Through A Russian Looking Glass: The Development of a Russian Rule of Law and Democracy

Whitney R Cale, Washington University in St Louis

Available at: https://works.bepress.com/whitney_cale/1/
# TABLE OF CONTENTS

I. **INTRODUCTION** ............................................................. 2

II. **RUSSIA’S UNIQUE VISION OF THE RULE OF LAW: THE PRODUCT OF A UNIQUE LEGAL EXPERIENCE AND HISTORY** ............................................................. 8  
   A. *Russia’s Historical and Cultural Antipathy Toward the Law* .......... 11  
   B. *The Law As Inadequate* .................................................. 12  
   C. *Justice, Not the Law, as the Truth* ..................................... 14  
   D. *Western Imperialism Through the Law* ................................ 14  
   E. *The Twentieth Century: A Harsh Russian Legal Experience* ....... 15  
   F. *Post-Soviet Transition: Failure to Implement Western-Style Law* ... 18  
   G. *The Current Development of Russia’s Legal Vision: A Hybrid Legal Culture* ............................................................. 20  
      1. Putin Steps Down from the Presidency .............................. 21  
      2. Medvedev’s Call to Amend the Constitution .......................... 22  
   H. *Reasons Why Russia’s Unique Vision of the Rule of Law May Endure* ............................................................. 24

III. **RUSSIA’S VISION OF DEMOCRACY: BALANCING A STRONG STATE IDEAL & DEMOCRATIC VALUES** ...................................................... 27  
   A. *Components of Russian Democracy: Balancing Strong State Ideal and Democratic Ideals* ............................................................. 29  
      1. A Strong Mother Russia: *Derzhavnost* ............................ 29  
      2. The 1990s: The Loss of National Pride ............................... 30  
      3. The Putin Years: Restoration of a Strong Mother Russia and National Pride ............................................................. 32  
   B. *Development of A Unique Russian Hybrid Democracy* ............ 36  
      1. 2004 Presidential Election: Putin, Again ............................ 36  
      3. Medvedev’s Call to Amend the Constitution, November 2008: Civility and Openness ............................................................. 39  
   C. *Will Russia’s Hybrid Vision of Democracy Endure?* ............... 41

IV. **CONCLUSION** ............................................................... 42

* Law Clerk to the Honorable S. James Otero, United States District Judge, J.D. Washington University School of Law, 2009; B.A. (Government), Cornell University, 2004. I thank Frances Foster for her insightful comments and guidance and most especially, for her mentorship.
I. INTRODUCTION

On November 5, 2008, Russia issued a challenge to President-elect Barack Obama. While other world leaders sent messages of congratulations to Obama once it was clear that he had won the U.S. presidential election on November 4, 2008, Russian President Dmitry Medvedev was notably silent in his November


2 *Leaders Congratulate Sen. Obama on Election Victory*, German Missions in the United States, updated Nov. 5, 2008, available at: [http://www.germany.info/Vertretung/usa/en/__PR/P__Wash/2008/11/05__Obama_Congratulations__PR,archiveCtx=2028290.html](http://www.germany.info/Vertretung/usa/en/__PR/P__Wash/2008/11/05__Obama_Congratulations__PR,archiveCtx=2028290.html), (stating that on November 5, 2008, German leaders did not hesitate to immediately send messages of congratulation to Senator Barack Obama on his victory and assured President-elect Obama of Germany’s support as he prepared to take office). Chancellor Angela Merkel called Obama’s victory “historic,” while the German Federal President, Horst Köhler wrote, “Allow me to congratulate you warmly, also on behalf of my fellow Germans, on being elected President of the United States of America. . . Here you can count on Germany as a reliable partner and old friend.” *Id.* See also *Sarkozy, Other French Leaders Congratulate Obama*, THE EARTH TIMES, Nov. 5, 2008, available at: [http://www.earthtimes.org/articles/show/240161,sarkozy-other-french-leaders-congratulate-obama--summary.html](http://www.earthtimes.org/articles/show/240161,sarkozy-other-french-leaders-congratulate-obama--summary.html) (stating that on Wednesday November 5, 2008, French President Nicolas Sarkozy sent President-elect Obama a congratulatory letter) Sarkozy referred to Obama’s victory as “brilliant,” and after extending the “warmest congratulations” on behalf of the French people, he wrote that Obama’s election “crows an exceptional campaign. . .[that] has shown the vitality of American democracy to the entire world. . .In choosing you, the American people have chosen change, openness, and optimism. [Your victory] raises a great hope in France, in Europe and in the world- that an open, united, and strong America [ ] will show a new way, with its partners, by the strength of its example and the adherence to its principles.” *Sarkozy, Other French Leaders*, supra.


5, 2008\textsuperscript{5} annual Address to the Federal Assembly of the Russian Federation (“the Address”),\textsuperscript{6} which is somewhat analogous to the State of the Union delivered annually by the U.S. President. President Medvedev neither congratulated nor addressed President-elect Obama directly,\textsuperscript{7} even though this would have been an ideal opportunity to do so.\textsuperscript{8} Instead, Medvedev threatened to respond to the United States by “deploy[ing] the Iskander missile system in the Kaliningrad Region of the Russian Navy”\textsuperscript{9} “if Washington proceed[s] with its planned missile defense system in Eastern Europe,”\textsuperscript{10} even though Medvedev had previously

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{5} C.J. Chivers, \textit{Medvedev Takes Oath in Russia, but Putin Dominates Much of Day}, N.Y. TIMES, May 8, 2008 (discussing the election and inauguration of Dmitry Medvedev as the third President of the Russian Federation.) Medvedev won the Russian presidential election on March 2, 2008 and was inaugurated on May 7, 2008. \textit{Id.} He succeeds Vladimir Putin who held the office from 2000-2008. \textit{Id.}
\item \textsuperscript{6} Address, \textit{supra} note 4.
\item \textsuperscript{7} \textit{Id.} (“It’s no secret that many states, simply due to inertia, look at which way the wind is blowing in relations between Russia and the United States. Yes, today these relations are not the best. And many questions are being raised in Russia, including moral ones. But I would stress that we have no issue with the American people, we do not have inherent anti-Americanism. And we hope that our partners, the new administration of the United States of America, will make a choice in favour of full-fledged relations with Russia.”); see Anatoly Medetsky, \textit{Medvedev Signs Pledge on Tariffs in U.S.}, ST. PETERSBURG TIMES, Nov. 18, 2008 (reporting that when asked later in November 2008 why he did not mention President-elect Obama on November 5, 2008, President Medvedev said that he had simply forgotten about the U.S. election).
\item \textsuperscript{8} \textit{See} Address, \textit{supra} note 4. Instead, President Medvedev discussed at great length Russian policy, the Russian Constitution, and various domestic concerns Russia faces, including health care, education, and developing Russia’s judicial system. \textit{Id.} Medvedev also addressed several international issues facing Russia, such as the previous Georgian-Russian Conflict that occurred in August 2008 and the ongoing international financial crisis.
\item \textsuperscript{9} \textit{See} Address, \textit{supra} note 4.
\item \textsuperscript{10} Ellen Barry & Sophia Kishkovsky, \textit{Russia Warns of Missile Deployment}, N.Y. TIMES, Nov. 5, 2008. \textit{See} Ariel Cohen, \textit{Europe Anti-Missile Defense System: Standing Up to Russia’s Threats}, THE HERITAGE FOUNDATION, Nov. 20, 2008, available at: \texttt{http://www.heritage.org/Research/RussiaandEurasia/wm2139.cfm}; Moscow fiercely opposes the American missile defense system, claiming that the project compromises its national security. Yet, Russia’s claims fail any objective test: the top Kremlin ballistic missile experts have written that the missile shield in Europe cannot neutralize Russia’s overwhelming nuclear arsenal—not even Moscow’s second-strike capability. . . In addition, the U.S. has done much to reassure Moscow that the system is intended only to counter possible strikes from rogue
\end{itemize}
\end{footnotesize}
planned to dismantle said systems. President Medvedev also demonstrated a level of assertiveness, which was highly uncharacteristic of him. Specifically, he recommended that the Russian presidential term be extended from four years to six, and he even questioned “the consolidation of power that was the trademark of his predecessor,” Vladimir Putin.

Interestingly, up until this point the newly elected Medvedev had demonstrated an unwavering willingness to work with Prime Minister Putin “in tandem,” by indicating that the Prime Minister would continue to serve an important role. Medvedev also said that their “cooperation will only continue to strengthen,” implying that this special relationship would continue for some time, if not indefinitely. This posture was particularly newsworthy because the Prime Minister position is regarded as second to the President, much like the U.S. Vice President to the U.S. President. Moreover, never before has a Russian Head of State conceded or opted to share his power so willingly. However, on November 5, 2008, President Medvedev demonstrated that he alone spoke for Russia and even criticized various positions that his Prime Minister had taken while serving as President.

11 See Address, supra note 4.
12 See id. (stating that not once during his November 5, 2008 Address did Medvedev refer to Prime Minister Putin but instead, set out his own agenda: “I feel it necessary to set out my vision of the fundamental laws. . . As the guarantor of the Constitution, I will preserve and protect these fundamental provisions.”)
13 See id. (“We should increase the constitutional mandates of the President and State Duma to six and five years respectively.”).
14 See id. (“[T]he maturity of the democratic institutions and procedures that [the Russian Constitution] guarantees are the source for our continued development. Now, as we come to a new age in our development, we are setting new goals that call for greater participation by our citizens, political parties and other public institutions. . . an all-powerful bureaucracy is a mortal danger for civil society. This is why our society must continue calm and steady work to build up its democratic institutions and not delay this work. . .”).
16 See id. (Medvedev stating that Putin would serve a “key role” alongside him.)
17 See Vidya Ram, Medvedev Needn’t Be Putin’s Puppet, FORBES, May 8, 2008.
Soon thereafter, in a diplomatic gesture, the Kremlin announced that Medvedev had sent President-elect Obama a congratulatory telegram. But the message had already been sent to Washington, and it was clear—the Kremlin sought to provide President-elect Obama with his first foreign policy test and it wanted Washington to know that President Medvedev was serious.

Undoubtedly, Americans have become increasingly concerned with Russia’s re-emergence on the world stage. Many believe that former President and current Prime Minister Vladimir Putin “have ransacked the hope the world once had for post-Soviet Russian democracy. . . [by] reviving Russian authoritarianism, and the world’s democracies need to prepare. . . .” American leaders have even emphatically declared that looking into Putin’s eyes reveals three letters: K-G-B, suggestive that Russia has begun to roll back “progress” at the behest of Putin, a former Soviet spy. Clearly, times have changed since

---


19 “Getting Medvedev’s Message; Russia,” ECONOMIST, Nov. 8, 2008 (stating that “this is the first time since the Cold War, that Russia has declared its intention to create a military threat to the West”).

20 Putin the Great: The Arc of his Authoritarian Revival, WALL ST. J., Oct. 3, 2007, at A18; see Masha Gessen, Dead Soul, VANITY FAIR, Oct. 2008, at 336 (“In May of this year, with much fanfare, Putin handed over his post as president of the Russian Federation to a handpicked successor, Dmitry Medvedev, and installed himself as Prime Minister. . . But Russians continue to inhabit a country which is Putin’s creation and in which his authority is supreme, and they will be living in Putin’s Russia for a long time to come.”).

21 Jackie Calmes, McCain Sees Something Else in Putin’s Eyes, WALL ST. J., Oct. 16, 2007 (stating that McCain told the Republican Jewish Coalition “I looked into Mr. Putin’s eyes and I saw three things—a K and a G and a B. . .” and reporting that Secretary of State Colin Powell stated something similar when he said, “I looked into President Putin’s eyes and I saw the KGB”). K.G.B. is the Russian abbreviation for Committee for State Security, which was the Soviet Union’s premier intelligence agency, and counterpart to the U.S. Central Intelligence Agency (C.I.A.).

22 See Gessen, supra note 20, at 381-83 (stating that Putin once told reporters, “I was most amazed by the way that a single person could accomplish something entire armies couldn’t. . . A lone agent could rule the lives of thousands of people. . .”). Ten years later, when the K.G.B. colonel suddenly got a chance to reshape his country, Putin remade it in the likeness of what he had known and loved best: a rigidly hierarchical, and tightly controlled system. Id.
President George W. Bush once described looking into then-President Putin’s eyes and seeing his soul.\textsuperscript{23}

Medvedev’s November 5, 2008 challenge serves several important functions in this regard. First, it shows that even with Putin out of office, Russian leaders plan to make their presence known. Second, it highlights Russia’s newfound significance following many years during which Russia was not seen as relevant or of great importance. Rather, Russia was perceived as having “fallen off of the radar,” after the fall of the Soviet Empire. Finally, Medvedev’s challenge underscored the urgency with which American leaders must respond (or organize an American position and plan), since it is abundantly clear that Russia is now relevant and very much “back on the radar.”

