafter *Law On Higher and Post-Graduate Professional Education*].

30. That is, rules developed and applied not by an independent and neutrally applied process but rather by relationships resting on blood, friendship, or exchanges of favors, services, or property. The origins of this attitude toward law rest in the autocratic history of Russia. Peter the Great, Tsar for 42 years (1682-1725) ultimately grasped this as, late in life, he "began to understand the importance of government by laws and institutions rather than by the arbitrary power of individuals, including himself." ROBERT K. MASSIE, *PETER THE GREAT: HIS LIFE AND WORLD* 756 (1980). While Peter hoped to professionalize civil administration on a merit basis, his autocratic and arbitrary supervision effectively disposed of the very reforms he proposed. For an excellent historic discussion of the extent and ineffectiveness of Peter's administrative proposals, see *id.* at 747-69. For a historical perspective on Russia's culture of rule by relationships stemming from the absolute power of its autocracy, written by one of the nineteenth century's great travel writers, see generally MARQUIS DE CUSTINE, *EMPIRE OF THE CZAR: A JOURNEY THROUGH ETERNAL RUSSIA* (1989).

31. Aryeh Neier, *Special Presentation: Promoting the Rule of Law in the Former Soviet Bloc*, 12 AM. U. J. INT'L L. & POL'Y 81, 87 (1997). Mr. Neier presented as part of a symposium hosted by the Washington College of Law of American University on September 26, 1996. See Symposium, *Constitutional "Revolutions" in the Ex-Communist World: The Rule of Law*, 12 AM. U. J. INT'L L. & POL'Y 45 (1997) (reprinting verbatim transcript of symposium).

32. The meaning of a concept such as the "rule of law," has not been addressed by the U.S. Government in its RFPs for grant proposals. *But cf.*

business rather than on law that U.S. and international aid programs, as well as private assistance, have primarily focused. What U.S. assistance has been provided to Russia in the legal sphere has been conducted primarily through the United States Agency for International Development (USAID) and the United States Information Agency (USIA), their various contractors and grantees, and international organizations in which the United States is a member, such as the World Bank.³³

The economic collapse of the Russian economy in mid-August 1998 contributed to prevalent perceptions in the West of an across-the-board massive culture of corruption in Russia.³⁴ In

KATHRYN HENDLEY, TRYING TO MAKE LAW MATTER: LEGAL REFORM AND LABOR LAW IN THE SOVIET UNION 14 (1996) (providing one potential interpretation for "rule of law"). Professor Hendley prefers to use the phrase "procedural regularity" as being less ideologically loaded and notes the long debate among Western legal theorists over how the rule of law became institutionalized in the West. *Id.* In the Soviet Union, the "law based state" (*pravovoe gosudarstvo*) was considered to be a "bourgeois" concept and banned. See Donald D. Barry, *Introduction to TOWARD THE "RULE OF LAW" IN RUSSIA?: POLITICAL AND LEGAL REFORM IN THE TRANSITION PERIOD* at xiii, xiii (Donald D. Barry ed., 1992). Nevertheless, it was much discussed after the mid-1980s. See *id.* Mikhail Gorbachev has said, "In its ideal development the state must act only according to the law and according to justice, and any act of the state authority must have a basis in law. That is how I see the essence of the rule of law." Mikhail Gorbachev, *The Rule of Law*, Public Lecture at Stanford University (May 9, 1992), in 28 *STAN. J. INT'L L.* 477, 481 (1992).

33. As stated by one commentator:

Twenty-six agencies inside the U.S. government (for example, the U.S. Customs Service) administer law-related projects. . . .

These programs vary in size, duration, and purpose. They have a miscellaneous quality and overlap with each other, creating redundancies. They include everything from study visits and continuing-education programs for judges to the coaching of court administrators in docket management and the establishment of alternative dispute-resolution mechanisms. Other projects have focused on legal codification, the modernization of legal information systems, law-book subsidy and delivery, support for law-school curricular reform, the distribution of human-rights brochures, the production of bench books to summarize high-court decisions for lower court judges, retraining of procurators, support for local bar associations, and improving public awareness of basic rights. In particular, enormous sums have been expended on legal commentary and legislative drafting assistance in commercial-law areas, such as securities, bankruptcy, corporate governance, and banking.

Stephen Holmes, *Can Foreign Aid Promote the Rule of Law?* E. EUR. CONST. REV., Fall 1999, at 68. See also *infra* Part V.

34. Allegations of corruption abound with respect to governmental activity. See generally Virginie Coulloudon, *The Criminalization of Russia's Political Elite*, E. EUR. CONST. REV., Fall 1997, at 73; Christopher F. Dugan & Vladimir Lechtman, *The FCPA in Russia and Other Former Communist Countries*, 91 AM. J. INT'L L. 378 (1997). Grigory Yavlinsky, the leader of the Yabloko political party, has said:

No one doubts that if in Russia someone builds a fence, then half of the fence, even if it is being built for a kindergarten, will be

August 1999, authorities initiated investigations into an alleged multi-billion dollar money laundering operation in the United States conducted by yet unknown Russian interests.³⁵ In light of these events, whether appropriate or not, serious commentators are now beginning to ask, "Who lost Russia?"³⁶ Consequently, the time is now particularly appropriate to examine the assistance that the U.S. Government and international institutions are providing Russia in order to reform its legal system and, in particular, the education and training of its future lawyers.

stolen. . . . This was known in Soviet times, and it is known now. If there is reconstruction at the White House and the Kremlin and the Duma, then half of the money is stolen. Every child knows that.

Michael Wines, *The Kemlin's Keeper, the World at His Fingertips, is under a Cloud*, N.Y. TIMES, Sept. 16, 1999, at A14 (quoting Grigory Yavlinsky). Also note the poll conducted of 16,500 people by the network television program ITOGI, in which 92% of the persons polled considered Primakov's government to be corrupt. See Michael Wines, *Surprising Russian Stir on Unsurprising Issue: Corruption*, N.Y. TIMES, Nov. 3, 1998, at A3. The U.S. Government has been accused of turning a blind eye to Russian corruption. See James Risen, *Gore Rejected C.I.A. Evidence of Russian Corruption*, N.Y. TIMES, Nov. 23, 1998, at A8. That allegation has been officially denied. See James Risen, *C.I.A. Denies That It Withheld Reports on Russian Corruption*, N.Y. TIMES, NOV. 25, 1998, at A6. Nevertheless, wholesale corruption as a right of office holders is not unique to the post-Soviet or indeed the Soviet era. It is endemic to Russian culture. Notwithstanding Peter the Great's efforts to introduce an honest administrative meritocracy in eighteenth century Russia,

Bribery and embezzlement were traditional in Russian public life, and public service was routinely looked upon as a means of gaining private profit. The practice was so accepted that Russian officials were paid little or no salary; it was taken for granted that they would make their living by accepting bribes

[T]he majority of administrators were motivated less by a sense of service to the state than by desire for private gain, mingled with the effort to escape detection and punishment.

MASSIE, *supra* note 30, at 762. Massie reports that Peter's principal aide, on receiving the Tsar's orders to execute a corrupt official, made Peter laugh bitterly by asking, "Does Your Majesty wish to live alone in the empire without any subjects? . . . For we all steal. Some take a little, some take a great deal, but all of us take something." *Id.* at 769.

35. See Raymond Bonner & Timothy L. O'Brien, *Activity at Bank Raises Suspicions of Russia Mob Tie*, N.Y. TIMES, Aug. 19, 1999, at A1.

36. See Serge Schmemmann, *What Makes Nations Turn Corrupt?*, N.Y. TIMES, Aug. 28, 1999, at B11; John Lloyd, *The Russian Devolution*, N.Y. TIMES, Aug. 15, 1999, § 6 (Magazine), 34; Tim Russo, *Who Lost Russia? Just Ask the Man in Lenin's Tomb*, ST. PETERSBURG TIMES, Oct. 26, 1999 (visited 10/28/99) <<http://www.times.spb/ru/current/opinion/lost.htm>>.

II. RUSSIA'S SYSTEM OF LEGAL EDUCATION

The traditional Russian legal education system³⁷ has been well described in English language publications during the course of the last sixty years.³⁸ Until the post-Soviet era, legal education was available only in state universities, specialized schools,³⁹ and institutes. The system of education, as a civil law system said to be based on Roman law,⁴⁰ has been influenced by Western European legal education. With the exception of those years when legal education, like the state, was expected to wither away,⁴¹ it had changed very little until recently. Nevertheless, the framework of the old system remains very much intact.

37. References to Russian legal education in this article may also include references to Soviet legal education as well as to pre-1917 imperial Russian legal education whenever the context requires.

38. See generally, e.g., WILLIAM E. BUTLER, *RUSSIAN LAW* 129-43 (1999); JOHN N. HAZARD, *RECOLLECTIONS OF A PIONEERING SOVIETOLOGIST* (1987); EUGENE HUSKEY, *RUSSIAN LAWYERS AND THE SOVIET STATE: THE ORIGINS AND DEVELOPMENT OF THE SOVIET BAR, 1917-1939* (1986); 1 DAVID H. LEMPERS, *DAILY LIFE IN A CRUMBLING EMPIRE: THE ABSORPTION OF RUSSIA INTO THE WORLD ECONOMY* 457-949 (1995); LOGAN ROBINSON, *AN AMERICAN IN LENINGRAD* (1982); PETER H. SOLOMON, JR., *SOVIET CRIMINAL JUSTICE UNDER STALIN* 35-36, 337-65 (1996); Gianmaria Ajani, *Legal Education in Russia: Present and Future—An Analysis of the State Educational Standards for Higher Professional Instruction and a Comparison with the European Legal Education Reform Experience*, 23 *REV. CENT. & E. EUR. L.* 267 (1997); Donald D. Barry & Harold J. Berman, *The Soviet Legal Profession*, 82 *HARV. L. REV.* 1 (1968); Harold J. Berman, *The Challenge of Soviet Law*, 62 *HARV. L. REV.* 220 (1948); Harold J. Berman, *The Dilemma of Soviet Law Reform*, 76 *HARV. L. REV.* 929 (1963); Olga Diugheva, *Legal Education in the USSR*, *CORNELL L.F.*, July 1990, at 10; Susan Finder, *Legal Education in the Soviet Union*, 15 *REV. SOCIALIST L.* 197 (1989); Lisa A. Granik, *Legal Education in Post-Soviet Russia and Ukraine*, 72 *OR. L. REV.* 963 (1993); Darrell Hammer, *Legal Education in the USSR*, 9 *SOVIET STUD.* 20 (1957); John N. Hazard, *Legal Education in the Soviet Union*, 1938 *WIS. L. REV.* 562; Clarence Morris, *Soviet Legal Education*, 15 *J. LEGAL EDUC.* 309 (1963); Peter J. Sahlas & Carl Chastenay, *Russian Legal Education: Post-Communist Stagnation or Revival?*, 48 *J. LEG. EDUC.* 194 (1998).

39. The specialized schools are those run by the Ministry of Defense, the Ministry of Internal Affairs, the Office of the Prosecutor, and the Federal Security Service, the so-called "power ministries." These all have schools that confer law degrees. See Topornin, *supra* note 5, at 51.

40. See generally John Quigley, *The Romanist Character of Soviet Law, in THE EMANCIPATION OF SOVIET LAW* 27 (*Law in Eastern Europe*, No. 94, F.J.M. Feldbrugge ed., 1992). The influence of Roman law, however, dates only to the eighteenth century, when it was introduced through contacts with Western Europe. See GORDON B. SMITH, *REFORMING THE RUSSIAN LEGAL SYSTEM* 5 (1996). Roman law today remains part of the standard required law curriculum in Russian law faculties. See Ajani, *supra* note 38, at 283.

41. In the early 1930s, Soviet leaders actually attempted "to achieve the elimination of Law and its replacement by Plan." Berman, *The Challenge of Soviet Law*, *supra* note 38, at 234. Since it was then expected that there would be virtually no further litigation in six or seven years' time, law schools decreased in number. By 1936, however, it was officially recognized that society without law would be impossible to achieve. See *id.* at 235. Law faculties gradually reopened,

In Russia, federal legislation regulates educational establishments in great detail. The Ministry of General and Professional Education of the Russian Federation oversees all educational institutions, and a committee of the Ministry, the State Committee of the Russian Federation for Higher Education (GosKomVuz), establishes educational standards for higher education.⁴² Each university's charter, consistent with federal legislation, describes the organizational structure of the university and sets forth procedures for its internal governance. University law faculties, much like U.S. law schools, are separately administered parts of a central university, headed by deans, which sometimes have their own buildings and libraries. Law faculties in turn include a number of departments (*kafedri*), each of which is chaired by a department head.

A. University Governance

Although aspects of self-governance of universities were introduced in Russia through the 1992 Education Act and were retained in subsequent legislation enacted in 1996,⁴³ the new legislation has freed neither university law faculties nor newer private law schools from governmental control to the extent found in the United States. The legal profession does not participate in the governance of legal educational institutions in Russia. While a commission of experts plays a role in inspecting institutions prior to their licensing,⁴⁴ there is no national professional organization similar to the American Bar Association (ABA) that interests itself in how law schools prepare students for the practice of law. There is no organized bar that participates in the licensing or accreditation of law schools⁴⁵ or plays a role in the development of standards for the hiring of law teachers, their training, or retraining.

Appearances at first suggest a more democratic system of governance in higher education in Russia than in the United States. In the United States presidents of universities are appointed by boards of trustees, and deans are appointed by university presidents; the participation of the faculty in the

beginning in the late 1930s. See Barry & Berman, *supra* note 38, at 9; BUTLER, *supra* note 38, at 133.

42. See *infra* note 92.

43. See *supra* note 29 and accompanying text.

44. See Law on Higher and Post-Graduate Professional Education art. 10, para. 4.

45. The Russian system is not unusual: "Unlike many nations that have a central authority dictating, the American system relies on voluntary, nongovernmental peer review." William H. Honan, *Some Say College Accreditation Is Out of Control*, N.Y. TIMES, Nov. 11, 1998, at B14.

selection process varies among institutions. In Russia the internal governance of universities is in the hands of academic councils of the university and its individual faculties and institutes.⁴⁶

University governance in Russia appears to follow a bottom-up system. Teachers and staff of a department elect the department head who sits on the academic council of his or her faculty and represents the department "in all organizations."⁴⁷ After nomination by the research and teaching staff of the departments, a dean is elected by the academic council of the faculty for a five-year term.⁴⁸ The dean, who chairs the academic council of the faculty,⁴⁹ is usually elected only from among

46. These councils are referred to as *nauchnie sovieti*, sometimes translated as "scientific" or "learned councils." While such terminology may make those educated in a common law system such as the United States uncomfortable, the civil law tradition uses "the rhetoric of science, neutrality, objectivity, and rationality" and "[i]nterpretation and application of law is the work of 'legal scientists' . . ." Richard B. Cappalli, *At the Point of Decision: The Common Law's Advantage over the Civil Law*, 12 TEMP. INT'L & COMP. L.J. 87, 95 (1998). In this article university councils will be referred to as Academic Councils, while the "academic councils" of faculties will not be capitalized. Governance by academic councils was initially adopted in the nineteenth century. University autonomy was established at St. Petersburg State University by its University Charter, adopted in 1863 and valid until 1884, which called for administrative governance by a University Council consisting of all the university professors. "The Council had the right to elect the University Rector, Deputy Rector, the faculty Deans as well as professors to occupy vacancies. The right to confirm the position occupied was vested, as before, with the Minister of Education . . ." 275 LET SANKT-PETERBURGSKII GOSUDARSTVENNII UNIVERSITET, LETOPIS' 1724-1999 [275 Years, St. Petersburg State University, Chronicle 1724-1999] at 281 (1999) [hereinafter 275 LET].

47. Moscow State University's charter [hereinafter MGU CHARTER], for example, provides for the election of department heads by the academic council of a faculty upon the recommendation of the research and teaching staff of the department, with subsequent confirmation by the Academic Council of the University. See MGU CHARTER para. 35 (visited Nov. 15, 1999) <<http://www.msu.ru/english/info/ustav/rl.htm>>.

48. For example, the MGU Charter provides for election of a dean for a five year term (and for a maximum of two terms) by the academic council of a faculty, which must then be confirmed by order of the university Rector. See *id.* para. 45. Since the faculty elects the dean, it is unclear whether the rector can discharge the dean without faculty consent. This question is currently at issue at St. Petersburg State University. See Julia Burlakova & Peter Pleshanov, *Novyi Imidzh Vysshego Obrazovaniia* [New Image of Higher Education], GAUDEAMUS, Sept. 13, 1999 (visited Jan. 23, 2000) <<http://www.gaudeamus.spb.ru/1999/13/imidj.html>>.

49. The Charter of St. Petersburg State University Provides that the chairman of the academic council of a faculty shall be its dean. USTAV, SANKT-PETERBURGSKOGO GOSUDARSTVENNOGO UNIVERSITETGO [CHARTER, ST. PETERSBURG STATE UNIVERSITY] para. 67 (visited Dec. 22, 1999) <<http://www.spbu.ru/structure/documents/ustav/4.html>> [hereinafter SPBU CHARTER].

professors of the faculty.⁵⁰ As specified in a university's charter, a certain number of other elected representatives of the faculty and staff also serve on a faculty's academic council. Deans in turn serve on their university's Academic Council together with the university Rector (a position equivalent to the President of a U.S. university), vice-rectors, and certain others specified in the university's Charter.⁵¹ The Rector, who chairs the university's Academic Council and serves a five-year term, is nominated at general meetings of the research and teaching staffs of the faculties and is elected by a board on which members of the university and faculty councils sit.⁵²

To the extent that self-governance has created greater freedom for educational institutions from Moscow's control,⁵³ at the faculty level it has led to representative rather than to direct faculty governance. Although Russian universities and law faculties are governed by their respective academic councils,⁵⁴ this method of governance in fact is much more "top-down" than it at first appears. This is a result of both the practice at the bottom level of electing only a very senior member of a

50. However, St. Petersburg State University's Charter provides for the election of a dean from among professors or the "most experienced docents." *Id.* para. 73.

