

# Evaluating the Prospects for Young Lawyers to Remake Putin's Russia

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## Abstract

Russian lawyers have traditionally been politically pliant. The paper explores the potential for change. By focusing on the results of a survey of a cohort of 2015 graduates of law faculties across Russia, it asks whether lawyers might be prepared to use their expertise to challenge the Putin regime. About 30 percent of the sample were motivated to study law by a desire to change and improve society. The analysis shows that this group is more supportive of Putin's policies than the rest of the respondents. This suggests that they are unlikely to lead the charge for greater democracy or spark a resurgence of civil society.

## Keywords

lawyers – Russia – courts – civil society

Civil society has become increasingly muted as Putin has reconsolidated his grip on Russia following his 2012 election.<sup>1</sup> The branding of groups that displease the Kremlin as foreign agents has chilled the desire of many Russians to speak out or demonstrate. The hostile environment contributed to the decision of the majority of foreign funders of non-governmental groups (NGOs) to leave the country. Law has played a critical role in this strangulation of civil

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1 Thanks are due to the Demoscope group at the Institute of Sociology in Moscow for handling the logistics of the pilot survey, to the Law School at the University of Wisconsin-Madison for the requisite funding, and to Maayan Mor for assistance with data analysis. Comments on earlier drafts from Regina Smyth helped sharpen the argument.

society. Between 2012 and 2016, the regime, acting in concert with the legislature, has used the law on NGOs to increase the restrictions on their permissible activities and on potential funding sources.<sup>2</sup> In addition, criminal charges have been brought against some of those brazen enough to persist in their criticism of the regime, both as a way to silence them and to send a powerful signal to others.<sup>3</sup> Although Putin and his inner circle always deny involvement in such cases, their fingerprints are obvious to all.

In some other authoritarian polities, lawyers have taken the lead in holding authorities to account, often paying a heavy personal price for doing so. Occasionally, as in Pakistan, lawyers have taken to the streets as a group to voice their outrage with their regime's policies.<sup>4</sup> More often, lawyers give voice to the downtrodden or politically ostracized.<sup>5</sup> The willingness of lawyers to represent their clients zealously, even when this requires them to take on rich and/or politically powerful actors, speaks to the ability of ordinary citizens to gain access to justice.<sup>6</sup> History has taught us that even when lawsuits seem quixotic, they serve as potent evidence of popular dissatisfaction. Although most courts lack the power to overturn laws themselves in non-common-law countries, lawsuits can act as signals to legislators and, over time, can lead to profound social changes.<sup>7</sup> In other words, they may evince a nascent civil society, despite the best efforts of the regime to suppress non-governmental groups and coopt any who remain for its purposes.

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2 See, Geir Flikke, "Resurgent Authoritarianism: The Case of Russia's New NGO Legislation," *Post-Soviet Affairs* 32, no. 2 (2016): 103–31; Jo Crotty, Jo, Sarah Marie Hall, and Sergej Ljubownikow. "Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law," *Europe-Asia Studies* 66, no. 8 (2014): 1253–69.

3 The most well-known examples include Aleksei Naval'nyi and the protestors detained after violence broke out at a demonstration at Bolotnaia Square.

4 Zahid Shahab Ahmed and Maria J. Stephan, "Fighting for the Rule of Law: Civil Resistance and the Lawyers' Movement in Pakistan," *Democratization* 17, no. 3 (2010): 492–513.

5 Ethan Michelson, "Lawyers, Political Embeddedness, and Institutional Continuity in China's Transition from Socialism," *American Journal of Sociology* 113, no. 2 (2007): 352–414; Michael Lobban, *White Man's Justice: South African Political Trials in the Black Consciousness Era* (Oxford: Clarendon Press, 1996).

6 Sida Liu, Lily Liang, and Terence C. Halliday, "The Trial of Li Zhuang: Chinese Lawyers' Collective Action Against Populism," *Asian Journal of Law and Society* 1, no. 1 (2014): 79–97.

7 On the characteristics of legal systems with a civil law tradition, see, John Henry Merryman and Rogelio Pérez-Perdomo, *The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America*, 3rd ed. (Stanford, CA: Stanford University Press, 2007).

In Russia, lawyers have not traditionally taken on the role of social gadfly.<sup>8</sup> Rather than engineering social change through strategically chosen lawsuits designed to highlight the shortcomings of the law on the books, they tend to restrict themselves to helping clients navigate the maze of such laws. Put more bluntly, they do not see their role as questioning the existing laws; they accept these as a given and work to maximize the benefits for their clients. It follows that in criminal cases, they typically encourage their clients to plead guilty. They see their job as minimizing the time behind bars rather than exoneration.