It is understandable that Americans regard Russia with greater apprehension, if not fear.\textsuperscript{24} After all, it is still unclear what role Russia played in instigating or carrying out the August 2008 Georgian conflict.\textsuperscript{25} And if Russia played a part, which is likely, does this necessarily means that Russia also plans to pursue a more aggressive foreign policy course?\textsuperscript{26} Equally disconcerting is that aside from Medvedev’s November 5, 2008 challenge, Prime Minister Putin seems to retain a significant amount of power, despite the fact that he is no longer the President.\textsuperscript{27}

Compounding concerns, President Medvedev recently announced

\textsuperscript{23} See Press Conference by President Bush and Russian Federation President Putin (June 16, 2001) (“I looked the man in the eye. I found him to be very straightforward and trustworthy. We had a very good dialogue. I was able to get a sense of his soul”).
\textsuperscript{24} See Getting Medvedev’s Message, supra note 19 (stating that President Medvedev’s response to the financial crisis has been to become more anti-American).
\textsuperscript{26} See Gessen, supra note 20, at 336 (“A new war with Georgia signals a return to an era when an aggressive, expansionist Russia threatened all its neighbors.”); Getting Medvedev’s Message, supra note 19 (NATO exclaiming that “business as usual is done,” following Russia’s invasion of Georgia in August 2008).
\textsuperscript{27} Under the Russian Constitution, the President is, “the Head of State...shall be the guarantor of the Constitution...” and “shall. . . represent the Russian Federation within the country and in international relations.” Konstitutsiia Rossiiskoi Federatsii [Konst. RF] [Constitution] art. 80. Specifically, “The President. . . shall direct the foreign policy of the Russian Federation. . . [and] shall be the Supreme Commander-in-Chief of the Armed Forces...” Konst. RFacts. 86,87. The Russian President can also issue normative decrees. Id. art. 90. By contrast, the Prime Minister is “appointed by the President of the Russian Federation,” suggestive that because he derives his power from the President, he is necessarily subordinate. Id. art. 110. Similarly illustrative that the Prime Minister possesses limited power compared to the President, is that he shares the Governmental Branch of the Russian Federation with deputy chairmen and
that Russia would begin a “large-scale rearming” by 2011, in response to alleged
national security threats.\textsuperscript{28}

However, Russia’s recent behavior does not necessarily imply the rise of a
burgeoning threat to the United States. Instead, as Medvedev recently said,
Russian-American relations are merely going through a “crisis of trust.”\textsuperscript{29}
Certainly, that he directly acknowledged the tensions that exist suggests that
Medvedev recognizes the tense situation and the fact that Americans may be
growing wary of their supposed ally. The statement also suggests that he seeks to
re-establish America’s trust, meaning that Medvedev would like to be on good
terms with the United States.

This Article argues that now more than ever the United States must adopt
a more nuanced approach to Russia. The U.S. must recognize Russia’s inherent
distinctiveness and unique perspective of the world. Geographic distances
illustrate this point. While Washington D.C. and Moscow are separated by 4887.4
miles, Moscow is also 4159.6 miles from the Russian city of Yuzhno-Sukhalinsk.
Indeed, Russia and the U.S. are separated by thousands of miles. But Russia’s size
also means that thousands of miles separate its various cities, illustrative of
Russia’s complexity and diversity. As such, approaching Russia from an
American-centric perspective that fails to acknowledge how inherently distinctive
Russia is would be misguided at best—misplaced at worst.\textsuperscript{30}

This Article focuses on one area where the traditional American-centric
perspective has distorted Russian reality—the U.S. failure to appreciate Russia’s
distinctive vision of the rule of law and democracy. This Article argues that
future U.S. policies must recognize Russia’s unique worldview. Specifically,
Russia’s multi-faceted and storied history, and intensely fervent nationalism have
formed a unique worldview that provides the lens through which to view Russia’s
understanding of the rule of law and democracy. It is through this lens that the
Russia of today may be reconciled, because while Russian leaders’ recent actions
may not necessarily comport with an American or western-style rule of law or

\textsuperscript{28} Clifford J. Levy, “Russia Plans ‘Large-Scale Re-Arming,” N.Y. TIMES, Mar.
18, 2009.
\textsuperscript{29} Anatoly Medetsky, Medvedev Signs Pledge on Tariffs in U.S., ST. PETERSBURG
TIMES, Nov.18, 2008.
\textsuperscript{30} Doug Struck, Gorbachev Applauds Putin’s Achievements, WASH. POST, Dec. 5,
2007, available at http://www.washingtonpost.com/wp-
dyn/content/article/2007/12/04/AR2007120402218.html?hpid=sec-world, (stating
that Mikhail Gorbachev has indicated that “. . .Russia will not be and doesn’t
want to be a junior partner, a kid brother, that is doing the West’s bidding,”
meaning that Russia is inherently different and separate from the West).
democracy, such actions do not mean that Russia has entirely abandoned the development of the rule of law or democracy. Rather, this Article contends that Russia is developing a Russian vision of the rule of law and Russian style of democracy that cohere with its uniquely Russian worldview.

Part II explores Russia’s unique vision of the law. It shows that Russia historically had a weak legal culture, which necessarily hindered the development of a full-scale western vision of “the rule of law.” Part II then contends that this historical weakness is actually a strength. Russia’s traditional aversion to law has nurtured the development of a distinctly Russian vision of the rule of law. While this vision of the law may not have all the characteristics or elements emblematic of a western rule of law, several of its features demonstrate that Russia is steadily moving towards a more stable rule of law that is supported and entrusted by the Russian people.

Part III explores the Russian tradition of having a strong state that has in turn, seemingly de-emphasized the importance of democracy. However, by examining Russia’s tradition of strong leaders, as well as its more recent experimentation with western-style democracy, concern that Russia has suddenly abandoned democracy, may be reconciled. Specifically, Russia’s unique understanding of the state has promoted the development of a democracy that seeks to balance both a strong state ideal with more modern democratic values. Thus, while this emerging Russian-style democracy differs from those of western nations, most notably, the United States, it illustrates that Russia is developing a democracy that is consistent with its own heritage, values, and sensibilities.

Ultimately this Article concludes that U.S. concern that the Russian leadership has constructively “hijacked” Russia is misplaced. Rather, the new American administration must acknowledge that Russian leaders’ behavior and actions are actually promising because they indicate the genuine development of a rule of law and democracy, albeit the development of distinctly Russian “hybrid” versions.

II. RUSSIA’S VISION OF THE RULE OF LAW: THE PRODUCT OF A UNIQUE LEGAL EXPERIENCE AND HISTORY

The worst legacy we have from the Stalin era is the way we think. And we cannot obtain new thinking on credit.31

On January 22, 2008, and then again on November 5, 2008, Dmitry Medvedev spoke to the Russian people about the legal nihilism that pervades their country, and how it remains a fundamental obstacle to its progress. But before this, President Putin called for “cementing the rule of law in Russia,”


33 See Address, *supra* note 4 (“I note that legal nihilism is not a new phenomenon in Russia but is something that has its roots deep in our distant past. Fifteen years is too short a time to eradicate such deeply-rooted traditions. . .”).

34 See Sakwa, *supra* note 32 (reporting that Medvedev emphasized respect for, and supremacy of the law, stating, “I have spoken many times about the sources of a legal nihilism in our country that remains a distinguishing feature of our society”); see WILLIAM BURNHAM ET AL., LAW AND LEGAL SYSTEM OF THE RUSSIAN FEDERATION 6 (3d ed. 2004) (stating that in the 19th Century, Herven described ‘legal nihilism’ as “continu[ing] to undermine efforts to install legality as a principle on which both society and the state should be based.”); *see also* Resolution No. 1065 “On Procedure for an Opinion on Russia’s Request for Membership on the Council of Europe” (adopted by the Parliamentary Assembly of the Council of Europe on Sept. 26, 1995, Doc. H/HINF (96) 1, at 103), (stating that the Council of Europe has emphasized that one of Russia’s major tasks is to develop a “legal culture” or a “broad awareness of, and respect for, the law in all its aspects: political, legal, and administrative and at all levels: national, regional, and local”). *Id.*

35 Jeffrey Kahn, *Vladimir Putin and the Rule of Law in Russia*, 36 GA. J. INT’L & COMP. L. 511, 555 (2007-2008) (stating that generally the ‘rule of law’ relates to the concept that the government should remain subordinate to the law); see Harold J. Berman, *The Rule of Law and the Law-Based State (Rechstaat)*, 4 HARRIMAN INST. F.I (1991) (“The rule of law “requires some level of shared expectations by political elites, lawyers, and laypersons about what counts as law, about what are the limits of judicial power, and about into what spheres of life the law may not be permitted to intrude.”); MICHAEL McFAUL, *RUSSIA UNFINISHED REVOLUTION: POLITICAL CHANGE FROM GORBACHEV TO PUTIN* 358 (2001). (“Nearly all scholars agree that the rule of law means the supremacy of law over government, or put another way, government under law.”); A.V. DICEY, *INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION* 31 (10th ed. 1959) (explaining that the rule of law encompasses the belief that the law should be clear, predictable, and generally in its application); *See* James L. Gibson, *Russian Attitudes Towards the Rule of Law, in Law and Informal Practices: The Post-Communist Experience* 78 (Denis J. Galligan & Marina Kurkchiyan eds., 2003); *see* Vasily, *supra* note 37; *see* GORDON SMITH, *REFORMING THE RUSSIAN LEGAL SYSTEM* 14 (1998) (noting that the impetus for the “Golden Age of Russian Law” came from two sources, mainly: “the necessity for new laws to facilitate expanding contacts with other European empires, and lobbying by a Western-
suggesting that this issue is neither a new development, nor a modern concern. Russians have historically entertained a “negative myth” of the rule of law, as evidenced by the numerous Russian folk sayings and proverbs that express discontent with the law, and the Russian legal system, generally. This skepticism still resonates more than one hundred years after many of these phrases and proverbs first entered the Russian vernacular, illustrating that Russia remains “a country currently in search of a national identity.”

Certainly, Russia is not distinctive in its struggle towards developing a stronger rule of law, which Mikhail Gorbachev referred to as pravovoe gosudarstvo—“state based on the rule.” But “[w]hat makes Russia different from most other countries is historical context. While the courts of other countries may reach decisions that seem to be dictated more by the preferences of the powerful, than by the law, observers tend to dismiss such cases as outliers. For Russians, however, such cases bring back painful memories” and reinforce those myths that portray Russian law negatively. Furthermore, the rule of law in Russia

educated intelligentsia that viewed adherence to the rule of law as an essential characteristic of civilized European States”). Interestingly, the “backlash” against these new ideas represented a desire “to preserve the uniqueness of Russian society” Id.


37 Marina Kurkchiyan, The Illegitimacy of Law in Post-Soviet Societies, in LAW AND INFORMAL PRACTICES, supra note 34, at 25, 30.

38 See Kathryn Hendley, Legal Developments in Post-Soviet Russia, 13 POST-SOVIET AFF. 228, 351 (1997) (stating that “[t]he Law has had a checkered history in Russia. By almost any definition the ‘rule of law’ has been mostly absent.”).

39 See Michael Newcity, Why Is There No Russian Atticus Finch? Or Even a Russian Rumploe?, 12 TEX. WESLEYAN L. REV. 271 (2005); see A TREASURY OF RUSSIAN LITERATURE 148 (Bernard Guilbert Guerney ed., 1943). Examples include: “Stand up to God with truth, and to the judge with money,” and “He went to Court with his coat and came out stark naked.”

40 See Newcity, supra note 39 (stating that “[t]he attitudes expressed in the Russian folk saying quoted at the beginning of this paper had not changed and in the nearly ninety years that have passed since the Bolshevik Revolution little has happened to improve those attitudes”).


43 See Hendley, supra note 38, at 351; see generally Berman, supra note 35.

44 See Hendley, supra, note 38 at 351.
has historically taken a paternalistic tone, which has effectively prevented or obstructed the development of an independently thinking populace.\textsuperscript{45}

It is encouraging that Russia’s developing rule of law appears to be shedding the paternalistic overtones of its past. However, Russians remain deeply skeptical of the rule of law, suggesting any genuine development and progress will necessarily be gradual, as well as uniquely Russian. Russians have been socialized “to expect little of the legal system to the extent that when they have a positive experience, they seek to rationalize it.”\textsuperscript{46} Indeed, the development of the rule of law in Russia must be understood within “the rich context of [Russian] culture”\textsuperscript{47} both past and present.

\textbf{A. Russia’s Historical and Cultural Antipathy Toward Law}

Russia and its legal traditions were Christianized and influenced by the Byzantine tradition, which emphasized very different values\textsuperscript{48} than those espoused by the Roman Catholic Church, which shaped Western Europe. Broadly, Roman culture emphasized “notions of mutual obligation and contract,”\textsuperscript{49} and “drawing lines between [] different competing legal systems”\textsuperscript{50} so that Western European culture developed values based on mutual obligations and the understanding that “performing one’s agreement was a matter of honor regardless of the subject matter of the agreement.”\textsuperscript{51} Within this context, arose “competing legal jurisdictions and a highly rational, scholastic, textual orientation to religion.”\textsuperscript{52} “Perhaps the most distinctive characteristic of the development of Western legal tradition was the coexistence and competition within the same community of diverse jurisdictions and diverse legal systems. It was and is this plurality of jurisdictions and legal systems that makes the supremacy of the law both necessary and possible.”\textsuperscript{53} This logical and rational value system and framework for the rule of law did not develop in Russia.

