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United We Stand, Divided We Fall: Reflecting on the Fragmentation of Russia's Legal Profession(s)

KATHRYN HENDLEY*

Lawyers have emerged as resisters in many present-day authoritarian and authoritarian-leaning countries.¹ Their training provides them with the tools to push back against repressive laws, whether in the legislature, the courts, or by taking to the streets. Their efforts have met with mixed success. Yet in some authoritarian countries, activist lawyers are not commonplace.² The reasons are many and are typically highly contextual. The organizational structure of the profession is likely to be a factor that cuts across geographic boundaries. Unified bars are inherently more capable of spurring their members to collective action than are fragmented bars. As a starting point in understanding the impact of structure on the behavior of lawyers, I focus on the case of Russia.

Russia provides an intriguing case study. Although a small group of courageous lawyers has pushed back on the repressive policies of the Putin regime,³ the majority have stayed on the sidelines.⁴ Fragmentation

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1. See generally Lynn Mather & Leslie C. Levin, *When and Why do Lawyer Organizations Seek to Influence Law?*, in 2 *LAWYERS IN 21ST CENTURY SOCIETIES* (Richard L. Abel et al. eds., 2022); Eric Gobe, *Tunisia. A Political Profession?*, in 1 *LAWYERS IN 21ST CENTURY SOCIETIES* 657 (Richard L. Abel et al. 2020); Zahid Shahab Ahmed & Maria J. Stephan, *Fighting for the Rule of Law: Civil Resistance and the Lawyers' Movement in Pakistan*, 17 *DEMOCRATIZATION* 492 (2010).

2. See, e.g., Heba M. Khalil, *Lawyers and Politics: Lawyering and Counter-Lawyering in Egypt*, in *ROUTLEDGE HANDBOOK ON CONTEMPORARY EGYPT* 284 (Robert Springborg et al. eds., 2021).

3. *Explaining the Struggle for Human Rights in Russia*, 84 *THE DISSIDENT DIGEST* (Jan. 22, 2025), <https://tn-hk.mck1.cloud/v/TE0DAAAARDMAAIAT/pa03unPa4uTiaOp9> (discussing OVD-Info, a Russian NGO that tracks and protests and assists those arrested, reported that 300 lawyers across Russia were affiliated with them). See generally Freek van der Vet, "When They Come for You": *Legal Mobilization in New Authoritarian Russia*, 52 *L. & Soc'y Rev.* 301 (2018).

4. Kathryn Hendley, *Defenders but Not Resisters: The Role of Lawyers in Putin's Russia*, in *Legal Resistance to Autocracy: The Global Fight to Save Democracy* 273 (Octavio Luiz Motta Ferraz et al. eds., 2026).

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is the defining feature of the Russian legal profession and has been since its founding in 1864.⁵ Russians who provide legal services tend to identify not as *iuristy*—the generic word for lawyer—but as members of their legal specialty. These specialties are unified only in that all require a university-level degree in law. Each has its own norms for admission and good standing, some more rigorous than others. Most scholars have taken this fragmentation as a given. In this paper, I dig into the reasons for, and the political consequences of, the lack of unity.⁶ These include the disinclination of lawyers to become social gadflies and their larger role in society.

A non-unitary legal profession is not unique to Russia. Indeed, it is typical in countries with a civil law legal heritage. It is entrenched in the educational system, with separate tracks for each specialty. As Merryman notes in his classic monograph on this tradition, “those involved in one branch of the legal profession come to think of themselves as different from the others. They develop their own expertise, their own career image, their own professional association.”⁷ He argues that this can give rise to “a Balkanization of the legal professions.”⁸ Some civil law countries have witnessed efforts to lessen the barriers among specialties, thereby making it easier for lawyers to shift their professional focus mid-career (as has always been possible for U.S. lawyers).⁹ By contrast, the divisions among Russian legal professionals have remained intact.

These internal divisions (as well as other factors discussed below) have contributed to the political weakness of Russian lawyers as a group and individually. Yet having a divided legal profession does not inevitably doom lawyers to political irrelevance. Case studies of Italy,¹⁰ Venezuela,¹¹

5. See generally Ekaterina Moiseeva & Timur Bocharov, *Challenges of the Market and Boundary Work*, in 1 LAWYERS IN 21ST-CENTURY SOCIETIES (Richard L. Abel et al. eds., 2020).

6. Sida Liu, *Lawyers, State Officials, and Significant Others: Symbiotic Exchange in the Chinese Legal Services Market*, CHINA Q. 276 (2011) (explaining in his study of the fragmentation of the Chinese legal profession, focuses on the economic consequences, emphasizing the dysfunctional competition among lawyers and other varieties of legal workers. Russia lacks the sorts of informal legal services market that Liu documents. As a market for legal services evolved in the post-Soviet era, competition among practitioners who identified with different specialties did not emerge as a problem).

7. JOHN HENRY MERRYMAN, *THE CIVIL LAW TRADITION: AN INTRODUCTION TO THE LEGAL SYSTEMS OF WESTERN EUROPE AND LATIN AMERICA* 102 (2d ed. Stan. Univ. Press 1985).

8. *Id.*

9. See, e.g., Anne Boigeol & Laurent Willemez, *Fighting for Survival: Unification, Differentiation and Representation of the French Bar*, in REORGANISATION AND RESISTANCE: LEGAL PROFESSIONS CONFRONT A CHANGING WORLD 41 (William LF Felstiner ed., 2005).

10. Maria Malatesta, *Italian Legal Elites: The Classical Model and its Transformation*, in LAWYERS AND THE RULE OF LAW IN AN ERA OF GLOBALIZATION 67 (Yves Dezalay & Bryant G. Garth eds., 2011).

11. See Manuel A. Gómez, *Greasing the Squeaky Wheel of Justice: Networks Venezuelan Lawyers from the Pacted Democracy to the Bolivarian Revolution*, in LAWYERS AND THE RULE OF LAW IN AN ERA OF GLOBALIZATION 19 (Yves Dezalay & Bryant G. Garth eds., 2011).

Mexico,¹² and Latin America more generally¹³ demonstrate the elite and influential status of lawyers in these civil law countries. Thus, legal tradition has limited explanatory power. More telling is the overall historical trajectory of lawyers.

After a brief overview of the different personas of Russian lawyers, I investigate the reasons for the fragmentation of the profession, exploring its origins in the twists and turns of Russia's history. As will become apparent, it is not simply an artifact of history but has endured due to its entrenchment in the Russian educational system and the role lawyers play in judicial proceedings and in society more generally. It has persisted in the face of multiple efforts at unification over the past few decades. I then turn to the consequences of this institutional reality. These are troubling for clients, given that the majority of those providing legal services in Russia operate free of any sort of regulatory oversight. The situation is also less than ideal for lawyers. By definition, fragmentation complicates collective action by the profession and diminishes the capacity of professional associations to protect their members. As the Putin regime has increasingly included lawyers as targets of its repressive policies, their limited ability to count on bar associations to defend them has left them vulnerable. In the final section of the paper, I reflect on the obstacles to unifying the professions and the likelihood of success.

OVERVIEW OF THE RUSSIAN LEGAL PROFESSION(S)

Russian legal professionals can be divided into nine categories: (1) *advokaty*, who hold a monopoly on representing criminal defendants and are empowered to do other types of legal work; (2) non-*advokaty*, litigators who can handle any dispute other than those arising under the criminal code; (3) corporate lawyers, who work as outside counsel for companies; (4) *iuriskonsul'ty*, or in-house lawyers for companies; (5) notaries; (6) judges; (7) *prokurory*, or prosecutors; (8) *sledovateli*, or investigators; and (9) staff lawyers within various state bureaucracies. In the Soviet period (1917–91), all lawyers other than *advokaty* were state employees, as were most Soviet citizens. The market transition of the 1990s reshaped the legal market. At present, lawyers in private practice fall into categories (1) through (5). Those in categories (6) through (9) work in the state sector. One might assume that, as new generations complete their legal education, they would

12. See Hector Fix-Fierro & Sergio Lopez Ayllon, *Mexico. Legal Professionals Aplenty, but No Legal Profession? Law and Lawyers in Contemporary Mexico*, in REORGANISATION AND RESISTANCE: LEGAL PROFESSIONS CONFRONT A CHANGING WORLD 237 (William L. F. Felstiner ed., 2005).

13. See Rogelio Perez-Perdomo, *Latin America: Lawyers in the Late Twentieth-Century Latin America*, in REORGANISATION AND RESISTANCE: LEGAL PROFESSIONS CONFRONT A CHANGING WORLD 195 (William L. F. Felstiner ed., 2005).

flock into the private sector. Yet a 2016 survey of law students on the cusp of graduation revealed that a majority aspired careers in state service.¹⁴

Advokaty. The Great Reforms of 1864, which reshaped the judicial system under Tsar Alexander II, brought *advokaty* into existence.¹⁵ Prior to this, of course, there were, individuals who offered legal counsel and assisted with preparing documents. Following these reforms, they were relabeled as *advokaty* and were brought together into a bar association known as the *advokatura*.¹⁶ Neither at that time, nor at any time since, was there an expectation that all Russians providing legal assistance would be part of the *advokatura*. Admission to the bar has always been selective and often discriminatory. The criteria for admission and the role of the state in this process has varied over time.¹⁷ *Advokaty* have long enjoyed a monopoly over the representation of criminal defendants, which continues through the present day.