51. See, e.g., MGU CHARTER, *supra* note 48, para. 32.

52. See *id.* para. 34. While a university's charter will provide further specifics, the Law on Higher and Post-Graduate Professional Education requires that the election of a rector shall be by secret ballot for a term of not more than five years and must be approved by the institution's board of management. This legislation also sets forth, *inter alia*, procedures to apply in the event of the rejection by the board of an elected rector, and also requires termination of a rector's employment contract should his or her institution lose accreditation. See Law on Higher and Post-Graduate Professional Education art. 12.

53. Local bodies of self government can also establish and govern higher educational institutions. See Law on Higher and Post-Graduate Professional Education art. 10, para. 2.

54. The Law on Higher and Post-Graduate Professional Education provides that an elected representative council shall provide general management of a state educational institution which shall be headed by the rector, and on which the vice-rectors shall also sit, together with others (stipulated in the institution's Charter) who are elected anonymously at the general meeting. See Law on Higher and Post-Graduate Professional Education art. 12, para. 2. According to Lempert, who described the operation of St. Petersburg State University's Academic Council and that of the law faculty, those attending the monthly academic council meetings of the law faculty included the Dean and his two deputy deans, his secretary, some heads of departments, a few other members of the teaching staff, and, perhaps, the head librarian or a special invitee. Lempert describes the law faculty's academic council as having three committees, the Methodological Committee (which planned new courses and arranged course schedules), the Administrative Council (which dealt with hiring issues), and the Specialized Council (which scheduled dissertation defenses) and stated that the Methodological Commission consisted of "15 appointed members of the teaching staff serving in perpetuity and picking their own successors." 1 LEMPERT, *supra* note 38, at 866-69, 886-88.

department—preferably one of the few who may hold the rank of professor—to be the department chair, as well as the very limited representation of teachers on the academic councils, the membership eligibility rules of which ensure their domination by administrators and department chairs.⁵⁵ Although some professors and doctors of science without professorial rank may sit on the academic councils of faculties, law teachers, as a body, play no role in the governance of their faculties. Pursuant to the terms of a university's charter, student representatives also sit on academic councils.⁵⁶

B. Access and Programs

Legal education in Russia has always been an undergraduate course of study, as it is throughout most of the world.⁵⁷ Admission to the study of law is generally by oral examination.⁵⁸ While the subjects of examination in the past were set by law, today each law faculty may set its own entrance examinations.⁵⁹ Some top students are exempt from most of the entrance examinations based upon their secondary school records.⁶⁰ The

55. The academic council of a faculty of Moscow State University can include only between two and four representatives of the research and teaching staff (with the exact number depending on the size of the faculty). See MGU CHARTER, *supra* note 48 para. 32.

56. Students are full members of the academic councils on which they sit and may vote even on such matters as election of the dean. In at least one case, at St. Petersburg State University in the early 1990s, a student is said to have cast the deciding vote in a decanal election. Communication to the authors, Nov. 1994 (on file with authors).

57. Only a few countries, such as India and Canada, follow the U.S.' practice of providing for legal education to be taught in a graduate program. In Russia, most students studying law are enrolled in five-year undergraduate programs, although there are also some four-year and two-year programs. See *infra* notes 69-78 and accompanying text.

58. This, however, has recently been changed at Volgograd State University, which now administers written examinations for admission to its law faculty. Interview with Alexander Titov of Volgograd State University's law faculty, in St. Petersburg, Russia (July 10, 1997).

59. For admission without payment of tuition to St. Petersburg State University's Faculty of Law, students now sit three examinations: one in Foundations of State and Law, one in Russian History, and one in Composition. The passing of an examination in a foreign language, formerly a requirement, has been abolished. For admission to the tuition-paying program within the law faculty, students sit only the examination in Foundations of State and Law. Interview with Michael Krotov, Deputy Dean, Special Faculty, St. Petersburg State University, in Cleveland, Ohio (Apr. 7, 1999).

60. Students finishing high school with very high grades are awarded gold or silver medals at graduation. In St. Petersburg these students may enter the state university's law faculty after taking and passing only the examination in Composition. Some institutes may accept medalists without even the examination in Composition. See *id.* The Law on Higher and Post-Graduate Professional

oral entrance examinations are administered by a "commission" of law faculty and other university teachers.⁶¹ Until the post-Soviet era, no students were charged tuition. Indeed, day students and post-graduate students received a stipend from the state as long as their grades met certain standards. This practice has now partially changed,⁶² with the newly organized private law schools charging tuition.⁶³ To compensate for serious economic dislocations caused by recent university budget cuts, a number of tuition-paying students are also now being admitted to state law schools as well.⁶⁴ Students able and willing to pay tuition are admitted with lower academic scores, thus creating, for state universities, a two-tiered tracking system. This practice has been criticized as open to favoritism and corruption, and allegations of

Education permits their admission based on just an interview. See Law on Higher and Post-Graduate Professional Education art. 11, para. 3.

61. Competition between law teachers and teachers in the humanities to sit on such a commission often occurs. This results from the fact that the teachers who conduct the entrance examinations often earn additional income by tutoring those students in their final year of high school who intend to take university entrance examinations. Students assume that if they have been tutored by the examiners they will be more likely to pass the university entrance examinations.

62. State universities now receive a stipend fund from the Ministry of Education and may themselves decide which students will receive stipends. However, the law provides that the average stipend for day students must be at least three times the minimum wage. See Law on Higher and Post-Graduate Professional Education art. 16, para. 3. Nevertheless, at Volgograd State University the monthly stipend that students receive is set at one minimum wage. See Interview with Alexander Titov, *supra* note 58. In June 1997 the "officially-mandated minimum wage" was set at 83,400 rubles. See ST. PETERSBURG TIMES, June 17, 1997, at 9. This was \$14.40 at the then current exchange rate. Post-graduate students studying in *aspirantura* and doctorate programs also receive stipends. See Law on Higher and Post-Graduate Professional Education art. 19, paras. 6, 9.

63. The number of private institutions of higher education teaching law has been estimated to be 250 (300 if branch campuses are included). See Topornin, *supra* note 5, at 45. Until recently, in St. Petersburg a student could study law only at St. Petersburg State University's law faculty or at one of the two Ministry of Internal Affairs (MVD) Institutes. Due to the recent burgeoning of private law schools, today there are 20 institutions in St. Petersburg in which a student may study law. In 1997 only two of these new institutions were accredited. Interview with Professor Sergey Mavrin, Deputy Dean for International Affairs and Chairman of the Labor Law Department, St. Petersburg State University Law Faculty, in St. Petersburg, Russia (July 10, 1997). However, today eight of these private law schools have now achieved accreditation. See Interview with Michael Krotov, *supra* note 59.

64. See Topornin, *supra* note 5, at 46; Evgenii Golubev, "Dlia obshchestva i gosudarstva vygodna takaia perspektivnaia 'tochka rosta,' kak nash fakul'tet" [Our faculty is a promising 'point of growth' beneficial both to Society and the State"], [Interview with V.S. Prokhorov, Dean of the Law Faculty, St. Petersburg State University], SANKT PETERBURGSKII UNIVERSITET [ST. PETERSBURG UNIVERSITY], No. 17 at 3 (1996).

corruption have been published.⁶⁵ As in the past, legal education today may be pursued in Russia full-time through a day course of study,⁶⁶ part-time through an evening course,⁶⁷ or through a correspondence course.⁶⁸ Law was a four-year course of study for day students until the mid-1940s, when a fifth year was added.⁶⁹ Recent changes now permit a Bachelor's degree to be awarded in a four-year study program,⁷⁰ while the five-year program leads to a Specialist's degree.⁷¹ Successful completion of state examinations⁷² is necessary for students in state

65. Most recently a range of \$1500-\$7000 was said to be the cost of the bribe needed to secure admission to law, medical, economic and commercial faculties, with Moscow State University's law faculty allegedly being the most expensive. Gold medals, *see supra* note 60, were said to be available for a bribe of \$1000. *See* Veronika Sivkova, *Kakie vziatki berut u naroda [The Bribes Taken from People]*, ARGUMENTI I FACTI, No. 36, at 9 (1998). Earlier, Finder cited to published allegations of corruption in 1987 in the law faculties of Moscow, Kuban, Kemerovo, the Saratov and All-Union Correspondence Law Institutes and in several Siberian law schools. *See* Finder, *supra* note 38, at 213. Granik leveled similar accusations at Moscow State University's law faculty. *See* Granik, *supra* note 38, at 964 nn.3-4. Lempert pointed to corruption at Leningrad State University. *See* 1 LEMPERT, *supra* note 38, at 533-34, 570-73. Such accusations are by no means leveled only at professional educational programs. For example, *see* the description of the plight of a sixteen-year-old seeking admission to an art school where allegedly half the seats were filled by students paying tuition, while the other half were available for students with "connections." This student's parents were described as having neither the connections, nor the money to pay a \$3000 bribe, and their daughter was denied entry to the school. *See* GALINA DUTKINA, *MOSCOW DAYS: LIFE AND HARD TIMES IN THE NEW RUSSIA* 102, 108, 112 (Catherine A. Fitzpatrick trans., 1996).

66. Being accepted into the day program traditionally required the highest grades, carried the most prestige, and was the first step in the line of progression leading to a career in law teaching. Only about 25% of students in state university law faculties are admitted to day programs. For a description of the selection process *see* 1 LEMPERT, *supra* note 38, at 805-20.

67. The part-time evening study of law generally requires an additional year of study than that required of day students. Moscow State University is one of the schools offering an evening program which requires an additional year of study. *See* BUTLER, *supra* note 38, at 139.

68. The largest number of students receive their legal education through correspondence studies which require them to attend lectures at the law faculty only a few times a year. To Topornin, it is "obvious" that the day program is best and the correspondence course the weakest; he calls for the same grading standards to be imposed on all three forms of legal education. Topornin, *supra* note 5, at 48-49. The correspondence system has been subject to continuous criticism by legal educators over the years. *See* Finder, *supra* note 38, at 215.

69. *See* BUTLER, *supra* note 38, at 133; Hammer, *supra* note 38, at 21.

70. *See* Law on Higher and Post-Graduate Professional Education art. 6, para. 4.

71. *See id.*

72. Lempert notes that standardized state examinations were introduced in 1937. *See* 1 LEMPERT, *supra* note 38, at 519. These are not similar to a bar examination in the United States. In the state examinations, examiners sit as a commission, but the oral examinations include only two subjects: Theory of State and Law, which all students must pass, and an additional examination which will be either in Civil Law, Criminal Law, or State Law, depending on the student's

universities to receive the Specialist's degree. Until recently, without the state diploma, students were not eligible for employment in state organizations, and most available employment was with state employers.⁷³

After two years of additional study, the student with a four-year Bachelor's degree can receive a Master of Jurisprudence degree.⁷⁴ The traditional three-year day *aspirantura* post-graduate course of study,⁷⁵ which follows completion of the five-year Specialist's degree, awards the student who successfully defends a dissertation the degree of Candidate of Science at the completion of his or her studies.⁷⁶ After a second dissertation is successfully defended, usually years later, the degree of Doctor of Science is conferred.⁷⁷ These degrees can also be awarded to "competitors" who study and prepare their dissertations independently.⁷⁸

C. Law School Curricula

Before *Perestroika*,⁷⁹ the state was the sole purveyor of education, textbooks were subject to censorship, and a

area of specialization. Today, the state examinations also include a foreign language.

73. See Law on Higher and Post-Graduate Professional Education art. 6, para. 7 (providing that students with Bachelors' as well as Specialists' degrees from a state accredited educational institution shall have the right to state employment). While this law makes it clear that private as well as state educational institutions can give the state diploma, relatively few private law schools have been accredited, and therefore few private schools as of yet have the right to issue a state diploma.

74. The student with a Bachelor's degree usually had the option of continuing his or her education in order to obtain a Master's of Jurisprudence degree. See Topornin, *supra* note 5, at 44. The inflexibility of this system meant that a student when enrolling in either the Bachelor's or the Specialist's degree program was thereby also predetermining whether the advanced degree for which he might later seek to qualify would be the Master's or the Candidate's degree. See Interview with Sergey Mavrin, *supra* note 63. It appears, however, that the Law on Higher and Post-Graduate Professional Education now creates flexibility since Article 4 refers only to the total number of years of study required to receive the various degrees (four for a Bachelor's degree, five for a Specialist's degree, and six for a Master's degree). See Law on Higher and Post-Graduate Professional Education art. 6, para. 4.

75. See Law On Higher and Post-Graduate Professional Education art. 11, para. 4 (providing that this course of study may also be pursued through a four year correspondence program).

76. See *id.* art. 19, para. 2.

77. See *id.* art. 19, para. 1. Legislation specifically requires the defense of a dissertation for a candidate to be awarded the Candidate of Science or the Doctor of Science degree. See *id.* art. 7, para. 5.

78. See *id.* art. 19, para. 3.

79. *Perestroika* was the name given to the Gorbachev-era program of reform.

standardized curriculum was taught to law students throughout the country.⁸⁰ Soviet legal education was criticized for failing to develop a critical or analytical approach and for requiring students only to recite "the rather vague Soviet codes and nothing further."⁸¹ Training in critical thinking or legal reasoning, however, was viewed as unimportant because Soviet legal education had as its purpose the training of students to become reliable professionals to run state organizations rather than the development of lawyers capable of solving problems or representing clients.⁸²

Once admitted to a university's law faculty, law students' four- or five-year curriculum combined lectures with tutorial style seminars. Historically, legal education included subjects taught in just a handful of departments, the number of which may now vary. For example, at Volgograd State University's Faculty of Law, notwithstanding its post-Soviet era establishment in 1993, the curriculum is organized in the traditional way.⁸³ Four departments exist within the law faculty: Theory of State and Law; Criminal Law and Criminal Procedure; Civil Law and Civil Procedure; and Criminalistics, Prosecutorial Supervision, and Legal Psychology. In a few law faculties today, these may be split into separate departments; there may also be departments in subjects such as international law or commercial law.⁸⁴ Most subjects in the law curriculum in Russia are required, with few opportunities for the study of electives.⁸⁵ Students often select a field of specialization at the end of the third year.⁸⁶ All assessments are by oral examination,⁸⁷ with each student

80. See Petrukhin, *supra* note 29, at 5.

81. ROBINSON, *supra* note 38, at 46.

82. See William D. Meyer, *Facing the Post-Communist Reality: Lawyers in Private Practice in Central and Eastern Europe and the Republics of the Former Soviet Union*, 26 LAW & POL'Y INT'L BUS. 1019, 1030-31 (1995).

83. Between 1989 and 1993, Volgograd students studied law in a faculty that combined law and economics. A reorganization in 1993 led to inauguration of a separate law faculty.

84. See St. Petersburg State University's Law Faculty, established in 1724, today has separate departments in Civil Law and Civil Procedure as well as departments in Commercial Law and International Law. See Sahlas & Chastenay, *supra* note 38, at 206-07.

85. Some requirements are state imposed while others are established by individual law faculties. The curriculum of the law faculty of St. Petersburg State University has been described in detail in different eras in 1 LEMPERT, *supra* note 38, at 547-53, 711-51, and Sahlas & Chastenay, *supra* note 38, at 207-08.

86. In Volgograd, fields for specialization include only criminal law, civil law, and state (i.e., administrative) law. Prior to 1955, students were trained separately in different legal specialties. In 1955, this was changed to provide the same general legal education to all. See Hammer, *supra* note 38, at 21.

87. Lempert states that while these examinations were before a single professor during his stay in St. Petersburg in 1989-1990, before 1937 they were before a panel of three (a professor, an instructor, and a graduate student). See 1

receiving a different set of questions to be addressed.⁸⁸ These questions typically require the student to memorize principles promulgated in classroom lectures,⁸⁹ a style of examination Professor John N. Hazard criticized in the late 1940s.⁹⁰ The writing of papers is also required. A paper must be written each year beginning in the first year, the topic of which may then be elaborated upon (or a new topic selected) in succeeding years. The final semester of the fifth year is devoted to the writing of the student's "diploma paper," a longer paper of perhaps sixty or seventy typewritten pages that each student must then defend.⁹¹ State standards also require practical work assignments that students carry out with state employers several times during their law school careers.⁹² Students often complain today that these

LEMPERT, *supra* note 38, at 519. Students who fail an examination may retake it with permission of the Dean of the Faculty, but the Rector or Vice-Rector must give permission for a student to take an examination a third time, which is the final chance permitted. A student failing three final examinations will be dismissed. See Interview with Felix Glazirin, Dean, Faculty of Law, Volgograd State University, in Volgograd, Russia (Oct. 28, 1996); Interview with Vladislav Goldin, Vice-Rector, Pomorski State University (Archangelsk), in Cape Elizabeth, Maine (Aug. 22, 1997).

88. Students at St. Petersburg's Law Faculty receive their questions by lot after drawing a piece of paper on which three questions are written. Each student then has approximately 30 minutes to think about the questions before being examined. Because students have earlier received a list of all the questions from which these three have been selected, there is seldom any element of surprise in the questions.