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{45} See Mikhail Krasnov, The Rule of Law, in BETWEEN DICTATORSHIP AND DEMOCRACY 195, 212 (Michael McFaul et al. eds., 2004) (stating that “[t]he power of a law-governed state lies not in its institutional content, but in its ability to transform the philosophy of public life. The basis of this philosophy is trust in the individual and individual’s independence. The actual practice of power, including its methodology of reforms, ought to foster freedom, not paternalism”).
\item \textsuperscript{46} See Hendley, supra note 38, at 371.
\item \textsuperscript{47} See Kurkchiyan, supra note 37, at 25-42.
\item \textsuperscript{48} ORLANDO FIGES, NATASHA’S DANCE: A CULTURAL HISTORY OF RUSSIA 293-300 (2002).
\item \textsuperscript{49} See Newcity, supra note 39, at 295.
\item \textsuperscript{50} See Berman, supra note 43, at 536-38.
\item \textsuperscript{51} See Newcity, supra note 39, at 294.
\item \textsuperscript{52} See Newcity, supra note 39, at 298; see John Meyendorff, The Church, in AN INTRODUCTION TO RUSSIAN HISTORY 316 (Robert Auty & Dimitry Obolensky eds., 1976).
\item \textsuperscript{53} See Berman, supra note 35, at 10.
\end{itemize}
\end{footnotesize}
Instead, the Russian Orthodox Church shaped Russia very differently. As “the central, binding force in Russian culture for thousands of years,” it emphasized “the mystical and subjective, rather than the objective, formalistic, and rationalistic.” And instead of “intellectuality and philosophizing,” like the Roman Church, the Russian Orthodox Church accentuated “[t]he beauty of church architecture, painted icons, music, and the liturgy.” Moreover, the Russian Orthodox Church has “emphasized [] the personal ‘religious experience,’ [and] the mystical versus the intellectual experience” and for centuries fostered the development of a theocracy, where Church and state were one, unlike the Roman Church’s “legalistic view of the world” where the spiritual and secular were entirely separate.

Whereas a strong separation between the Church and state and the existence of various competing jurisdictions developed in the West, the same was not true for Russia. Russia did not develop the belief in the supremacy of the law or the belief in the supremacy of the rational or logical. “[T]here can be no doubt that the development of the Russian legal tradition followed a different trajectory from that of the Western legal tradition, that these differences account for profoundly different attitudes toward the law and legal institutions in Russian culture, and that these differences are attributable primarily to the influence of the Russian Orthodox Church.”

B. The Law As Inadequate

54 See Newcity, supra note 39, at 292 (stating that “[t]raditionally, in order to be considered Russian, an individual had to be Orthodox and it appears that this traditional view has experienced a resurgence in post-communist Russia. Just as Catholicism and its Protestant offshoots have been extremely important in shaping the Western legal traditions, the Orthodox Church, its doctrine, even its liturgy have been central in the formation of a distinctive Russian legal tradition, which in turn has colored popular perceptions of legal institutions, law, and its practitioners.”).

55 Dmitry S. Likhachev, Religion: Russian Orthodoxy, THE CAMBRIDGE COMPANION TO MODERN RUSSIAN CULTURE 41 (Nicholas Rzhevsky ed., 1998); see Figes, supra note 48, at 293-30 (2002); see Newcity, supra note 39, at 293.

56 Likhachev, supra note 55, at 41.

57 See SMITH, supra note 35, at 2-7.

58 See Newcity, supra note 39, at 297 (“[I]n Western Europe, the Church’s efforts to establish itself as an entity with authority an jurisdiction separate from secular authority sparked revival of interest in Roman law and stimulated the development of canon law and legalistic methods of analysis. During the law Middle Ages, the universities at Bologna and Paris were especially noted for their study of Roman and canon law. In Russia however, no comparable Church-sponsored scholarly movement occurred.”).

59 See Newcity, supra note 39, at 295.
Moreover, Russians have historically never respected or admired the law. It does not symbolize morality, honesty, and justice...Rather, [the law] is seen as a tactical game requiring expertise in manoeuvre, influence, and persuasiveness. In this same way, legal institutions have traditionally been perceived as inadequate, and legal officers have never garnered the level of respect or “standing” that their counterparts have received in places like the United States or England. For example, while American judges are often perceived as the pillars of western society, Russian judges are looked at as mere “bureaucrats.”

Simply, the law does not represent a moral truth for the Russian consciousness. Instead, it is perceived as rational, formalistic, political, and “the exclusive instrument of the government,” to be wielded as a “weapon of power.” And “politics [is] little more than a corrupt form of warfare waged

---

60 See Vasily A Vlasihin, Towards a Bill of Rights for Russia: Progress and Roadblocks, 17 NOVA L. REV. 1201, 1201 (1993); see W. BRUCE LINCOLN, BETWEEN HEAVEN AND HELL: THE STORY OF A THOUSAND YEARS OF ARTISTIC LIFE IN RUSSIA 58-59 (1998) (stating that emblematic of Russia’s deep-seated sensibility is the story of the Russian Tsar Peter the Great who “famously introduced Western ideas, and culture to Russia at the beginning of the eighteenth century.” Though, instead of receiving praise for seeking to westernize Russia, the Tsar was instead criticized for “sacrificing traditional Russian values on behalf of specious Western ideals.” Id. What may be gleaned from this story is that Russians distinguish their own culture and values, from the West’s conception of the law; western indoctrination is regarded with suspicion. Id.


62 Id.

63 Id. (stating that one Russian commentator noted in 1909, “Here ‘judge’ is not an honorable calling that attests to impartiality, selflessness, and high service to the law alone, as it does among other people.”) Id.; see Richard S. Wortman, The Development of a Russian Legal Consciousness 288 (1976) (stating that “Tolstoy and [] Dostoevsky “expressed a common distaste for members of the judicial profession as officials cold and un-Russian in their rational adherence to legal science.”). Id.

64 See Hendley supra, note 115, at 353.


between equally unappealing clans." Thus, because “the Russian state has maintained a paternalistic relationship with its citizens. . . the spirit of a law-governed state has never existed in Russia, and the idea of obedience to the law is still not particularly popular.”

As the Russian proverb says, “[s]tand up to God with truth, and to the judge with money,” and “[h]e went to Court with his coat on and came out stark naked.” Even “[t]oday, this belief resonates strongly in the minds of Russians who believe the legal system is [incapable] [of resolving] their problems in a just manner.” Rather, it is inefficient, arbitrary, and hopeless. Consequently, “many analysts conclude that a natural legal nihilism is manifest among Russia’s citizens and that striving for a law-governed state is hopeless.”

C. Justice, Not Law, as the Truth

Compared to the law, the concept of justice resonates deeply with Russians because it can be reached through “internalization, thoughtfulness and collective consciousness.” Justice is connected to the Russian moral and spiritual compass and “is the concentrated expression of the Russian people’s awareness of natural law.” As the popular saying illustrates, “[j]udge according to the law or according to the conscience.”

In the traditional Russian view it is through justice that one can reach higher and more valuable truths and reach God, suggesting that justice is perceived as being more closely aligned with the Russian Orthodox Church and all that it espouses. Justice symbolizes all that man can achieve on his own, beyond the deficiencies of government and imperfections of the law.

D. Western Imperialism Through the Law

Russians have also been critical of the law, since it has often been perceived as a form of western imperialism to them. The Judicial Reforms of 1864 introduced many new legal elements to the Russian legal system, but these were considered “western-style” institutions. “The principal elements of the

---

68 See Peter Baker & Susan Glasser, Kremlin Rising: Vladimir Putin’s Russia and the End of Revolution 381 (2005).
69 Mikhail Gorbachev Interview (on file with author).
70 A Treasury of Russian Literature, supra note 39, at 1048.
71 Wilson, supra note 66, at 196.
72 Id. at 198.
73 See Krasnov, supra note 45, at 201.
74 Wilson, supra note 66, at 198.
75 See Krasnov, supra note 45, at 202.
76 Id.
77 See Yakovlev, supra note 65, at 10 (stating that “[i]n Russian people’s consciousness, the law has never been associated with moral truth.”).
78 See Newcity, supra note 39, at 284.
reforms introduced professional judges and lawyers; trial by jury in criminal cases; opening judicial proceedings to the public; replacement of the old inquisitorial legal procedure that emphasized written documents and secrecy with an adversarial system relying on oral testimony in public proceedings.”

Russian writers like Dostoevsky expressed great disdain for such legal reforms. Dostoevsky said, “[t]he new legal system is being used by a class of liberal professionals to destroy Russian civilization from within, to accomplish, in effect, what every foreign invasion had failed to do.”

E. The Twentieth Century: A Harsh Russian Legal Experience

Marxist thought perpetuated a deep disdain for the law. Decree No. 1 on the courts of the Bolshevik government, published in 1917, stated, “All laws contrary to the decrees of the Central Executive Committee [of the Bolshevik Party], the workers’ and peasants’ government,. . . or to the minimum program of the Russian Social Democratic Workers’ Party [i.e., the Bolshevik Party] and the Socialist Revolutionary Party shall be considered abrogated.”

The Marxist-Leninist General Theory of the State and Law stated: “The idea that law, whether understood as a supra-class norm of obligation, as an abstract, comprehensive kind of justice, or as a natural right of man, rules over the state and over the political authority, binding and limiting it, is by its nature a disguise for class dictatorship.”

Not surprisingly, Marxist thought expressly viewed law as “the will of the ruling class, expressed in statute.” Ultimately, “Marxists believed that the law would die out under communism in a ‘withering away’ of state agencies and mechanisms. . . At the highest level, the state would rely on coercion less and more on persuasion. . . Law would then be replaced by other means of social control.” Thus, the law served a temporary, but necessary, evil role. Mikhail Krasnov suggests, “[s]uch a view clearly directly contradicted the meaning of a law-governed state, and its legacy complicates Russia’s ability to construct a law-governed state.”

---

82 The Marxist-Leninist General Theory of the State and Law, as quoted by Krasnov supra note 45, at 195.
83 Id.
84 See BURNHAM, supra note 34.
85 Krasnov, supra note 45, at 195.
Such Marxist theories were abstract, but influenced official and popular attitudes concerning the nature of the law.\textsuperscript{86} The Bolsheviks eliminated courts,\textsuperscript{87} codes, and the profession of law in all of its manifestations.\textsuperscript{88} Indeed, the law was not simply regarded with disapproval, but its study was neglected, and the development of the legal profession was held back for many years.\textsuperscript{89}

Under Communism, “the law [was] [] used primarily as a tool” if employed at all.\textsuperscript{90} Kathryn Hendley suggests it was used “in a blatantly instrumental fashion”\textsuperscript{91} to promote the Communist Party. For example, the freedom of speech was guaranteed as long as it was consistent with the Party’s interests,\textsuperscript{92} and the 1936 Stalin Constitution maintained that, “the Party was supreme and that it exercised the leading role in the political, economic, and social system (Article 126).” The 1977 Brezhnev Constitution was even more blunt. It declared that the Communist Party was “[t]he leading and guiding force of the Soviet society and the nucleus of its political system, of all State and social organizations. . .”\textsuperscript{93} Indeed, above all else stood the Communist Party. Stalin’s “dual state”\textsuperscript{94} was characterized by rule by force, illuminating the disconnect between what was required of the masses and what was required of the Communist Party. It was “rule by man,” not rule of law, for the majority of

\textsuperscript{86} \textit{Id.} This fueled legal nihilism in state administration and mass consciousness.
\textsuperscript{87} \textit{See} SMITH, supra note 67 (stating that “[a]fter the Russian Revolution of 1917, courts were abolished and replaced with informal tribunals to handle various conflicts and administrative disputes. Tribunals were favored because they resolved disputes on the basis of the ‘revolutionary consciousness’ of ordinary workers, removing decisions from the elite corps of professional jurists.”).
\textsuperscript{88} Decree No. 1 “On the Court” of November 22 (December 5), 1917, translated in IDEAS AND FORCES IN SOVIET LEGAL HISTORY, supra note 81, at 95-96.
\textsuperscript{89} RICHARD S. WORTMAN, THE DEVELOPMENT OF A RUSSIAN LEGAL CONSCIOUSNESS (1976) (describing writers like Tolstoy who considered members of the judicial profession cold and un-Russian in their rational adherence to legal science. The intelligentsia saw true justice as emanating from a just political, social, or ethical order the creation of better legislators- and not from a legal process guided strictly by principles of jurisprudence).
\textsuperscript{90} Robert Sharlet, Resistance to Putin’s Campaign for Political and Legal Unification in, PUBIC POLICY AND LAW IN RUSSIA: IN SEARCH OF A UNIFIED LEGAL AND POLITICAL SPACE, (2005) at 407-08.
\textsuperscript{91} \textit{See} Hendley supra, note 38, at 351.
\textsuperscript{92} \textit{See} SMITH, supra note 67.
\textsuperscript{93} \textit{See} Newcity, supra note 39, at 115; see Huskey at 180-222.
\textsuperscript{94} \textit{See} SMITH, supra note 67 (stating that Stalin’s Dual-State characterized a political leadership, which was virtually unchallenged and the law was merely reinforced its rule by force and political expediency. In particular, Stalin’s 1936 Constitution laid out the powers of the state and the rights and duties of the citizen. The law was intended to reinforce Stalin’s dictatorship and much of the terror was carried on outside of the established judicial institutions.) \textit{Id.}
Russians.95 Furthermore, the various iterations of Soviet constitutions contained hundreds of provisions, but such provisions were merely “aspirational,” meaning that they were illusory.96 And “telephone justice,” which linked procurators and judges’ chambers to party offices, “ensur[ed] that the justice system served the state and not its citizens.”97 “Additionally, while legislation was published in official collections, such collections “were poorly indexed and not easily accessible to lawyers or ordinary citizens.”98

These various factors facilitating an environment in which Russian leaders “frequently reinterpreted, redefined, and repudiate[d]” terms such as “constitutionality and the rule of law.”99 The sense that the law bound everyone, including the political elite, which made up the Communist Party, simply did not exist.100 Rather, the rule of law was administered to the populace by the state in an overtly paternalistic manner.