Non-Advokaty Litigators. This is an awkward name for an amorphous group that emerged with the introduction of market incentives in the late 1980s. For the preceding decades of Soviet power, any legal professional who worked with individual clients or with legal entities was either an *advokat* or an in-house lawyer (*iuriskonsul't*). The chaos of the transition from state socialism opened the door to experimentation. Law graduates began representing clients in courts in both civil and criminal cases with no repercussions.¹⁸ Younger legal professionals were especially keen to embrace these new opportunities, though their older colleagues began rethinking their career choices, abandoning their longstanding jobs, and jumping into this new arena. As I discuss in more detail below, some order was restored with the passage of a law on the *advokatura* in 2002,¹⁹ which, among other things, reestablished the monopoly for *advokaty* in criminal cases. But these non-*advokaty* litigators continue to handle civil and administrative legal matters. The only prerequisite for doing so is a university-level law degree; they need not join any organization. As a result, their total number remains unknown, though it is assumed to be many multiples of the membership of the *advokatura*.²⁰

14. Kathryn Hendley, *Nature Versus Nurture: A Comparison of Russian Law Graduates Destined for State Service and for Private Practice*, 41 L. & POL'Y 147, 153 (2019).

15. SAMUEL KUCHEROV, COURTS, LAWYERS & TRIALS UNDER THE LAST THREE TSARS 21 (1953).

16. EUGENE HUSKEY, RUSSIAN LAWYERS AND THE SOVIET STATE: THE ORIGINS AND DEVELOPMENT OF THE SOVIET BAR, 1917–1939, at 13 (1986).

17. *Id.*; PAMELA A. JORDAN, DEFENDING RIGHTS IN RUSSIA: LAWYERS, THE STATE, AND LEGAL REFORM IN THE POST-SOVIET ERA (2005).

18. See HUSKEY, *supra* note 16; JORDAN, *supra* note 17.

19. Ob Advokatskoi Deiatel'nosti i Advokature v Rossiiskoi Federatsii [Federal Law on Advocacy and Advocacy in the Russian Federation], 2002, No. 63-FZ.

20. Ekaterina Tkachenko, "Pravosudie Umret Okonchatel'no": Iuristy ob Advokatskoi Monopolii ["Justice Will Die for All": Lawyers about the Lawyer's Monopoly], PRAVO.RU (Sept. 29, 2023), <https://pravo.ru/news/248967/> (Russ.); Moiseeva & Bocharov, *supra* note 5.

Corporate Lawyers. The privatization of state-owned enterprises, which was the centerpiece of the economic transition of the 1990s, brought with it a plethora of new laws and regulations. Newly privatized and start-up companies needed lawyers as never before. Law firms sprang up to fill this need. These lawyers, sometimes referred to as *konsul'tanty*, acted as outside counsel. This is yet another category that was new to the post-Soviet era. As with the non-*advokaty* litigators, the only requirement to practice corporate law is a law degree.

Iuriskonsul'ty. In-house lawyer, by contrast, is a specialty that existed during the Soviet era and continues through the present day. But the actual tasks underwent a profound change as the companies where these *iuriskonsul'ty* worked became market players. Disputes with suppliers or customers were no longer mechanisms for signaling state planners about who was at fault for shortages.²¹ As profit incentives took hold, monetary damages became meaningful,²² and *Iuriskonsul'ty* evolved from glorified human resources officers²³ to handling cutting-edge market transactions.²⁴ Once again, the only credential required is a law degree. While several informal organizations exist that hold conferences for these lawyers, membership is not obligatory and is open to all.

Notaries. European notaries have little in common with notaries in the United States. In Russia, just as in the rest of continental Europe, becoming a notary requires a law degree.²⁵ Much like *iuriskonsul'ty*, becoming a notary is a career path that spans the Soviet and post-Soviet eras but has undergone a qualitative change. During the Soviet period, notaries worked for the state. According to Mishina, being sent to work in a notary's office after graduation was the "least attractive" option due to the low pay and tedious nature of the work.²⁶ She argues that, in the post-Soviet era, notaries experienced an "astonishing evolution"²⁷ and that this specialty is now seen as one of the most respected in the legal sphere.²⁸ Notaries are

21. See Heidi Kroll, *The Role of Contracts in the Soviet Economy*, 40 SOVIET STUD. 349 (1988).

22. See Kathryn Hendley et al., *Law, Relationships and Private Enforcement: Transactional Strategies of Russian Enterprises*, 52 EUR.-ASIA STUD. 627 (2000).

23. Louise I. Shelley, *Lawyers in Soviet Work Life* (Rutgers Univ. Press 1984).

24. Kathryn Hendley et al., *Agents of Change or Unchanging Agents? The Role of Lawyers within Russian Industrial Enterprises*, 26 L. & SOC. INQUIRY 685, 693 (2001).

25. A. Uzelac & C.H. van Rhee, *The Landscape of the Legal Professions in Europe and the USA: Continuity and Change*, in *The Landscape of the Legal Professions in Europe and the USA: Continuity and Change* xxi (A. Uzelac & C.H. van Rhee eds., Intersentia 2011).

26. Ekaterina Mishina, *Russia: Twenty Years of Private Notaries*, INST. MOD. RUSS. (Apr. 22, 2013), <http://imrussia.org/en/rule-of-law/440-russia-twenty-years-of-private-notaries>.

27. *Id.*

28. Ekaterina Mishina, *Mnogolikiye Rossiiskie Iuristy*, in KAGO ETO—BYT' IURISTOM? 6, 13 (2010).

no longer state employees; their function has been privatized. They now work directly with clients and earn significant fees through their review of documents. Like *advokaty*, notaries are licensed and belong to a national association.²⁹

Judges. Like many other European countries with civil law legal traditions, the Russian judiciary follows a civil service model pursuant to which judges go onto the bench soon after graduating from law school and remain there for their entire careers.³⁰ New judges are mostly recruited from within, from the ranks of secretaries and clerks (*pomoshchniki*).³¹ The criteria for becoming a judge have changed in the post-Soviet era.³² Efforts at de-politicization have enjoyed mixed success. Like *advokaty* and notaries, judges must join a professional association once on the bench, which establishes the ethical norms for them.³³

Prokurory. Prosecutors have been a staple of the Russian legal environment since the time of Peter the Great (1682–1725). They were conceptualized as the “eyes of the sovereign.”³⁴ Prosecuting criminals was only a part of the *procurators’* function; their larger aim has always been to ensure justice. Whether this is rhetoric or reality is a matter of debate. Observers described Soviet *prokurory* as the “cornerstone of the Soviet legal profession.”³⁵ This reputation has followed them. Mishina describes them as “the most formidable [*groznye*] of all [contemporary] *iuristy*.”³⁶ As with so many of their fellow law graduates, anyone with a diploma can serve as a prosecutor.

Sledovateli. Criminal investigators, like *advokaty*, can trace their origins to the Great Reforms of 1864.³⁷ Since that time, these lawyers have worked together with the police to identify suspects and with *prokurory* to ensure their convictions. Unlike *prokurory*, who work in a tightly structured hierarchy under the General Procurator, *sledovateli* are scattered

29. Federal Law No. 30-FZ, Mar. 14, 2002, “On the Organs of the Judicial Community in the Russian Federation” (Федер. закон “Об органах судейского сообщества в Российской Федерации”), available at <https://www.ssrf.ru/dokumenty/pravovaia-osnova/29946> (last visited Sept. 14, 2025).

30. KATHRYN HENDLEY & PETER H. SOLOMON, JR., *THE JUDICIAL SYSTEM IN RUSSIA* 45 (2023).

31. *Id.*; See Vadim Volkov & Aryna Dzmitryieva, *Recruitment Patterns, Gender, and Professional Subcultures of the Judiciary in Russia*, 22 INT’L J. LEGAL PRO. 166, 174 (2015) (explaining changes that affected the judiciary in the post-Soviet era).

32. *Id.*

33. *Id.*

34. WILLIAM E. POMERANZ, *LAW AND THE RUSSIAN STATE: RUSSIA’S LEGAL EVOLUTION FROM PETER THE GREAT TO VLADIMIR PUTIN* 18 (2019).

35. Donald D. Barry & Harold J. Berman, *The Soviet Legal Profession*, 82 HARV. L. REV. 1, 24 (1968).

36. Mishina, *supra* note 28, at 10.

37. Kirill Titaev & Maria Shkliaruk, *Investigators in Russia: Who Creates Practice in the Investigation of Criminal Cases?*, 54 RUSSIAN POL. & L. 112, 113 (2016).

throughout the criminal justice system. Nothing more than a law degree is needed for this career.

Lawyers in the State Bureaucracy. The state—both in the Soviet and post-Soviet eras—has soaked up large numbers of legally-trained specialists. A large but unknown number of law graduates go to work for some state agency or institution that is not part of the criminal justice or judicial systems. Also unknown is the extent to which they use their legal education in these positions.

These nine different categories represent distinct career paths. While each has its own norms, only three have established professional associations with clear admission criteria designed to ensure that members are qualified, meet ethical standards, and have the potential for expulsion. There is no overlap among these three associations. As to the other six career trajectories, embarking on any one of them requires no license or competency assessment other than a law degree.

Precisely what a Russian law degree signifies has changed over time and not always for the better. Like most other European countries, Russia treats legal education as an undergraduate enterprise. In the Soviet era, there were only around fifty institutions that provided legal education, known as law faculties.³⁸ All were funded by the state; admitted students received state stipends and did not have to pay tuition. Admission was highly competitive, though those with political connections were able to jump the queue.³⁹ The pedagogical approach focused on rote learning of key statutory codes without much emphasis on critical learning.⁴⁰ The explosion of demand for legal services as a result of the market reforms in the 1990s brought a rapid increase in the number of law faculties. Many Soviet-era educational institutions opened law faculties and, for the first time, private universities were created, some of which included law faculties.⁴¹ By 2017, estimates of the total number of law faculties ranged as high as 1200.⁴² The quality of the training received varied widely.⁴³ As Mikhail Barshchevskii, the managing partner of a Moscow law firm, commented at the St. Petersburg International Legal Forum in 2023, it is

38. Susan Finder, *Legal Education in the Soviet Union*, 15 REV. SOCIALIST L. 197, 204–05 (1989).

39. Mishina, *supra* note 28, at 6.

40. See Finder, *supra* note 38, at 207 (explaining the nature and study plan of Soviet law schools).

41. Kathryn Hendley, *A Profile of Russian Law Students: A Comparison of Full-Time Versus Correspondence Students*, 67 J. LEGAL EDUC. 1005, 1006 (2018).