Exceptions exist. Russian lawyers have stepped up to defend NGOs that have been maligned by the regime, seeking to free them of the stigma of foreign agent. They have also come forward to represent defendants in politically-charged cases. In doing so, they have risked putting themselves in the line of fire from the Kremlin, as it has begun to revert to the Soviet-era practice of threatening disbarment and/or jail for lawyers who rock the boat. A few public interest law firms have managed to survive. Their cases focus on less showy, but no less egregious, claims of human rights abuses. These lawyers tend to put their hope for redemption in the European Court of Human Rights, viewing their defeats in the Russian domestic courts as inevitable.

In Russia, as elsewhere, the legal profession is not static. Every year, thousands of young people graduate from law faculties, opening the possibility for change. In this article, I focus on a cohort of 2015 law graduates to explore how they see their role in contemporary society. I am particularly interested in those who pursued legal education in order to change and improve society. I wondered whether they might be harbingers of change; whether they might be willing to take on the regime in defense of civil society. My analysis, albeit preliminary, reveals that they have an unusually high level of political engagement. But it suggests that they are unlikely to storm the ramparts. They emerge as strong supporters of Putin, even when it comes to blatantly politicized prosecutions. They seem to think society is moving in the right direction and are eager to help perfect Putin's vision for Russia.

I begin by providing an overview of the Russian legal profession, with an emphasis on how it has evolved in the post-Soviet era. The bulk of the article is devoted to the analysis of data collected in a pilot survey of 2015 Russian law graduates. After a summary of the methodology and the sample, I then explore what distinguishes the young lawyers who seek social change from their colleagues who are more interested in fame and fortune.

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8 See, Michael Newcity, "Why Is There No Russian Atticus Finch? Or Even a Russian Rumpole?," *Texas Wesleyan Law Review* 12, no. 1 (2005): 271–302.

## The Russian Legal Profession

*Institutional Structure.* Russian legal training follows the European model where becoming a lawyer is an undergraduate enterprise. The popularity of legal education has increased dramatically in the post-Soviet era. Supply has grown to meet this demand. Up until the late 1980s, Russia had about 100 law schools. None of their students paid tuition. At present, the number of Russian law schools exceeds 1000, which are fairly evenly divided between public and private. All students at private law schools pay tuition. In contrast to the Soviet past, a significant percentage of students at public law schools also pay tuition. Competition is keen for the so-called “budgetary” places, for which tuition is covered by the state. The quality of the education provided varies.<sup>9</sup>

Although central authorities distributed Soviet-era law graduates both geographically and among specialties, freshly minted graduates are free to decide for themselves what sort of lawyer they want to become. Like much of continental Europe, Russia has a divided bar. Those who consider themselves lawyers (*iuristy*) are united in their educational background but, once they have graduated, they splinter into different groups, each with their own standards and professional organizations. These include prosecutors (*prokurory*), litigators (*advokaty*), in-house lawyers (*iuriskonsul'ty*), notaries (*notariusy*), judges (*sud'i*), and lawyers working for the state bureaucracy. Of these, only admission to the *advokatura* requires anything akin to a bar exam. These divisions are not a recent innovation, but date back to the tsarist era. Until recently, the barriers, both formal and informal, between these groups were maintained quite rigidly. But since the collapse of the Soviet Union and the subsequent introduction of market institutions, the barriers have grown more porous, allowing individuals to shift from one group to another.

The dramatic lessening of state regulations on lawyers was a natural consequence of the shift away from an administrative command economy to a market economy. The changes gave rise to a vibrant market for legal services for Russian individuals and firms. In the chaos of the late 1980s and 1990s, the norms that had ensured *advokaty* a monopoly over representing clients in court were ignored as non-*advokaty* pushed their way into courts as well. These *iuristy*, many of whom had previously toiled in obscurity in the state administration or in state-owned enterprises, took advantage of the regulatory vacuum to establish themselves as viable alternatives to *advokaty*. They saw no

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9 See, Peter B. Maggs, Olga Schwartz, and William Burnham, *Law and Legal System of the Russian Federation*, 6th ed. (Huntington, NY: Juris Publishing, 2015).

advantage to taking the *advokatskii* exam. Both *advokaty* and *iuristy* created private law firms that competed with the carryover *advokatskie kollegii* that had been the only option for *advokaty* in the Soviet era.

*Advokaty* attempted to reclaim their former glory by championing a law that reestablished their monopoly on representing clients in court.<sup>10</sup> When this 2002 law on the *advokatura* was challenged as unconstitutional, the Russian Constitutional Court effectively rewrote the law in 2004 to limit their prerogative to criminal cases.<sup>11</sup> The Court held that, in all other cases, the constitution guaranteed citizens the right to pick their own representative. Judges do not inquire into the qualifications of those who appear before them, only into whether they have the proper authorization (*doverennost'*) from their client. This has opened the door for the uncredentialed, including law students, to represent clients in court.