89. The questions are not in the form of hypothetical problems to be solved, as in an American law school examination, but rather concern theoretical or academic principles. Perhaps not surprisingly, Professor Mavrin describes students' participation in the learning process as "passive." Marina Polubarieva, *Iuristy ob'ediniatsia chtoby ob'iavit'voinu nekvalifitsirovannym reformam* [Lawyers Are Uniting to Declare War on Inadequate Reform], SANKT-PETERBURGSKII UNIVERSITET [ST. PETERSBURG UNIVERSITY], June 28, 1996, at 12. Perhaps equally unsurprising, students spend little time studying except immediately before examinations. Answers to Lempert's survey from 300 St. Petersburg State University law students revealed that day students averaged 42 minutes of studying per day, while night students on average spent only 24 minutes studying each day. See 1 LEMPERT, *supra* note 38, at 594.

90. "Examinations might be more searching if the American type of question posing sets of facts for solution were used." See Hazard, *Legal Education in the Soviet Union*, *supra* note 38, at 579.

91. See 1 LEMPERT, *supra* note 38, at 810-17; Granik, *supra* note 38, at 971 (indicating that during their fifth year students focus on their theses, which then must be defended in March). The difficulty of the preparation of research papers of this kind can only be imagined in law schools having limited library resources. The collections of public libraries are not always open to all; some collections may be open to students while others may be open only to university graduates.

92. See STATE COMMITTEE OF THE RUSSIAN FEDERATION FOR HIGHER EDUCATION, STATE EDUCATIONAL STANDARD OF HIGHER PROFESSIONAL EDUCATION (1995) [hereinafter 1995 STATE STANDARDS], at 218. Finder noted criticisms during the 1980s that practical training was abominably administered. See Finder, *supra* note 38, at 212.

assignments involve only observation rather than active participation in the work of the office.

D. Prospects for Curricular Reform

In the wake of the breakup of the Soviet Union and the introduction of a market economy, there was extensive discussion of the need to reform Russia's educational system. Adoption of the 1992 Russian Federation Law on Education⁹³ was to free higher educational institutions "from ideological and administrative regulation and supervision."⁹⁴ By introducing new concepts of self-governance, universities were to be freed from the uniform curriculum earlier mandated by Moscow.⁹⁵ In 1996 new federal legislation was enacted that was meant to clarify ambiguities in the earlier legislation and to provide specifically for higher education.⁹⁶

Despite the apparent flexibility encouraged by the new legislation, administrators in Moscow have succeeded primarily in preventing legal education from developing the flexibility and possibility of innovation that appeared to be its purpose. In large measure this outcome results from constitutionally mandated⁹⁷ federal standards for professional education intended to promote uniformity throughout the Russian Federation.⁹⁸ Extensive legislation regulates professional education in great detail.⁹⁹

93. See Mark S. Johnson, *Russian Education Reform in the 1990s*, HARRIMAN REV., Winter 1996, at 36 (reviewing post-Soviet changes in general educational policy and commentary on Western aid efforts in the educational field).

94. 1995 STATE STANDARDS, *supra* note 92, at 3.

95. Comments made by Stephen P. Heyneman, head of the World Bank's Human Resources and Social Development team, although directed at education in general, are very relevant to legal education as well. He stated:

Russia's curricular traditions are ill-suited for an economy where a premium is placed on problem solving and occupation flexibility. Soviet curriculum tended to emphasize the acquisition of factual material and to underemphasize the skills necessary for applying this material to unfamiliar circumstances—in other words, problem-solving skills. This is illustrated in national samples of the science and mathematics performance of thirteen-year-olds in 19 countries.

Stephen P. Heyneman, *Entering a Higher Grade—Proposals to Reform Russia's Education System*, TRANSITION, Jan.-Feb. 1995, at 1, 2.

96. See generally Law on Higher and Post-Graduate Professional Education; Federal Law On Education.

97. See KONST. RF art. 43, para. 5.

98. See Law on Higher and Post-Graduate Professional Education art. 5, para. 1.1-2.

99. See, e.g., Postanovlenie Pravitel'stva R.F. "Obutverzhdenii polozheniia o stipendial'nom obespechenii i drugikh formakh sotsial'noi podderzhki studentov

While academic freedom is now guaranteed by law,¹⁰⁰ state standards developed by GosKomVuz describe required content and provide for minimum hours of study of specific disciplines.¹⁰¹ The standards leave little time for electives and hinder the introduction of new subjects.¹⁰² Even bringing in teachers from abroad to teach new subjects can be difficult because the study time of students is rigidly structured as a result of the standards established in Moscow.¹⁰³

Although the setting of curricular standards had been a traditional role of GosKomVuz, its role became particularly controversial in late 1994¹⁰⁴ when it recommended the new four-year Bachelor of Jurisprudence program, with a larger number of non-law subjects in the humanities to be part of the required curriculum of law students.¹⁰⁵ The recommended changes, which substantially reduce the total amount of time available for law study while restricting even further the time available for elective course development, met with stiff resistance in some quarters, and a newly formed association of state law schools, modeled on the American Association of Law Schools (AALS), acted as a vehicle for fighting these changes.¹⁰⁶ GosKomVuz,

gosudarstvennykh i munitsipal'nykh obrazovatel'nykh uchrezdenii vysshego i srednego professional'nogo obrazovaniia [On Establishing an Act to Provide Stipends and Other Forms of Social Support for Students of State and Municipal Educational Institutions of Higher and Secondary Professional Education], Decree No. 741 of the Russian Federation, June 24, 1996; Ross. Gazeta, 17 Aug., 1996 [hereinafter Act to Provide Stipends and Other Forms of Social Support for Students].

100. See Law on Higher and Post-Graduate Professional Education art. 3, para. 3.

101. The number of prescribed hours is so great that while law faculties, theoretically, may add additional courses, there is little time available in which to do so. And Butler points out that faculty are not permitted to increase the weekly workload for students. See BUTLER, *supra* note 38, at 137.

102. Professor Mavrin has noted that while GosKomVuz has now provided some freedom for schools of higher education it has "worked out a plan for every hour of studies." He has also described the rigid state planning of GosKomVuz as being "in the best socialist tradition." Polubarieva, *supra* note 74, at 12.

103. There are 13 pages that describe the requirements for the four year Bachelor in Jurisprudence degree. See 1995 STATE STANDARDS, *supra* note 92, at 207-19.

104. For example, it was then suggested that a Public Council be established to act as a consultative body to GosKomVuz with a mandate even to consider its role in the licensing and accreditation of law schools. See Topornin, *supra* note 5, at 51.

105. The requirement that law students study such subjects as biology and higher mathematics has been particularly criticized by legal educators; a suggestion has been made that perhaps "the purpose is to find an occupation for professors who do not have anything to do," an apparent reference to teachers in the humanities who have fewer opportunities to earn outside income than teachers in law faculties. Polubarieva, *supra* note 74, at 12.

106. The Interregional Association of Higher Legal Educational Institutions was formed in February 1996 at the initiative of the law faculties of St. Petersburg

however, did not retreat.¹⁰⁷ Indeed, it has now also issued standards for the Specialist degree, which once again have been criticized as being unnecessarily inflexible with respect to numbers of hours of study required for specific subjects and lack of attention to methodological innovation.¹⁰⁸

Despite Russia's adoption of a new constitution in December 1993, its attempted development of a market economy and the rapid assertion of freedoms of speech and religion within society at large, the instructional courses of most law schools—whether state or private—have not yet adapted to these events. While new codes are studied, legal education has generally failed to address the prevailing culture of the country in which law in the past was used as an instrument of repression rather than as a tool for securing civil and economic rights.¹⁰⁹ Courses such as Constitutional Rights—appropriate given the new Constitution—or International Human Rights—important now that Russia is a member of the Council of Europe¹¹⁰—are virtually unknown. Indeed, as a European comparativist has pointed out, “those legal subjects that are not strictly related to ‘business law’ are suffering from a lack of interest among students, law publishers, and also perhaps among foreign legal advisors and commentators.”¹¹¹

State University, Krasnoyarsk State University, the Saratov State Academy of Law, and the Urals State Legal Academy. The Association's purpose is to develop a unified federal program of higher legal education in Russia which could also carry out changes necessary to reform the Russian legal system. The Association's members include 24 state universities. See *id.* Two such associations now compete with each other, however. See Topornin, *supra* note 5, at 51. Membership in The Association of Higher Legal Educational Institutions is open to private as well as state law schools. See *Assotsiatsii Iuridicheskikh Vuzov, Ustav [Association of Law Schools, Charter]*, art. 1.2, VESTNIK JURIDICHECKIKH VUZOV [BULLETIN OF LEGAL INSTITUTIONS OF HIGHER EDUCATION] Jan. 1996, at 158. Its members include most of the law schools in Moscow. This Association was registered March 14, 1996.

107. Technically, GosKomVuz's Standards have been called mere recommendations. See Petrukhin, *supra* note 29, at 11. However, the Law on Higher and Post-Graduate Professional Education provides that conformity with the requirements of the state educational standards shall be considered when an institution of higher education is assessed for accreditation by the federal Government. See Law on Higher and Post-Graduate Professional Education art. 10, para. 6.

108. See Ajani, *supra* note 38, at 280-81, 297.

109. See HENDLEY, *supra* note 32, at 43.

110. The Russian Federation ratified the statute of the Council of Europe on February 28, 1996. See *Russia Joins Council of Europe*, 35 INT'L LEGAL MATERIALS 808 (1996).

111. Ajani, *supra* note 38, at 271. But see Alexander Blankenagel, *O Vozmozhnostiakh i Slozhnostiakh Peredachi Pravovogo Opyta i Pravovoi Kul'tury, ili skot'ko raz mozžno izobretat' velosiped [On the Possibilities and Difficulties of Exchanges of Legal Experience and Legal Culture, or How Many Time Is it Possible to Invent a Bicycle]*, in KONSTITUTSIIA ROSSIJSKOI FEDERATSII PROBLEMNYI KOMMENTARIJ [CONSTITUTION OF THE RUSSIAN FEDERATION, HANDBOOK] 595 (V.A.

Instruction in advocacy or other team skills is rare.¹¹² Establishing a pedagogical and practicing legal culture to nurture civil rights lawyers or public interest lawyers is virtually unheard of, although recent legislation provides opportunities for citizens to challenge governmental authority.¹¹³ Nevertheless, with only rare exception, until recently few aid programs had sought to provide training of the kind common in U.S. law schools in which clinical programs provide a new methodological approach to education by giving students an opportunity to learn by doing,¹¹⁴ while often also providing legal representation to those under-represented in society.¹¹⁵ Apparently there is no strategy to introduce class actions in Eastern Europe, except perhaps in consumer actions, although procedural rules do not appear to preclude them.¹¹⁶

CHETVERNIN ED., 1997) (discussing the difficulties of Russian and foreign constitutional experts who cooperated in writing a book together that discussed the 1993 Russian Constitution from the perspective of both Russian and Western legal experience and culture).

112. See BUTLER, *supra* note 38, at 138.

113. See generally Jane Henderson, *The 1993 Russian Law on Citizens' Appeals*, 21 REV. CENT. & E. EUR. L. 87 (1995). For an English translation of the text of this legislation, see LAW OF THE RUSSIAN FEDERATION ON APPEALING TO A COURT ACTIONS AND DECISIONS, VIOLATING THE RIGHTS AND FREEDOMS OF CITIZENS OF 27 APRIL 1993, 21 REV. CENT. & E. EUR. L. 95 (1995). Now that most actions of governmental officials are subject to judicial review, suits against officials are being filed and have increased from 9765 in 1992 to 34,000 in 1995, with a success rate of 70% attained. See Peter H. Solomon Jr., *The Persistence of Judicial Reform in Contemporary Russia*, E. EUR. CONST. REV., Fall 1997, at 50, 51. In addition, since October 1995 judges have been authorized by the federal Supreme Court to apply constitutional provisions directly when violations of the Constitution are clear, and some are doing so. See *id.* at 55. Nevertheless, Kathryn Hendley, Andres Åslund, Andras Sajó and Katharina Pistor, although not always agreeing as to the reason or the solutions, have all noted the continuing insufficient demand for law in Russia despite its increasing availability. See Feature, *Demand for Law*, E. EUR. CONST. REV., Fall 1999, at 88.

114. U.S. Government funding has supported the development of a few law school clinics through university partnerships between Russian and American law schools: Vermont Law School has helped to establish a civil clinic at the Petrozavodsk Law Faculty, a new law school, in Karelia; the University of Maine Law School is assisting the Law Faculty of Pomorski State University in Archangelsk to develop a civil clinic; Novgorod State University, which is developing clinics devoted to civil law, human rights, juvenile rights, and prisoner rights, has a university partnership program with Cleveland State University. Lempert notes the introduction of a student staffed legal clinic in the early 1960s by then Dean Alexey Korolev of St. Petersburg State University's Law Faculty. See 1 LEMPERT, *supra* note 38, at 527.

115. The failure to address concerns such as this has been criticized by Lempert. See 1 LEMPERT, *supra* note 38, at 917-18. Professor Mavrin has noted the need for a change in methodology with fewer lectures and more practice-oriented courses. See Polubarieva, *supra* note 74, at 12.

116. Dimitrina Petrova, Executive Director of the European Roma Rights Center, has noted that looking at the history of how India developed class actions in her opinion "contains many lessons for Eastern Europe." *Panel III: The Role of*

The possibility of training students in subjects not already formally incorporated into the curricula of Russian law schools is rendered difficult given the departmental structure of Russian law faculties. Traditionally there has been no overlap between the jurisdictions of individual departments, and teachers assigned to one department teach only in that department, an impediment to teaching new subjects that might logically be thought to span different departments.¹¹⁷ Furthermore, the creation of a new department requires a person qualified to head it, ordinarily a full Professor. Yet earning a Doctorate of Science and meeting other requirements¹¹⁸ to qualify as a Professor¹¹⁹ and to head a department requires years of work.¹²⁰ In addition, a new department will not usually be created without a critical number of teachers, usually five, to teach in it.¹²¹

At present, while the law faculties of some state universities have succeeded in creating new departments,¹²² in some instances it could be easier to study some new subjects outside

Establishing the Rule of Law (Audience Questions), 12 AM. U. J. INT'L L. & POL'Y 136, 137 (remarks of Dimitrina Petrova).

117. For example, Professor David Cluchey, of the University of Maine Law School, a Fulbright grantee and frequent visitor to Russian law schools, was told at the Urals State Legal Academy that a course in International Trade Law could not be taught since its subject matter would span three departments. See Letter from David Cluchey, Professor, University of Maine Law School, to authors (Apr. 5, 1999) (on file with authors).

118. The Ministry of Education requires that before a teacher can receive the diploma of Doctor of Science a certain number of publications are required and a certain number of post-graduate students must have been supervised. In addition, a textbook (or a part of one) must have been recommended by the Ministry Committee to all universities in Russia. See Interview with Vladislav Goldin, *supra* note 87.

119. See Law on Higher and Post-Graduate Professional Education art. 22, para. 2, (providing that the rank of Professor may be granted to a person who "usually" has a doctorate of science). Individual university charters, however, may be more restrictive. The Charter of Moscow State University provides that "Only a doctor of science is eligible for a professorship," MGU CHARTER, *supra* note 47, para. 17, while St. Petersburg State University's Charter makes no mention of any specific qualification. Exceptionally, the Dean of St. Petersburg State University's Faculty of Law, Professor Nikolai Kropochev, holds the degree of Candidate of Science, but has not earned a doctorate. These restrictive qualification procedures mean that new law faculties, even those of state universities, may have difficulty staffing with personnel whom they deem appropriately qualified. For example, the Law Faculty of Novgorod State University has five departments, only one of which is headed by a Professor.

120. Lempert found it noteworthy that when Professor Olympiad Ioffe, formerly of St. Petersburg State University's Law Faculty, and now an emeritus professor at the University of Connecticut's School of Law, received his doctorate at the age of 35, he was the youngest member of St. Petersburg's law faculty to have earned the degree. See 1 LEMPERT, *supra* note 38, at 536.

121. The required number is set within each university by its University Council. See Interview with Michael Krotov, *supra* note 59.

122. For example, St. Petersburg State University's Law Faculty now has ten departments. See *id.*

the structure of the undergraduate state law faculty than within it. Thus, for example, the law faculties of both Moscow and St. Petersburg State Universities now provide special (*spets*) programs to provide legal training to university graduates earlier trained in other disciplines. Students studying in *spets* courses pay tuition, and those who teach them receive additional remuneration.¹²³ This type of program, in which students who already possess a university degree study law four nights a week for three years, could provide more opportunities for instruction not rigidly bound by departmental strictures. Because these programs provide Specialist degrees, however, they must at a minimum pay attention to GosKomVuz's standards.¹²⁴

The inability of the traditional system of education to keep pace with the curricular and methodological innovations needed to train lawyers for the new legal system leads students, who usually work at part or full time jobs¹²⁵ in the rapidly expanding private sector by the time that they are third year law students, all too often to joke that they are training their teachers rather than the other way around.¹²⁶

III. MEETING THE NEED FOR MORE WELL-TRAINED LAWYERS

In Soviet times, few lawyers were trained or needed;¹²⁷ the focus of law was to regulate administratively the relations between state entities and to enforce the criminal code. Prestige was low, and advancement unlikely, unless perhaps the lawyer

123. See Granik, *supra* note 38, at 965 (discussing Moscow State University's *spets* program).

124. See *supra* note 92 and accompanying text.

125. Current economic difficulties require that virtually all students have outside employment. In the past, employment with state employers was secured upon graduation through the system of job assignment, which guaranteed students a job, although not necessarily one of their choice, through the university placement system. With this system no longer in effect, students must now learn how to find jobs themselves. See Granik, *supra* note 38, at 972. They often hope that part-time jobs will lead to full-time jobs after graduation, preferably in the private sector.