42. Dmitry Maleshin, *The Crisis of Russian Legal Education in Comparative Perspective*, 66 J. LEGAL EDUC. 289, 296 (2017).

43. Olga Shepeleva & Asmik Novikova, *The Quality of Legal Education in Russia: The Stereotypes and the Real Problems*, 2 RUSS. L.J. 106, 111 (2014).

possible to receive a law diploma and yet to “know nothing.”⁴⁴ As a result, merely having a degree is not necessarily a guarantee of legal knowledge or competence.

EXPLANATIONS FOR THE FRAGMENTATION OF THE RUSSIAN LEGAL PROFESSION(S)

How did Russia end up in this situation? Its history provides a starting point but cannot fully explain the stubbornness with which Russian legal professionals have clung to the fragmented nature of their profession. Also relevant is the educational system, which unquestioningly accepted this institutional structure and socialized students to do the same. The fragmentation has been ingrained in the roles assigned to different types of lawyers in Russian judicial processes, especially in criminal trials, where judges, *prokurory*, and *sledovатели* collaborate to the detriment of *advokaty*.⁴⁵ The legal formalism that lies at the heart of Russian legal culture leaves little room for questioning. Further complicating matters is the heavy hand of the state which limited the opportunities for legal professionals to independently rethink their organizational structure.

Russian Legal History. As with so many other institutions, Russia was a late developer when it came to the legal profession. It was not a matter of neglect; the tsars were consistently hostile towards law and legal institutions, including lawyers.⁴⁶ Peter the Great’s statement, “[l]awyers’ useless lengthy speeches serve merely to complicate the judges’ task and make for greater delay,” serves to illustrate his disdain for lawyers and judges.⁴⁷ The prohibition on lawyers forming associations reflects this distrust.

These restrictions changed with the Great Reforms of 1864. Although the reigning tsar, Alexander II, was initially opposed to remaking the legal system, the endless delays within the existing courts and the enthusiasm for such reforms among students and bureaucrats convinced him otherwise. These reforms, which were “met with general acclaim,” not only introduced professional judges, juries, and a hierarchical judicial system

44. Advokatskaia Gazeta, *Perspektivy preobrazovaniia sudebnogo predstavitel'stva* (May 12, 2023), <https://www.advgazeta.ru/novosti/perspektivy-preobrazovaniya-sudebnogo-predstavitelstva/>.

45. Ekaterina Moiseeva, *Plea Bargaining in Russia: The Role of Defence Attorneys and the Problem of Asymmetry*, 41 INT'L J. COMPAR. & APPLIED CRIM. JUST. 1, 2 (2016).

46. See William E. Pomeranz, *Justice from Underground: The History of the Underground Advokatura*, 52 RUSS. REV. 321, 322 (1993).

47. JOHNATHAN DALY, CRIME AND PUNISHMENT IN RUSSIA: A COMPARATIVE HISTORY FROM PETER THE GREAT TO VLADIMIR PUTIN 14 (Jonathan Smele & Michael Melancon eds., 2018).

but also bar associations sometimes known as guilds.⁴⁸ “For Russia, this was a dramatic innovation. In a single legislative stroke, it transplanted onto Russian soil an institutional framework [for lawyers] that, in other countries, had taken centuries to evolve.”⁴⁹ The professional associations were organized on a regional basis. They were aimed at legal professionals who earned their living in court. Members were obligated to take court-appointed cases without pay and were subject to the disciplinary supervision of the association. In an echo of present-day attitudes, those who did transactional work were unwilling to accept these limitations and did not join. Pomeranz urges us to remove “the halo which has long surrounded the *advokatura*,” noting that “even after some fifty years of existence the *advokatura* still lacked the internal coherence, public prestige and overall legal recognition of a Western Liberal profession.”⁵⁰

The heyday of the *advokaty* of the post-1864 era (though not necessarily the *advokatura*) came during a series of high-profile trials during the 1870s.⁵¹ Anarchists and other opponents of the Tsarist regime engaged in a series of bold provocations, including assassinations. Whether those accused had committed these acts of violence was never in doubt and never denied by their defense lawyers. Instead, they put the Tsarist regime on trial. The trials were open to the public and became a fascination of fashionable society. A select group of *advokaty* took on these accused and managed to acquit them in the courts of both law and public opinion.⁵²

The most notorious of these was the 1878 trial of Vera Zasulich for having shot Fyodor Trepov, the governor of St. Petersburg. Her lawyer convinced the jury that her actions were justifiable due to Trepov’s reprehensible behavior in having had a political prisoner beaten for refusing to remove his cap in the governor’s presence. In his summation, he argued: “[w]e must pay attention to the particular characteristics of the moral nature of crimes against the state. . . . That which yesterday was considered a crime against the state, today or tomorrow becomes a highly respected act of civic courage.”⁵³ The summation was greeted by “wild applause, cheers, and shouts of ‘Bravo!’” The judge admonished them: “The court is not a theater, and expressions of approval or disapproval

48. See RICHARD WORTMAN, *THE DEVELOPMENT OF A LEGAL CONSCIENCE* 260–65 (Univ. Chi. Press, 1976).

49. Marina Kurkchiyan, *The Professionalisation of Law in the Context of the Russian Legal Tradition*, in *A Sociology of Justice in Russia* 19 (Marina Kurkchiyan & Agnieszka Kubal eds., Cambridge U. Press 2018).

50. William E. Pomeranz, *Justice from Underground: The History of the Underground Advokatura*, 52 *RUSS. REV.* 321, 327 (Jul. 1993).

51. See Kucherov, *supra* note 15, at 21.

52. See ANA SILJAK, *ANGEL OF VENGEANCE: THE “GIRL ASSASSIN,” THE GOVERNOR OF ST. PETERSBURG, AND RUSSIA’S REVOLUTIONARY WORLD* 237–41 (St. Martin Press, 2008).

53. *Id.* at 237.

are forbidden here.”⁵⁴ Zasulich was acquitted. The lawyers who defended Zasulich and the other radicals of the late Tsarist period were inspired by the 1864 Reforms. Their summations were printed in the newspapers of the day⁵⁵ and were subsequently gathered in volumes that were eagerly snatched up by the public.

The Tsarist regime responded to the acquittals of these radicals by changing the law to bar juries from hearing such cases. Most *advokaty* steered clear of politicized cases, preferring to limit themselves to more mundane cases. This distaste for politics was shared by the larger associations. The St. Petersburg and Moscow associations were more politically sensitive than others. Even so, they were mostly tolerant of regime policies, with the exception of 1905’s Bloody Sunday, to which they took offense.⁵⁶ At the close of the Tsarist era, Russia’s legal profession was deeply fragmented. The Great Reforms brought to life a bar association but welcomed only *advokaty*. There was never any contemplation of bringing in prosecutors, investigators, or other types of lawyers.

The Bolsheviks and their leader, Lenin, had little use for law or lawyers. In an ironic twist, despite (or perhaps because of) his own legal education, Lenin shared the tsars’ contempt for lawyers. Writing to a colleague in 1907, he said, “[y]ou must rule advocates with an iron hand and place them in a state of siege, for this intelligentsia scum often plays dirty.”⁵⁷ The initial resistance by the bar associations to the Bolsheviks’ seizure of power in October 1917 showed that his distrust was warranted. Within a month, the Bolsheviks had withdrawn official recognition from the bar associations. In their place, they encouraged the creation of “colleges” (*kollegiia*) through which *advokaty* would find and help clients, with fees set by the state. As the utopianism of the early years gave way to pragmatism in the 1920s (especially once Stalin took power), the need for law and lawyers became inescapable. The Soviet regime persisted with the system of colleges. The level of state control varied. They monitored but did not fully control the process of admitting applicants to the *advokatura*, placing limits on its total number. Although membership in the Communist Party was not obligatory, by the late 1950s, nearly 70 percent of *advokaty* were Party members.⁵⁸ Even so, Huskey, a leading expert on the Soviet-era *advokatura*, concluded that it was “one of the few

54. *Id.* at 241.

55. See LOUISE McREYNOLDS, *THE NEWS UNDER RUSSIA’S OLD REGIME* 92–93 (Princeton Univ. Press, 1991).

56. William E. Pomeranz, *The Emergence and Development of the Russian Advokatura: 1864–1905*, at 297–300 (Oct. 1990) (Ph.D. dissertation, University of London).

57. Huskey, *supra* note 16, at 37–38.

58. Jordan, *supra* note 17.

to retain a significant degree of autonomy over its internal operations.”⁵⁹ As Kaminskaya’s memoir of her days as a Soviet *advokat* illustrates, they worked in the shadow of the Communist Party and risked disbarment if they diverted too much from the Party line.⁶⁰ In cases investigated by the KGB (rather than the regular police), only *advokaty* who were on a list approved by the Party were authorized to represent these defendants.⁶¹ In this way, the Kremlin avoided allowing defense lawyers to use these trials to attack the regime. Kaminskaya was among a handful of *advokaty* with access to political cases who were willing to represent Soviet dissidents and to press for their innocence.

With the exception of corporate lawyers and non-*advokaty* litigators, all nine specialties listed at the outset were active during the Soviet era. Each was governed by informal norms; none had a professional association to which they had to join to practice law. While some like prosecutors, were in close contact with colleagues in the same specialty, others—like in-house lawyers—were isolated and had little to no contact with other *iuriskonsul’ty*. The extent to which the various types of lawyers were united by a common educational foundation evolved over time. In the early decades of Soviet power, the shortage of lawyers gave rise to accelerated training programs that fell far short of what would be received at law faculty.⁶² By the 1960s, lawyers in all walks of the profession had university-level diplomas, though most were not earned through full-time study but through *zaochnye* programs that allowed students to study on their own while working their regular jobs.⁶³ They assembled in person at law faculties to take exams.