*Self-Conception.* As I noted at the outset, Russian lawyers do not view themselves as social engineers. Like lawyers from other countries with a civil law legal tradition, they are trained to help clients determine the legality of their behavior, not to question the legitimacy of the laws themselves. Russian legal education has traditionally focused on studying the statutory codes, with the goal of mastering their intricacies. The sort of critical thinking that is the hallmark of Anglo-American legal education is mostly absent from Russian law faculties. As a result, according to the typology of lawyers developed by Nelson and Neilsen,<sup>12</sup> Russian lawyers are best conceptualized as technicians, rather than as advisors or hired guns. They rarely take a leadership role in solving problems. Instead, their clients take the lead. This is not unique to Russia, but is often found in authoritarian polities.<sup>13</sup>

In the Soviet era, few lawyers of any stripe openly challenged the status quo. The exceptions tended to arise among the *advokatura*, who enjoyed more independence from state control than any other part of the legal profession.

10 Pamela A. Jordan, *Defending Rights in Russia: Lawyers, the State and Legal Reform in the Post-Soviet Era* (Vancouver: UBC Press, 2005).

11 Postanovlenie Konstitutsionnogo Suda Rossiiskoi Federatsii ot 16 iulia 2004 g. *Rossiiskaia gazeta*, July 27, 2004. <https://rg.ru/2004/07/27/konstituzionnost-doc-dok.html>.

12 Robert L. Nelson and Laura Beth Nielsen, "Cops, Counsel, and Entrepreneurs: Constructing the Role of Inside Counsel in Large Corporations," *Law & Society Review* 34, no. 2 (2000): 457–94.

13 See, Jothie Rajah, "Lawyers, Politics, and Publics: State Management of Lawyers and Legitimacy in Singapore," in Terence C. Halliday, Lucien Karpik, and Malcolm M. Feely eds., *Fates of Political Liberalism in the British Post-Colony: The Politics of the Legal Complex* (Cambridge: Cambridge University Press, 2012): 149–92.

They were able to control entry to this subfield, though the Ministry of Justice set a cap on the total number of *advokaty*.<sup>14</sup> As Kaminskaya's memoir of her days as a Soviet *advokat* illustrates, they worked in the shadow of the Communist Party and risked disbarment if they diverted too much from the Party line.<sup>15</sup> She was among a handful of *advokaty* who were willing to represent Soviet dissidents and to press for their innocence.

At first glance, the situation seems different today. Lawyers have become more prominent in leadership positions, both within the regime and the opposition. Russia's current and former presidents are both alumni of the law faculty at Leningrad State University. Although Putin never practiced law, Medvedev did. Indeed, he taught at his alma mater for several years before embarking on his political career. A key leader of the opposition, Aleksei Naval'nyi, who memorably relabeled Putin's United Russia party as the party of crooks and thieves, is also a law graduate. But he is far from the typical Russian lawyer. Much like their Soviet predecessors, most Russian lawyers are content to school their clients on the letter of the law. Neither their education nor their professional socialization encourages them to push for social change.

### Methodology

*Existing Scholarship on the Russian Legal Profession.* There is a large literature on the Russian legal profession that dates back to its origins as part of the Great Reforms of Alexander II in 1864.<sup>16</sup> To date, however, the scholarship has focused on the subunits of the profession rather than studying all types of lawyers.

*Advokaty* have been particularly well-studied, probably because they are most similar to Western lawyers and are more receptive to scholars' entreaties. Research on the present-day *advokatura* tends to rely on "snowball" methods to identify interviewees,<sup>17</sup> though several scholars have fielded

14 Eugene Huskey, "Between Citizen and State: The Soviet Bar (Advokatura) Under Gorbachev," *Columbia Journal of Transnational Law* 28, no. 1 (1990): 95–116.

15 Dina Kaminskaya, *Final Judgment: My Life as a Soviet Defense Attorney*, Michael Glenny, trans. (New York: Simon and Schuster, 1982).

16 See, Richard S. Wortman, *The Development of a Russian Legal Consciousness* (Chicago: University of Chicago Press, 1976).