126. It is often in their jobs in the private sector, rather than at the university, that students gain access to computerized research materials or other up-to-date information to which access is restricted or otherwise unavailable in their university law faculties.

127. It is therefore not surprising that Topornin states that "[t]he quantity of law students both in the USSR and in Russia has been much smaller than in any developed country in the world." Topornin, *supra* note 5, at 44. Indeed, the enrollment in the law faculty of St. Petersburg University in 1916 totaled 3500 students. See 275 LET, *supra* note 46, at 282. This number is approximately the same as the number enrolled today. Of course, there are other law schools also operating in St. Petersburg today. See *supra* note 63.

was a State Prosecutor. Now lawyers are needed to service the needs of a market economy¹²⁸ in which private business activity is rapidly taking over from a system in which state enterprises interacted with one another. The demand of this sector of the economy has created what has been described as a "boom" for lawyers.¹²⁹ Although practicing lawyers traditionally were required to be members of a College of Advocates, there was no requirement of obtaining a license from the state in order to practice law.¹³⁰ Today, while no examination similar to the state bar examination in the United States is required, licensing is provided for by federal legislation.¹³¹

As a result of the greater recent demand for lawyers, more law school seats are needed than the traditional state law faculties can supply. Indications suggest, however, that because of budgetary crises, Moscow intends to reduce the number of educational programs receiving federal government funding.¹³² Eventual withdrawal of federal funding will almost certainly lead to the closing of many institutions not able to find other substantial sources of support.¹³³ New private law schools¹³⁴ and separate tuition-paying programs within state institutions have developed to meet the demand for more lawyers.¹³⁵ Private law programs must be licensed¹³⁶ before they can begin operating, however, and eventually—usually seven years after licensing—such programs will be required to be accredited.¹³⁷ Prior to accreditation the private law schools are unable to confer the coveted state diploma necessary for employment with state employers,¹³⁸ an advantage that the tuition-paying programs of

128. See Topornin, *supra* note 5, at 54 (noting the need for lawyers specializing in civil and commercial law).

129. Golubev, *supra* note 64, at 3.

130. Cf. Granik, *supra* note 38, at 974.

131. For an explanation of the provisions of the licensing laws and who is subject to them, see BUTLER, *supra* note 38, at 109-10.

132. Interview with Vladislav Goldin, *supra* note 87.

133. It is estimated that after the shake-down that will result, approximately 300 institutions of higher education will remain. See *id.*

134. The Law on Education of 1992 permitted the development of non-governmental educational institutions as an alternative to the traditional state universities and provided for them also to receive federal funding.

135. See generally Law on Education.

136. Licensing was introduced by federal legislation in 1994. However, standards for licensing are far from clear, GosKomVuz enjoys great discretion, and licenses have been given "without difficulty." While a license is required before a new school can open or before an existing school can open a new branch, an existing school can open a new department without a license. See Petrukhin, *supra* note 29, at 5, 7.

137. While there is also provision for certification, it does not provide the benefits which accreditation brings. See *id.*

138. As amended, the Law on Education of 1992 gave higher professional educational institutions the right to give state diplomas to graduates. Topornin

the state law faculties enjoy.¹³⁹ In some instances the private law schools are accused of failing to inform students that they cannot confer the state diplomas.¹⁴⁰ Sometimes, after receiving students' tuition payments, they simply disappear.¹⁴¹ More often, private law schools are just accused of being diploma mills.¹⁴²

Why have the existing state institutions failed to react to the increased demand for lawyers by expanding their regular law school programs to meet the market demand, thereby preventing the creation of numerous new fly-by-night private law schools? The answer is complex, leading from one level of explanation to another.

On one level, the answer is that there is not enough physical space in which to teach more students¹⁴³ or to house them.¹⁴⁴

criticizes the different treatment of state and private universities, see Topornin, *supra* note 5, at 45, as does Petrov, noting that without the state diploma it is not possible to appear in court, at the bar, or in the procurator's office. Nor is it possible to enroll in an *aspirantura* program. See V. N. Petrov, *Pravovye osnovy deiatel'nosti negosudarstvennykh obrazovatel'nykh ucherezhdenii v rossiiskoi federatsii* [Legal Basis for the Activity of Non-State Educational Schools in the Russian Federation], GOS. I PRAVO, Sept. 1996, at 14, 15. However, as Petrukhin has noted, the state diploma is no longer a requirement for state employment. See Petrukhin, *supra* note 29, at 7.

139. A Temporary Provision of GosKomVuz of Nov. 30, 1995 provided that state educational institutions of secondary and higher professional education were considered to have state accreditation. See Petrov, *supra* note 143, at 15. Other advantages enjoyed by the state institutions include specially equipped buildings, a stable faculty, and familiarity with the methodology of teaching. See Topornin, *supra* note 5, at 46.

140. A higher educational institution may admit students only if it is licensed and by law must disclose its status—whether it is only licensed or licensed and accredited. See Law on Higher and Post-Graduate Professional Education art. 11, para. 1.

141. Oral communication to the authors from the mother of a student enrolled in such an institution, in Volgograd, Russia (Oct. 22, 1997). See also Topornin, *supra* note 5, at 46-47.

142. See Topornin, *supra* note 5, at 45, 47 (indicating that private law schools often do not have well-educated professors, students are admitted without exams, and money solves all problems). Prokhorov states that private law schools have neither "appropriately qualified professors" nor "academic or instructional literature." See Golubev, *supra* note 64, at 2. Prokhorov undoubtedly means that these schools have no "appropriately qualified professors" of their own, since many St. Petersburg State University law teachers are moonlighting in the private law schools. See Faculty List of Saint-Petersburg Law School (Legal Division), included in letter from Victor Pronkin, Founder and Rector of Saint-Petersburg Law School, to the authors (Aug. 27, 1995) (on file with authors) (listing 15 St. Petersburg State University teachers as faculty members).

143. Topornin has noted that "the lack of study space renders both the development of existing schools and the opening of new schools difficult." Topornin, *supra* note 5, at 48-49. Dean Prokhorov specifically noted the insufficient study space for students at St. Petersburg State University's Law Faculty. See Golubev, *supra* note 64, at 3. Lempert interviewed the head of the Financial Section of the State Committee on Public Education and quoted him as saying: "There is nothing we can do. They don't have the facilities to teach more

Indeed, few law teachers even have offices of their own, merely the common use of the departmental office in which they are assigned.¹⁴⁵ However, space in state law schools is being used to educate students in separate tuition-paying programs developed under the umbrella of the state law faculties.¹⁴⁶ The explanation, however, is a legal one rather than a physical one. State standards mandate a minimum number of square meters of space for each budgeted student,¹⁴⁷ and the federal government sets the number of students for which federal funds will be made available at each state university.¹⁴⁸

Even if there were sufficient space to house more budgeted students, other requirements could preclude enrolling more students. The law requires that day students receive stipends, and sets the minimum amount that each student entitled to a stipend shall receive.¹⁴⁹ To enroll more students would therefore

students even if we provide the funds. Deciding on facilities is not in our jurisdiction." 1 LEMPERT, *supra* note 38, at 451.

144. The Law on Higher and Post-Graduate Professional Education requires that housing be supplied for students in need if the higher educational institution has a housing fund, and that no more than five percent of a student's stipend can be charged for such housing. See Law on Higher and Post-Graduate Professional Education art.16, para. 3.

145. It is usual for teachers to have office hours during which they are available to meet with students in the office of their department. The fact that teachers have no personal office within a university led to their being given the right, during the Soviet era of assigned housing, to an additional room in their apartments to serve as an office. See 1 LEMPERT, *supra* note 38, at 479-80 (citing the use of home offices by law teachers).

146. See Sahlas & Chastenay, *supra* note 38, at 204-05. St. Petersburg, Novgorod, and Volgograd State Universities are examples of schools that conduct separate tuition-based programs in the facilities of their law schools, taught by members of the teaching staffs of their law faculties. Most law faculties conduct such programs today.

147. An approved budget exists for each state university for the enrollment of a specified number of students. These are referred to as "budgeted students." Law on Higher and Post-Graduate Professional Education art. 11, para. 2. The teaching of others outside the budget is not prohibited. However, no government resources are supplied from Moscow for such instruction.

148. See *id.*

149. The Academic Council of the educational institution determines, by categories, the numbers of students receiving stipends and the amounts to be paid (but not less than the amounts set by legislation of the Russian Federation). However, stipends must be paid to those students whose grades are "excellent" or "good and excellent," and to many other students in protected categories (children who are orphans or not in the custody of their parents, disabled people, persons suffering due to the Chernobyl or other nuclear catastrophes, and veterans of military activities abroad) as long as they receive passing grades. See Act to Provide Stipends and Other Forms of Social Support for Students, *supra* note 99. The Law on Higher and Post-Graduate Professional Education sets the stipend at no less than three times the minimum monthly wage for students other than disabled students and orphans who are to receive 50% more. See Law on Higher and Post-Graduate Professional Education art. 16, para. 3.

be difficult, if not impossible, unless more money were budgeted by the federal government for student stipends.

More budgeted students would also require more teachers to teach them. Therefore, a means of providing salaries for additional teachers would have to be found. Universities are currently underfunded, however, which results in their receiving only about a third of their annual budgets from Moscow.¹⁵⁰ Typically, this money pays faculty salaries and student stipends but the amount received is usually only a percentage of the amount required to be paid to the teachers and students by law; moreover, the funds often arrive late.¹⁵¹ There is insufficient money from Moscow to pay for libraries, equipment, furnishings, and maintenance. Only funds from tuition-paying students are available to meet these needs.¹⁵²

From what other sources might money be raised to pay additional teachers? One solution is to admit more regular, but "non-budgeted," students into the state university law faculties and to charge them tuition. This is being done.¹⁵³ Just as different standards have traditionally been applied to the admission of day, part-time, and correspondence students, paying students are not admitted pursuant to the same admissions standards as the non-paying "budgeted" students, nor are they generally taught in the same classes as the budgeted students.¹⁵⁴ Nevertheless, legislation initially prohibited a state university from charging tuition to more than twenty-five percent of those students "generally admitted" as budgeted by the government.¹⁵⁵ This restriction prevented the state university law

150. This information was consistently attested to by professors from across Russia.

151. The 1996 Law on Higher and Post-Graduate Professional Education, like earlier legislation, pegs salaries of employees of higher educational institutions to those of industrial workers. A professional staff member of such an institution is to receive twice the average monthly wage of an industrial worker. See Law on Higher and Post-Graduate Professional Education art. 30, para. 7.

152. See Golubev, *supra* note 64, at 2.

153. Topornin notes that "tuition-based education has provided serious financial support for the state schools. As a rule, these moneys provide additional payments to the professors, who otherwise would quit teaching." Topornin, *supra* note 5, at 47.

154. Irkutsk educates its tuition-paying law students together with its budgeted students. See Petrukhin, *supra* note 29, at 4. In the case of Novgorod State University, which also educates them together, segregation apparently would serve no purpose since the teachers do not receive salary supplements for teaching the tuition paying students. Interview with Valentina Grohotova, Novgorod State University's Faculty of Law, in Cleveland, Ohio (Nov. 5, 1998).

155. See 1992 Law on Education art. 41, para. 10. This restriction was found objectionable by heads of law schools perhaps in part because its effect was to limit the amount of additional income that law teachers could earn. See Topornin, *supra* note 5, at 46-47. This provision was changed in the Law on Higher and Post-Graduate Professional Education. See Law on Higher and Post-

faculties from raising enough money through their regular admission program to meet their ongoing expenses, including the shortfall in money for salaries.¹⁵⁶ Moreover, this restriction created the opening for the development of private law schools and led the inventive state university law faculties to undertake the running of private schools on their premises, in addition to admitting tuition-paying students to their regular program to the extent permitted by the twenty-five percent limitation imposed by law. Admission of tuition-paying students thus provides state universities income in addition to that provided by the state budgetary allocations.¹⁵⁷ At least some of the state universities in which law faculties operate private programs can and do use a portion of the very high tuition often charged such students¹⁵⁸ to

Graduate Professional Education art. 29, para. 2. Now the percentage is to be set forth in the license of the institution. Thus, in its degree program for Specialists, St. Petersburg State University's law faculty planned to admit 150 students into its free budgeted day program in September 1997, and an additional 160 tuition-paying students. It also planned to admit 150 budgeted students and 100 paying students into its evening program and an additional 150 budgeted and 10 paying students into its correspondence course. An additional 20 budgeted students were to be admitted into its new Bachelor's degree program. St. Petersburg State University Law Faculty, Bulletin Board notice, posted July 10, 1997. For the 1998-1999 academic year, the only significant change in the admissions statistics was to expand the number of students enrolled in the Bachelor's degree program to 120. See Interview with Michael Krotov, *supra* note 59.

156. See Sahlas & Chasteney, *supra* note 38, at 204 (discussing the effects of this restriction at St. Petersburg State University).

157. Thus, St. Petersburg's tuition-based special faculty is located in the same building as the law faculty, and the same professors are teaching in both faculties. The special faculty gives part of its money to the law faculty for the rent of the building, teaching and use of the library. Due to this money, the law faculty has managed to repair the building, to buy new furniture, modern technical equipment and to stop law professors from quitting their jobs. Petrukhin, *supra* note 29, at 4.

158. Petrukhin refers to the high tuitions at non-state schools as restricting legal education to "wealthy people" or to the "children of high-ranking officials." *Id.* at 11. And former Dean Korolev refers to education as no longer being available to the majority of the population. See Igor Evseev, *Obratnoi dorogi net*, Interview with Professor Konstantin Evgenevich Livantsev and Professor Alexey Ivanovich Korolev, SANKT-PETERBOURGSKII UNIVERSITET, Special Edition, 1997, at 13, 14. But high tuition also characterizes many of the "commercial" admissions at the state university law schools. The yearly tuition for students enrolling in St. Petersburg State University's law faculty in September 1997 was \$3500 for students in the four-year Bachelor's program, \$4000 for students studying for the five-year Specialist's degree, and \$4500 for students in the Master's program. See Interview with Sergey Marvin, *supra* note 63. The "minimum living allowance," defined as the "amount needed to purchase a basket of goods deemed to be the minimum necessary for survival for a month" was \$83.58 in St. Petersburg in June 1997. In *Brief*, ST. PETERSBURG TIMES, July 8, 1997, at 7. Since the average monthly wage of St. Petersburg residents (including children) was \$110 during the first quarter of 1997, according to a report of the Gortis sociological research agency, such high tuition levels are far beyond the financial means of the average student's family. See *In Brief*, ST. PETERSBURG TIMES, June 17, 1997, at 9. After the August 1998 financial crisis, tuition at St. Petersburg's law faculty dropped

pay salary supplements to those of their law teachers teaching in such programs.¹⁵⁹

Although teacher salaries can be raised by enrolling tuition paying students, thereby making law teaching a more attractive option, the question remains as to where one might find qualified new teachers able to address curricular and methodological reform in the law faculties.

IV. RUSSIA'S LAW TEACHERS

The profession of the law teacher in Russia historically was an honored one. Influenced by the German legal education system, the Russian legal education system established the hurdle of dual dissertations for award of the Doctor of Science degree that led to lengthy training for those who aspired to become Professors of Law.¹⁶⁰ Legislation, however, guaranteed those who stayed the course a better than average wage.¹⁶¹

Today the situation is very different.¹⁶² Competition from the private sector for lawyers to service joint ventures, banks, and private enterprises has led to escalating salaries for those with such training, making them suitable for employment in commercial enterprises.¹⁶³ An exodus of those in law teaching has occurred among some teachers having the skills to command

somewhat: Annual tuition for students studying for the Specialist degree was \$2800, while students studying for the Bachelor's degree were charged \$2000 and slightly less for students enrolled in the Master's program. See Interview with Michael Krotov, *supra* note 59. High tuition also characterizes Volgograd State University's Law Faculty, although not at St. Petersburg's level. In Volgograd tuition-paying day students pay \$2500 a year while correspondence students pay \$1500 (there is no evening program). In contrast, students enrolled in the private law school conducted under the umbrella of Volgograd's state university pay \$2000 tuition a year for the day program, and \$1250 in the correspondence program. See Interview with Alexander Titov, *supra* note 58.

159. The amount payable for teacher salaries will depend upon the amount that the university itself will first skim, and other uses to which the law faculty may decide to put tuition moneys. St. Petersburg State University's law faculty allocated 30% of tuition earnings to supplement the salaries of law teachers who teach such students. However, it is usual elsewhere, according to Prokhorov, for law teachers to receive 50% of such funds. See Golubev, *supra* note 64, at 3.

160. See *infra* notes 172-73 and accompanying text.

161. See *supra* note 151.

162. While the law requires that a salary at least equal to twice that of the average manufacturing worker be paid, the reality today is different. In 1957 a professor earned 400%, and a docent 270%, of the salary of an industrial worker. By 1995 the professorial salary had dropped to 117% that of a worker, while the docent was receiving only 81% the salary of a worker. See Petrukhin, *supra* note 29, at 12.

163. Sociological polls indicate that lawyers' profits rank third after commerce and management, and that the profession of lawyer is ranked top in prestige among youth. See Topornin, *supra* note 5, at 43.

higher pay in the private sector.¹⁶⁴ This shift has left a shortage of lawyers to work as judges and assistants in the courts, as prosecutors in law enforcement agencies, and as law teachers.¹⁶⁵ Many of those who remain in law teaching moonlight in second or third jobs,¹⁶⁶ leaving little or no time for research, writing,¹⁶⁷ and extracurricular student-faculty interaction.