Among the many planks of Gorbachev’s reform package was a promise to enhance the status of *advokaty*.⁶⁴ Under his tenure, *advokaty* were finally allowed to meet with their clients before indictment, enhancing their ability to protect them.⁶⁵ But the institutional confusion that enveloped Soviet society extended to the *advokatura*. So-called “parallel” colleges emerged, and the established *kollegiia* were powerless to protect their longstanding monopoly on representing clients in court.

As the Soviet Union drew to a close, the legal profession(s) were in chaos. On paper, the *advokatura* lumbered on, though much of its

59. Eugene Huskey, *The Limits to Institutional Autonomy in the Soviet Union: The Case of the Advokatura*, 34 SOVIET STUD. 200, 200 (April 1982).

60. DINA KAMINSKAYA, FINAL JUDGMENT: MY LIFE AS A SOVIET DEFENSE ATTORNEY 35 (N.Y.: Simon and Schuster, 1982).

61. Moiseeva & Bocharov, *supra* note 5.

62. PETER H. SOLOMON JR., REFORMING JUSTICE IN RUSSIA 1864–1996: POWER, CULTURE, AND THE LIMITS OF LEGAL ORDER 186–90 (M.E. Sharpe Inc., 1996).

63. *Id.*

64. Jordan, *supra* note 17.

65. See Eugene Huskey, *Between Citizen and State: The Soviet Bar (Advokatura) Under Gorbachev*, 28 COLUM. J. TRANSNAT’L L. 95, 112 (1990).

authority had crumbled. Individuals with legal training, some straight out of the law faculties and others escaping from the strictures of their prior jobs, began taking on tasks traditionally reserved for *advokaty*. The Ministry of Justice made the first of many unsuccessful attempts to bring order to the profession. Their focus was primarily on those representing clients in court. They tried to bring them to heel, but the non-*advokaty* litigators (from the parallel colleges) pushed back and the Ministry retreated.⁶⁶ This will prove to be a consistent pattern. No effort was made to corral the other types of lawyers, such as, *prokurory*, *sledovateli*, *iuriskonsul'ty*, notaries, and lawyers working in the state bureaucracy.

The initial decade of post-Soviet power witnessed a continuation of this chaos. As it persisted, those working in the parallel colleges grew in number. Following the example of foreign law firms that chased their clients to Russia when its market was opened, these non-*advokaty* litigators and nascent corporate lawyers hung out shingles on their own or formed private law firms. They were uninterested in representing criminal defendants, the traditional client base of *advokaty*. They cultivated an entirely new set of clients among newly privatized companies, start-up ventures, and entrepreneurs.

Advokaty never acquiesced to this state of affairs. Throughout the 1990s, they worked with legislators and scholars to draft legislation to reestablish their preeminence. With the passage of a law on the *advokatura* in 2002, they achieved this goal.⁶⁷ The law limited the right to represent clients in court to *advokaty*. It also created a new national umbrella organization, the Federal Chamber of *Advokats (Federal'nyi Palata Advokatov Rossiiskoi Federatsii* or FPA), with regional subunits, which brings together all *advokaty*.⁶⁸ This gave *advokaty* complete control over who joined their ranks and retained the right to discipline and disbar those who stepped out of line. This made them the only group of Russian lawyers bound by an ethical code and who enjoyed attorney-client privilege with their clients.

The practical effect of the law was to force all other legal professionals to join the *advokatura* or to cease representing clients in court. Corporate lawyers, whose practice focused on transactional work, were unaffected. But non-*advokaty* litigators were faced with a Hobson's choice: either give up litigation or join the *advokatura*. Kurkchiyan noted that "it is not surprising that, rather than making plans to join the bar, many lawyers concerned themselves with finding ways to get around the provisions of the new Advocacy Act—even before it came into effect."⁶⁹ They challenged

66. Jordan, *supra* note 17.

67. See *Ob Advokatskoi Deiatel'nosti i Advokature v Rossiiskoi Federatsii*, No. 63-FZ. (2002) (amended 2022). https://www.consultant.ru/document/cons_doc_LAW_36945/.

68. Moiseeva & Bocharov, *supra* note 5.

69. Kurkchiyan, *supra* note 49, at 19.

the 2002 law in the Constitutional Court, pointing to Article 48–1 of the Constitution, which guaranteed citizens the right to qualified legal counsel, with no mention of *advokaty*.⁷⁰ The court sided with the non-*advokaty* litigators, holding that the *advokatskaia* monopoly in the 2002 law violated citizens' right to choose their own lawyer.⁷¹ *Advokaty* retained their monopoly over criminal defense work due to the language of Article 48–2, which specifies that defendants in criminal cases have the right to an *advokat*.⁷²

Over the past twenty years, this battle between *advokaty* and non-*advokaty* litigators has been restaged time and time again, always with the same result.⁷³ In 2017, for example, the Ministry of Justice and the FPA collaborated on a conception for the reform of the market for professional legal assistance.⁷⁴ Its objectives included: “unifying the fragmented market of legal services into a single regulated profession, subject to common professional and ethical requirements, limiting access to the market and excluding unscrupulous participants from the market.”⁷⁵ The conception also called for the right to represent clients in court to *advokaty* or law graduates who had passed a competency exam. Although those in this latter group would not be full-fledged *advokaty*, they would be subject to the ethical standards of the *advokatura* and could be stripped of their right to serve as counsel in court if they ran afoul of them.⁷⁶ Leaders of the FPA trumpeted the merits of this approach, arguing that it would protect citizens from dishonest non-*advokaty* litigators “who only pretend

70. See Konstitutsiya Rossiyskoy Federatsii. [Constitution] Dec. 12, 1993, art. 48, § 1 (Russ.).

71. Об Адвокатской Деятельности И Адвокатуре В Российской Федерации. [Constitutional Court of the Russian Federation] [On Lawyer Activities and the Lawyer's Office in the Russian Federation] No. 446-O, Dec. 5, 2003.

72. See Konstitutsiya Rossiyskoy Federatsii, *supra* note 70, at art. 48-2.

73. As other post-Communist countries embarked on market reforms, they faced similar dilemmas. In the Czech Republic, all litigators were swept into the *advokatura*. See Jan Kober, *Czech Republic: Legal Professions Looking for Serenity and Stability*, in *LAWYERS IN 21ST-CENTURY SOCIETIES. VOLUME 1: NATIONAL REPORTS* 289 (Richard L. Abel, Ole Hammerslev, Hilary Sommerlad, & Ulrike Schultz eds., Hart Publ'g 2020). In Poland, a group of lawyers akin to Russia's non-*advokaty* litigators has persisted. In contrast to Russia, where the non-*advokaty* litigators have resisted unification, in Poland, the *advokaty* have resisted, fearing their interests will be trampled by the larger numbers of non-*advokaty*. Kaja Gadowska, *Poland: Opening the Legal Professions*, in *LAWYERS IN 21ST-CENTURY SOCIETIES. VOLUME 1: NATIONAL REPORTS* 309, 310 (Richard L. Abel, Ole Hammerslev, Hilary Sommerlad, & Ulrike Schultz eds., Hart Publ'g 2020).

74. See Ministry of Justice of the Russian Federation, Proekt Kontseptsii regulirovaniia rynka professional'noi iuridicheskoi pomoshchi [Draft Concept for Regulating the Market of Professional Legal Assistance], Oct. 24, 2017. <https://fparf.ru/documents/draft-regulations/the-draft-concept-for-the-regulation-of-the-market-of-professional-legal-assistance/>. See also, *V advokaty v tri etapa: Miniust pokazal novuiu kontseptsiiu regulirovaniia iurynka*, PRAVO.RU (Oct. 24, 2017, 11:58 PM) <https://pravo.ru/news/view/145356/> (summarizing the key provisions of the draft concept).

75. *Id.*

76. *Id.*

to provide legal assistance.”⁷⁷ While conceding that such practitioners constitute a minority, they contend that they remain a nagging problem that cannot easily be resolved due to the difficulty of proving the intent of the guilty lawyer. This proposal did not pass muster in the Duma. Instead, in 2018, legislators endorsed a proposal from the Russian Supreme Court, which amended the relevant procedural codes to limit the right to represent clients to those with university-level law diplomas with no further evidence of competence.⁷⁸

Although these amendments would seem to have solved the problem by ensuring that citizens are represented by credentialed lawyers in court, *advokaty* were not satisfied. The uneven quality of training provided at law faculties gave pause.⁷⁹ *Advokaty* worried that merely having a law diploma did not ensure proficient representation. They continued to agitate for the reforms put forward in the 2017 proposal, including a competency exam. *Advokaty* attempted to claim the high road by pointing out that limiting the right to represent clients in court to their colleagues was the only way to ensure that these clients enjoyed attorney-client privilege and that their lawyer was subject to ethical standards. Sometimes, however, they resorted to the low road. They accused non-*advokaty* litigators of being “grey” (*serye*) lawyers who do not always live up to their promises to clients⁸⁰ Occasionally, they even labeled them as “scammers” (*moshenniki*),⁸¹ yet they conceded that behavior of these non-*advokaty* litigators was typically not actionable in a criminal court.⁸² For their part, non-*advokaty* litigators show little interest in joining the

77. Aleksei Sozvariev, *Organizatsiia dlia sobliudeniia pravil* [Organizing to comply with the rules], FEDERAL'NAIA PALATA ADVOKATOV SUDA ROSSIYSKOY FEDERATSII [FEDERAL CHAMBER OF LAWYERS OF THE RUSSIAN FEDERATION] (Dec. 1, 2017) <https://fparf.ru/polemic/discussion/4-o-kontseptsii-regulirovaniya-rynka-professionalnoy-yuridicheskoy-pomoshchi/>.