17 See, Jordan, *Defending Rights*; Michael Burrage, "Russian Advocates: Before, During and After Perestroika," *Law & Social Inquiry* 18, no. 3 (1999): 573–92.

surveys of *advokaty*.<sup>18</sup> Surveys have also proved fruitful in studying in-house lawyers.<sup>19</sup>

Scholarly access to prosecutors and judges is more difficult. Few are willing to risk their careers by speaking openly with researchers. These barriers have begun to break down. Intrepid scholars have gained unprecedented access to *prokurory*.<sup>20</sup> Along similar lines, I have used non-participant observation and unpublished statistics about the work of courts to document the day-to-day reality of judges,<sup>21</sup> while Volkov and Dzmitryieva fielded a survey of the judicial corps that yielded a wealth of information.<sup>22</sup>

Left unexplored are non-*advokaty* who are in private practice, notaries, and the multitude of Russian lawyers who populate the state bureaucracy.

*Innovation of the Survey.* My research breaks new ground by studying the Russian legal profession as a whole. The focus on the generational factor is likewise unprecedented in the Russian context. 301 law students were gathered and surveyed in person on the cusp of their graduation from Russian law faculties in 2015. The advantage of seeking out law-student-respondents rather than experienced-lawyer-respondents is that it creates a sample that includes a wide variety of different career trajectories. As Table 1 shows, when asked what sort of work they planned to pursue after graduation, they divided themselves among a wide variety of specialties, with the largest groups being attracted to work in the criminal justice system or as in-house lawyers. Some were still unsure. A few (2.7 percent) acknowledged this openly, but it is fair to assume that

18 See, A.A. Iakovlev and A.P. Kazun, "Sostoianie i problemy iuridicheskogo soobshchestva – vzgliad advokатов," *Advokatskaia praktika* no. 1 (2015): 48–58; Vanessa A. Baird and Debra Javeline, "The Effects of National and Local Funding on Judicial Performance: Perceptions of Russia's Lawyers," *Law & Society Review* 44, no. 2 (2010): 331–64.

19 See, Kathryn Hendley, Peter Murrell, and Randi Ryterman, "Agents of Change or Unchanging Agents? The Role of Lawyers within Russian Industrial Enterprises," *Law & Social Inquiry* 26, no. 3 (2001): 685–715.

20 See, Lauren A. McCarthy, *Trafficking Justice: How Russian Police Enforce New Laws, from Crime to Courtroom* (Ithaca, NY: Cornell University Press, 2015); Ella Paneyakh, "Faking Performance Together: Systems of Performance Evaluation in Russian Enforcement Agencies and Production of Bias and Privilege," *Post-Soviet Affairs* 30, nos. 2–3 (2014): 115–36.

21 Kathryn Hendley, "Too Much of a Good Thing? Assessing Access to Civil Justice in Russia," *Slavic Review* 72, no. 4 (2013): 802–27; "Are Russian Judges Still Soviet? An Analysis of the Effort to Introduce Adversarialism to the Russian *Arbitrazh* Courts," *Post-Soviet Affairs* 23, no. 3 (2007): 240–74.

22 Vadim Volkov and Aryna Dzmitryieva, "Recruitment Patterns, Gender, and Professional Subcultures of the Judiciary in Russia," *International Journal of the Legal Profession* 22, no. 2 (2015): 166–92.

TABLE 1 Respondents' response to the question: What sort of legal specialty do you plan to pursue after completing your legal education? (Excludes those who do not intend to practice law.)

Type of lawyer	Percentage of respondents indicating an interest
<i>Advokat</i>	7.3
A position within the criminal justice system (e.g., assistant ( <i>pomoshchnik</i> ) to a <i>prokuror</i> , investigator ( <i>sledovatel'</i> )	20.6
<i>Pomoshchnik</i> to a judge	3.7
<i>Pomoshchnik</i> to a notary	2.3
Corporate lawyer in private practice	4
Litigator (non- <i>advokat</i> ) in private practice	5.3
<i>Iuriskonsul't</i> (in-house lawyer)	19.9
Lawyer within the state bureaucracy	11.3
Law teacher	0.3
Work at NGO	0.3
Unsure of interests	2.7
Refuse to respond	22.3

the 22 percent who did not respond to the question were uncertain. Because each legal subfield has its own professional organizations, assembling a similar cross-section of practicing lawyers would be almost impossible. Although my respondents' lack of practical experience precluded some lines of inquiry, it allowed me to capture their aspirations before the hard knocks of life intervene to disillusion them.

The survey that serves as the basis for this article constitutes the pilot stage for a planned multi-year study of Russian lawyers that is modeled on the many longitudinal studies of the U.S. legal profession.<sup>23</sup> We fielded a slightly revised survey to a much larger group (n = 2500) in the spring of 2016. Much like the U.S. studies, we hope to be able to return to these respondents at five-year intervals in order to map the twists and turns of their careers and to document how their political attitudes and job satisfaction change over time.

23 See, Ronit Dinovitzer and Bryant Garth, "Lawyer Satisfaction in the Process of Structuring Legal Careers," *Law & Society Review* 41, no. 1 (2007): 1–50.