Russians grew increasingly skeptical of the law and legal institutions during this era.101 The law was viewed as dishonest, inefficient, arbitrary, and

95 Foster Working Papers, 1 (on file with author).
96 See SMITH, supra note 67, at 50 (stating “like most constitutions, the Soviet constitutions embodied the highest statement of the goals and principles of the society. . . however, the constitutions of the former USSR were not binding legal documents in the sense that their articles were cited in court determinations. Many constitutional provisions remained unrealized, due to the absence of implementing legislation.”).
98 See Hendley, supra note 41, at 363.
99 See Foster, supra note 33, at 745; See Wilson, supra note 66.
100 See SMITH, supra note 67, at 129 (stating that “[t]he notion that the crown could be held accountable to the law a fundamental feature of English law since the Magna Carta in 1215- was never accepted by the Monarchy nor by the Bolsheviks after the Revolution of 1917.”).
101 See BURNHAM, supra note 34, at 49 (stating that “[w]hile it is tempting to blame the Communists, Russia’s struggle with instilling respect for the law goes back even further. For example, Russian serfs were emancipated in 1861, and the first parliamentary institution to represent the masses, the State Duma, which is the lower house of Parliament, was established in 1905, and even then, the Tsar could still adopt laws when it was not in session illustrative of the limited legal power the Russian people held, compared to that which the tsar enjoyed.”); see Kurkchiyan, supra note 37. (stating that from a historical perspective it is worth noting that until recently, the Russian people had never had the opportunity to directly engage in their governmental process. During the Soviet era, party leaders exercised control over, and separate from the Russian populace and before then, tsars or other entities exercised similar control.).
hopeless,\textsuperscript{102} which contributed to the development of a “citizen[ry] [] uncertain and cynical about whether legal guarantees have any meaning.”\textsuperscript{103} For example, the Russian writer Alexander Solzhenitsyn delivered a speech at Harvard University in 1978, criticizing Western society’s ‘legalistic life.’ Solzhenitsyn was not an apologist for the communist regime, but it nonetheless nurtured his critical view of “the letter of the law:”

I have spent all my life under a communist regime and I will tell you that a society without any objective scale is a terrible one indeed. But a society which is based on the letter of the law and never reaches any higher is taking very scarce advantage of the high level of human possibilities. The letter of the law is too cold and formal to have beneficial influence on society. Whenever the tissue of life is woven of legalistic relations, there is an atmosphere of moral mediocrity, paralyzing man’s noblest impulses. And it will be simply impossible to stand through the trials of this threatening century with only the support of a legalistic structure.\textsuperscript{104}

Solzhenitsyn’s deep-seated distrust of the law illustrates how the paternalistic Soviet system affected the Russian populace. Accordingly, the perpetuation of this legal culture “stymied efforts to reform the legal system.”\textsuperscript{105} Even when Yeltsin came to power, “[t]he public did not realize the value of freedom.”\textsuperscript{106}

\textbf{F. Post-Soviet Transition: Failure to Implement Western-Style Law}

Russians emerged from the fall of Communism with a skeptical and ambivalent vision of the law, but Russia was not absolutely devoid of any legal

\textsuperscript{102} See Burnham, supra note 34, at 49.
\textsuperscript{102} See Interview with Peter Baker and Susan Glasser, authors of ‘Kremlin Rising,’ Wash. Post, June 7, 2005, available at: http://www.washingtonpost.com/wp-dyn/content/discussion/2005/06/03/ID2005060300651.html, (stating that the Russian belief that government is inherently corrupt compelled many Russians to accept Putin, simply because others would likely be far more tainted than Putin); see Steven Lee Myers, What Chance Justice Is Done? Russia’s System is Questioned, N.Y. Times Nov. 1, 2003, at A2 (describing former President Putin’s calls for “cementing the rule of law in Russia” and how law enforcement often falls short of that lofty goal).
\textsuperscript{103} See Burnham, supra note 34, at 49.
\textsuperscript{105} See Hendley, supra note 38, at 352.
\textsuperscript{106} See Krasnov, supra note 45, at 201.
tradition. Gorbachev attempted to “change the role of law.”\textsuperscript{107} He ended rubber-stamp legislatures, invoked \textit{pravovoe gosudarstvo}, and “his policy of glasnost allowed a glimpse into the law-making process for the first time.”\textsuperscript{108} Thus, following the demise of the Soviet Empire, “. . .Russia [was] not starting from scratch, which certainly has advantages, but it has the disadvantages of a lot of bad legal habits.”\textsuperscript{109}

On the one hand, Russians optimistically believed that adopting a western-style rule of law might solve all their problems.\textsuperscript{110} And while Russians recognized that transitioning to a western rule of law would be difficult, no one thought that it would be nearly quite so difficult.\textsuperscript{111} “It was a grave disillusion, a crushing of ideals,”\textsuperscript{112} particularly because outsiders heavily influenced Russian legal reform and the development of a post-Soviet Russian legal system\textsuperscript{113} during this period. “[L]egal scholars associated with the pro-reform Institute of State and Law who pushed for legal reforms” arrived with “considerable knowledge and expertise about the legal systems in the United States, France, Germany, and Scandinavian countries, as well as the reformist Central European states such as Poland and Hungary.”\textsuperscript{114} But most of these experts and specialists had little or no experience with the Russian legal experience.

Many of these individuals approached Russia “as if it was a \textit{tabula rasa}, disregarding what existed on paper as well as prevailing legal culture. The top-down nature of [r] reforms and the unwillingness to pay attention to the needs of those who would be impacted felt familiar to Russians, who recognized the \textit{modus operandi} from their Soviet past, albeit under a new banner.”\textsuperscript{115} Absent from this dialogue were legal reformers versed in the Russian legal perspective—Russian reformists or scholars.\textsuperscript{116} Moreover, agencies like the American Bar Association,
and the Federal Bureau of Investigation participated, but they had no background in, or experience with, the Russian legal system.

Thus, much of what was instituted and established in Russia during this post-Soviet transitional period was both foreign and unfamiliar to Russians. Perhaps, the reforms were not simply incompatible, but also incapable of dealing with an inherently complicated and necessarily distinct citizenry and nation. As Thomas Friedman stated:

[F]or the first time in history, we all have the same basic piece of hardware—free markets. The question is, which countries will get the economic operating system (neoliberal macroeconomics) and software (regulatory institutions and laws) to get the most out of those free markets. . . Russia is the egregious example of a country that plugged into the herd with no operating system and no software, with predictably horrendous results.

Western influences were “often introduced under the aegis of bilateral and multicultural aid and technical assistance programs, and a rising tide of national identity and desire for sovereignty among peoples of the former USSR [developed].” However, Russians soon regarded these foreign legal reformers as imperialists, seeking to indoctrinate Russians with western beliefs and institute a western system. Stephen Sestanovich, who served as the State Department’s special advisor for the new Independent States of the former Soviet Union under President Bill Clinton said, “the ‘90s sucked.” Ultimately, while well-intentioned and eager to help, “most [western advisors] were ill-equipped to fashion laws that met the needs of this transitional polity.” Indeed, by the end of the 1990s, while Russians likely yearned for change, they also likely felt that these “new laws felt like more of the same,” since the new laws “look[ed] good on paper, but [were] ignored in practice,” much like laws looked good, but had been ignored during the Soviet era.

G. The Current Development of Russia’s Legal Vision: a Hybrid Legal Culture

117 See SMITH, supra note 35, at 231.
119 See SMITH, supra note 67.
120 Id.
121 See Ignatius, supra note 42.
122 See Hendley, supra note 38, at 368 (stating that “[f]or example, the Western advisors who drafted the joint-stock company put protections into place for minority investors that would have worked beautifully in their own countries (e.g., cumulative voting and prohibitions on insider trading), but which did little good in Russia”).
123 Id.
Putin, like many of his predecessors, seems to be “us[ing] the law as a tool.” And although present-day Russia lacks a western-style rule of law, the development of a uniquely Russian vision of the law is nonetheless, developing. Several recent instances illustrate the development of this uniquely Russian vision of the law. Putin stepped down from the Presidency in May 2008 on his own accord. Medvedev called to lengthen the presidential term in November 2008, illustrating a newfound willingness by Russia’s leaders, to be bound by rules. Equally important, the Russian populace is increasingly optimistic about the rule of law in Russia.

1. Putin Steps Down from the Presidency

In May 2008, Putin stepped down from the Russian Presidency, after having served two consecutive terms. Putin handed it to Medvedev. Indeed, this transition occurred in accordance with Russian law. Importantly, the Russian Constitution states that “[o]ne and the same person cannot hold the office of the President of the Russian Federation for more than two terms running.” Thus, Putin was constitutionally precluded from serving a third consecutive term. Putin never sought to negotiate his way around the term limit, in light of much speculation. Rather, he accepted that the Constitution precluded a third term.

The fact that Putin willingly handed over power speaks volumes about Russia’s developing vision of the law. Few previous Russian leaders have actually stepped down from power on their own accord, as Putin did. Even more, none who stepped down willingly was as “young, physically, able, and politically

---

124 See Sharlet, supra note 90.
126 See Ignatius, supra note 42.
127 Konst. RF art 81.
128 See BURNHAM, supra note 34, at 237. (stating that “[d]uring this transition phase the laws themselves and their enforcement may be less than perfect, but what is important is that they are functioning, however imperfectly. Laws matter. Rights are now being recognized and new generations of Russians are growing up in a rapidly evolving culture in which justice and rule of law are not empty slogans masking authoritarian rule and the arbitrary exercise of power.”); see Samuel Huntington, THE THIRD WAVE: DEMOCRATIZATION IN THE LATE TWENTIETH CENTURY 266-67 (1991) (stating that “[o]ne criterion for measuring this [democratic] consolidation is the two-turnover test. By this test, a democracy may be viewed as consolidated if the party or group that takes power in the initial election at the time of transition loses a subsequent election and turns over power to those election winners, and if those election winners then peacefully turn over power to the winners of a later election. Selecting rulers through elections is the heart of democracy, and democracy is real only if rulers are willing to give up power as a result of elections.”).
very strong” as Putin. Thus, there was an even greater likelihood that Putin could have refused to step down because he is so politically fit and popular throughout Russia. Indeed, President, Putin consistently boasted high approval ratings at around seventy percent, suggestive that the populace may not have even responded negatively had he refused to step down as President.

Supporters pushed Putin to amend the Russian Constitution so that he could remain in power, but Putin “demurred. The [Russian] Constitution was ‘sacrosanct.’” Specifically, Putin’s decision to abide by the Russian Constitution illustrates how far Russia has developed. Putin adhered to Russian laws and its Constitution meaning that even though he was the President he showed that he too was bound to the law. Again, while few Russian leaders have stepped down when their term expired, even fewer Russian leaders have recognized that the law binds them. Indeed, Putin’s behavior confirms the validity and centrality of the Russian Constitution.

2. Medvedev’s Call to Amend the Constitution

During his Address to the Federal Assembly of the Russian Federation, President Medvedev proposed to amend the Russian Constitution by extending the presidential term from four to six years. Immediately, critics protested this as an unconstitutional proposal merely intended to facilitate Putin’s ultimate return to the presidency, as soon as 2009, by some estimates. However, what remains critical, and something that many have failed to recognize or appreciate, is that in seeking to amend the Russian Constitution, Medvedev followed procedure and worked within the established framework of the Constitution—a huge step in the right direction towards solidifying a stronger rule of law in Russia.