78. See О Внесении Изменений В Гражданский Процессуальный Кодекс Российской Федерации, Арбитражный Процессуальный Кодекс Российской Федерации, Кодекс Административного Судопроизводства Российской Федерации И Отдельные Законодательные Акты Российской Федерации [Supreme Court] [On Amendments to the Civil Processual Code of the Russian Federation, The Arbitrary Processual Code of The Russian Federation, The Code of Administrative Judgment of the Russian Federation and Individual Legal Acts of The Russian Federation], Feb. 7, 2018. <https://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=PRJ&n=168615#gYUMV0U0zRsoEgS> (Russ.).

79. See Vladislav Kulikov, *V Miniuste gotoviatsia predlozheniia po reformirovaniu iuridicheskoi pomoshchi*, ROSSIISKAIA GAZETA (Dec. 5, 2023, 6:00 AM) <https://rg.ru/2023/12/05/advokatskaia-monopoliia.html>.

80. Tkachenko, *supra* note 20.

81. “Perspektivy preobrazovaniia sudebnogo predstavitel'stva.” *Advokatsnaka gazeta*, (May 12, 2023), <https://www.advgazeta.ru/novosti/perspektivy-preobrazovaniya-sudebnogo-predstavitelstva/>; see, Ekaterina Trifonova, “Bez advokatskikh ‘korochek’ v sud ne pustiat.” *Nezavisimaia Gazeta*, (October 29, 2023), https://www.ng.ru/politics/2023-10-29/1_8864_monopoly.html.

82. Konstantin Katanian, “V Obshchestvennoi palate RF obsudili problemy kachestva okazaniia iuridicheskikh uslug naseleniu.” *Advokatskaia palata gorda Moskvyy*. May 18, 2023. <https://www.advokatymoscow.ru/press/news/11658/>.

advokatura. All of the initiatives would have required them to pass an exam to prove their competence.⁸³ The very idea of this exam is seen as offensive by experienced lawyers. They also bristle at having to pay dues to the *advokatura*, take on pro bono cases, and live under the disciplinary microscope of the *advokatura*. Evgeniy Shestakov, the managing partner of a Moscow law firm, put his fears bluntly: “I cannot overcome the distrust of the *advokatura* given the increase in state paternalism In our de facto unfree state, voluntarily giving up any freedom is an unaffordable luxury.” He went on to voice a practical concern: “[a]n *advokatskaia* monopoly is a loss of independence, an uncontrollable risk of losing the profession and limited access to justice due to the insufficient number of *advokaty*.”⁸⁴

Given the vitriol of the debate, it might be assumed that it is a matter of great concern to ordinary citizens. It is not. It is being fought out in the legal press, in sources such as *pravo.ru*, *Advokatskaia gazeta*, the website of the FPA, and the blogs of prominent *advokaty* and non-*advokaty* litigators. Lay people see little difference between *advokaty* and non-*advokaty* litigators. One *advokat* admitted as much: “[t]here is no diff [sic] in terms of quality of the services provided by advocates and other lawyers. Say, today you are an advocate, but tomorrow you decide to suspend your license for some reason and work as an entrepreneur. So does your IQ immediately drop? Is your knowledge of the law diminished? No, it doesn’t work this way.”⁸⁵

While ordinary citizens might view this endless debate as much ado about nothing, it is worth our attention for two reasons. First, there are qualitative differences between the services of *advokaty* and non-*advokaty* litigators that may escape the notice of lay people. As previously explained, only by working with *advokaty* do clients enjoy attorney-client privilege and have recourse when legal services are not up to snuff. Second, the debate provides evidence of the resistance to unifying the legal profession(s) in Russia.

83. Vlaslav Kulikov, *V Miniuste gotoviatsia predlozheniia po reformirovaniu iuridicheskoi pomoshchi*, *Rossiiskaia Gazeta* (Dec. 5, 2023), <https://rg.ru/2023/12/05/advokatskaia-monopoliiia.html> (discussing The Minister of Justice, Konstantin A. Chuychenko, seems to be pushing further than the 2017 proposal by arguing that all litigators should be full-fledged members of the *advokatura*. This would mean not merely passing a watered-down competency exam, but fulfilling all the prerequisites for bar membership. He describes the traditional bar exam as an “adequate filter” to screen out undesirable lawyers with the goal of “leav[ing] only professional players in the market.” Compare with Ekaterina Trifonova, *Bez advokatskikh ‘korochek’ v sud ne pustiat*, *Nezavisimaya Gazeta* (Oct. 29, 2023), https://www.ng.ru/politics/2023-10-29/1_8864_monopoly.html (stating that other commentators are wary of a two-tiered system, warning that having two versions of the exam risks ending up with two types of litigators and will be unwieldy over the long run).

84. Tkachenko, *supra* note 20.

85. Moiseeva & Bocharov, *supra* note 5.

The creation of the Association of Lawyers (*Assotsiatsiia iuristov Rossii*) in 2005 might be seen as evidence to the contrary. Putin spoke at the founding congress, welcoming the presence of “judges, *advokaty*, *sledovatelyi*, notaries, *prokurory*, [and] employees of the state bureaucracy.” He encouraged them to develop “consolidated position[s] on key issues” that would allow the Association to “become an influential, effective instrument of civil society.”⁸⁶ A review of the annual reports of the Association suggests that it has primarily served as an umbrella organization for conferences, rather than as a lever for political action.⁸⁷ Belonging to this Association is not a prerequisite to practicing law. Although it has been active in introducing accreditation standards to law faculties,⁸⁸ it has not taken a position in the ongoing battle between *advokaty* and non-*advokaty* litigators.

Legal Education. Laying out the structure of the Russian legal profession(s) and story of its evolution provides little insight into why it has developed in this way. Unpacking the reasons requires a review of key institutions, primary among which is the Russian system of legal education. Unsurprisingly, it is quite regimented,⁸⁹ with a singular focus on mastering the text of key codes. This general approach remained unchanged over time, though the curriculum has evolved in the post-Soviet period, abandoning instruction in Marxism-Leninism in favor of market-based classes. The positivism inherent in the pedagogical approach produces graduates that accept the status quo. At various points in Soviet history, questioning the prevailing state of affairs could be dangerous. Citizens, including lawyers, learned to be circumspect.⁹⁰ This began to change in the 1990s, but this tendency to be cautious in public has reasserted itself under Putin.⁹¹

Just as in the Soviet period, some law faculties provide general education, with the possibility of specializing in the later years. Other law faculties are devoted to training specific types of lawyers, such as prosecutors, criminal investigators, and customs lawyers. Tuition is usually not charged at these specialized institutions; its graduates are obliged to spend a certain number of years working in the relevant state service.

86. Vladimir Putin, *Vstupitel'noe Slovo na Uchreditel'nom C'ezde Assotsiatsii Iuristov Rossii* (2005), <https://alrf.ru/association/history-of-creation/>.

87. Assotsiatsiia Iuristov Rossii, *Dokumenty Assotsiatsii iuristov Rossii*, <https://alrf.ru/association/documents-of-the-association/> (last visited Apr. 12, 2025).

88. Kulikov, *supra* note 83.

89. Elena A. Bogdanova, *Objectives of Russian Law Schools Today: What is the Ideal Jurist?*, 26 INT'L J. LEGAL PROF. 295, 295 (2019).

90. Svetlana Boym, *Common Places: Mythologies of Everyday Life in Russia* 91 (Harvard Univ. Press 1995).

91. Renata Mustafina, *Turning on the Lights? Publicity and Defensive Legal Mobilization in Protest-Related Trials in Russia*, 56 L. & SOC'Y REV. 601, 609 (2022).

Having these specialized departmental (*vedomstvennyye*) law faculties helps perpetuate the fragmentation of the legal profession(s).

The explosion in the number of law faculties in the 1990s, driven by economic reforms that created an unprecedented demand for lawyers, has contributed to *advokaty*'s dissatisfaction with the 2018 compromise that limits court representatives to those with university-level law diplomas. While some post-Soviet law faculties, such as the Higher School of Economics, have a stellar reputation, a significant number of these new institutions are little more than diploma mills.⁹² Non-*advokaty* litigators do not disagree. Maksim Borisov, a managing partner at a Moscow law firm, argues: “[t]he bar (*advokatskii*) exam can hardly act as an effective barrier here. And if we seriously believe in [guaranteeing competent counsel], then shouldn’t we then shift the emphasis to the previous stage and think about improving the quality of legal education and the complexity of final (*vypucknyye*) exams?”⁹³

The prevailing pedagogical approach at Russian law faculties also contributes to the reticence of law graduates when it comes to political reforms. The tendency to lecture rather than encourage class discussion has persisted from the Soviet period.⁹⁴ Western-sponsored efforts at spurring critical thinking within Russian legal education during the 1990s mostly failed to take root. When touring several law faculties in 1998, an American expert on clinical legal education observed that the lecture method “still predominates,” despite being “both ineffective and boring.”⁹⁵ Both professors and students preferred a model that trained graduates as technical experts. They felt competent to advise clients on the legality of proposed courses of action but felt out of place when it came to advising clients as to the wisdom of their plans (Hendley 2010). To be sure, exceptions existed. Participants in the exchange program between Indiana University and the law faculty at Immanuel Kant Baltic Federal University in Kalinigrad report that the Russian faculty members had introduced innovations in their teaching methods.⁹⁶ The hopefulness of the Kalinigrad report has to be tempered by experiences such as those of faculty members in the constitutional law department at the Higher School of Economics who found that their contracts were not renewed

92. Olga Shepeleva & Asmik Novikova, *The Quality of Legal Education in Russia: The Stereotypes and the Real Problems*, 2 RUSSIAN L. J. 106, 111, 116 (2014).