Given the current economic situation in Russia, a twofold problem thus exists. Sufficient numbers of law teachers must be educated to function in the new legal system, and, once educated, they must also be retained in legal education despite the prospects of better paying jobs in the private sector.

Russian legal education is organized very differently from U.S. legal education. Each department in a law faculty is normally headed by a Professor who holds a Doctor of Science diploma. The faculty line of progression within each department includes, in ascending order, Assistants, Senior Teachers, Docents, and Professors.¹⁶⁸ This represents the usual path of development of law teachers, who may begin teaching tutorial sessions and hold the position of Assistant or even Senior Teacher while still enrolled as post-graduate students in the

164. See Golubev, *supra* note 64, at 2; Topornin, *supra* note 5, at 34. Prokhorov notes that "running away" is a big problem for all law schools in Russia since an experienced lawyer can earn much more money in a commercial firm than teaching in a university. He also notes that St. Petersburg has been fortunate in losing its teachers only to governmental positions. See Golubev, *supra* note 64, at 3.

165. Dean Prokhorov noted that 20-30 more law teachers were needed at St. Petersburg's Law Faculty. See Golubev, *supra* note 64, at 3.

166. See Petrukhin, *supra* note 29, at 12 (stating that private school law teachers earn three to four times the salary of a law teacher in a state law faculty). Teachers also earn extra pay by teaching tuition-paying students in state university law faculties.

167. Traditionally, there was no broad integration of legal education and research in Russia. Russian law teachers were not usually expected to conduct research or publish. This was the province of research institutes, one of which was the Institute of State and Law in Moscow (which publishes the monthly journal, GOSUDARSTVO I PRAVO). See Topornin, *supra* note 5, at 50. Universities such as Moscow State University and St. Petersburg State University had libraries permitting the conduct of research. St. Petersburg's law faculty library houses 300,000 volumes. See Golubev, *supra* note 64, at 2. While there were 20,000 foreign law books, they were poorly catalogued with significant gaps in the collection. See LEMPERT, *supra* note 38, at 492. Now those books in the foreign law collection not protected by copyright are being digitalized. However, the libraries of many law faculties hold only multiple copies of textbooks for use by students who often have insufficient resources to buy textbooks or are unable to find them to purchase before they are out of print.

168. At Pomorski State University, department heads, professors, and docents are elected by the University's Academic Council while the academic councils of the individual faculties elect senior teachers and assistants. See Interview with Vadislov Goldin, *supra* note 87. This appears to be the usual procedure in all state universities.

aspirantura program. Promotion to Docent, however, will usually await award of the Candidate of Science degree,¹⁶⁹ while a Professorship will usually be granted only to those who have received a Doctor of Science degree.¹⁷⁰ It is interesting that while introduction of the four-years Bachelor's degree and the Master's degree have been controversial,¹⁷¹ the dual dissertation required for the Doctor of Science degree, unusual in Europe, does not appear to be controversial in Russia.¹⁷² In Germany, however, it has been described as leading to a perhaps overly lengthy qualification period.¹⁷³

Barriers to attracting top students into law teaching include not only the lengthy qualification period for a teacher to achieve a professorship but also the lack of job security. Lack of job security for teachers is inherent in Russia's educational institutions because there is no system of tenure. Many law teachers have at most one year contracts,¹⁷⁴ and, in any event, their contracts are limited by law to a maximum of five years.¹⁷⁵ This situation may pose a particular problem for those teachers most interested in teaching in new, and what to traditionally-minded senior assessing colleagues might appear to be, controversial fields.

For there ultimately to be more law teachers, there must also be more postgraduate students. Yet the number of students studying in postgraduate departments has hardly increased since

169. See Law on Higher and Post-Graduate Professional Education art. 22, para. 2.

170. See *id.* art. 22, para. 3. MGU's Charter provides: "Only a doctor of science is eligible for professorship." MGU CHARTER, *supra* note 51, para. 17.

171. The traditional five-year program remains the most popular. Ninety-two law schools offer it, while only 16 schools offer the new Bachelor's degree program. See Topornin, *supra* note 5, at 43.

172. Lempert states that the requirement of a second dissertation was introduced during the 1920s and suggests that, at the time, the purpose of its introduction may have been to exclude some from teaching for political reasons. See 1 LEMPERT, *supra* note 38, at 810.

173. "One of the toughest aspects of German legal education is that there is no university qualification of any kind except the doctorate." Peter Birks, *Studying Law in Germany*, 26 LAW TCHR. 215, 217 (1992). According to Birks, the Habilitation degree awarded in Germany after the second thesis is written and published is seldom earned before the age of 35. See *id.* at 218.

174. Volgograd's law teachers have only one-year contracts. See Interview with Felix Glazirin, *supra* note 92.

175. The Law on Higher and Post-Graduate Professional Education provides for labor contracts for teachers for a period not to extend five years and for the election of deans and department heads. See Law on Higher and Post-Graduate Professional Education art. 20, para. 2. Lempert mentions the role of the academic council of St. Petersburg State University's Law Faculty in voting on teacher appointments at five year intervals. See 1 LEMPERT, *supra* note 38, at 455, 524.

Soviet times.¹⁷⁶ Indeed, because of the poor salaries that universities can now offer,¹⁷⁷ it has been said that there is little interest in postgraduate legal education today and that anyone seeking admission can get accepted.¹⁷⁸ In at least some universities today this trend appears to have been reversed,¹⁷⁹ perhaps because bad economic times provide poorer employment prospects, which lead students to consider devoting more time to improving their educational qualifications.¹⁸⁰ Entrance examinations for the *aspirantura* programs are given early in the fall of each year, and each university may now establish its own standards for admission. At Volgograd State University oral examinations are given in a foreign language, in philosophy, and in one's subject of specialization.¹⁸¹ At St. Petersburg State

176. See *id.* at 807-08 (providing statistics).

177. Teacher salaries paid in state universities are based upon a formula which provides for a salary to be set at a certain number of minimum wages for teachers and administrators of different ranks. The Law on Higher and Post-Graduate Professional Education provides that the minimum salary for teachers shall be eight times the minimum wage. See Law on Higher and Post-Graduate Professional Education art. 30, para. 4. Thus, an Assistant in Volgograd will receive between 9 and 11 minimum wages, a Senior Teacher will receive between 11 and 13 minimum wages, a Docent between 13 and 15, and a Professor between 15 and 17 minimum wages. The University Rector receives 18 minimum wages. The law also provides for various bonuses for docents (40%) and professors (60%) as well as for teachers holding the Candidate of Science degree (three times the minimum wage) and Doctor of Science (5 times the minimum wage). See *id.* art. 30, para. 5. Various allowances are also provided by law for books and travel. A minimum wage was 179,000 rubles (about \$30) in June 1997. In Volgograd those teachers in the state university law faculty teaching in the private law school operating under the umbrella of the university may receive two to three times the salary paid those teaching under the state budget. See Interview with Alexander Titov, *supra* note 58.

178. See Golubev, *supra* note 64 (V. Prokhorov, as well as having been being Dean of the Law Faculty of St. Petersburg State University until June 1998, also heads its Criminal Law Department). While Petrov agrees, this view may, however, more accurately reflect the situation in criminal than in civil or commercial law. See Petrov, *supra* note 143, at 19. Students no longer receive draft deferments when employed in jobs in the Ministry of the Interior or in the Prosecutor's office. Full-time—i.e., day—male postgraduate students do receive deferments from military service, however. See Law on Higher and Post-Graduate Professional Education art. 16, para.3. Yeltsin, however, has plans to decree substantial cuts in the military. See Michael Specter, *Yeltsin's Plan To Cut Military Touches a Nerve*, N.Y. TIMES, July 28, 1997, at A1. Should the draft be ended, it will remain to be seen whether this will lead to a decline in the number of applicants for postgraduate education.

179. Applications to St. Petersburg State University's law faculty's *aspirantura* program in the civil and commercial law departments are now highly competitive.

180. Statistics from Goskomstat, the Russian State Statistical Bureau, indicate that those with only the equivalent of a high school education or less were twice as likely to be poor as those with more education. See *Younger Workers in Russia Found More Likely to Be Poor*, N.Y. TIMES, Nov. 19, 1998, at A5.

181. See Interview with Alexander Titov, *supra* note 58.

University's Law Faculty the examinations also include a foreign language, philosophy, and one's specialty.¹⁸² However, for a student to be selected for an *aspirantura* program in some schools may require the patronage of someone within the Law Faculty or "a strong patron or institutional backing elsewhere with clout in [the city]."¹⁸³

A failure to increase the number of postgraduate students who, like undergraduate students, are budgeted by Moscow, will insure a continued shortage of well-qualified law teachers as long as the career path to law teaching remains acquisition of the Candidate and Doctor degrees through the traditional route that begins with the *aspirantura* program. One concession has recently been made by St. Petersburg State University's law faculty: a "commercial" *aspirantura* program that permits entry to students with entrance test scores lower than those admitted to the regular *aspirantura* program.¹⁸⁴ These "commercial" *aspirants*, rather than receiving stipends from Moscow, pay for the privilege of attending and taking *aspirantura* examinations.¹⁸⁵ Whether such students wishing to enter the academic profession will be welcomed into law teaching careers remains to be seen.

V. LEGAL EDUCATIONAL REFORM IN RUSSIA—ANY ROLE FOR THE UNITED STATES?

Even given the need to modernize Russian legal education, one can well ask whether it is in Russia's interest for its teachers and students with their civil law legal culture to embrace U.S. legal studies in the same way that they study U.S. business subjects. The demise of the Soviet Union and the transformation of the Russian Federation into a private enterprise market economy system has led to new legislation in numbers of areas in which Western experience has influenced the substantive development of the law.¹⁸⁶ A joint stock company law, a limited

182. Lempert stated that the entrance exams for the *aspirantura* program at St. Petersburg State University when he was there in 1989-1990 were "Marxism-Leninism, Foreign Language, and a legal specialty." *Id.*

183. *Id.* at 805.

184. While a perfect score of 15 (a score of five on each of three examinations) was required for admission to the civil law department of the *aspirantura* program of St. Petersburg State University's law faculty in the fall of 1998, a score of 14 opened entry to the commercial *aspirantura* program.

185. Some students may be willing to pay to study in an *aspirantura* program for the prestige that they believe an advanced degree may confer, which may be viewed as helpful in private practice.

186. The Council of Europe, the United Nations, and individual countries including the United States, Japan, the Netherlands, Germany, and Switzerland have provided financial support or technical assistance to Russia for a variety of

liability law, securities regulation, and bankruptcy law should not be surprising areas for U.S. influence, given the focus on a market economy. Moreover, Part III of the new Russian Civil Code will introduce a concept uncommon in civil law, the trust, as well as new laws relating to intellectual property and private international law.¹⁸⁷ Jury trials, absent from Russia during the Communist era, are gradually being reintroduced in various geographical regions for use in the trial of serious felony offenses.¹⁸⁸ Perhaps most important, however, familiarity with U.S. and other Western concepts of legal professional practice and legal ethics, essential for development of the rule of law, has not yet been clearly formulated in terms familiar to Russian lawyers.¹⁸⁹

But is it clear that the Russian legal academy, and perhaps even more important, the government bureaucracy in Moscow,¹⁹⁰ recognizes any need for change? It is well understood that Russia needs more well-trained lawyers than its law schools have produced in the past or currently produce,¹⁹¹ but, to date, there is little agreement on how to do this. The need for curriculum reform may seem obvious to some, but by no means to all.¹⁹²

law reform projects including the drafting of the new Civil Code. See WORLD BANK, TECHNICAL ANNEX TO THE MEMORANDUM OF THE PRESIDENT, RUSSIAN FEDERATION, LEGAL REFORM PROJECT (Report No. T-6883-RU, May 21, 1996), app. B (providing brief descriptions of the role played by each of these organizations or countries). See also generally Jacques deLisle, *Lex Americana?: United States Legal Assistance, American Legal Models, and Legal Change in the Post-Communist World and Beyond*, 20 U. PA. J. INT'L ECON. L. 179 (1999); Robert S. Summers, *The New Russian Civil Code and the Cornell Law School*, CORNELL L.F. Nov. 1994, at 13. Robert Sharlet, *Legal Transplants and Political Mutations: The Reception of Constitutional Law in Russia and the Newly Independent States*, E. EUR. CONST. REV., Fall 1998, at 59.

187. Topornin also noted the need for a new Land Code, a new Tax Code, and a new Labor Code. He also mentioned a need for legislation concerning principles of federalism, and new criminal law (subsequently enacted in 1997), criminal procedure and administrative law codes. See Topornin, *supra* note 5, at 35.

188. For a description of the first jury trials held in Russia in recent years, see Stephen C. Thaman, *The Resurrection of Trial by Jury in Russia*, 31 STAN. J. INT'L L. 61 (1995).

189. "Over the years, however, several draft codes, statutes, or rules of ethics of Russian advocates have been prepared and engendered lively discussion." BUTLER, *supra* note 38, at 122.

190. In particular the Ministry of General and Professional Education's State Committee of the Russian Federation for Higher Education (GosKomVuz).

191. See Golubev, *supra* note 64, at 2.

192. Judge Patricia M. Wald has noted that "my impression is the academics are not that much involved with the courts, and sometimes, they're not even, themselves, reform-oriented." Panel III: *The Role of Foreign Experts in Establishing the Rule of Law*, 12 AM. U. J. INT'L L. & POL'Y 116, 134 (remarks of Judge Patricia M. Wald). In addition, although individual law schools are now permitted by law to develop their own curricula, little time is available for innovative courses since the Standards of the State Committee on Higher

The shortage of teaching materials is an obstacle even when the need for reform is recognized.¹⁹³ Students may not be supplied with textbooks, codes, or even copies of the Russian Constitution.¹⁹⁴ Because of legislative and curricular changes, library assets are outdated. Research is particularly difficult outside Moscow and St. Petersburg.¹⁹⁵ While some law library catalogues are now being computerized,¹⁹⁶ no modern system of interlibrary loans permits the resources of these two cities to be widely shared.¹⁹⁷ Access to legislation, however, is becoming more widely available to those who can afford to pay through computer databases sold by Russian commercial services.¹⁹⁸

Given the apparent need for change, it is interesting to ask what resources Russia's judges, lawyers, and law teachers possess to confront a radically new legal environment. Foreign aid through USAID's contractor ARD/CHECCI and the ABA's Central and Eastern Europe Law Initiative (CEELI) program has provided some instruction for judges as well as the preparation of some Russian language study manuals.¹⁹⁹ Aid money has

Education (GosKomVuz) specify minimum numbers of hours to be spent in the study of specific subjects. *See supra* Part II.D.

193. Insufficient availability of textbooks has consistently been noted over the years and continues to be a problem. It is often blamed on a paper shortage. *See* 1 LEMPERT, *supra* note 38, at 492 ("[m]ost students did not purchase texts because of price and unavailability . . ."); ROBINSON, *supra* note 38, at 38; Granik, *supra* note 38, at 969. Students are not required to have their own copies of texts or commentaries. Nevertheless, during fall semester 1994, Cleveland students studying at St. Petersburg State University traveled to Moscow with their Russian classmates to find books for their courses. By 1996, however, St. Petersburg State University's Law Faculty had established a bookstore within the law school building so that students could purchase textbooks and commentaries on the law.

194. This was reported to be the case with respect to correspondence students at Irkutsk State University. *See* Petrukhin, *supra* note 29, at 12.

195. The holdings of the Russian State Library (Lenin Library) are being catalogued electronically with three percent of its 42 million books now accessible online for personal, educational, or scholarly purposes. Michael Steen, *Moscow Library Goes Online with 42 Million Books*, JOHNSON'S RUSSIA LIST (JRL) 3643 (Nov. 25, 1999). *See also* Petrukhin, *supra* note 29, at 12.

196. St. Petersburg State University expects its law library to be the first academic law library in Russia with a computerized card catalogue. Computerization is now virtually complete and full text digitalization of non-copyrighted materials has begun. *See* Interview with Michael Krotov, *supra* note 59.

197. Some libraries with extensive collections (for example, that of the Russian Academy for Public Service under the President of the Russian Federation in Moscow, which has a collection of two million books) appear to be underutilized, but there is no sharing of their collections available to other libraries with minimal resources.

198. The best known of these commercial services are Kodeks, Garant, and Konsultant Plus.

199. Mavrin notes study aids in commercial and environmental law developed and supplied to St. Petersburg State University's Law Faculty by

provided modern computer technology and related equipment to a handful of Russian law faculties.²⁰⁰ Methodological innovation has been met, for example, with the renovation of a classroom in St. Petersburg State University's Law Faculty as a moot court room.²⁰¹

The Russian Foundation for Legal Reform²⁰² in Moscow has been created within the context of a World Bank law reform loan having legal education as one of its four components.²⁰³ The loan will permit a maximum of five law faculties or consortia of law faculties²⁰⁴ to receive funding for a core program meant to address some, but not all, of these concerns.²⁰⁵ The dollar amount available for grants will total five million dollars to be disbursed over a two-year period²⁰⁶ in 1999 and 2000.²⁰⁷ The sufficiency of this level of funding raises the question of whether the World Bank will be able to do more than attempt to create model programs²⁰⁸ in a few schools using similar approaches to those tried by ARD/CHECCHI with USAID funding beginning in 1994.²⁰⁹

ARD/CHECCHI. Polubarieva, *supra* note 89, at 12. See also *infra* Part VI.B. (discussion of ARD/CHECCHI and CEELI programs).

200. St. Petersburg received computers supplied through USAID money. See Plubarieva, *supra* note 89, at 12. Money from the USA University Partnerships program provided computers to the law faculties of Volgograd State University and Novgorod State University.