---

129 See Kahn, supra note 35, at 1-14.
130 See Ignatius, supra note 42.
132 See Address, supra note 4 (stating that “we should increase the constitutional mandates of the President and State Duma to six and five years respectively”).
133 See Sharlet, supra note 90. Interestingly, Medvedev’s call to amend the Constitution will not affect him, further evidence that change has taken root in Russia. This contrasts with the time President Yelstin sought to consolidate his own power in 1993.
134 See Getting Medvedev’s Message, supra note 19; see Tony Halpin, Fast Deal May Set up Putin as President for Twelve Years, THE LONDON TIMES, Nov. 13, 2008, available at: http://article.wn.com/view/2008/11/06/Putin_to_return_Russian_parliamentary_leaders_say_constitutii/, (stating that “Mr. Putin would govern for two more terms of six years each, until 2021. . .”).
THROUGH A RUSSIAN LOOKING GLASS

To amend the Constitution, the Russian Constitution provides that the Russian President submit a draft bill\(^{135}\) to the lower house of Russia’s parliament, the State Duma,\(^{136}\) which will vote on said bill. If a majority of the State Duma votes in favor of the bill, it may then become law,\(^{137}\) assuming that a majority of the upper house of Russia’s parliament, the Council of Federation, also votes for it. Alternatively, according to the Russian Constitution the bill is assumed to have passed if the upper house does not examine said bill within fourteen days.\(^{138}\) Assuming said bill passes both houses, it may be referred to as a federal law. At this point, it is submitted to the President for signing and promulgation.\(^{139}\)

In amending the presidential term, Medvedev adhered to that which the Constitution demands.\(^{140}\) First, Medvedev submitted his proposed bill to the State Duma shortly after he expressed an interest in amending the presidential term on November 5, 2008.\(^{141}\) Then on November 21, 2008, the State Duma voted 392-58 to approve the bill.\(^{142}\) From the State Duma, the bill went to the Council of Federation, which passed it.\(^{143}\) Medvedev then signed the federal law on December 30, 2008, after it passed through the necessary and appropriate legal channels.\(^{144}\)

The current path to amending the presidential term pursuant to the Russian Constitution starkly contrasts “those bloody days in Moscow in late 1993”\(^{145}\) when the Constitution had little or no weight. Indeed, Russia’s then-constitution could not prevent the 1993 crisis that included some of the most violent street fighting in Moscow since the Bolshevik October Revolution in October 1917.\(^{146}\)

---

135 Konst. RF art 104 (“The right of legislative initiative shall belong to the President of the Russian President, members of the Council of Federation, deputies of the State Duma, the Russian Federation, and legislative (representative) bodies of constituent entities of the Federation”).
136 Id. art 84 (“The President of the Russian Federation shall submit draft laws to the State Duma.”).
137 Id. art 105 (“Federal laws shall be adopted by the State Duma. Federal laws shall be adopted by a majority of votes of the total number of deputies of the State Duma, unless otherwise envisaged by the Constitution of the Russian Constitution.”).
138 Id. (“A federal law shall be considered to have been approved by the Council of Federation if the total number of members of that chamber have voted for it or if the Council of Federation does not examine it within fourteen days. . .”).
139 Id. art 107 (“The President of the Russian Federation shall sign the federal law and promulgate it within fourteen days.”).
141 See Address, supra note 4.
142 Id.
143 RUSSIA EXTENDS PRESIDENTIAL TERM, Dec 30, 2008 (on file with author)
144 Id.
145 See SMITH, supra note 35, at 233.
146 Id.
In effect, in October 1993, President Yeltsin\(^{147}\) confronted the Russian Parliament seeking to expand his Presidential powers.\(^{148}\)

Demonstrators and police clashed, television stations were stormed,\(^{149}\) and there were even “rumors of troop movements.”\(^{150}\) On television, Yeltsin implored his fellow Russians not to wreak further havoc because “Russia needs order.”\(^{151}\) Ultimately, Yeltsin secured more presidential powers for himself, and normalcy eventually returned to Moscow. These events contrast the civility emblematic of Medvedev’s Constitutional amendment several months ago. There was some criticism, and several photographers were on-hand to witness the symbolic signature. However, what is most striking about when Russia’s Constitution was amended in late 2008 was the lack of attention paid to such a historic event. It was almost a non-event.

H. Reasons Why Russia’s Unique Vision of the Rule of Law May Endure

Must constitutions be fixed?\(^{152}\) Certainly, few constitutions are static documents that spring into existence fully formed.\(^{153}\) Instead, strong and

---

\(^{147}\) See Adi Ignatius, *Boris Yeltsin*, TIME, (Apr. 26, 2007) available at: http://www.time.com/time/magazine/article/0,9171,1615184,00.html (stating that Boris Yeltsin was the Russian Federation’s first President. He served from 1991-1999, at which point, he stepped down to let Putin takeover. It is worth noting that Yeltsin was Russia’s first popularly elected President. And while he won fifty-seven percent of the vote, he ultimately left the position with approval ratings in the single digits.).; see generally Gessen, *supra* note 20.


\(^{149}\) *ALEXEI TROCHEV, JUDGING RUSSIA CONSTITUTIONAL COURT IN RUSSIAN POLITICS 1990-2006 67* (2008).

\(^{150}\) See Shapiro, *supra* note 148.

\(^{151}\) *Id.*

\(^{152}\) See Norman Stone, *Vladimir Putin Rescued Russia from Disaster: So Let’s Just Let Him Be*, LONDON TIMES, Oct. 4, 2007, available at: http://www.timesonline.co.uk/tol/comment/article2582598.ece, (suggesting that “there is no real reason for constitutions to be set in tablets of stone”); see Ethan S. Burger, *Russia Profile Weekly Experts Panel: Putin Forever?*, available at: http://www.russiaprofile.org/page.php?pageid=Experts'+Panel&articleid=a1184333184&print=yes, (stating that “[t]he Russian constitution is not a sacred document. Some will argue that the events between October-December 1993, where a flawed referendum followed the use of force against the Russian Supreme Soviet, gives the present constitution an aura of illegitimacy that anyone concerned with the rule of law cannot help but be troubled by… [but] if [the political party] United Russia [] overwhelmingly controls the State Duma after the next round of legislative elections, then the constitution should be amended.”).

\(^{153}\) See Sewell Chan & Jonathon P. Hicks, *Council Votes, 29 to 22, to Extend Term Limits*, N.Y. TIMES, Oct. 23, 2008, available at:
successful constitutions possess the ability to develop and evolve over time to response to changing political, economic, and social conditions.\textsuperscript{154} Thus, as Russia continues to develop and evolve, it necessarily demands that its Constitution can do so, as well.\textsuperscript{155} Certainly, it is feasible that Medvedev’s call to amend the Russian Constitution was prompted by the various changes that Russia is currently experiencing. Indeed, Medvedev’s “eagerness to change the constitution was rooted in uncertainty over shifting global dynamics, especially Russian wariness of America in the wake of Russia’s war with the U.S.-backed Georgia. By ruling longer, Medvedev hopes to create greater stability.”\textsuperscript{156} Thus, because the Russian Constitution seems capable of dealing with Russia during this volatile period, its flexibility and legitimacy are confirmed.

Furthermore, U.S. criticism that Medvedev’s call to amend the presidential term is seemingly hypocritical, considering that New York City\textsuperscript{157} recently moved to extend its own mayoral term limit to twelve years, beyond the current eight year term limit, so that New York City’s current mayor, Michael R. Bloomberg, may seek a third consecutive term—in light and because of the ongoing financial crisis that has affected New York City so intensely.\textsuperscript{158} Specifically, supporters of the proposed New York City bill, which subsequently passed, said the dire “economic situation confronting the city...demanded continuity of leadership.”\textsuperscript{159} Certainly, New York City is being hit hard by the financial crisis, but so is Russia.\textsuperscript{160} Thus, if New York City can change its term limits, Russia should be permitted to, too. Regardless of the soundness of New York City’s plan to amend its own rules, Russia has received significantly more criticism.

Moreover, against these political and economic developments is the Russian “revolutionary consciousness,” a term that exemplifies the fact that when Russians have sought change, it has been all-too-often both drastic and

\footnotesize{\textit{http://cityroom.blogs.nytimes.com/2008/10/23/council-to-debate-term-limits-change/}. Again, it is worth noting that New York City extended the mayoral term limit to three terms.

\textsuperscript{154} See SMITH, supra note 67, at 102-03.
\textsuperscript{155} See Address, supra note 4 (stating that “the personal freedom and the maturity of the democratic institutions and procedures that [the Constitution] guarantees are the source for our continued development. Now as we come to a new age in our development, we are setting new goals that call for greater participation by our citizens, political parties, and other public institutions.”).
\textsuperscript{156} See Stack, supra note 81.
\textsuperscript{158} Id.
\textsuperscript{159} See Chan & Hicks, supra note 153.
\textsuperscript{160} See Address, supra note 4 (stating that “[t]he global financial crisis also began as a ‘local crisis’ on the U.S. domestic market...[but] when the U.S. economy began to slide it pulled financial markets all around the globe with it in its fall. The crisis has now become global in scale.”).}
Russians have historically “desire[d] to do too much, too quickly” as opposed to a “gradual more effective methods of reform.” By contrast, Russia’s political leaders are currently exercising prudence by working within the appropriate legal channels—the Russian Constitution—rather than making sudden, irrational, or radical changes or moves. Compounding this promising behavior are the serious problems Russia is undoubtedly facing. This makes its steady course is even more impressive.

Finally, it is easy to forget that the “Second Russian Revolution of 1991” occurred only eighteen years ago, meaning that Russia has been a “democracy” for less than two decades. Indeed, the rule of law as it is in Russia today has

---

161 See Interview with Peter Baker and Susan Glasser, supra note 102 (suggesting that as Russia is the birthplace of revolution, this may be the historical ebb to that flow).
162 See, SMITH, supra note 35, at 8-9.
163 See id. at 94 (stating that “[t]he course that Yeltsin and Russia [took] had few if any models to follow. The American and French Revolutions toppled colonial or monarchial regimes and sought a clean break from the past. In the Russian case, the revolution was being attempted from the top down. Rather than experiencing a clean break from the past, Yeltsin was attempting a “controlled” and orderly revolution. The stakes were high and there was no guarantee that if one side saw that it was losing the argument, it would not resort to violence to preserve its interests.”).
164 See, Address, supra note 4 (stating that “I want you all to know that our goals remain unchanged. The sharp fluctuations in the political and economic situation, the turbulence in the world economy and even the rise in military and political tension will not serve as a pretext for dismantling democratic institutions or for nationalizing industry and finance. Citizens’ political freedom...[is] sacred... Those who want to make some ‘easy’ political capital out of the global economic crisis, who have their hearts set on populist chatter and want to destabilize society in order to satisfy their personal ambitions, I advise them to read the Constitution. I consider it my duty to warn those who seek to provoke tension in a political situation. We will not allow anyone to inflame social [] strife, deceive people and draw them into illegal action. We will continue to maintain Constitutional order through all the legal means.”).
165 See SMITH, supra note 35, at 234 (stating that democracy took centuries to evolve in Western Europe); see Address, supra note 4 (“I remind you that the Russian Constitution celebrates its fifteenth anniversary in December. What is important is not the date itself of course, but the fact that it is a Constitution that upholds freedom and justice, human dignity and welfare, protection of family and Motherland, and the unity of our multiethnic people- not just as common values, but as legal concepts. In other words, the Constitution gives them force in practice and supports them with all the resources of the state and with all of its own authority. The Constitution forms our social institutions and the way of life of millions of people.”).
existed for less than “the span of a single generation.” As such, because building a federal system and culture of legality necessarily takes time, it would be presumptuous to assume that within a few years, Russia could suddenly abandon its history of legal nihilism, as well as convert an ardently skeptical populace into one with “a mind set that appreciates, responds to, and engages in the exercise of legal self-limitation.” Developing a “willingness to be bound by the rule of law” takes time, particularly in Russia, a country that has historically struggled with the very concept. Because Russia necessarily lacks a model or foundation, which Putin and Medvedev can rely upon, their willingness to nonetheless, follow Russian law is impressive.