93. Tkachenko, *supra* note 20.

94. John M. Burnham, *The Role of Clinical Legal Education in Developing the Rule of Law in Russia*, 2 WYO. L. REV. 89, 102 (2002); see also Lawrence M. Grosberg, *Clinical Education in Russia: 'Da and Nyet'*, 7 CLINICAL L. REV. 469 (2001).

95. *Id.*

96. Ctr. on the Global Legal Profession, *Newsletter – March 2020*, Ind. Univ. Maurer Sch. of L., <https://law.indiana.edu/research/centers/global-legal-profession/newsletters/2020-03.html>.

after they spoke out in opposition to the proposed amendments to the constitution in 2020.⁹⁷

Lawyers' Role in Judicial Processes and in Society. The public's lack of interest in the debate over creating a courtroom monopoly for *advokaty* speaks to the relatively low status of lawyers in Russia. In contrast to the U.S. where lawyers dominate the legislatures and are regular commentators on cable news shows, Russians pay little attention to lawyers. As of 2019, they constituted only 10 percent of deputies in the Duma, the lower house of the Russian parliament.⁹⁸ A summary of the focus group discussion among *advokaty* captures their sense of how they are perceived by society:

With great regret, the participants in the discussions noted the persistence of the philistine negative perception of the profession—*advokaty* are more often referred to as crooks, and police officers as knights without fear or reproach. This is a question of the general level of legal awareness in Russian society, where the *advokat* is not yet perceived by the majority as an important part of the legal system. You can see the inequality between the prosecution and the defense. Procedurally, all are equal. But, in reality, no.⁹⁹

In her monograph about *advokaty*, Jordan comes to the same conclusion about the Soviet era, arguing that *advokaty* ranked much lower in terms of public esteem than did the lawyers in the criminal justice system. She explains this by noting that “the work of procurators, investigators, and militia officers was more strongly propagandized by the state was generally more romanticized.”¹⁰⁰

The focus group summary opens our eyes to the unequal status of the defense and prosecution in criminal cases. Jordan argues that in the Khrushchev era, *advokaty* were expected to act as court assistants “rather than as voices for their clients.”¹⁰¹ As I've already noted, they had no access to their clients prior to indictment and, as a result, little ability to build an independent defense. On paper, these rules have changed but to little effect. Present-day *advokaty* are often forced to wait hours in the

97. Liubov' Chizhova, “Rassadnik Neblagonadezhnosti, pPrime mery': Uvol'neniia v VShE,” Radio Svoboda (Aug. 19, 2020), <https://www.svoboda.org/a/30791502.html>.

98. Aleksandra Morozova, *Sportsmeny i menedahery zamenili v Gosdume iuristov i agronomov. Kto pishet rossiiskie zakony [Athletes and Managers Replaced Lawyers and Agronomists in the Duma. Who Writes Russian Laws?]*, 66.RU (Sept. 12, 2019), <https://66.ru/news/society/224758/>.

99. Institut prava i publichnoi politiki, *Reziime fokus-gruppyvkh diskussii [Summary of Focus Group Discussions]* (Dec. 12 & 17, 2021) (part of the project “Molodye advokaty. Professional'nye ruski, problemy i ikh reshenii [Young Lawyers. Professional Risks, Problems, and Their Solutions]”).

100. Jordan, *supra* note 17.

101. *Id.* at 37.

cold to see their clients or are given the runaround.¹⁰² Getting exculpatory witnesses and/or evidence admitted can be difficult.¹⁰³ The investigator and prosecutor control the case file and can easily include incriminating evidence, while *advokaty* have to petition the court to get their evidence included.¹⁰⁴ They do not always succeed. This so-called “accusatory bias” (*obvinitel’nyi ukлон*) has the effect of leaving the defense outside the charmed circle of the judge and the prosecution team.¹⁰⁵

CONSEQUENCES OF THE FRAGMENTATION OF THE RUSSIAN LEGAL PROFESSION(S)

Untangling causes from consequences is difficult. Whether the ghettoization of *advokaty* in the criminal process is a cause or result of the fragmentation of the legal profession(s) is unclear. Probably, it is both. I begin with the most clear-cut consequence of fragmentation and then proceed to explore the impact of more culturally based factors.

Limits of Regulatory Reach and Access to Justice. The most obvious consequence of the fragmentation of the legal profession(s) is that the vast majority of Russians doing legal work are completely free from any sort of regulatory oversight. The only specialists who are required to be members of associations are *advokaty*, judges, and notaries. These lawyers must persevere through a maze of exams (both oral and written), internships, and character evaluations. Once admitted to the relevant association, they are then subject to the governing ethical code. Transgressors can have their membership revoked, though only after an internal hearing. Among lawyers who provide counsel to clients—*advokaty*, non-*advokaty* litigators, *iuriskonsul’ty*, the corporate lawyers—attorney-client privilege applies only to *advokaty*.

As laid out earlier, this state of affairs is routinely cited by those who favor a monopoly for *advokaty* in providing court-based services. Estimates of the number of non-*advokaty* litigators range as high as 1–2

102. See, e.g., Lucy Papachristou, *Insight: Young Russian Lawyers Step Up to Defend Anti-War Protesters*, REUTERS (July 4, 2023), <https://www.reuters.com/world/europe/young-russian-lawyers-step-up-defend-anti-war-protesters-2023-07-04/>; OVD-Info, *Ugroza napadeniia: kak politseiskie ispol’zuiut plan Krepost’ protiv advokatov* [Threat of Attack: How Police Use the Fortress’ Plan Against Lawyers], OVD-INFO (June 14, 2019), <https://ovdinfo.org/articles/2019/06/14/ugroza-napadeniya-kak-policeyskie-ispolzuyut-plan-krepost-protiv-advokatov>.

103. Hendley, *supra* note 4, at 273.

104. Agnieszka Kubal, *The Lawyers as Guardians of the Case File: On Human-Material Encounters in Immigration Law in Russia*, 28 INT’L J. LEGAL PROF 85 (2021).

105. Ekaterina Khodzaeva & Yulia Rabovski, *Strategies and Tactics of Criminal Defenders in Russia in the Context of Accusatorial Bias*, 54 RUSSIAN POL. & L. 191, at 212–213 (2016).

million.¹⁰⁶ The lack of any registration system makes precision impossible. *Advokaty* number around 76,000.¹⁰⁷ Even if the estimate of non-*advokaty* litigators is overly generous, there is no question that they far outnumber *advokaty*. While those involved in criminal cases must work with *advokaty*, those with non-criminal legal issues are not obliged to hire *advokaty*. Anyone dissatisfied with the services provided by an *advokat* can complain to the *advokatskaya* association. Those who are disbarred are not drummed out of the legal profession. They can immediately reinvent themselves as non-*advokaty* litigators or another type of lawyer. Clients who engage non-*advokaty* litigators have no meaningful recourse if disgruntled. Critics of the current system argue that vulnerable Russians, including the elderly, are most likely to be victims of unscrupulous non-*advokaty* litigators.¹⁰⁸

Concerns over the quality of services due to the limited FPA coverage have also extended to corporate lawyers and in-house lawyers. The many proposals to bring together *advokaty* and non-*advokaty* litigators have mostly exempted these specialties. A significant percentage of their work is transactional, but *iuriskonsul'ty* regularly appear in both *arbitrazh* courts and courts of general jurisdiction to handle various contractual claims. The reform proposals would allow this but only when the *iuriskonsul't* represents the company where he is employed. The Vice-President of the FPA, Vladislav Grib, supported this policy for large corporations like Gazprom and Sberbank, yet cautioned that “we need to carefully look at the *iuristy* of a small firm or tire shop.”¹⁰⁹

At the heart of this criticism is a concern over the meaningfulness of access to justice. Such concerns mirror those raised by scholarship on

106. D. Talentov, *Pochemu ia opacaiuc' 'advokatskoi monopolii' (i pochemu eto opacenie, po vsei vidimosti, razdeliaet bol'shinstvo iuristov [Why I Fear the 'Advocacy Monopoly' (and Why This Fear Is Likely Shared by Most Lawyers)]*, ADVOKATSKAIA PALATA URDMURCKOI RESPUBLIKI (2017), https://apur.ru/index.php?option=com_content&view=article&id=921:pochemu-ya-opasayus-advokatskoj-monopolii-i-pochemu-eto-opasenie-po-vsej-vidimosti-razdelyaet-bolshinstvo-yuristov&catid=88&Itemid=56.

107. Otchet Soveta Federal'noi palaty advokator RF za period s apreliya 2021 g. po april' 2023 g. [Report of the Council of the Federal Chamber of Advocates of the Russian Federation for the Period from April 2021 to April 2023], FEDERAL'NAIA PALATA ADVOKATOV ROSSIISKOI FEDERATSII (Apr. 20, 2023), <https://fparf.ru/documents/fpa-rf/the-documents-of-the-council/otchet-soveta-federalnoy-palaty-advokator-rf-za-period-s-aprelya-2021-g-po-aprel-2023-g/> at 8.

108. Konstantin Katanian, *V Obshchestvennoi palate RF obsudili problemy kachestva okazaniia iuridicheskikh uslug naseleniiu [Problems of the Quality of Legal Services Provided to the Population Were Discussed at the Public Chamber of the Russian Federation]*, ADVOKATSKAIA PALATA GORODAMOSKVY (May 18, 2023), <https://www.advokatymoscow.ru/press/news/11658/>.

109. *Id.*

China¹¹⁰ and India,¹¹¹ where the fragmentation of the legal profession has left some claimants with sub-par services due to their gender, class, ethnicity, and/or legal illiteracy. The extent to which this happens in Russia is beyond the scope of this article.