201. See Petrukhin, *supra* note 29, at 12-13.

202. The organizational chart of this new entity is set forth in WORLD BANK, *supra* note 186, at 22.

203. See *id.*

204. See *id.* at 15. The two law schools selected are St. Petersburg State University and the Urals State Academy in Yekaterinburg. The three consortia of law schools selected are Irkutsk/Krasnodar, Kazan/Mariisky, and Saratov/Volgograd. Interview with Jonathan Pavluk, World Bank (Sept. 4, 1997).

205. The Bank's project objective for legal education is: "To begin to introduce innovative teaching methods and materials in the legal education system, with particular emphasis on increased exchange between legal academia and practice and to improve teacher training. To begin to improve public awareness and understanding of the role of law in a market economy." WORLD BANK, *supra* note 186, at 11.

206. See *id.* app. A, tbl. 3

207. See *id.* at 16.

208. The Bank, aware of the concern that "[t]he risk associated with this design is that its impact could be limited," states, "Pilot approaches . . . are designed to enhance capacity and receptiveness for further reform." *Id.* at 35. The Bank report also states, "The project seeks to mitigate this risk by concentrating the grants program in five law schools and by acting as a repository of materials developed under the program and disseminating this information beyond the five selected law schools." *Id.* at 35-36.

209. ARD/CHECCHI also selected a small number of law schools (principally Irkutsk, St. Petersburg State University, and the Urals Legal Academy in Ekaterinburg) for which it funded the purchase of equipment, brought American teachers to the Russian campuses to assist in training, translated some teaching materials, trained a few teachers in trial advocacy, developed a Russian

How could U.S. aid go beyond the model of assistance to a few key schools that the World Bank program will bring? If improving legal education is a necessary condition for law reform, the training of Russia's present and potential law teachers would appear to be an essential initial step. Within the classroom, such training would enable them to teach both a twenty-first century market and rights-oriented curriculum, as well as to use innovative methodologies. Outside the classroom, such training would enable law teachers to influence the development of the rule of law through scholarship, consultation, and participation in the organs of law reform and administration. However, the orientation,²¹⁰ age,²¹¹ and time²¹² available for Russia's law

language trial advocacy manual, instituted a small grants program, sponsored a conference on legal education held in Moscow in May 1996, and provided support for the development of the Interregional Association of Law Schools modeled on the American Association of Law Schools (AALS) referred to *supra* note 106.

210. Meyer reminds us that "[v]irtually all lawyers in the new post-Communist societies received their legal education at law faculties or institutes bound tightly to socialist and Soviet views of the world." Meyer, *supra* note 87, at 1030. During the Soviet era, admission to law school required a recommendation from the Communist Youth Organization, and law teachers were almost always members of the Communist Party. See Granik, *supra* note 38, at 964 n.6, 967 n.11. It was not possible for those of different political views to become law professors. See ROBINSON, *supra* note 38, at 52. Purges of education administrators had occurred in the USSR during the Communist era. A. A. Voznesensky, Rector of Leningrad University, vanished, together with many others, after the death of Andrei Zhadanov in 1948 during the "Leningrad Affair." See HARRISON E. SALISBURY, *THE 900 DAYS: THE SIEGE OF LENINGRAD*, 579-81 (1969). See also 1 LEMPERT, *supra* note 38, at 520-39, for an account of purges in Leningrad's Law Faculty beginning in 1937, and in particular, how, at a conference at Leningrad State University's Law Faculty in 1962, Yale Law School Professor Leon Lipson's questioning why law teachers did not speak honestly about the controls of the regime led the Communist Party to dismiss Alexey Korolev from the position of Dean of the Law Faculty (a position to which he was reinstated only in 1981). There is little evidence that *perestroika* or the breakup of the Soviet Union in 1991 led to widespread changes in those at the top of the administrative hierarchy in Russia's state university law faculties. Lempert states that St. Petersburg State University's Law Faculty "ran as it had before, with the same elites running it." *Id.* at 456. Professor George P. Fletcher has noted that the middle management in the universities "has remained exactly as it was before. There has been nothing that resembles radical change of power." Symposium, *Truth and Justice: The Question of Accountability for Stalinist Crimes in Eastern Europe and the Soviet Union*, 9 N.Y.L. SCH. J. HUM. RTS. 599, 622 (remarks of Professor George P. Fletcher). Meyer notes that many law faculties "are still controlled by high ranking educators from the old regime . . . [who] [t]oo often . . . use the language of reform for Western audiences but resist meaningful reform within their institutions." Meyer, *supra* note 87, at 1047. Gennady Yagodin, Chairman of the USSR State Committee for Public Education, predicted that "i]deas themselves do not die—only the people who have them." Susannah Massey, *Top Soviet Education Official Says He Does Not Expect Moves to Pluralism to Bring Rapid Changes for Higher Education*, CHRON. HIGHER EDUC., Feb. 21, 1990, at A47. Indeed, legislation modeled on postwar Japanese legislation intended to stimulate democratic institutions, proposed by Galina Starovoitova, a

former adviser to President Yeltsin and a leader of the political party Democratic Russia, would have excluded persons in certain positions within the Communist Party and the KGB from holding positions in a number of fields, including educational and legal fields, for a certain period of time. For a full discussion of the political controversy surrounding this proposed legislation, see Victor Yasmann, *Legislation on Screening and State Security in Russia*, RFE/RL Research Report, Vol. 2, No. 32, 11-16 (1993), reprinted in 2 TRANSITIONAL JUSTICE: HOW EMERGING DEMOCRACIES RECKON WITH FORMER REGIMES 754-61 (Neil J. Kritz ed., 1995). As predicted, such legislation was never enacted. Galina Starovoitova was killed on the first-floor landing of her apartment building in St. Petersburg in an unsolved murder on November 20, 1998. See Bill Powell et al., *Requiem for Reform*, NEWSWEEK, Dec. 7, 1998, at 38. In contrast, both Germany and Czechoslovakia provided by law for the removal of former Communist university rectors and deans from their posts. Indeed, entire university departments were closed in some East German cities by Germany after reunification. See Burton Bollag, *Rectors and Deans are Subject to New Czech Law to Remove Ex-Communists from 'Leading Posts'*, CHRON. HIGHER EDUC., Nov. 27, 1991, at A36. For an account of Humbolt University Law Faculty's fight for survival after East Germany's reunification with West Germany and the vetting of its administrators, teachers, and staff, see INGA MARKOVITS, IMPERFECT JUSTICE: AN EAST-WEST DIARY, 99-102, 128-39, 165-66 192, 195, 198-99 (1995). Fletcher distinguishes Germany's situation from that of the rest of Eastern Europe. See Fletcher, *supra*. See also Herman Schwartz, *Lustration in Eastern Europe*, 1 PARKER SCH. J.E. EUR. L. 141 (1994).

211. As noted by Hendley, "Efforts are being made in post-Soviet Russia to reshape the institutions of legal education more in the Western image. In many cases, however, these efforts are being stymied by the older generation of scholars, who are unsettled by the prospect of reform." HENDLEY, *supra* note 36, at 180. Lempert states that in 1973, 33 members of the teaching staff, or more than half of the male law faculty members of Leningrad University's Law Faculty, were World War II veterans. See 1 Lempert, *supra* note 38, at 525. A recent edition of St. Petersburg State University's monthly magazine is entirely devoted to the World War II veterans on its Law Faculty and stresses their productivity and adaptability. A total of 19 teachers are featured in this issue. ST. PETERSBURG UNIVERSITY (Special Edition, Feb. 5, 1997). Professor Alexander Sergeev, Head of the Civil Law Department of St. Petersburg State University's Faculty of Law, has noted that half of the law teachers in the Civil Law Department today are over the age of 70. Interview with Professor Alexander Sergeev, St. Petersburg, Russia (July 13, 1997). Given the economic times, this is not surprising in view of a 1992 decision of Russia's Constitutional Court which held the practice of mandatory retirement to be unconstitutional. Constitutionality of the Practice of Nullifying Labor Contracts Pursuant to Article 33(1) of the RSFSR Labor Code, 1993 Vedomosti Fed. Sobr. R.F., No. 1, at 29. While subsequent legislation provides for mandatory retirement at age 65 for Rectors, Deans, and university department heads, extensions to age 70 are possible. See Law on Higher and Post-Graduate Professional Education art. 20, para. 3.

212. Due to current economic conditions, few Russian law teachers have the time needed to make substantial change in the content of courses that all too often have merely been renamed. For example, "History of Marxism" is no longer taught in Russian law faculties. Instead a new course in the "History of State and Law" has been introduced. This new course is often taught by the same teachers that had earlier taught "History of Marxism" and has much the same content as the course previously taught. Petrukhin notes that often certain words such as "USSR," "Socialist," or "Communist Party" are simply dropped from the titles of courses, or the content fails to reflect the title. For example, he notes a course in Modern Political Studies that fails to include Western concepts of the second half of the twentieth century. See Petrukhin, *supra* note 29, at 10. Joel Levin, an

teachers to adapt to a new legal environment is not reassuring. Here U.S. assistance could make an important impact, but program development must begin with an analysis of the obstacles now in place to the training of law teachers and possible ways of overcoming these obstacles.

VI. TRAINING OR RETRAINING RUSSIA'S PRESENT AND FUTURE LAW TEACHERS

If having well-trained teachers is the necessary precondition for reform of legal education, can the United States play a useful role? Assistance could take various forms. The retraining or training of Russian law teachers within Russia using foreign and local trainers is one possibility. Funds could be provided for retraining or training overseas. Still another approach would be the creation of what would essentially be a foreign university on Russian soil.²¹³ Creation of new universities are now being tried in Eastern Europe in Hungary and in Bulgaria,²¹⁴ and in the Newly Independent States (NIS), in Armenia and in Kyrgyzstan.²¹⁵ Of course, some combination of these options is also possible, but a major obstacle would appear to be the high costs involved.

American lecturing in the law faculty of Volgograd State University in 1996, noted the absence of any mention of twentieth century Western jurisprudence in the course devoted to Theory of State and Law. See Interview with Joel Levin, Cleveland, Ohio (April 11, 1999).

213. This approach, of course, would not be one restricted to teacher training; many graduates of such an institution would likely become practicing lawyers.

214. The Central European University in Budapest, created with financial support from George Soros' Open Society Institute, has a law faculty that has been operating since 1991, and through which an LL.M degree can be earned. Classes are conducted in English. See <<http://www.ceu.hu/legal/legdir/html>> (visited Nov. 16, 1999). Information concerning the American University in Bulgaria, founded in 1991 with funding from USAID, can be found at its webpage: <<http://www.aubg.bg>> (visited Nov. 16, 1999). This University does not offer a law program.

215. The University of California at Berkeley (Boalt Hall) received a USIA grant to operate a law school within the American University of Armenia now established in Yerevan. Initially it trained students in English at Yerevan. The best of these students then studied law in the English language for a year in Yerevan. The most successful among these students were then eligible to study law in the United States for a semester. Telephone interview with Suzy Antounian; see also <<http://www.aua.am>> (official webpage for American University of Armenia). The American University of Kyrgyzstan was founded in 1997 jointly by the government of the Kyrgyz Republic and the Open Society Institute and now receives USIA support administered by the International Research & Exchanges Board (IREX). For more information about this university, see http://www.osi.hu/hesp/ni/ni_nu_6.html.

A. Training or Retraining Russian Law Teachers in Russia

To date there have been few programs bringing U.S. law teachers to teach in Russian law faculties. How could U.S. law teachers help? A visiting teacher could introduce Russian teachers, as well as stimulate and expose those Russian law students interested in law teaching, to new methodologies and subjects and help develop the teaching materials required for new courses. In conjunction with this effort, the visitor could teach or co-teach clinics and seminars and plan pedagogical retreats for and with Russian teachers. He could also act as a guest lecturer or give mini-courses to existing classes of students. By teaching an entire course or courses in a Russian law school, a U.S. teacher could provide a model for the teaching of new courses or provide a comparative aspect to a subject taught by a Russian teacher. He could also be available to plan seminars and simulations for graduate students and to be available to them for consultations on research topics, particularly in subjects for which there might be no existing expertise among Russian members of the faculty.

Nevertheless, many problems must be confronted. Lecturing in English presents linguistic problems. While universities in some non-English speaking countries conduct classes in English, at this time there are no such universities in Russia.²¹⁶ Few Russians outside Moscow and St. Petersburg are sufficiently fluent in English to be able to follow lectures in English. Furthermore, only a few professors currently teaching in U.S. law schools are known to be sufficiently fluent to lecture in Russian.²¹⁷

The Fulbright program is the one program that, for many years, has brought, and continues to bring, U.S. law teachers to lecture in Russia for extended periods of time.²¹⁸ The role of

216. However, the University of Manchester, together with the Moscow Higher School of Social and Economic Sciences (MSSES) (which was founded in 1994), now offer an LL.M degree to Russian students successfully completing its courses in Moscow, and publish a quarterly law review in English with the Vinogradoff Institute, University College London. See *Anglo-American LL.M Degree Has Been Developed in Russia*, TRANSLEX, Apr. 1988, at 9.

217. Indeed, there are few American law professors likely to be knowledgeable about Russian law, let alone fluent in the language. The membership list of the American Association for the Advancement of Slavic Studies includes only 43 specialists in law among the organization's 3194 members. See Dorothy Atkinson, *Soviet and Eastern European Studies in the United States*, 47 SLAVIC REV. 397, 405 (1988). Nor do the programs of the Annual Meetings of the American Association of Law Schools, which reflect the interests of AALS section members, indicate any interest in Russian law.

218. However, only five law professors in U.S. law schools have been awarded Fulbrights to teach in Russian law schools. Professor William Burnham

these teachers, however, has been either to teach law students or to conduct research, not to train or retrain, directly or indirectly, Russian law teachers. Indeed, most Fulbrights in law have been awarded not to teachers in U.S. law schools but to teachers in political science departments, members of the judiciary, and lawyers in government service.²¹⁹ Beginning in 1993, the USIA began directly supporting a small number of teacher exchanges with Russian law faculties through its University Partnerships program. By the fall of 1999, five Russian law schools had been selected to participate in this program.²²⁰

Given the dearth of Russian-speaking law teachers in the United States, it is unlikely that significant numbers of law teachers could be brought to teach in Russian law schools, unless they can teach in English. At least one law school, St. Petersburg State University's Law Faculty, is considering a tuition-based two-year Master's degree program, taught in English, bringing faculty from the United States and Western Europe to St. Petersburg to help develop a curriculum focusing on international market-oriented economic activity as well as on comparative law subjects, constitutional law, human and civil rights.²²¹ Such a program could permit *aspirantura* students as well as Master's students

of Wayne State University law school was a Fulbright scholar at Moscow State University in 1991. In 1993 Professor Jay Dratler, Jr. of the University of Hawaii Law School taught at the Moscow Institute of International Relations with a Fulbright award. Professor David P. Cluchey of the University of Maine Law School lectured in Moscow at the Finance Academy of the Government of the Russian Federation in 1994 with a Fulbright award. Professor Franklin Gill of the University of New Mexico College of Law lectured at Rostov University at Rostov-on-Don with a Fulbright award in 1995. Professor John Burman of the University of Wyoming School of Law received a Fulbright award to visit the law faculty of Petrozavodsk State University during fall semester of the 1998-1999 academic year. Information supplied by Katie Tremper, Council for International Exchange of Scholars (CIES).

219. Between fall semester 1991 and fall semester 1999, fifteen persons other than law teachers had received law Fulbrights to Russia. Information supplied by Katie Tremper, Council for International Exchange of Scholars (CIES).

220. The initial program, begun in 1993, ended in 1996 (although a few renewals occurred in 1997) and included a total of 28 university partnerships, only one of which (a partnership of Volgograd State University, and Cleveland State and Case Western Reserve universities acting as a consortium) was between law schools. According to Deborah Trent of USIA, few American law schools had applied to participate in these partnerships. USIA began a new university partnerships program in 1998 and paired law programs of Novgorod State University with Cleveland State University, Petrozavodsk State University with Vermont Law School, and in early 1999 added an additional partnership between Far Eastern State University in Vladivostok and the University of Wisconsin. During fall of 1999, new partnerships were funded between Mari-El State University and Wayne State University's law school, and Vologda State University and The Franklin-Pierce School of Law (in partnership with the University of New Hampshire).

221. See Interview with Sergey Marvin, *supra* note 63.

who meet the English language requirements to be exposed to new subjects and methodology.²²² Indeed, teachers spending at least a semester in St. Petersburg teaching in such a program could also provide help to those Russian teachers interested in teaching such subjects after an eventual departure of the Western teachers.

B. *Training Russian Teachers in the United States*

It is unclear to what extent there are already law teachers in Russia who have been trained in the West. During the years of the Cold War, travel outside the Soviet Union was severely restricted to those considered ideologically safe.²²³ Challenges to Communist ideology and practice were uncommon and dangerous.²²⁴ Because of strict control of the curriculum, knowledge of Western legal traditions was minimal.²²⁵

Given the lack of knowledge of Western legal traditions from which most Russian law teachers must start, training Russian teachers in the United States may represent the most effective training for Russia's future teachers. Yet observing classroom instruction and researching materials for new courses would be only one aspect of the experience. At least as important is the opportunity to see how a society based on the rule of law functions and why it is essential. Attending court sessions, meeting with judges, observing police operations, meeting with adversaries and arms' length clients, seeing the role played by organizations such as legal aid and public defenders' offices, as well as citizens' interests groups—indeed, observing the full functioning of a civil society—are experiences that can be provided only by taking Russian law teachers outside their own country to provide a full immersion experience.²²⁶ It is also, of course, the most expensive type of training.