Instead of rolling back progress, Russia’s political leadership has demonstrated its desire to establish a legal culture and rule of law by working through the appropriate channels of Russian law. Such embraces should be commended as progress. It would be misguided to suggest that any mistakes along the way means that Russia is not necessarily moving in the right direction. Mistakes are inevitable and perhaps, signs of democracy at work, since democracies are likely to falter. This illustrates that more responsibility is being given to the Russian populace as the Russian government places greater trust in its people by working through legal channels. One might even suggest that this revolutionary development suggests that Russians have finally developed a belief

---

166 See Kahn, supra note 35, at 521.
167 See Address, supra note 4 (stating that “the Constitution’s importance in developing a new legal system and independent courts, and in combating corruption and legal nihilism. I note that legal nihilism is not a new phenomenon in Russia but is something that has its deep roots in our distant past. Fifteen years is too short a time to eradicate such deeply-rooted traditions. But it is also true that we have not yet made a deep-reaching systematic attempt to address this problem of disregard for the law.”).
168 See Burnham, supra note 31, (Progress in developing a state governed by the rule of law was begun during Gorbachev’s time in power, and the progress forged was impressive when viewed against Russian and Soviet legal traditions, but “for such concepts to take root, they must be institutionalized and inculcated into the legal culture of a society.”); see Smith, supra note 162, at 76, 80, (stating that these contentious issues had to be resolved in an atmosphere of political and economic turmoil, an unlike the American constitution, which was drafted behind closed doors by an elite group of white, well-educated, wealthy, male landowners, Russia’s 1993 Constitution was worked out in the glare of television lights and involved a vast array of interest groups, factions, political parties, and prominent political figures, seeking to maximize their particular interests…).
169 See Smith, supra note 162, at 3, (stating that “[i]t is encouraging that all parties in Russia today—even the extremists on the right- appear to recognize the legitimacy of the new constitution and are operating within its provisions. This is the best indication yet that Russia is on its way to constitutionalism. However, given its centuries-long tradition of dictatorial and arbitrary rule, it will be a long and perilous journey.”).
in themselves and their leaders. In an event, the embracing of a stable rule of law that is void of the paternalistic overtones of past Russian governments is necessarily going to take years to develop fully.

III. RUSSIA’S VISION OF DEMOCRACY: BALANCING A STRONG STATE IDEAL & DEMOCRATIC VALUES

For Russians a strong state is not an anomaly that should be gotten rid of. Quite the contrary, they see it as a source and guarantor of order, and the initiator and main driving force of any change. . . I am not calling for totalitarianism. . . A strong state power in Russia is democratic, law-based, workable federative state.

-Vladimir Putin

and

The Russian mentality needs a baron, a tsar, a president. . . in one word, a boss.

-Valentina Matviyenko

To many Americans, Russia seems to be moving away from democracy, and towards a burgeoning authoritarian regime. However, this is ill conceived. Putin, and now Medvedev, have not necessarily rolled back democracy, as many may fear or suspect. Specifically, the Russian people desire a strong state, embodied by a strong leader—the strong state ideal. However, following the Soviet-era, which overemphasized this strong state ideal, came the post-Soviet era, which overemphasized implanted western-democratic

---

171 See Gessen, supra note 20 (stating that “[o]nce, the Kremlin was the symbol of a nascent Russian democracy. Now it’s the command center of an entrenched Russian autocracy.”); see Struck, supra note 30, (stating that “[w]estern critics[] [allege] that [Putin] has throttled democracy” the former Soviet leader Mikhail Gorbachev disapproves of some of Putin’s “moves to consolidate power.”).
172 See Russia on the Threshold of the Millennium, supra note 170 (stating that “the state’s structures and institutions have always played an extremely important role [in Russia]”).
ideals. And so, after having survived both periods, Russia is now developing its own unique hybrid version of democracy, which seeks to balance the traditional Russian strong state with modern democratic values.

A. Components of Russian Democracy: Balancing Strong State and Democratic Ideals.

1. A Strong Mother Russia: Derzhavnost

Central to the Russian worldview is the desire for Russia, the Motherland, to possess international status. “Russians are very patriotic people, they want Russian spoken, they want their views to be the correct ones, and they want a leader who projects these things.” In this sense, Russians have historically desired a strong Russia, or derzhavnost, the status of being a great world power. Consequently, Russians have accepted leaders who provided a strong image and international stature, even if that necessarily resulted in diminished individual rights or the diminution of other principles of western-style democracy.

The Soviet model adhered to this sensibility by overemphasizing the strong state ideal. Arguably, “[no] political system has ever been more hostile to

---

174 See SMITH, supra note 35, at 228.
176 See Remington, supra note 173 (stating that “Russia’s statehood was weakened by the unsuccessful reforms of the 1990s and [] the restoration of state strength must now take high priority.”).
178 See Interview with Peter Baker and Susan Glasser, supra note 102, (of course, this also begs the question of whether this also characterizes the United States).
179 See Remington, supra note 173, at 65-69, (stating that “Russians have believed for centuries that Russia should be [great world] power”).
180 See Madeline Albright, Vladimir Putin, TIME, Dec. 2007, available at: http://www.time.com/time/specials/2007/article/0,28804,1733748_1733757_1735578,00.html (stating that “[a]t home [Russians] celebrate national traditions and prize collective glory, not individual freedom.”); see Remington, supra note 173, (stating that “Peter and Stalin are paired in the minds of many Russians today as heroic figures who expanded the industrial base of the state, increased the state’s control over society, and made Russian a mighty and feared military power in the world.”); id. (“The ideal of the ‘strong state’ in the sense of derzhava a great world power is inseparable, for such self-styled patriots, from the image of a commanding patriarchal leader who, through force of will, defeats all natural and social enemies to build up the state’s formidable might.”).
THROUGH A RUSSIAN LOOKING GLASS

civil society than the communist totalitarian regime Stalin erected.”¹⁸¹ This ultimately “led to a dead end,”¹⁸² and resulted in “[f]lat living standards, the burden of penurious third-world client states, and technological lag[s] [which ultimately] convinced younger Soviet leaders and thinkers that the Soviet model of a strong state [needed to be changed].”¹⁸³ During the Gorbachev years, which marked the final period of this era, “new ideas arose to challenge the older, simplistic version of the strong state ideal.”¹⁸⁴ Indeed, Russians sought new models, including the concept of pravovoe gosudarstvo— a symbolic departure away from the strong state ideal, and a period that resembled a “law-governed state”¹⁸⁵ emerged.

2. The 1990s: The Loss of National Pride

While the demise of the Soviet Empire resulted in the development of a western-style democracy,¹⁸⁶ the honeymoon did not last long. In addition to no longer retaining hegemonic status alongside the United States, Russia soon experienced corruption,¹⁸⁷ the ransacking of national industries by oligarchs,¹⁸⁸ a stock market crash,¹⁸⁹ persistent economic stagnation,¹⁹⁰ declining age expectancy,¹⁹¹ and a declining population—¹⁹² hardly what Russians envisioned western-style democracy would provide. Ultimately, democracy, or at least the type that the West had imposed on Russians, was not the “savior” for which Russians had hoped.¹⁹³

¹⁸¹ BETWEEN DICTATORSHIP AND DEMOCRACY, supra note 45, at 14.
¹⁸² Id.
¹⁸³ Id.
¹⁸⁵ Id.
¹⁸⁶ See SMITH, supra note 35, 226-7 (stating that at the beginning of the transition, Russians spoke of joining the ranks of “civilized” countries and “unrealistically assumed that economic stabilization and recovery could be achieved in a matter of a few years”).
¹⁸⁷ See id. at 228 (“The outbreak of crime in Russia [during the 1990s] [was] a system of the collapse of order.”).
¹⁸⁸ See Gessen, supra note 20.
¹⁸⁹ See Handelman, supra note 175, at 88-91 (discussing the 1998 Russian stock market crash and ensuing financial crisis.).
¹⁹⁰ Id.
¹⁹¹ See SMITH, supra note 35, at 233.
¹⁹² See BAKER & GLASSER, supra note 68, at 387.
¹⁹³ See SMITH, supra note 162, at 226-27 (stating that at the beginning of the transition in the early 1990s, “Russians spoke of joining the ranks of “civilized” countries. . . many unrealistically assumed that economic stabilization and
This post-Soviet era left Russians humiliated and floundering in third-world status, and the perception of the West as a “knight of democracy” “was [] replaced with the disappointed belief that pragmatism, often cynical and selfish, lies at the core of western-style democracy.” Equally important, Russian President Yeltsin was considered a buffoon and fool. Specifically, the Yeltsin years became characterized by an “ailing, [and] intoxicated president who disappeared for weeks at a stretch, while his government failed to pay wages and frittered away billions of dollars of international aid.” Not only was President Yeltsin an embarrassment domestically within Russia, so too was he regarded as ridiculous abroad, which only compounded Russians’ sense of embarrassment and humiliation.

Russians, who had always reveled in the stature of their great nation, became disillusioned with “the obvious weakening of [the] state” at the direction of their first post-Soviet leader, Yeltsin. Russians began to yearn for something other than Yeltsin and something other than a western-style democracy. “Russians desperately awaited a new leader who would put the 1990s behind them” and “rescue a hobbled nation and restore its historic greatness.”

The term ‘democracy’ had even been removed from many presidential speeches by the end of the 1990s—it had been so severely tarnished during the 1990s. “Democracy was not [then]—if it had ever been—a goal supported by much of the population, and the very word had been discredited, an epithet that had come to be associated with upheaval rather than opportunity.” More than recovery could be achieved in a matter of a few years.”);

See Fred Weir, KGB Influence Still Felt in Russia, THE CHRISTIAN SCI. MONITOR, Dec. 30, 2003, available at: http://www.csmonitor.com/2003/1230/p06s01-woeu.html, (Olga Kryshtanovskaya, a leading political scientist in Russia, describing that “[t]he problem resides with [t]he democrats… Their failures and errors have discredited the very idea of democracy. After all, democracy is by no means synonymous with chaos and weakness.”).

See Weir, supra note 193 (Olga Kryshtanovskaya suggests that it was the democrats’ fault because “their failures and errors have discredited the very idea of democracy [in Russia]. After all, democracy is by no means synonymous with chaos and weakness.”).

See Wilson, supra note 66.

See Ignatius, supra note 147.

See Gessen, supra note 20.

See BAKER & GLASSER, supra note 68, at 39; Gessen, supra note 20.

See Blankenagel, supra note 178, at 65.

See Gessen, supra note 20, at 336, 381 (Putin “would be portrayed. . . [with those] qualities for which Russia, exhausted and embarrassed by Yeltsin’s provincialism and unpredictability, seemed to yearn.”).

See BAKER & GLASSER, supra, note 68, at 39.

Id. at 38.

Id. at 3.
before, many Russians “believed authoritarianism was the only path for their country.” As Peter Baker and Susan Glasser have suggested, Russia was a “country in between” when Vladimir Putin arrived.

3. The Putin Years: Restoration of A Strong Mother Russia and National Pride

Enter Vladimir Putin, Russia’s “antidote to Boris Yeltsin.” Introduced to his country as “young, energetic, decisive, determined, worldly, reform-minded, [and] dependable,” sobriety alone drew Russians to Putin, suggesting that it did not take much to impress Russians—the bar had been set quite low. One poll found that when Putin took office, forty percent of Russians expressed that what “they admired most in the new President was that he was sober.”

“Where past Russian leaders were sometimes bombastic, buffoonish, or fossilized, Putin seemed young and vigorous, cool and detached.”

Not long after taking office in 2000, Putin asserted himself. He exclaimed that “. . [.o]ffending [Russia] will cost dearly.” Without apologies, he stated that “the collapse of the Soviet Union had been the greatest tragedy of the 20th Century,” thereby reminding Russians of their inherent greatness and strength—derzhavnost. Moreover, Putin ‘had the gift of seeming to be all things to all people, of uniting an otherwise fractured society with soothing words about stability and order.” After the previous decade that had been marked by revolution and chaos, Putin now sought to “end the revolution.” Instead, Putin sought to bring order and stability to his people, who had not been afforded such luxuries. “The time of uncertainty and anxious expectations is past,” he declared.

Putin “reinterpret[ed] the [strong state] tradition in a pragmatic and modernizing spirit…,” which resonated with Russians young and old. He ordered the return of the Soviet anthem with slightly modified lyrics, decided to leave Lenin’s embalmed body in Red Square, which his predecessor had

---

204 Id.
205 Id.
206 See Interview with Peter Baker and Susan Glasser, supra note 102.
207 See Gessen, supra, note 20, at 380-81.
208 See id.; see also BAKER & GLASSER, supra note 68, at 39-40 (stating that “[s]obriety alone became a major element of Putin’s appeal, in contrast to his frequently drunken predecessor.”)
209 See BAKER & GLASSER, supra note 68, at 40.
210 See RUSSIA ON THE THRESHOLD OF THE MILLENNIUM, supra note 170.
211 See BURNHAM, supra note 31.
212 See Remington, supra note 175.
213 See BAKER & GLASSER, supra note 68, at 7.
214 Id.
215 Id. at 312.
216 Id.
questioned, and reinstated the Soviet red flag.\textsuperscript{217} Putin even encouraged his countrymen to be proud of the accomplishments of the Soviet Union. “Was there nothing but Stalin’s prison camps and repression? What about the achievements of Soviet science, of the spectacular space flight of cosmonaut Yuri Gagarin, of the art and music of cultural heroes like the composer Dmitri Shostakovich?”\textsuperscript{218} Russians yearned to hear this—“nationalism mixed with Soviet-era symbolism.”\textsuperscript{219}

Illustrating Russia’s sudden “reemergence,” Putin secured a Russian city to be the host of the 2014 Olympic Winter Games\textsuperscript{220} an honor that had not been bestowed on Russia since Moscow hosted the 1980 Summer Games. Indeed, when Russia hosts the 2012 Summer Games, its athletes will no longer have to “suffer the indignity of watching its athletes stand silent on the Olympic medals podium”\textsuperscript{221} as was the case during the 2000 Summer Games in Sydney.