*Description of the Sample.* The 2015 pilot survey, although more modest than the full survey, provides an intriguing window into the thinking of young Russian lawyers.<sup>24</sup> It includes students from a mix of state-funded and private law faculties from ten regions across Russia. Almost all are ethnically Russian.<sup>25</sup> Their mean age is 24.7. As this suggests, most (69 percent) came to their legal education directly after finishing their mandatory secondary education.<sup>26</sup> Two-thirds of the sample had attended the law faculty full time, though a significant minority (25 percent) pursued distance (*zaochnoe*) education.<sup>27</sup> Almost 40 percent of the students sampled did not pay tuition; they had a so-called “budget” place, indicating that the state covered their costs. Another third of the sample reported that their parents paid their tuition. Respondents who saved their money and paid their own way constituted a quarter of the sample. Not surprisingly, this more self-sufficient group is considerably older. They had a mean age of 31, compared to 22 for the others. Only eight respondents took out a loan to finance their education.

Most respondents are part of the nascent Russian middle class. They are generally financially comfortable, though not wealthy, and have parents who are university educated. As a group, they are generally content with their lives, and believe themselves to be well-respected. They are more ambivalent when it comes to the trustworthiness of others and the extent to which they enjoy power or wealth. Most (over 90 percent) are believers and most of these

24 For more detailed information about the sample, see supplementary Table A-1, available at: <http://law.wisc.edu/profiles/pubs.php?iEmployeeID=143>.

25 Of the 253 respondents who answered this question, 250 reported being Russian. It is fair to assume that the 48 respondents (about 16 percent of the sample) who declined to respond were not Russian.

26 Of the remainder, about 10 percent had transferred to the law faculty from another part of the university. About 25 percent of the sample reported having had a job before matriculating. This group was fairly evenly divided between those with law-related jobs and those with jobs that did not touch on law.

27 Students enrolled in *zaochnye* programs are responsible for mastering the substantive content of courses on their own. They gather two times a year for about three weeks, during which they take a battery of exams and attend lectures highlighting the subjects to be studied during the next semester. *Zaochnoe* education is targeted at those who cannot devote themselves full-time to their studies, hence, it is not surprising that this group is much older. The mean age for full-time students is 22, compared to 32 for their *zaochnye* colleagues. *Zaochnye* students are also more likely to have held down jobs either before or during their schooling. For a summary of the pluses and minuses of *zaochnoe* education, see, V.V. Shevtsov and O.V. Nazarova, “Zaochnoe obrazovanie: ot kritiki do ‘opravdaniia’” *Vestnik Akademii znaniï*, no. 2 (2013).

believers follow the Russian Orthodox Church. Over two-thirds have never been married.

The surveyed students had few complaints about their education. When asked to assess their level of satisfaction with their training in theoretical and practical aspects of law on a four-point scale, their mean scores were 3.4 and 2.94, respectively. These scores reflect the long-standing emphasis on the law on the books over the law in action. Yet almost all of the students (89 percent) were required to work as a *stazher*, a type of unpaid apprenticeship or internship that has long been a standard element of Russian (and Soviet) legal education. In addition, many (70 percent) held down paying jobs while studying law (see Table 3). These jobs were fairly evenly divided between those that were law-related and those that were not.

One of the biggest surprises of the survey is the complete lack of hands-on court experience of the students. Not a single respondent had participated in, or even attended hearings of any level of court. As I noted earlier, the Russian courts give litigants free rein to hire anyone to represent them, including students. During my observational research at trial courts over the past decade, I encountered many law students who were cutting their teeth on simple cases. Whether the lack of such experience among my respondents reflects a change in informal norms will become clear when the data from the larger more representative sample becomes available. But the failure of the students surveyed in 2015 to go to court does not reflect a lack of interest in the courts. Three-fourths of them had visited court websites during the year preceding the survey. At the same time, their lack of hands-on experience may help explain their lack of sympathy for societal underdogs and their willingness to sign onto Putin's agenda.

Graduating from a law faculty does not necessarily put everyone on the path to becoming a lawyer. As is shown by Putin and Gorbachev, both of whom earned an undergraduate law degree, and neither of whom ever practiced law, a law degree can serve as a foundation for other careers. This is, of course, not unique to Russia. When this cohort was asked to reflect on their plans at the time they began their legal education, only 15 (5 percent) said they had no intention of practicing law. By the time of graduation, two-thirds of this group had changed their mind. But others had lost their interest in becoming lawyers. About 7 percent (21 respondents, including 5 from the original group) said they had no plans to work as lawyers. An additional 17 respondents said that their post-graduation job was not law-related, but that they expected to do some legal work. This emphasis on the defectors misses the more important point that well over 70 percent of the surveyed law students did plan to work as lawyers following their graduation.