222. See *id.*

223. See Mary Jane Moody, *Tourists in Russia and Russians Abroad*, 13 PROBLEMS OF COMMUNISM 3, 10 (1964).

224. Lempert describes the purges conducted in Leningrad State University's law faculty between 1921 and 1978. See 1 LEMPERT, *supra* note 38, at 523-39.

225. Professor Harold Berman found after he distributed copies of U.S. Supreme Court decisions including *Brown v. Board of Education* to students in 1962 that attendance in his lecture series at Moscow State University dropped suddenly from 200 to 5, apparently as the result of a student boycott organized by Komsomol officers. See Moody, *supra* note 229, at 10 (citing Theodore Shabad, N.Y. TIMES, April 14, 1962).

226. Dimitrina Petrova, Executive Director of the European Roma Rights Center in Budapest has also noted her belief in the need for such an approach: "[T]here is a stronger exposure to rule of law values when the East European lawyers are brought to this country in particular for terms of, like, one month or

Subsequent to the breakup of the Soviet Union, a few small programs did seek to introduce some Russian law teachers to Western legal concepts by bringing them to the United States.²²⁷ Funding from both governmental and private sources have contributed to this effort.

For many years the Council for the International Exchange of Scholars (CIES) has sponsored, with U.S. Government funding, Fulbright lecture and research awards. It has also added a Junior Faculty Development program to bring younger awardees to the United States.

Table 1 below details the number of Russian law teachers who have received awards to come to U.S. law schools with U.S. Government-funded programs.

more, placed at law firms or at public interest law groups, and observe the daily work of their American colleagues." See *Panel III: The Role of Foreign Experts in Establishing the Rule of Law*, *supra* note 197, at 122-23 (remarks of Dimitrina Petrova).

227. See *infra* tbl. 1, notes 228-32 and accompanying text.

Table 1. Numbers of Russian Law Teachers Holding U.S. Government Funded Grants Placed in U.S. Law Schools (1992-2000)

Year	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	1999-2000
Fulbrights	0	1	0	1	0	0	0	2
Junior Faculty Develop.	No program yet	No program yet	9	3	3	0	2	1
CEELI	No program yet	No program yet	4	9	Program ended	No program	No program	No program
Total	0	1	13	13	3	0	2	3

As Table 1 indicates, only four Russian law teachers have received Fulbright lectureship awards to U.S. host law schools since the breakup of the Soviet Union.²²⁸ While the Junior Faculty Development program of the CIES has brought eighteen Russian law teachers to U.S. law schools, most often for an academic year, the vast majority of them came during the first year of the program. Four Russian law teachers also received Junior Faculty awards to study law in the United States outside law schools, generally in political science departments. In two other cases lawyers who were not law teachers received grants to study in U.S. law schools.²²⁹

The CEELI of the ABA, in a program funded by USIA, also brought Russian law teachers to the United States, usually for a three months' stay. The CEELI program began with an orientation in Washington, D.C., after which each teacher was assigned to a U.S. law school. In this way, each teacher was provided access to U.S. law professors and libraries to assist them in developing curricular outlines in subject areas new to their schools.²³⁰ In addition, AALS has hosted a few Russian law school administrators for short term visits with funding assistance from ARD/CHECCHI.²³¹

A number of U.S. law schools have also brought Russian law teachers to the United States—some without benefit of outside

228. These are Natalya Pavlovna Iranikov from the Far Eastern University in Vladivostok who visited the University of Maryland—Baltimore School of Law during fall semester 1993, Irina V. Reschetnikova from the Urals State Law Academy in Ekaterinburg who spent spring semester of the 1995-1996 academic year at the University of Michigan Law School, Alexandre Erdelevski from the Moscow State Law Academy in Moscow who was at the University of Connecticut—Hartford, School of Law from October, 1999 to April, 2000, and Elena Nosyreva of Voronezh State University who received a grant to conduct research at the University of Washington School of Law from September, 1999 to March, 2000. In addition, two research specialists received Fulbright awards to research in U.S. law schools. Alexander N. Domrin, Chief Specialist, Department of Foreign Affairs, Supreme Soviet of the Russian Federation, spent four months at Harvard Law School in 1993, and Olga Khazova, Senior Researcher, Center of Civil and Comparative Law, Institute of State and Law, Russian Academy of Sciences in Moscow, spent six months at the Quinnipiac College of Law during the 1998-1999 academic year. Information supplied by Laurie Calhoun and Katie Tremper (CIES).

229. Information supplied by Katie Tremper (CIES).

230. This project, funded by USIA, brought Russian teachers from Ekaterinburg, Moscow, Nizhni Novgorod, Novosibirsk, Rostov, St. Petersburg, Stavropol, and Volgograd to the United States with about half of the total coming from Moscow. List of names and addresses of grantees supplied by Kim Parker (a former CEELI employee now employed at Texas Southern Law School). For more information about CEELI, see its webpage: <<http://www.abanet.org/ceeli>> (visited Nov. 16, 1999).

231. Information on CEELI program supplied by Carl Monk of AALS.

funding—to lecture, to conduct research, or to participate in conferences.²³²

The mode of selection of Russian teachers visiting the United States has varied, with final decisions resting in some cases with U.S. law schools or funding entities, and in some cases with the sending Russian law schools. Russian institutions sometimes view selection as reserved only for the most elderly and senior faculty or as a reward for faithful service rather than as an opportunity to retrain Russian teachers. No systematic and evaluative follow-up study has been conducted to ascertain the long range effect of these programs by assessing the activities of these law teachers today.

C. Training Russian Students in the United States

Although very few Russian law teachers have spent time in U.S. law schools, Russian law students have been the focus of a few study programs in the United States funded with U.S. Government grants, primarily in LL.M. programs,²³³ but it is difficult to determine the number of Russian law students who have studied in U.S. law schools.

More foreign university students study in the United States than in any other single country.²³⁴ A steady increase has characterized this flow during the last quarter century. While 134,959 foreign students studied in the United States in 1969-1970, the number had increased to 481,280 by the 1997-1998 academic year, the most recent year for which published statistics are available.²³⁵ It is possible to determine from these statistics the number of Russian students studying in the United

232. The University of Akron Law School has developed a relationship with the Institute of State and Law and its Director has visited Akron occasionally, primarily to give public lectures. Touro Law School has also hosted Moscow State University's Law Faculty Dean (currently University Vice-President) Marchenko who has given public lectures. Cleveland State University and Case Western Reserve University, Cleveland's two law schools, acting as a consortium, brought seven law teachers and administrators from the law faculty of St. Petersburg State University during 1993-1998 for short visits. These were conducted pursuant to an Agreement of Cooperation with St. Petersburg. Mercer University and its Walter F. George School of Law have signed an Agreement of Cooperation with the Modern University for the Humanities (MUH) in Moscow for faculty and student exchanges, and for other special programs. Finally, the University of Maine Law School is engaged in a program with Pomorski State University's law faculty in Archangelsk.

233. Responses to February 1997 Survey. See Appendix, *infra*.

234. See INSTITUTE OF INTERNATIONAL EDUCATION, OPEN DOORS 1990/91: REPORT ON INTERNATIONAL EDUCATIONAL EXCHANGE 2 (Marianthi Zikopoulos ed., 1991).

235. See INSTITUTE OF INTERNATIONAL EDUCATION, OPEN DOORS 1997/98: REPORT ON INTERNATIONAL EDUCATIONAL EXCHANGE 2 (Todd M. Davis ed., 1998).

States, and the number of foreign students studying law in the United States. It is not possible, however, to determine precisely the number of Russian students studying law in the United States. Nevertheless, a few conclusions can be drawn.

Table 2. Percentage of Foreign Students Studying Law in the United States and Numbers of Russian Students Studying in the United States (1992-2000)²³⁶

Year	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99
Foreign Students	438,618	449,749	452,635	453,787	457,989	481,280	490,933
Russian Students	654	1582	4832	5589	6199	6424	6609
Foreign Law Students	2740	3084	3458	3464	4033	4656	4873
% Foreign Students Studying Law in U.S.	0.6	0.7	0.8	0.8	0.9	1.0	1.0

As the chart indicates, less than one percent of all foreign students studying in the United States study law. This field of study is not restricted to the study of law in U.S. law schools but also includes legal studies programs in undergraduate institutions.²³⁷ If the percentage of Russian students studying law is assumed to be the same percentage as foreign students generally studying law, it can rapidly be calculated that in the most recent year for which full statistics are available, 1998-1999, there would have been sixty-four Russian students studying law and legal studies in the United States. This figure is in sharp contrast with the percentage of foreign students studying business subjects in the United States. During this same five-year period, the percentage of foreign students studying business subjects²³⁸ has varied between 19.4% (in 1993-1994)²³⁹

236. All data taken from OPEN DOORS annual volumes. Note: Statistics can provide only estimates for 1991-1992 given the breakup of the Soviet Union during 1991. There were an estimated 2019 students from the Soviet Union studying in the U.S. prior to the breakup. See INSTITUTE OF INTERNATIONAL EDUCATION, REPORT ON INTERNATIONAL EDUCATIONAL EXCHANGE 142 (Marianthi Zikopoulos ed., 1992).

237. See INSTITUTE OF INTERNATIONAL EDUCATION, OPEN DOORS 1993/94: REPORT ON INTERNATIONAL EDUCATIONAL EXCHANGE 165 (Todd M. Davis ed., 1994). Information supplied to the authors by IIE indicates that approximately two-thirds of the Russian students studying in the United States in 1997-1998 were in legal studies programs or doing professional training (for example in law enforcement programs) rather than in academic programs in U.S. law schools.

238. Business subjects include: Business & Management, General; Business & Office; Marketing & Distribution; and Consumer, Personal &

and 20.9% (in both 1996-1997 and 1997-1998) of all foreign students studying in the United States, with the absolute number of students studying business subjects during 1997-1998 totaling 100,395 students.²⁴⁰

While it may be impossible precisely to determine the total number of Russian students studying law in the United States since the breakup of the Soviet Union, some information is available. Many Russian students studying in U.S. law schools have been funded by U.S. Government grant programs including Freedom Support Fellowships, Edmund Muskie Fellowships, and NAFSA "Top-Up" grants. Statistics provided by these organizations set forth in Table 3 indicate the number of Russian students whose studies in U.S. law schools have been funded through these programs.

Table 3. Numbers of Russian Students Studying Law in U.S. Law Schools Funded by U.S. Government Grants (1992-2000)²⁴¹

Year	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	1999-2000
Muskie	12	13	8	6	4	12*	7*	5*
Freedom Support	No program yet	4	10	15	19			
NAFSA "Top-Ups"	No program yet	4	11	16	8	Renewals: only 4	Program ended	Program ended
Total	12	21	29	37	31	16	7	5

* Also includes Freedom Support grants.

Looking at the statistics of Russian student enrollment provided by a selective few U.S. law schools with substantial foreign student enrollment supports the probability that the number of Russian law students actually studying in U. S. law schools is fewer than one percent. American University had no Russian students among its 196 foreign students studying for the LL.M. during fall semester 1998.²⁴² Of the 138 foreign students

Miscellaneous Services. See INSTITUTE OF INTERNATIONAL EDUCATION, *supra* note 235, at 64.

239. INSTITUTE OF INTERNATIONAL EDUCATION, *supra* note 237, at 120.

240. INSTITUTE OF INTERNATIONAL EDUCATION, *supra* note 235, at 64.

241. Muskie and Freedom Support grant statistics provided by Lara Shane (USIA) and Yolanda Urbanski and Zinta Gulens-Grava (Open Society Institute, NY); NAFSA "Top-Up" grant information supplied by Catherine Alderton (USIA).

242. While these students came from 66 countries around the world, regional differences abound. More than a quarter of the total, 55 students, came from Asia, while 53 came from Latin America, 31 from Europe, 22 from North America, 15 from the Middle East, and 20 from Africa. With the exception of one student from the Caribbean, students from Eastern Europe were the least numerous. The 12 Eastern European students in American University's LL.M

receiving LL.M degrees since 1993 at Case Western Reserve University's Law School since 1992, despite its sponsorship of a Russian Legal Studies program, only seven of its LL.M. students have been from Russia.²⁴³ Yale Law School, in a flyer announcing its September 1997 alumni weekend, listed more than 600 of its graduates living abroad, but indicated only one of its alumni was living in Russia.²⁴⁴

In a further attempt to assess the number of Russian law students who may have studied law in the United States without the benefit of U.S. Government support, surveys were sent by the authors to all law schools in the United States in February 1997 to attempt to determine in which U.S. law schools Russian students had been enrolled at any time since the breakup of the Soviet Union. For those law schools that have had Russian students, an additional question was asked about whether the students had required financial support.²⁴⁵

Responses to the survey were received from seventy-nine of 180 law schools, almost a forty-four percent rate of return. Of those law schools replying, sixty-six percent, or fifty-two schools, had had no Russian law students in attendance. Of the twenty-four schools replying that they had had Russian students, only six were aware of Russian students who were able to attend without financial aid.²⁴⁶ The sources of aid awarded, when specifically mentioned, pointed overwhelmingly to U.S. Government grant programs.

Most Russian law students studying in the United States with U.S. Government grants come from Moscow and St. Petersburg. While the number of U.S. law schools hosting Russian students is only a small percentage of U.S. law

program included students from Albania, Azerbaijan, Bulgaria, Czech Republic, Estonia, Kazakhstan, Moldova, Romania, Slovakia, Uzbekistan, and Yugoslavia. See AMERICAN UNIVERSITY, WASHINGTON COLLEGE OF LAW: INTERNATIONAL LEGAL STUDIES PROGRAM, LLM GLOBAL NETWORK, Fall 1998, at 11.

243. Case Western Reserve University Law School offers an LL.M. in American Legal Studies, a program that began in 1992 and has gradually increased its enrollment each year from five to forty students. Of the eight Russian law students enrolled in this program since 1993, one was already in Cleveland as an immigrant at the time of her enrollment and is not included further in this study. The remaining seven students have been able to participate in Case Western's LL.M. program only as a result of receiving U.S. Government Muskie and Freedom Support Act grants. Information supplied by Adria Sankovic, Coordinator, Frederick K. Cox International Law Center, Case Western Reserve University Law School (Dec. 30, 1999).

244. See YALE LAW SCHOOL (OFFICE OF ALUMNI AFFAIRS), YALE IN A WIDER WORLD: THE INTERNATIONAL ROLE & RULE OF LAW (YALE LAW SCHOOL ALUMNI WEEKEND: SEPTEMBER 26-28, 1997).

245. For a copy of the survey, see Appendix, *infra*.

246. These included Arizona State, Cornell, Duke, the Franklin Pierce Law Center, Lewis and Clark College of Northwestern School of Law, and Rutgers.

schools,²⁴⁷ it is a considerably larger and more geographically diverse group than the schools from which the Russian students have been drawn in Russia. The Russian students in the United States during 1993-1997 with Muskie and Freedom Support grants included students from Moscow, St. Petersburg, Kazan, Rostov, Yaroslavl, Barnaul, and Zhukovsky. However, in numbers, they were overwhelmingly from Moscow. "Top-Up" grants to study law since 1993, with one exception, have gone only to students from Moscow and St. Petersburg.²⁴⁸ This outcome exists despite a stated policy of encouraging diversity, including geographical diversity, among the recipients of U.S. Government funded grants.²⁴⁹

Why so few Russian students? And why the concentration of U.S. aid programs on students from Moscow and St. Petersburg? The paucity of students is understandable given that few Russian students have the resources to study abroad without financial aid.²⁵⁰ In addition, most Russian law students who study law in the United States study in LL.M. programs. The attractiveness of the LL.M. degree to foreign students is understandable because it is the one degree in law that can be earned in a single academic year. Because law is an undergraduate course of study in Russia, while it is a graduate field of study in the United States, it is also often assumed, both by U.S. Government agencies and by U.S. law schools, that Russian students who have not yet completed their undergraduate law degrees in Russia are not likely to be able to cope with the rigors of study in a U.S. law school.²⁵¹ Consequently, some undergraduate Russian law

247. The following American schools had Russian law students awarded Muskie and Freedom Support grants in attendance during the 1996-1997 academic year studying in LL.M programs: Case Western Reserve University, Columbia Law School, Dickenson, Duke, Emory, Georgetown, John Marshall, NYU, Southern Methodist, UCLA, Chicago, Connecticut, Minnesota, the University of Georgia, the University of Illinois, the University of Michigan, and the University of Virginia. Of these, only two law schools had more than one Russian student. In addition, undergraduate law students as well as LL.M candidates attended Case Western Reserve, Cleveland State, and Harvard with NAFSA Top-Up grants during the 1996-1997 academic year.

248. The one exception, a student from Volgograd, received the opportunity as a result of his nomination pursuant to the Agreement of Cooperation between Volgograd State University and the Cleveland law schools.

249. The lack of diversity among Top-Up students is apparently reflective of lack of diversity of student applications among the nominations made by U.S. institutions.