Even more, after years of “worshipping all things western, the world nashe—Russian for “ours”—has suddenly become en vogue.”\textsuperscript{222} As Aleksandr Oslon, a Kremlin pollster exclaimed, “[i]t was very uncool to be Russian in the beginning of the nineties…Every newspaper and television show was obsessed with showing how bad this country [was] and how hopeless we [were] and how good life is in the West. Now [it is] cool to be Russian again.”\textsuperscript{223}

\textsuperscript{217} See id., at 65.
\textsuperscript{218} See Putin Speech, supra note 170.
\textsuperscript{219} See BAKER & GLASSER, supra note 68, at 65.
\textsuperscript{220} See Russia Profile Weekly Experts Burger (on file with author) (the 2014 Winter Games will be hosted by the Russian city of Sochi. Indeed, this is the first post-Soviet Olympic Games that will be held in Russia). It must be noted that more than most nations, Russia has historically regarded its athletic accomplishments in the Olympics as a major source of national pride. That it has secured the 2014 Winter Games is a huge victory for Russians and something to credit Putin with having secured. Of course, the country would not have been rewarded with it if the Olympic Committee thought that Russia was incapable of hosting, such that from an international perspective, Russia is perceived as possessing a level of stability and viability. Interestingly, the last time the Olympic Games were held on Russian soil was in 1980, when Moscow hosted the Summer Games. The United States boycotted said Games, indicative that much has changed.
\textsuperscript{221} See BAKER & GLASSER, supra note 68, at 65.
\textsuperscript{222} See id. at 63.
\textsuperscript{223} See id. Aleksandr Nevzorov, an investigative journalist from St. Petersburg explained the concept of nashi as “a circle of people—let it be enormous colossal, multimillion—to whom one is related by common language, blood, and motherland.” \textit{Id.} at 74 (stating that some critics including Nevzorov, contend that nashi has become darker during the previous several years).
\textsuperscript{224} See id. at 64.
Putin restored Russia\textsuperscript{225} to its “rightful” place alongside other world powers\textsuperscript{226} while also “shepherd[ing] Russia[] into a bright future of economic reform.”\textsuperscript{227} Putin certainly brought Russia out of economic despair, during which “the working masses lost their life savings in an economic crisis,”\textsuperscript{228} while “the favored few ripped off state assets in rigged auctions.”\textsuperscript{229} Almost symbolically, Putin penalized those oligarchs that had pillaged Russia and had come to represent all that had been wrong with the 1990s—\textsuperscript{230} greed, corruption, rampant capitalism. “The era of the oligarchs [was] over.”\textsuperscript{231}

Putin instituted a thirteen percent flat tax, advanced new land codes to assist in property purchases and sales, and instituted reforms to overhaul the “famously corrupt and inefficient state electricity and natural gas monopolies.”\textsuperscript{232} And consequently, conditions for the middle class have improved.\textsuperscript{233} As Business

\textsuperscript{225} See Burger, supra note 152 (stating that “Putin will be satisfied being acknowledged throughout the world as the person who brought economic stability to Russia that allowed for democratic renaissance in the country. . . .”); see Ignatius, supra note 42 (discussing Putin’s “extraordinary feat of leadership in taking a country that was in chaos and bringing it stability.”); see Struck, supra note 30 (stating that Gorbachev credited Putin with “pull[ing] Russia out of chaos” and “assur-[ing] [it] a place in history”). Of course, Gorbachev qualified such statements with an acknowledgement that the news media have been suppressed and that election rules are inconsistent with democratic ideals. \textit{Id.}

\textsuperscript{226} See BURNHAM, supra note 34, at 223 (stating that Russia is reasserting state control, in a concerted strategy to make Russia a great power once again); see John Wendle, \textit{The New Gambit: Moscow’s View}, \textit{TIME}, Aug. 28, 2008, at 32 (pro-Kremlin analyst Sergei Markov explains, “[i]f the U.S. and Britain think they are first-level countries and Russia is a second-level country, we don’t agree,” symbolic that Russians still desire to be counted as an equal.).

\textsuperscript{227} See Gessen, supra note 20, at 384.

\textsuperscript{228} See BAKER & GLASSER, supra note 68, at 39.

\textsuperscript{229} \textit{Id.}

\textsuperscript{230} See Gessen, supra note 20, at 384 (stating that “[Putin] launched an attack on Russia’s oligarchs, who were forced to give up their assets to the state or Putin’s allies; many [] now live in exile, and at least two—Mikhail Khordorkovsky and Platon Lebedev, the former owners of the country’s largest oil producer, Yukos—are behind bars. . .Putin has [even] said he [wants to] continue his campaign against Russian [oligarchs] from the 1990s”).

\textsuperscript{231} Charles Clover, et al., \textit{Putin Says There is to be No Review of Privatizations}, \textit{FINANCIAL TIMES}, July 29, 2000.

\textsuperscript{232} See BAKER & GLASSER, supra note 68, at 84.

\textsuperscript{233} Jason Bush, \textit{Russia: How Long Can the Fun Last?}, \textit{BUSINESS WEEK}, Dec. 7, 2006, available at: \url{www.businessweek.com/globalbiz/content/dec2006/gb20061207_520461.htm}, (stating that in 2000, only eight percent of the Russian population qualified as middle class, but by 2006, this percentage had risen to about thirty-seven percent of the population).
Week’s Moscow bureau correspondent, Jason Bush stated, “that’s giving a lift to the mood in the country.”\textsuperscript{234} Indeed, compared to “the basket-case” that it was throughout the 1990s, “Russia’s economy has grown an average of seven percent a year for the past five years.”\textsuperscript{235} Even more impressive, under Putin, Russia paid off a foreign debt that was once close to 200 billion dollars,\textsuperscript{236} the Russian economy grew from about 200 billion dollars in 2000 when Putin took office, to about 920 billion dollars by 2006.\textsuperscript{237}

Strengthening Russia’s economy has provided Russia with a greater sense of “stability and predictability”\textsuperscript{238} and a major reason Putin is still regarded as Russia’s savior and “Great Russian Patriot.”\textsuperscript{239} Indeed, an anti-revolution has occurred in Russia. Ultimately, Putin represents something of which Russians can be proud,\textsuperscript{240} and someone who has encouraged Russians to be proud to be Russian again.\textsuperscript{241} For these reasons Putin’s Presidency, which was marked by “managed

\begin{footnotes}
\textsuperscript{234} Id.
\textsuperscript{235} See Ignatius, supra note 42.
\textsuperscript{236} Id.
\textsuperscript{237} See BAKER & GLASSER, supra note 68, at 387.
\textsuperscript{238} J.D. Kahn, Russia’s “Dictatorship of Law” and the European Court of Human Rights, 29 REV. CENT. & E. EUR. L. 1, 1-14 (2004); see Kahn, supra note 35, at 553 (stating that “[n]one of this would matter, of course, if Putin’s last eight years had not brought a sense of stability and predictability to most Russians after the upheavals of the 1990s. Those two characteristics are commonly considered to be two of the greatest benefits of the rule of law in a society.”).
\textsuperscript{239} See Interview with Peter Baker and Susan Glasser, supra note 102 (According to a Levada poll, 82% of Russians approved of Putin’s leadership. This is almost a fourteen-fold increase from his starting point in August 1999, when only 6% of Russians could even say who he was.); see BURNHAM, supra note 31, at 228-29, (showing that the most revered institutions in Russia remain the army, the church and the presidency. While 62% of the populace expressed trust in the army, only 7% trusted political parties.); see Struck, supra note 30 (stating that in Gorbachev’s view, “Putin salvaged the country from the ravages of [] Boris Yeltsin, whose rule as president of Russia from 1991 to 1999 set the country careening toward capitalism at the cost of great economic and social turmoil. . . Now Russia is having a resurgence. . .”).
\textsuperscript{240} See Interview with Peter Baker and Susan Glasser, supra note 62.
\textsuperscript{241} See id. (Russians young and old now sing “Russia, Putin, Unity,” illustrative of their newfound Russian pride.); see Duma Approves Old Soviet Anthem, CNN, Dec. 8, 2000, available at: 
http://www.statesymbol.ru/russymbols/symbols/20050407/39593449.html; see Gessen, supra note 20, at 385 (stating that there remain a minority of critics within Russia, including one of Putin’s former economic advisors, Andrei Illarionov, who resigned in December 2005 and has said, “It is one thing to work in a country that is partially free. It is another thing when the country loses all political freedom. . . The very nature of the state has changed.”).
\end{footnotes}
THROUGH A RUSSIAN LOOKING GLASS

democracy,”242 and “vertical of power”243 represents a balance between the traditional strong state ideal and more-modern democratic ideals—a uniquely Russian hybrid-style vision of democracy.244 This understanding is even consistent with how former President Bush described Russia in 2004. At a summit in Santiago, Chile, President Bush acknowledged the uniqueness of Russia and one of his aides described how the American President understood that Russia needs a “style of government that [is] consistent with Russian history.”245

B. Development of a Unique Russian Hybrid Democracy

Indeed, the balance of a strong state ideal and modern democratic values now characterizes Russia’s vision of democracy. Specifically, the 2004 Presidential election during which Putin was re-elected for a second term, the unique tandem relationship between Medvedev and Putin as President and Prime Minister respectively, and finally, Medvedev’s most recent call to amend the Constitution highlight the development of Russia’s democracy. These occasions illustrate the coexistence of Russia’s traditional strong state ideal with more modern open democratic principles.

1. 2004 Presidential Election: Putin, Again

When President Putin re-ran for the Presidency on March 14, 2004,246 he earned seventy-one percent of the popular vote, easily securing his second term.247 The election results indicated that Russians were generally pleased with Putin. However, the election also highlighted several very important features of Russian democracy. First, it illustrated Russians’ newfound ability to directly choose their President.248 Specifically, Russians have voted a lot since “the first semicompetitive election in the Soviet Union in the spring of 1989.”249

---

242 BETWEEN DICTATORSHIP AND DEMOCRACY, supra note 45, at 9. (“Putin’s advisors have a term for this transformation of democratic practices without altering formal democratic rules: ‘managed democracy.’”).
243 This has been described as “a single chain of command with [Putin] at the top; see BAKER & GLASSER, supra note 68, at 84.
244 See Remington, supra note 173, at 12 (explaining that Russians want a strong state but also “value democratic liberties and the rule of law.”). Moreover, Remington described the development of a “‘third way,’ which is neither the radical neoliberalism of the early 1990s, nor the ultranationalist statism of the ‘red-brown’ extremists, but a reinterpretation of the ideal strong state.” Id.
245 See BAKER & GLASSER, supra note 68, at 377.
246 See Ignatius, supra note 42.
248 Konst. RF art 81 (“The procedure for elections of the President of the Russian Federation shall be determined by federal law.”). Interestingly, Putin has
Russians receive a holiday on ‘election day,’ unlike Americans, who must still go to work that day, a fact that has compelled some American pundits to argue that there exists a “voting tax” in the United States. As such, perhaps it is easier for Russians to exercise their democratic right to vote than for Americans. In any event, Russians are voting more than ever before. Voter turnout has “remained solid even in the late 1990s, averaging more than 60 percent in national elections. Evidently voters believe that these elections matter,” or else they would not be participating. Furthermore, “the major stakeholders in Russia’s political and economic system continue to devote major resources to these electoral processes, suggesting that the outcomes are not predetermined and have consequences.”

The 2004 Russian presidential election also illustrated that while Russians willingly embraced features of democracy, such as the right to vote, they still yearned for a strong state. Indeed, Russians knew Putin and his policies, since he had been their President for the four previous years. Russians willingly and actively sought four more years of the strong state ideal, which Putin had embodied during his first term.

2. Medvedev and Putin’s Tandem-Relationship: An Unprecedented Relationship?

Putin handed the Russian Presidency to Medvedev in May of 2008, and soon thereafter, accepted the position of Prime Minister, though it is clear that Putin still retains a significant amount of power. Unquestionably, Putin “[has] become Russia’s most powerful prime minister since the post was first established.” In many respects, Putin continues to behave like the head of

---

249 BETWEEN DICTATORSHIP AND DEMOCRACY, supra note 45, at 23.
250 See Rachel Sklar, Rachel Maddow Decrees “The New Poll Tax,” Long Lines, HUFFINGTON POST, Nov. 3, 2008, available at: http://www.huffingtonpost.com/2008/11/03/rachel-maddow-decries-long_lines_140455.html. (Maddow arguing, “this is a poll tax. How much do you get paid for an hour of work? Do you have the kind of job that would be delighted to give you an hour, a half-day, a whole day off work because you were waiting in line at your precinct? Even if it won't cost you your job, can you afford to not work those hours? Are you elderly or disabled, do you not have the physical stamina for this kind of exertion? This is a poll tax. . . Who is not in those lines — because they can't afford to be?”).
251 BETWEEN DICTATORSHIP AND DEMOCRACY, supra note 45.
252 Id.
253 See Blankenagel, supra note 177, at 26-29.
254 Id.
Moreover, soon after taking office, Medvedev referenced his tandem arrangement with Putin, and indicated his desire to nurture it. Specifically, Medvedev said, “no one has any doubt that our tandem, our cooperation, will only continue to strengthen.”