Summing up, Dmitrii Demidenko, the Vice President of the French-Russian Chamber of Commerce, who is an *iurist* but not an *advokat*, put it succinctly: “Without question, some kind of regulation is needed. The ‘invisible hand of the market’ works well but not perfectly.”¹¹² The fragmented nature of the legal profession(s) in Russia serves many clients. Well-resourced clients, whether individuals or companies, can afford to do their due diligence. The ability of ordinary Russians to separate wheat from chaff is more limited, making it inevitable that some will fall through the cracks.

Lawyers’ Self-Conception. Russian lawyers’ socialization and their view of themselves as being devoted to clients’ needs and their propensity for avoiding conflicts with authority would seem to contribute to their unwillingness to agitate for unifying their specialties into a unified association. Yet the fragmentation undoubtedly reinforces their self-image as “skilled legal technician[s].”¹¹³

For the reasons previously cited, lawyers have never seen themselves as political actors. This attitude dates back to the Tsarist era. In writing about the late 19th century, Kucherov notes that “[i]t must be emphasized that the guild of lawyers as such, never pressured political interests.”¹¹⁴

In the present day, even those who appear from the outside to be pursuing political goals bristle when confronted on this point. The head of the legal department at Alexei Navalny’s Anti-Corruption Foundation, Vyacheslav Gimadi, stated unequivocally, “Lawyers do not engage in politics.”¹¹⁵ The reasons are complicated and beyond the scope of this paper.¹¹⁶ But their tendency to stick to their knitting is certainly strengthened by the lack of an umbrella organization committed to protecting lawyers’ right to zealously defend their clients. For the most part, they are detail-oriented and narrowly client-focused.¹¹⁷ There have always been

110. See Sida Liu, *Lawyers, State Officials and Significant Others: Symbiotic Exchange in the Chinese Legal Services Market*, 2 CHINA Q. 276 (2011).

111. See Jayanth K. Krishnan et al., *Grappling at the Grassroots: Access to Justice in India’s Lower Tier*, 27 HARV. HUM. RTS. J. 151 (2014).

112. Tkachenko, *supra* note 20.

113. Kubal, *supra* note 104, at 92.

114. See Kucherov, *supra* note 15, at 21.

115. AFP, *Russia Details 3 Navalny Lawyers*, MOSCOW TIMES (Oct. 14, 2023), <https://www.themoscowtimes.com/2023/10/13/russian-police-raid-homes-of-navalnys-lawyers-a82756>.

116. Hendley, *supra* note 4, at 273.

117. Institut prava i publichnoi politiki, *Reziime fokus-gruppyvkh diskussii [Summary of Focus Group Discussions]* (Dec. 12 & 17, 2021) (part of the project “Molodye advokaty. Professional’nye riski, problemy i ikh reshenii [Young Lawyers. Professional Risks, Problems, and Their Solutions]”).

exceptions—lawyers devoted to protecting constitutional and/or human rights—but they typically focus more on the needs of their clients rather than setting broad precedents.¹¹⁸ Examples include the politicized trials of the 1870s,¹¹⁹ the defense of dissidents during the 1960s and 1970s,¹²⁰ and contemporary prosecutions of political activists.¹²¹ Van der Vet quotes from his interview with a St. Petersburg lawyer who represents NGOs being harassed by the Putin regime: “Our joke is that it is palliative care . . . The role of lawyers is to try to minimize the risks . . . It is not about being right or wrong, it is about losing as few things as possible.”¹²² These lawyers take on such cases fully aware of the risks to themselves.¹²³ Given this, it is not surprising that lawyers have not organized themselves into an interest group to resist repression.

Limited Protection from the State from Professional Association. The relationship between associations of *advokaty* and the state has always been fraught. Fears that this sort of organization will foment dissent have persisted, even in the absence of supporting evidence. During the Soviet era, the state tightened its grip, ensuring loyalty by riding herd on who was admitted to the *advokatura*. Under the terms of the 2002 law, the FPA exists in an uneasy partnership with the Ministry of Justice. On paper, the FPA is more independent than its predecessors. In reality, however, the FPA has been careful to avoid ruffling too many feathers.

State-directed efforts to discipline *advokaty* were rare during the Soviet era. Some were informal, such as the signal sent to Dina Kaminskaya when she was engaged in 1966 to represent Iurii Daniel when he and Andrei Sinyavsky were charged with anti-Soviet behavior in connection with their writings. In her memoir, she said that she “fully approved of the two writers’ action as a manifestation of personal freedom.”¹²⁴ She understood that taking on their defense ran the risk of being disbarred as a result. At first, the KGB gave its consent, as was required in cases with political resonance. Some weeks later, the *advokat* representing Sinyavsky, Vasily Samsonov, who was then chairman of the presidium of the Moscow *kollegii advokatov*, approached her to say that he was dropping the case. He told her:

There’s no question of either of us appearing in this case . . . it’s going to be a carefully staged show trial. We won’t be

118. Van der Vet, *supra* note 3, at 317.

119. Kucherov, *supra* note 15, at 309–311.

120. Kaminskaya, *supra* note 60, at 38.

121. Renata Mustafina, *Against Impossible Odds: Defensive Legal Mobilization in Russian Protest-Related Prosecutions (2012–2017) (2023)* (Ph.D. dissertation, [Science Po Paris]).

122. Van der Vet, *supra* note 3, at 317.

123. Leonid Solovyov, *I Am Navalny’s Lawyer. I Won’t Let Fear Stop My Work*, *Moscow Times* (Oct. 31, 2023), <https://www.themoscowtimes.com/2023/10/31/i-am-navalnys-lawyer-i-wont-let-fear-stop-my-work-a82949>.

124. Kaminskaya, *supra* note 60, at 164.

allowed to conduct a real defense at all. Because I don't want to disgrace my name, I'm withdrawing, and that's the only way out for you as well. I'm asking you for your own good to withdraw.¹²⁵

She refused, and recounted her response:

We can't do that . . . We knew that it involved a degree of risk; well, the risk turned out to be greater than you supposed, that's all. Can you really bear to admit to yourself that you turned coward, that you were afraid to carry out your professional duty as your conscience dictated? I will not refuse this brief.¹²⁶

Kaminskaya and Samsonov had been close colleagues, but she broke with him over his behavior. He convinced a majority of the members of the presidium of the *kollegii* to vote to remove her from the case in this instance, as well as in several other cases involving political dissidents.¹²⁷ In her words,

I believe the greatest evils in these post-Stalin years are perpetrated not by villains and hatchetmen but by collaborators and appeasers. . . . All of us – lawyers, judges, doctors – have chosen professions that give us the right to make decisions affecting the fate of our fellow human beings. And if we neglect our professional duty to the detriment of those who are dependent upon us, we should not be in the profession.¹²⁸

The 2002 law on the *advokatura* brought the FPA and the regional associations for *advokaty* into existence. Much like the Soviet-era *kollegiia*, the newly created *palaty* were responsible for admitting new members and disciplining those who ran afoul of the ethical code. In theory, disciplinary actions, ranging from warnings to disbarment, were presented as remedies for disenchanted clients, not as weapons of the state. The first test came with the high-profile arrest in 2003 of Mikhail Khodorkovsky, the oligarch who ran Yukos. After his conviction, prosecutors and officials at the Ministry of Justice pressured the Moscow *palata* to disbar several of Khodorkovsky's lawyers. They argued that the

125. *Id.* at 169.

126. *Id.*

127 The Moscow *kollegii* disbarred Boris Zolotukhin in 1968 over his defense of a political dissident. After a critical report from the KGB regarding her defense of a dissident engaged in distributing *samizdat*, Sofia Kalistratova, another Moscow *advokat*, was barred from being involved in cases brought under the sections of the criminal code dealing with anti-Soviet activities. The *kollegii* did not protest. Jordan, *supra* note 17, at 43.

128 Kaminskaya, *supra* note 60, at 171.

lawyers violated ethical rules by dragging out the appeals process.¹²⁹ The Moscow *palata* did not bow to this pressure; the *advokaty* were not disbarred.¹³⁰ Some commentators contended that the point was not to disbar them but to send a signal to the legal community and civil society more generally. In the words of Masha Lipman, who was then associated with the Carnegie Center in Moscow, “What’s happening to these lawyers is not an isolated case. We are seeing a purposeful and steady effort to reduce the voices of critics across the whole society.”¹³¹

In the years that followed, the state shifted its approach. Its goal was no longer disbarment, but criminal convictions of *advokaty* who transgressed in the view of the state.¹³² Typically, these cases involved *advokaty* who pushed their clients’ interests at the expense of the state. For example, criminal charges were brought against Boris Kuznetsov, who was defending a legislator accused of bribery, when he found a document that proved the security services had been illegally wiretapping his client. Kuznetsov opted to leave Russia and was granted asylum in the United States.¹³³ The FPA or regional *palaty* were not in the conversation.

Targeting *advokaty* remains relatively rare but has been happening more often in recent years. In October 2023, police searched the houses of several of the *advokaty* defending Navalny and detained them. Their targeting by the regime did not come as a surprise to these lawyers. At the outset, one of them acknowledged that he was opening himself up to retaliation from the state and that he expected no protection from the FPA.¹³⁴ A spokesman for Navalny contends that the harassment was designed “to send a signal to other lawyers: it is dangerous to defend him and other political prisoners.”¹³⁵ The FPA was roused to action.¹³⁶ It sponsored a petition that accused the state of violating the constitutional right to legal assistance and declared that “it is impossible to carry out

129. Fred Weir, *Russia Targets Aides of Imprisoned Yukos Oil Tycoon*, CHRISTIAN SCI. MONITOR (Oct. 11, 2005, 12:10 PM), <https://www.csmonitor.com/2005/1011/p12s01-woeu.html>.

130. Andrew Wood, *Khodorkovsky Lawyers Cleared of Ethics Charges*, JURIST NEWS (Oct. 21, 2005, 9:57 PM), <https://www.jurist.org/news/2005/10/khodorkovsky-lawyers-cleared-of-ethics/>.