### Characteristics of Young Russian Lawyers Interested in Improving Society

Having now laid out the contours of the sample, I can turn to the question of how respondents who are keen to change society differ from their compatriots and why. In particular, I am interested in their political identity and what this portends for their behavior. To explore these factors, we asked respondents why they chose to study law. They were given a variety of options and were asked to rank the importance of each on a four-point scale, with low scores indicating that it was completely unimportant and high scores indicating that it was very important motivation. Table 2 reports the results. A desire to become rich and successful emerges as the most powerful motive, whereas pleasing one's family appears to be less crucial. Altruism is not irrelevant. Helping others served as a strong impetus for many. A desire to change or improve society falls somewhere in the middle.

But it is this group of respondents who espouse a desire to change or improve society that interests me. If any part of the Russian legal profession is going to break the longstanding mold and move away from a technical understanding of their role to become more activist, then surely this group will lead the way. To study them I created a dummy variable composed of the 29.2

TABLE 2 *Respondents' goals when deciding to pursue legal education (from 2015 survey of law graduates).*

	Completely unimportant*	Not very important*	Somewhat important*	Very important*	Mean (Index: 1–4)
Desire to change or improve society	3	20.5	47.3	29.2**	3.03
Desire to help people	2.3	7.6	49.5	40.5	3.3
Desire to become rich and successful	2	8	44	46	3.48
Desire for intellectually fulfilling work	14.3	22.8	40.1	22.8	2.7
Desire to be influential	7.7	22.3	39.3	30.7	2.9
Desire to please family	31.1	26.3	26.3	16.4	2.3

\* Reported as percentages.

\*\* Members of the Social Change Group.

percent of the sample who identified the desire to change society as very important. In the analysis that follows, I compare these respondents (the “Social Change Group”) to their colleagues who were less motivated by the desire to affect social change when deciding to study law.

I began by exploring their demographic characteristics as well as their basic personality traits. This comparison yielded little fruit. Any differences between the Social Change Group and other respondents in terms of age, marital status, and social class were not statistically significant. Likewise the financial situation of the two groups, both current and prospective, did not diverge. And their answers to the questions about their willingness to trust others and their assessment of their relative power and respect were substantially similar.

*Career Plans.* The differences between the two groups start to come into focus when I turn to employment. The Social Change Group is more committed to practicing law. Over 80 percent planned to use their education to become lawyers and less than 5 percent planned to pursue non-legal careers.<sup>28</sup> Even more telling, this Social Change Group expressed greater interest in becoming *advokaty*. This is evident from several results in Table 3. First, these students were almost twice as likely to have worked with *advokaty* as law students. But more importantly, they are more determined than their counterparts in taking the exam to become an *advokat*. Over 36 percent of the Social Change Group plan to do so, compared with only about 18 percent of the other respondents. Unlike the bar exam in the U.S., which can be taken immediately upon graduation from law school, the *advokatskii* exam requires at least five years of practical experience.<sup>29</sup> Typically young lawyers work as *pomoshchniki* or apprentices at established *advokatskie* offices to gain the necessary experience.

Moreover, the greater-than-average determination of the Social Change Group to become *advokaty* is entirely consistent with their espoused desire to change and improve society. Of the many sub-fields of the Russian legal profession, *advokaty* tend to be the lawyers who are willing to rock the boat. Their representation of clients in criminal cases forces them to take strong positions. As the conviction rate of close to 100 percent suggests, the vast majority of *advokaty* pursue the path of least resistance by conceding the guilt of their clients and using their wiles to minimize jail time, a few push back. Examples include the lawyer for Vera Zaslulich in the late tsarist era, who successfully convinced the jury to ignore her obvious guilt in favor of the larger social injustice that a

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28 For the remainder of the sample, less than 70 percent planned to pursue legal work and over 8 percent had no interest in becoming a lawyer.

29 Jordan, *Defending Rights*.

TABLE 3 Respondents' employment – past and anticipated (from 2015 survey of law graduates). Reported as percentages.