Thus, a unique and very distinct relationship between the President and Prime Minister seems to have taken root. And while critics argue that Putin’s assumption of power is unlawful, since it is unprecedented for the Prime Minister to hold the amount of power that Putin retains, Russians are generally content that he has remained a central figure. After all, a November 2008 poll showed that Putin’s popularity was at eighty-three percent, while Medvedev’s was at seventy-six percent. Russians are not rushing to change the status quo, they enjoy the peace and stability that Putin’s power and rule has provided.

Moreover, the tandem relationship between Putin and Medvedev resembles other Russian political relationships of the past. During the Soviet era, the leader of the Soviet Union was constructively the head of state, but the individual with actual power was the head of the Communist Party, illustrative that this “unprecedented” relationship may not actually be so unprecedented, and instead, represents the continued desire for a strong state—which Putin embodies. That Putin continues to assume power, as if he is still President, in fact underscores the development of Russia’s unique democracy.

Specifically, Putin was constitutionally precluded from serving as President for a third consecutive term. The Russian Constitution states: “One and the same person cannot hold the office of the President of the Russian Federation for more than two terms running.” If Putin had sought a third term, it would have violated the Constitution and the democratic values it, as the first words of the Russian Constitution are: “The Russian Federation- Russia is a democratic federative law-governed state with a republican form of government.” Article 4 of the Constitution adds: “The Constitution of the Russian Federation and federal laws shall have supremacy on the State authority of the Russian Federation.”

---

255 See Putin Becomes Russian Leader, supra note 15.
257 Id.
258 Miriam Elder, Door Opens for Putin to Return to Kremlin; Constitutional Reform Would Allow Ex-President to Make Dramatic Comeback, THE INDEPENDENT, Nov. 15, 2008.
259 See SMITH, supra note 35, at 225.
260 Konst. RF art 81. It is interesting to note that there is not yet a definitive answer regarding whether Article 81 means that the same person is precluded from holding office for more than two terms generally, or whether the same person is only precluded from serving more than two terms consecutively, but can return to the presidency later.
261 Konst. RF art 1.
262 Id. Art 4.
Thus, Putin could not seek a third term because the Constitution, which necessarily constrains him, precluded it.

Though, in light of the inherent importance of their Constitution, because Russians regard Putin as symbolic of the strong state ideal, they have willingly accepted and welcomed his continued presence. Specifically, Putin has assumed an unprecedented amount of responsibility and power in the Prime Minister position. In particular, while the Russian Constitution states, “The President of the Russian Federation shall be the Head of State” and “shall represent the Russian Federation within the country and in international relations,” it was Putin, as the Russian Prime Minister, whom the international community sought during the August 2008 Georgian conflict. By contrast, the Russian Constitution specifies that the duties of the Prime Minister include developing and submitting to the State Duma a federal budget, implementing a uniform State policy in the sphere of culture, science, education, health social security, and ecology, administration of federal property, and implementing civil rights and freedoms, as well as “other functions, which are entrusted to [him] by the Constitution.”

Indeed, by permitting the development of this unique tandem relationship between the President and Prime Minister, Russians are reconciling their historic desire to maintain a strong state system with the democratic values embodied in their Constitution. This relationship is emblematic of Russia’s hybrid vision of democracy.

### 3. Medvedev’s Call to Amend the Constitution, November 2008: Civility and Openness

As mentioned previously, Medvedev requested that the Russian Constitution be amended in November 2008. Generally, there are two ways to change the Russian Constitution. “The first is the convocation of a constitutional convention to make corrections to the main chapters of the constitution or to work out a new draft. The second way is to introduce a few amendments that do not contradict the basis of the constitutional regime.” The first way is long and complex, whereas the “only reasonable way to change the constitution in the midterm and long term is to add amendments gradually as has been done in the United States.”

---

263 *Id.* Art 80.
264 *Id.*
265 *Id.* Art 114.
266 *See* Ignatius, *supra* note 42 (quoting William Talbott of the Brookings Institute who suggested, “Putin has returned to the mechanism of one-man rule. Yet, it’s a new kind of state, with elements that are contemporary and elements from the past.”).
267 *See* Address, *supra* note 4.
268 *BETWEEN DICTATORSHIP AND DEMOCRACY,* *supra* note 45, at 82.
269 *Id.*

---

39
Russian law dictated that passage of Medvedev’s bill required a majority of the State Duma to vote for its adoption. Indeed, when Medvedev submitted his bill, the State Duma decisively passed it by a vote of 392 to 58, an example of democratic values at work. And while it may be argued that a majority of those who voted for passage are members of Putin’s United Russia political party, whereas all fifty-seven members the minority Communist faction voted against the bill, the point is that Russia’s leaders abided by democratic principles nonetheless. Ultimately, the bill was passed by the Upper House of Russia’s parliament, and on December 30, 2008, Medvedev signed a law extending the Russian presidential term from four to six years.

The passage of the bill illustrates several important points. First, compared to the Soviet era, when only one political party existed, the Communist Party, there are now several political parties in Russia, including United Russia Party and the Communist Party. However, these are not the only ones. The very existence of multiple political parties may be attributed to the 1990s, when Russians expressed a strong desire to have multiple political parties, each of which could represent different factions or groups within Russia. In any event, the existence of several different political parties is itself indicative of democratic progress.

Moreover, while laws were allegedly passed unanimously during the Soviet era, because no opposition was even permitted, vocal and even public dissent is now permitted, and illustrated by this recent bill passage. Specifically, the Communist faction has responded to the bill’s passage with disgruntled comments. Communist Party and State Duma member Viktor I. Ilyukhin said, “why do I have to do this today? Why are we in such a hurry? A strict authoritarian regime has already been established in this country. There is already unprecedented concentration of power in one person’s hands.”

Not to be outdone, the Communist Party’s President, Gennadi A. Zyuganov, “scoffed at the idea that four years [is] too short.” He stated that “Soviet five-year plans had produced the Magnitogorsk and Kuznetsky metallurgical plants, the Gorky automotive factory and the Stalingrad tractor

---

270 Russian Constitution, Chapter 6, Article 105. (“Federal laws shall be adopted by the State Duma. Federal laws shall be adopted by a majority of votes of the total number of deputies of the State Duma…”).
272 Id.
273 Russia Extends Presidential Term to Six Years (on file with the author).
274 See SMITH, supra note 35, at 225.
275 Id.
276 See Handelman, supra note 175, at 88-91.
277 See Ellen Barry, Russia Moves Closer to Extending the Presidential Term, N.Y. TIMES, Nov. 15, 2008, at A8.
278 Id.
factory." Finally, several other Communist Party members even sarcastically questioned Medvedev’s intelligence. It is unimaginable that this type of dissent would have been permitted, let alone made public during the Soviet era, but is permitted and made public now. Thus, while the bill itself may represent a greater consolidation of power in the presidency, by extending the term, it was nonetheless, democratically passed by the State Duma, in an atmosphere of openness and with a willingness to permit dissent. Indeed, this amendment illustrates Russia’s vision of having both a strong state and democratic values.

C. Will Russia’s Hybrid Vision of Democracy Endure?

Putin effectively restored Russia to that with which it is familiar, by consolidating power in the Presidential branch of the federal government. Certainly, Russia has historically been ruled with an authoritarian, if not arbitrary fist, a fact that Putin recognizes:

Russia is not about to become a second England or United States, with their deep liberal traditions. In Russia’s tradition, as he pointed out, the “state’s structures and institutions have always played an extremely important role. For a Russian, a strong state is not an anomaly and not something to fight, but rather is the source and guarantor of order, the initiator and chief moving force of any changes.”

Indeed, in 2000, because Russia was at the brink of third-world status, Putin suggested that “[i]t need[ed] a strong state power . . .” Western-style democracy was simply not fit for Russia. In effect Russia’s history and worldview necessitate something better tailored to its needs.

Consequently, because a strong state represents a return to that which Russians are comfortable with, lest I say for which they are best-suited, it is not entirely surprising that a Russian-style of democracy would ultimately incorporate strong state elements. As recentl as November 2008, Russians asked, “why worry if it will all be decided for us anyways,” indicating that perhaps, Russians still desire to be ruled by a tsar-like ruler. Even more, Russians have referred to Putin as “the protector of the system.” Indeed, while “Putin’s treatment of the strong-state theme may differ from earlier models of state strength in thought by virtue of

279 _Id._
280 See Kurkchiyan, _supra_ note 37, at 39-42 (stating that “from a historical perspective, the Russian people never had the opportunity to directly engage in their governmental process. During the soviet era, party leaders exercised control over and separate from the Russian populace and before then, tsars or other entities exercised similar control.”).
281 See Handelman, _supra_ note 175, at 89-91.
282 See _Russia on the Threshold of the Millennium, supra_ note 170.
283 See Blankenagel, _supra_ note 177, at 27.
its insistence on law, democracy, and freedom,“285 he has not forgotten how central a strong state remains.

Putin has also indicated that a consolidation of power in Russia is necessary to ensure for a more stable development of the law. He argues, “as Russia proceeds through a transitional period in the absence of established and well-functioning political parties,”286 that because only a strong state can afford to live according to rules (i.e. according to the law)...287 any divergence from “democracy” is necessary because Russia is not yet ready for “democracy” in its totality.288 However, this does not necessarily comport with Putin’s earlier statements suggesting that Russia has never been, nor will it ever be able to adopt the type of democracy of America or Britain—that it is futile to assess Russian democracy from a western-democratic perspective.289 Is Russia incapable of developing a similar democracy, or is it simply beginning the process, such that comparisons are futile?

Ultimately, a strong Russian state is not necessarily an anomaly, or suggestive of a burgeoning authoritarian state. Rather, it simply suggests that Russia is nurturing its own distinct hybrid-style of democracy.290 Moreover, because Russia is actively working to develop democracy on its own and on its own terms, this hybrid-style of democracy is likely to endure.

IV. CONCLUSION

What matters above all is not whether a law is bad or good. What matters is whether or not the law exists. A bad law is nevertheless a law. Good illegality is nevertheless illegal.291

If you believe the American rhetoric, Russian leaders have hijacked the rule of law and democracy that was slowly developing within Russia’s borders.

---

285 See Remington, supra note 173.
286 See BURNHAM, supra note 34, at 178; See Weir, supra note 143, (quoting Olga Kryshantanovskaya, “I am sure that Putin believes he can control the uses of authority and slam on the brakes anytime he wants. . . But I fear the tendency to authoritarianism is a slippery slope, and once we are moving it will be impossible to stop.”).
287 See Gessen, supra note 20, at 338.
288 It is worth noting that this is inconsistent with the author’s argument that Russia may not even be a good candidate for western-style democracy. However, it is feasible that Putin would make such statements to appear as if western-style remains the goal, even if it is not.
290 See Handelman, supra note 175, at 68.
Yet, as this Article has shown, Russian reality is quite different. Today’s Russian leaders have actually strengthened, not abandoned legal and democratic reform.

This Article has offered a new, more nuanced approach. It has reexamined Russian legal and political developments through a Russian, rather than an American-centric lens. Through a Russian looking glass. . . This Russian lens has revealed a vision of law and democracy that is uniquely Russian, a hybrid-style scheme that seeks to incorporate Russian values that comport with the Russian experience.

Russia faces great challenges. The process of creating a new legal and democratic culture will be long, arduous and at times, stagnant or ineffective. But if Russia continues to nurture its unique vision of the law, through its hybrid-style rule of law and democracy, it will meet these challenges. In the process, it has already introduced a new generation to a distinctively Russian vision of the law and democracy—consistent with Russia’s own heritage and values. What is most impressive about Russia’s newfound vision of the law is that it seeks to incorporate Russian values that comport with the Russian experience. Indeed, for all of the criticism against Putin, he has nonetheless reinterpreted “the Russian tradition [of being a world leader and power] in a pragmatic and modernizing spirit. . .”

The next step is for U.S. policymakers, scholars, and citizens alike, to abandon their American-centric view of Russia and recognize the reality of Russian law and democracy today. With a new U.S. administration it is time to reconsider the prevailing American-centric view. Through a Russian lens, they will see Russia’s current reform program for what it is—progress rather than retreat.

\[292\text{ See SMITH, supra note 35, at 237 (stating that “[d]uring this transition phase the laws themselves and their enforcement may be less than perfect, but what is important is that they are functioning, however imperfectly. Laws matter.”)}\]

\[293\text{ An issue beyond the scope of this Article, but worth noting is that Russia’s burgeoning legal culture may soon become a source of Russian national pride, in the same way Russians are proud of their ballet or technological developments. Indeed, the development of its hybrid vision of the law may ultimately be a great success and thusly, a source of national pride.}\]

\[294\text{ See Blankenagel, supra note 177, at 26-29.}\]

\[295\text{ See Struck, supra note 30.}\]