250. For average income data for St. Petersburg in June 1997, see *supra*, note 158.

251. This view has been reflected in USIA's grant programs which, with the exception of NAFSA, have provided funds to study in U.S. law schools only to Russian law graduates. See Table 3 and accompanying text (discussing types of grants available and number of grants administered each year since 1992-93).

students have been awarded U.S. government grants to study in the United States and have placed in U.S. undergraduate institutions rather than in law schools.²⁵² Only the joint Cleveland State-Case Western Reserve Legal Studies Program operated in Cleveland, Ohio was able to obtain relatively large numbers of grants (a total of thirty-three over four years) to bring fourth- and fifth-year undergraduate Russian law students to their law schools. Such students, part of an exchange program under Agreements of Cooperation with St. Petersburg State University and Volgograd State University, are not usually degree candidate students in the United States.²⁵³ Furthermore, notwithstanding prevailing beliefs that foreign undergraduate law students could not successfully function in a U.S. graduate level law school, the Cleveland experience has proved otherwise.²⁵⁴ A very few students with Russian degrees may also gain admission to American J.D. programs through the regular LSAT/grade-point-average admission process. Nevertheless, such students, whether they are Russians or U.S. citizens, are likely to be U.S. residents not interested in returning to Russia.

The concentration of law students coming from Moscow and St. Petersburg is also understandable. All selection procedures include English language testing using the TOEFL.²⁵⁵ Students

252. Between the 1992-1993 academic year and the 1997-1998 academic year, nineteen Russian law students received Freedom Support Act grants from the American Council of Teachers of Russia (ACTR) to study at U.S. undergraduate colleges and universities. Information provided by David Slattery, ACTR. At least three of the law students receiving Top-Up grants also studied in U.S. undergraduate colleges. Information supplied by Catherine Alderton, USIA. Both Freedom Support and Top-Up grants are funded by USIA.

253. Russian students receiving NAFSA Top-Up grants who have completed their year program of study in Cleveland have sometimes received a grant renewal that has permitted them to return to Cleveland for an additional year. These students may study for the LL.M degree if they have completed their undergraduate degree in Russia. The CSU-CWRU one year program, which they must have also completed, includes an orientation, training in research methodology (which includes Russian databases as well as Lexis-Nexis and Westlaw), attendance at a year-long course for Russian students only dealing with principles of law for a rule of law, market-oriented economy (which also includes visits to legal institutions both in Cleveland and Washington, D.C.), and one required course (first-year Contracts). Students freely elect the other courses that they wish to take from advanced courses and seminars as well as first year courses. Russian students usually take the same examinations as other students, but are allowed extra time.

254. Not only did these students do well academically in U.S. classrooms, they also successfully integrated with their American classmates, thereby both providing and obtaining the bonus of extracurricular unstructured comparative law interaction. Finally, perhaps because of their relative youth and family relationships, all returned to Russia. Unlike older LL.M students from abroad, none have expressed serious interest in emigrating.

255. The tyranny of the TOEFL is well established in American legal education. Large numbers of American law schools have a stated policy of

are most likely to do well on the TOEFL if they have had English language training from an early age. Special schools exist in some cities to provide such training but their number is few²⁵⁶ in comparison with the numbers of opportunities for good English language training in Moscow and St. Petersburg.²⁵⁷ Administration of the TOEFL in both St. Petersburg and Volgograd for purposes of nominating students for NAFSA Top-Up grants to attend the Cleveland law schools resulted in selection of only one student from Volgograd but twenty-nine from St. Petersburg. Although more students from St. Petersburg chose to take the TOEFL, the selection primarily reflected the difference in TOEFL scores achieved by students in the two cities.

The conclusion seems clear. Few Russians are studying law in the United States with or without U.S. Government grants. Yet students are usually more adaptable than their teachers, who are older and more comfortable in their home legal culture. Students accordingly prove to be more accepting than their teachers of the curricular and methodological innovations that they have been exposed to in the United States. Furthermore, by reason of the longer time students have been able to remain in the United States (averaging one academic year), they develop a deeper understanding of the relationship of the rule of law to a stable rights-oriented market economic society. Finally, Russian undergraduate law students, because of their youth (usually 17-21-years old), and unlike their older post-graduate law counterparts who often have families of their own, are usually unmarried and living with their parents. They accordingly have a

requiring a TOEFL score of at least 600 for admission of a foreign student. Yet some American educators have publicly voiced skepticism of the TOEFL. For example, Ken Pye, when Dean of Duke Law School, viewed the TOEFL to be more indicative of the acoustics in the examination hall than of anything else. See Julia Hanigsberg, *Swimming Lessons: An Orientation Course for Foreign Graduate Students*, 44 J. LEGAL EDUC. 588, 597 n.28 (1994). Case Western Reserve and Cleveland State Law Schools have gradually permitted Russian students with lower and lower TOEFLs to study at their law schools as a direct result of having had students with TOEFLs in the middle and even low 500s succeed in getting high grades when competing with American law students. The effect of orientation, mentoring and special programs designed to help the students function in a U.S. law school setting, as well as their own differing levels of motivation, proved more important than initial TOEFL scores in determining their ultimate success.

256. In Volgograd, for example, there were traditionally only two schools providing special training in English (6 hours of instruction a week beginning in the 2nd grade), School No. 9 (now renamed Gymnasium No. 3) and School No. 50. Both now require entrance examinations before permitting students to enroll in first grade. Petrukhin mentions the difficulty that rural students (who have studied in schools where foreign languages are poorly taught) have in getting admitted to Russian law faculties due to the foreign language entrance examination. See Petrukhin, *supra* note 29, at 10.

257. See *id.*

greater incentive to return to Russia to pursue their professional careers rather than to use their foreign study experience as a stepping stone to emigration.

Are those Russian law students who have studied in the United States likely to become and to remain law teachers once they return to Russia? Once home again, many have expressed interest and a number have enrolled in graduate law studies, the first step towards the acquisition of credentials essential for a teaching career in Russia. In this capacity they have been offered tutorial teaching assignments that allow them, within the strict limits of Russia's mandated curriculum, to experiment with problem-oriented methodologies. Whether these U.S.-trained former students will remain in Russian law schools is problematic. Salaries of law teachers have been dropping vis-a-vis the general population despite the legislation mandating their higher pay.²⁵⁸ The solution that Russia has found to date involves the creation of new private law schools in which law teachers from the state universities can moonlight, and the admission of some tuition paying students in state university law faculties. These steps have provided a partial short term solution, but legal education will suffer in the long term if teachers are so overextended in their teaching responsibilities that they can do little else.²⁵⁹ At present many law teachers maintain multiple careers, practicing law as well as teaching or working in commercial enterprises.²⁶⁰ Commercial work is a particularly tempting alternative for those who visited the United States as students and who now discover that they are particularly valuable to the growing number of private law firms, whether Russian or foreign, doing transnational transactions. This trend is likely to accelerate among teachers with expertise in civil and commercial law, unless economic conditions improve and universities are once again able to pay their teachers a living wage.

258. The state budgeted monthly pay of most law teachers in Volgograd was about \$88 before the August 17, 1998, devaluation of the ruble. See Interview with Alexander Titov, *supra* note 58.

259. Petrukhin has noted that teaching and research are both suffering as a result of such teaching overloads. See Petrukhin, *supra* note 29, at 12.

260. See Granik, *supra* note 38, at 968; Sahlas & Chastenay, *supra* note 38, at 212.

VII. PROSPECTS FOR REFORM OF RUSSIAN LEGAL
EDUCATION—ANY ROLE FOR U.S. LAW SCHOOLS?

Where does this leave the prospects for reform of legal education in Russia? No law school has yet been the focus of the level of foreign assistance provided to the St. Petersburg School of Management.²⁶¹ A new Russian post-graduate law school in Moscow planned to include a semester abroad for each of the students that it will enroll in its two-year Master of Private Law program.²⁶² St. Petersburg State University's law faculty also favors providing a year of education abroad for its postgraduate students. Knowing that they would be able to study abroad could provide the incentive necessary to entice strong graduating law students into the postgraduate three-year *aspirantura* program.²⁶³

Yet if Russian students could be lured into law teaching by a promise of study abroad, where are the U.S. law schools to admit them? By restricting students to those already admitted into postgraduate programs in Russia, the problem of persuading U.S. law schools to admit undergraduate Russian law students would be obviated. It is possible, however, that such a restriction would ultimately ill-serve Russian legal education. Based on the Case Western Reserve-Cleveland State experience, a year of undergraduate law exchange to a U.S. law school provides a better background to lead students to be interested in continuing with graduate law work than having them enroll initially in an American LL.M. program.²⁶⁴ The selection of *aspirantura*

261. As a result of efforts on the part of the University of California at Berkeley, two million dollars is being provided by George Soros and Arthur B. Schultz to renovate a pair of eighteenth-century mansions donated by the City of St. Petersburg to house the University's "fledgling American-style business school." *Financier Makes Gift to Russian Business School*, N. Y. TIMES, Dec. 4, 1996, at B13.

262. See ROSS, IUST., Nov. 1995, at 55. The Russian College of Private Law admitted its first class of 26 students in September 1995.

263. An equivalent incentive could be provided for current law teachers: Today Russian teachers may be hired with contracts extending to a maximum term of five years; a promise of a year abroad could accompany the offer of a five-year teaching contract. The question of the enforceability of such a contract by the employer, should the teacher seek to quit, has not been discussed. See Interview with Sergey Marvin, *supra* note 63.

264. It is interesting to note that a large percentage of the Russian undergraduate students who have studied in Cleveland are now enrolled in postgraduate programs in Russia. Of the approximately 20 students selected for postgraduate work at St. Petersburg State University's Law Faculty through examinations administered in the fall of 1996, five had studied in Cleveland. These five constituted 50% of the students who had studied in Cleveland during the 1994-1995 academic year. Students who have come to CWRU to study for the LL.M with Muskie funding have not gone into postgraduate programs in Russia

students in some universities may still involve political considerations as much as those based on merit.²⁶⁵ As one *aspirantura* student told the authors in 1996, "Our *aspirantura* program is closed to outsiders."²⁶⁶ Many of the Russian students formerly in LL.M. programs in the United States are known now to be employed by U.S. and Western European law firms or businesses,²⁶⁷ but, once again, no follow-up permits us to know whether any of these students, except for those teaching as part of their graduate work noted earlier, are law teachers in Russia today. While the one-year American LL.M. degree may be the usual path of study for a U.S. law graduate who wishes to enter law school teaching, this is not the case in Russia where the three-year *aspirantura* program remains the route that is traditionally followed. In any event, the older age of LL.M. students, who often have family responsibilities, makes their interest in entering an *aspirantura* program upon returning to Russia less likely.

upon returning home, nor do they appear to have gotten teaching jobs in Russia based upon their American LL.M degrees.

265. Admissions preferences were traditionally provided for university admissions to the children of workers and peasants. More recently preferences have been provided for veterans of the war in Afghanistan. Some, such as Jewish students, were discriminated against. See 1 LEMPERT, *supra* note 38, at 578-80. Such discrimination was hardly unique to university admissions. Its pervasive nature was attested to by the common practice of hiding Jewish identity by not giving children the surname of a Jewish parent. Thus, several of Russia's recent prime ministers did not share their fathers' surnames. Yevgeny M. Primakov, now aged 69, is said to have "adopted the family name of his stepfather in a concession to the anti-Semitism of Soviet times," Michael R. Gordon, *Foreign Policy Expert With Little Economics*, N.Y. TIMES, Sept. 11, 1998, at A8. His predecessor in office, 36-year old Sergei N. Kiriyenko, took his mother's Ukrainian name rather than that of his Jewish father for the same reason. See Michael R. Gordon, *Yeltsin's Nominee, Besieged, Is Not Without Allies*, N. Y. TIMES, Apr. 12, 1998, at A8.

266. When the authors asked "Who is an outsider?" the answer given was "anyone who disagrees in any way with the head of the department." Interview in Volgograd, Russia (Fall 1996).

267. Of the seven Russian LL.M students at Case Western Reserve University Law School between 1993 and 1999, four are now employed in Western law firms in the Russian Federation, one is a graduate student in Canada, one is in Moscow (current employment unknown), and one is deceased. Large numbers of Russian lawyers employed in some U.S. firms hold American LL.M degrees. All but 3 of the 14 Russian lawyers employed in the Moscow or St. Petersburg offices of Coudert Brothers hold LL.M degrees from U.S. law schools, while one holds on M.P.A. from an American University. See e-mail from Olesya Trusova, Coudert Brothers, to Jane Picker (Oct. 21, 1994) (on file with author). Baker & McKenzie employs 18 Russian attorneys in its Moscow and St. Petersburg offices, five of whom hold LL.Ms from U.S. law schools, and one of whom holds a British LL.M. See e-mail from Marat Mauradov, Baker & McKenzie, to Jane Picker (Oct. 25, 1999) (on file with authors). At least initial employment of many students with LL.Ms is likely to be in their home countries since the J-1 visa which students with U.S. Government grants receive requires them to return home for a two-year period after the end of an academic program in the United States.

If U.S. law schools could be persuaded to accept strong undergraduate Russian law students selected on a merit basis, as well as *aspirantura* students, a happy mix could result. Financial costs could be addressed by U.S. Government source funding,²⁶⁸ together with donations from the private sector, particularly from those U.S. firms and companies operating in Russia.²⁶⁹ U.S. law schools could be asked to contribute full or partial tuition waivers in the same way that many have already done in participating in other U.S. educational exchange programs.

Nevertheless, would U.S. law schools be willing to give tuition waivers or some other type of assistance sufficient to make such a program financially feasible from the perspective of the U.S. Government and private firms and companies? Responses to the surveys circulated among U.S. law schools in February 1997 suggest that a nucleus of law schools might be willing to undertake such a program.²⁷⁰ Assurances that the students selected would meet the academic standards of the U.S. law school would be necessary. Cost considerations would also need to be addressed.

It is unclear whether providing such training would be enough to create a sufficiently large group of reform-minded teachers to change legal education without also changing the criteria used to select law school teachers.²⁷¹ Nevertheless, a partnership of Russian and U.S. law programs could have as one of its ground rules that Russian students successfully completing an American LL.M. program would be eligible for regular faculty positions.²⁷² Bringing those without advanced degrees into the classroom, including practitioners, as adjunct teachers to teach new practically oriented subjects could expand the cadre of teachers as well as provide experienced instruction in subjects

268. There is no U.S. government program currently providing funding to bring undergraduate Russian law students to the United States.

269. Such a step was taken by Arthur Andersen that, through a combination of donations from several of its partners with matching funds from its Worldwide Foundation, provided a scholarship for a Russian fourth year undergraduate student at St. Petersburg State University to study for an academic year at Cleveland State University during the 1997-1998 academic year. This student was subsequently employed in Arthur Andersen's St. Petersburg office.

270. Of the 79 schools responding to the survey, 42 indicated that they might be interested in participating in such a program or at least receiving more information about it.

271. See Topornin, *supra* note 5, at 49 (emphasizing the credentials in assessing quality of law teachers and calling for their strict and systematic control).

272. According to Petrukhin, the goal of instituting the Master's degree is to prepare specialists to teach in universities and to be legal researchers. But he also notes that many professors think it is preferable for students to study for three years in the *aspirantura* program, take Candidate exams, and defend a Candidate's dissertation. See Petrukhin, *supra* note 29, at 10.

such as clinical legal education, trial advocacy, and professionalism. Although the Ministry of General and Professional Education in Moscow determines the standards for a diploma, it has been possible since 1995 for specialists in certain fields to be elected by the academic council to a particular position without the requisite diploma with his or her pay based on the position held rather than on the diploma level achieved.²⁷³ Of course, it is only the university Academic Council, rather than that of a law faculty, that could elect a teacher to the position of Docent or Professor.²⁷⁴ It may well be that only by providing for greater involvement of law teachers in university governance, or by permitting their participation and organization within the existing associations of law schools, are conditions with respect to the training, hiring, and retaining of new law teachers likely to improve significantly.

VIII. CONCLUSION

One thing is clear. Without reform of legal education and retention of newly trained law teachers, there is little likelihood that the population of legal professionals in today's Russia will develop an understanding of the regulatory basis needed in a market economy as well as a concern for the rule of law. Without a workable rule of law in place, no emphasis on business education can succeed. The support system for a market-oriented private enterprise system is a sound system of law, not privilege or connections.

The strength of Russian legal education ultimately will rest on its law teachers. To date, far too little has been done to give them access to Western training. For Russian law schools to provide the legal education necessary for a market-oriented society to function effectively under the rule of law, a strong effort to provide Western training for more than just a token few of Russia's law teachers is long overdue.

273. See Interview with Vladislav Goldin, *supra* note 87.

274. See *id.*

APPENDIX: FEBRUARY 1997 SURVEY SENT TO U.S. LAW SCHOOLS

Name of person completing survey _____

Name of school for which data is supplied _____

SURVEY

1. Have any Russian students not having an undergraduate degree from a U.S. college or university studied in your law school subsequent to the 1991-1992 academic year?

_____ If "yes," to your knowledge,

Please indicate how many have been enrolled in degree programs (and if so whether studying for J.D., LL.M or other degrees), and/or as special students _____

Have any received financial support from U.S. Government funding programs such as Freedom Support or Muskie fellowships, or Fulbright awards _____ and/or from your law school, including scholarship _____ or tuition waivers _____ ?

Have any been able to attend without financial aid? _____

2. Please indicate whether Russian law students can generally be admitted to study law in your school without having first received an undergraduate degree from either a U.S. or foreign institution. _____

3. Please indicate whether Russian students are eligible for any financial aid administered by your law school (scholarships or loans) from sources other than U.S. government sources _____

4. Please indicate any foreign law schools with which you maintain student exchange programs _____

Are tuition waivers available for foreign students from these schools? _____

May students from these schools attend your law school before they have received an undergraduate degree? _____

5. Might your school be interested in participating in a program that would bring Russian undergraduate law students to study in the U.S.? _____

PLEASE RETURN SURVEY to Prof. Jane M. Picker, College of Law, Cleveland State University, 1801 Euclid Ave., Cleveland, OH 44115. For further information, telephone (216) 687-2528 e-mail: jpicker@trans.csuohio.edu.

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