	Full sample	Social Change Group	Other respondents	Chi2
Had paying job as a law student:				
Yes	69.8	78.2	66.4	
No	30.2	21.2	33.6	0.043
Worked with <i>advokaty</i> as a law student				
Yes	10.6	16.1	8.4	
No	89.4	83.9	91.6	0.05
Plan to take exam to become <i>advokat</i>				
Yes	23.3	36.8	17.8	
No	47.5	39.1	50.9	
Not sure	29.2	24.1	31.3	0.002

conviction would bring.<sup>30</sup> During the Soviet era, *advokaty* occasionally argued in favor of acquittal for their dissident clients, citing the language of the constitution that ostensibly guaranteed freedom of free speech and assembly.<sup>31</sup> Such arguments were routinely disregarded by the court, but served to energize the dissident community and build support elsewhere.<sup>32</sup> Present-day judges are similarly tone deaf to appeals to justice, preferring to hew closely to the statutory law, but *advokaty* representing politically-prominent clients such as Khodorkovskii and Pussy Riot have not shied away from putting themselves on the record as opposing the status quo.<sup>33</sup> When such lawyers lose, they tend to

30 Samuel Kucherov, "The Case of Vera Zasulich." *Russian Review* 11, no. 2 (1952): 86–96.

31 Kaminskaya, *Final Judgment*.

32 Ludmilla Alexeyeva, *Soviet Dissent: Contemporary Movements for National, Religious, and Human Rights* (Middletown, CT: Wesleyan University Press, 1985), 276–79.

33 See, Masha Gessen, *Words Will Break Cement: The Passion of Pussy Riot* (New York: Riverhead Books, 2014); A. Nepomniashchii, "Professiiia – advokat: Delo Vasiliia Aleksaniana," in K.A. Mishina, ed., *Kakogo eto – byt' iuristom?* (Moscow: Fond "Liberal'naia missiia," 2010): 203–12.

look to the European Court of Human Rights for vindication. Of course, merely indicating an interest in becoming an *advokat* does not necessarily mean that some or all of the Social Change Group are going to become socially conscious *advokaty* who are going to challenge the state on behalf of their clients. But it is fair to conclude that an interest in joining the *advokatura*, as opposed to an interest in becoming a prosecutor or even a *juriskonsult*, might be a step in that direction.

*Attitudes towards the Legal System.* The survey included a wide variety of questions about courts and law. Table 4 sets forth selected results. On several important measures, such as the need for independent courts, trust in the courts, and legal nihilism, the two groups are substantially the same. The mean of 3.71 on a four-point scale speaks to their universal endorsement of the critical importance of judicial independence. As to faith in the courts, they evince the greatest trust in the Constitutional Court (mean = 3.31), with the Supreme Court (mean = 3.27) following closely behind. These results echo what the Levada Center found in a 2010 representative survey of Russians, which its analysts attributed to the lack of familiarity.<sup>34</sup> In other words, they argued that Russians tend to be more unforgiving of the courts that are likely to hear their cases and to assume that appellate courts are more unsullied. The same seems to be true of my sample.

As a whole, my respondents are not legal nihilists. A minority – about 20 percent – agreed with the statement: “If a person thinks the law is unfair, he has the right to ‘go around’ (*oboiti*) it.” The results were similar for the statement “If officials fail to obey the law, then the rest of Russians can do so as well.” This explains why the mean scores for both variables are less than two (on a four-point scale) (see Table 5). The difference in the means for the Social Change Group and others is not statistically significant, which tends to confirm the similarity of thinking within the sample. These low levels of nihilism are consistent with what I found when analyzing the 2006 round of the Russian Longitudinal Monitoring Survey – Higher School of Economics. When focusing on the first question about “going around” the law, I found that young people were less likely to endorse such practices as compared with their parents.<sup>35</sup> This new survey suggests that legal education may reinforce these more law-abiding attitudes.

34 Lev Gudkov, Boris Dubin, and Nataliia Zorkaia, “Rossiiskaia sudebnaia sistema v mneniakh obshchestva,” *Vestnik obshchestvennogo mneniia* no. 4 (2010): 7–43.

35 Kathryn Hendley, “Who Are the Legal Nihilists in Russia?” *Post-Soviet Affairs* 28, no. 3 (2012): 1–37.

TABLE 4 *Respondents' attitudes towards courts (from 2015 survey of law graduates). All questions used a four-point scale, running from low to high.*

	Mean for all respondents	Mean for Social Change Group	Mean for other respondents	p score
Importance of independent courts	3.71	3.69	3.71	0.73
Trust in:				
Justice-of-the-peace ( <i>mirovye</i> ) courts	2.72	2.89	2.65	0.03
District ( <i>raionnye</i> ) courts	2.81	2.86	2.79	0.45
Russian Supreme Court	3.27	3.29	3.26	0.71
<i>Arbitrazh</i> courts	2.91	3.03	2.85	0.04
Constitutional Court	3.31	3.31	3.31	0.99
Importance of following factors for judges in civil cases:				
Governing law	3.76	3.87	3.71	0.008
Litigants' arguments	3.55	3.62	3.52	0.18
Desire to conform to the statutory deadline	2.93	3.1	2.86	0.021
Desire to avoid reversal	2.79	3.05	2.69	0.002
Litigants' financial position	2.21	2.42	2.12	0.006
Litigants' political connections	2.2	2.33	2.15	0.151
Court chairman's preference	2.41	2.55	2.35	0.123
Importance of following factors for judges in criminal cases:				
Governing law	3.84	3.93	3.81	0.011
Prosecutor's arguments	3.64	3.76	3.6	0.018
Defense counsel's arguments	3.5	3.66	3.43	0.003
Desire to conform to the statutory deadline	2.97	3.2	2.88	0.003
Desire to avoid reversal	2.77	3.0	2.69	0.015
Litigants' financial position	2.29	2.48	2.21	0.019
Litigants' political connections	2.34	2.57	2.24	0.009
Court chairman's preference	2.41	2.59	2.34	0.0517
Judges are for sale	2.1	1.91	2.17	0.019
Propensity of Russian courts of general jurisdiction to accept bribes	2.25	2.09	2.32	0.063