131. Weir *supra* note 125.

132. See generally, SIDA LIU & TERENCE C. HALLIDAY, CRIMINAL DEFENSE IN CHINA: THE POLITICS OF LAWYERS AT WORK (2017) (finding a similar approach in China).

133. Igor Slabykh, *Russia Attacks Lawyers, the Last Independent Institution*, THE RUSSIA FILE, (October 26, 2023), <https://www.wilsoncenter.org/blog-post/russia-attacks-lawyers-last-independent-institution>.

134. Solovyev, *supra* note 123.

135. AFP, *supra* note 115.

136. The human rights project, Pervyi Otdel, also published a statement criticizing the detention of the Navalny lawyers, which was signed by at least 365 lawyers. *Russian Lawyers Call on Authorities to End Harassment of Legal Community*, THE MOSCOW TIMES (Oct. 16, 2023), <https://www.themoscowtimes.com/2023/10/16/russian-lawyers-call-on-authorities-to-end-harassment-of-legal-community-a82781>; *Stop Harassing Lawyers*, Pervyi Otdel (Oct. 13, 2023), <https://telegra.ph/Prekratite-presledovanie-advokatov-10-13>.

legal practice on the territory of the Russian Federation in an environment not free from threats, obstacles, intimidation or unjustified interference.”¹³⁷ It referenced not just the Navalny lawyers but included a long list of *advokaty* who had been subject to bogus prosecutions. It called on Russian lawyers to participate in a four-day national strike.¹³⁸ Over 250 *advokaty* signed the petition. Although this constitutes less than one percent of all *advokaty*, it is nonetheless impressive, given that signatories had to include their full name and registration number.

Ultimately these efforts were for naught. In January 2025, the Navalny lawyers were convicted on charges of taking part in an extremist organization¹³⁹ in a trial closed to the public in Petushki, an obscure town east of Moscow. Their sentences ranged from 3.5 to 5.5 years.¹⁴⁰ The state grounded its case in the charge that these lawyers had carried messages for Navalny, thereby facilitating the activities of an extremist organization. Its ability to prevail speaks to the precariousness of attorney-client privilege in Russia. Their lawyer argued that the law prohibited the state from eavesdropping on such conversations but was unable to convince the court.¹⁴¹ The well-known *advokat*, Genri Reznik, who is the Chairman of the Committee for the Protection of *Advokaty* within the FPA, characterized the decision as an “emergency incident” (*cherizvychainym proisshestvie*).¹⁴² Such words were likely of cold comfort to the imprisoned *advokaty*.

Often *advokaty* who feared arrest and/or prosecution left the country. This speaks to their lack of confidence that the FPA and the regional *palaty* would stand up for them. Many of these *advokaty* in exile have continued to assist with the defense of political activists by drafting the

137. *Termination of Lawyers’ Participation in Procedural Actions*, CLEAR PETITION (Oct. 23, 2023), <https://legalpetition.org/prekrashheniya-uchastiya-advokatov-v-proczessualnyh-dejstviiyah/>.

138. *Russian Lawyers Call on Authorities to End Harassment of Legal Community*, *supra* note 135.

139. In June 2021, Navalny’s Anti-Corruption Foundation was found to be “extremist” by a Russian court. By that point, Navalny was already in jail. He issued a statement condemning the decision: “When corruption is the foundation of the government, fighters against corruption are cast as extremists. We will not abandon our goals and ideas. It’s our country and we don’t have another one.” Andrew Roth, *Russian Court Outlaws Alexei Navalny’s Organisation*, THE GUARDIAN (June 9, 2021, 16:29), <https://www.theguardian.com/world/2021/jun/09/russian-court-expected-to-outlaw-alexei-navalnys-organisation>.

140. One of them, Igor Sergunin, conceded his guilt and received a lighter sentence of 3.5 years. The other two, Alexei Liptser and Vadim Kobzev, received sentences of 5 years and 5.5 years, respectively. Paul Kirby, *Russia Jails Lawyers Who Acted for Late Opposition Leader Alexei Navalny*, BBC (Jan. 17, 2025), <https://www.bbc.com/news/articles/ce3nnvq7kpl0>.

141. *Id.*

142. Anzhela Arstanova, *Vynesen obvinitel’nyi prigovor advokatom Alekseia Naval’nogo [Alexei Navalny’s Lawyers Have Been Convicted]* ADVOKATSKAYA GAZETA (Jan. 17, 2025), <https://www.advgazeta.ru/novosti/vynesen-obvinitelnyy-prigovor-advokatam-alekseia-navalnogo/>.

relevant pleadings. The FPA has not always supported them. The 2002 law on the bar opens the door to disbarment when an *advokat* has been unable to perform their professional duties for more than six months.¹⁴³ On the urging of the Ministry of Justice, this provision was used by the St. Petersburg *palata* to disbar Ivan Pavlov, a prominent human rights *advokat*.¹⁴⁴

Capacity of Professional Association to Protect Their Rights. In addition to safeguarding individual members, *advokaty* also look to their association to defend their professional turf. On this front, the track record is more positive, though not entirely.

As the prospect for enhancing the rights of *advokaty* came to the fore under Gorbachev, the Ministry of Justice sought to take control of the *advokatura*. In 1990, it put forward a draft law that would have created a commission of lawyers to decide on admissions to *kollegiia advokatov* that would have been dominated by non-*advokaty*. Over 600 *advokaty* marched in protest to the Ministry. The draft was withdrawn.¹⁴⁵ It is worth noting that this mass protest was organized not by the *kollegiia*, per se, but by a short-lived Union of *Advokaty* that brought together many regional *kollegiia*.

In the post-Soviet era, the *kollegiia* collaborated with the Ministry on the 2002 law on the *advokatura*. Its original terms represent a high-water mark for the *advokatura*. The law created a national organization, which had the potential to aggregate the interests of *advokaty* and lobby the regime. The law also established that only *advokaty* were empowered to represent clients in court. Their triumph was short-lived. As I detailed above, the Russian Constitutional Court dismantled that monopoly in short order.¹⁴⁶ *Advokaty* have spent the last two decades petitioning for its reinstatement with no success. The 2018 reform to the procedural codes that mandated that anyone representing a client in court have a university-level law diploma came at the urging of the Russian Supreme Court. The FPA was not involved. In a blog post, Eduard Palenov, an *advokat* from Riazn, concluded that “the effectiveness of lobbying the interests of the *advokatura* in the Russian federation is in fact close to zero.”¹⁴⁷ She argues that the incident illustrates the insidiousness of the Soviet system.

143. OB ADVOKATSKOI DEIATEL'NOSTI, *supra* note 19, Art. 15, §§ 1–2.

144. Oleg Dilimbetov, *Sovet AP priostanvil Status Advokata Ivana Pavlova*, KOMMERSANT (Mar. 15, 2022), <https://www.kommersant.ru/doc/5258822>.

145. Jordan, *supra* note 17 at 64–66.

146. Opređenje, *supra* note 68.

147. *Pochemu Iuristy Ne Khotiat Idti v Advokaty?* YURGOROD.RU, (Nov. 30, 2018), <https://yurgorod.ru/article/17548/>.

PRELIMINARY CONCLUSIONS AND NEXT STEPS

Scholars of legal profession in non-U.S. settings consistently acknowledge their more fragmented nature. To date, however, few have explored the causes or consequences of this organizational structure.¹⁴⁸ Perhaps this is due to the high status and political leadership of lawyers in many of these countries, notwithstanding the absence of unity among lawyers as a whole.

Russia presents a remarkably different story. While the extent to which we can generalize from the Russian experience is limited, the case study serves to remind us of the profound effect of longstanding biases that are reinforced by political leaders and society alike. As a group, lawyers got a late start and never fully caught up to their counterparts elsewhere. They never made the leap from competent technician to valued counselor, either when working with individual clients or when providing advice to governmental officials.

The positivistic approach to legal education helps explain both lawyers' expectations of themselves and society's expectations of them. Professors' lectures focused on the language of the statutory law. Discussions of the reasons behind laws' content or how it could be improved were not welcome. Indeed, during the Soviet era and perhaps in Putin's Russia, asking such questions could bring unwanted attention and possible criminal prosecution. Russian lawyers—and Soviet lawyers before them—were trained to tell non-lawyers what the law was. They were and are comfortable with this technical task. Taking things a step further to advise clients on how to adapt their behavior to the law was and is, for many, a bridge too far.

Looking at present-day Russian lawyers, when we combine this predilection for keeping their heads down with the increasing willingness of the Putin regime to extend its repressive reach to lawyers, it is hardly surprising that the vast majority of lawyers opt to avoid cases with any hint of political significance. While the revulsion of some lawyers for the overreach of the post-invasion laws discouraging protest has increased the number of lawyers willing to represent those who run afoul of the Kremlin, their overall numbers remain limited.¹⁴⁹

Whether Russian lawyers would become a more potent political force if they succeeded in bringing together *advokaty* and non-*advokaty* litigators into a single organization is an intriguing thought experiment. The Ministry of Justice has worked hand in glove with the FPA suggesting that the state does not anticipate that unifying this segment of the profession will empower it to resist Kremlin policy. Somewhat amazingly,

148. *But cf.* Liu, *supra* note 6; Krishnan et al., *supra* note 111.

149. Mustafina, *supra* note 121.

given the Kremlin's reputation for imposing its will, the multiple efforts to bring these disparate groups together have consistently failed. This victory by the seemingly impotent non-*advokaty* litigators speaks to their skill in manipulating the law to their advantage. Arguably it also speaks to their selfishness. Rather than focusing on the potential for lawyers to emerge as a power player if united, these non-*advokaty* litigators resist in order to avoid paying dues and living up to ethical obligations.

The next steps would seem to be for scholars studying countries that have cultural and institutional histories and incentives that are akin to Russia's to explore whether the fragmentation of their legal professions track those of Russia.