TABLE 5 *Respondents' attitudes towards law (from 2015 survey of law graduates). All questions used a four-point scale, running from low to high.*

	Mean for all respondents	Mean for Social Change Group	Mean for other respondents	p score
If you think the law is unfair, you have the right to "go around" it	1.81	1.79	1.82	0.79
If officials don't obey the law, then ordinary Russians don't have to obey it either	1.83	1.77	1.86	0.46
In Russia, it is impossible to live without violating the law	2.42	2.24	2.49	0.037

Looking past these questions, the Social Change Group initially appears to be an unabashed cheerleader for the regime. They are significantly less likely to believe that the Russian courts of general jurisdiction regularly accept bribes (see Table 4). The result is the same when the question is reframed to ask about the venality of judges. Again, the Social Change Group finds judges more trustworthy. They are also significantly less likely to agree that it is impossible to live in Russia without violating the law (see Table 5). In other words, they believe that the law is sufficiently predictable, clear, and consistent. Taken together, these variables paint a picture of the Social Change Group as different from their colleagues. As a whole, they emerge as bigger believers not only in the integrity of courts and court personnel but also in the ability of Russians to use law order their behavior.

These findings suggest that the Social Change Group does not believe in "telephone law" (*telefonnoe pravo*). This phrase vividly captures an argument that, when making their decisions, Russian judges pay more attention to informal signals from political and economic elites than to the relevant law on the books. It is a carry-over from the Soviet era, when such commands were often conveyed by phone, hence the name. In the present day, signaling mechanisms have proliferated.<sup>36</sup> Judges are reputed to be vulnerable to not only political

36 See, Alena Ledeneva, *Can Russia Modernise? Sistema, Power Networks and Informal Governance* (Cambridge University Press, 2013).

pressure, but also to financial incentives. In both periods, as the desires of the powerful become more apparent, the need for explicit instructions recedes. As Nonet and Selznick contend in their analysis of the role of law under authoritarianism, “repression is perfected when it can forgo coercion.”<sup>37</sup>

Evidence of extra-legal pressure influencing and/or determining the outcome of cases involving politically prominent figures is overwhelming. The same is true of the thousands of cases in which businessmen have been railroaded into jail as a way for the engineer of their fate (who is sometimes a former business partner and sometimes a covetous state official) to acquire the business itself.<sup>38</sup> Neither observers nor participants in such cases ever harbored doubts as to their outcomes.<sup>39</sup> Though some commentators likened recent show trials to their Soviet forerunners,<sup>40</sup> the comparison verges on hyperbole. They are similar in the inevitable guilty verdicts, but present-day trials are conducted under the hot glare of the global media. For example, the members of Pussy Riot were able to deliver passionate summations that may have been pointedly ignored by the presiding judge but were applauded by those attending the trial and were captured for posterity by the 2013 documentary, *Pussy Riot: A Punk Prayer*. Both outcomes would have been unthinkable during Stalin’s purges.

Telephone law animates much of the mass media coverage of the Russian legal system.<sup>41</sup> I have elsewhere argued that Russian reality is more complicated.<sup>42</sup> Both judges and ordinary citizens hold multiple, often contradictory, views of law. Their behavior similarly defies simple descriptions. The same judge who unquestioningly hews to political correctness when dealing with a demonstrator can be a stickler for statutory compliance when it comes to mundane disputes. Likewise, a Russian who eschews the court when embroiled in a dispute with a state agency may beat a path to the courthouse when confronted with an obstreperous neighbor.

The Social Change Group seems to fit this pattern of multiple narratives of law. When asked about the importance of a series of factors to judges in

37 Philippe Nonet and Philip Selznick, *Law and Society in Transition: Toward Responsive Law*, rev. ed. (New Brunswick, NJ: Transaction Publishers, 2001), 32.

38 See, Stanislav Markus, *Property, Predation, and Protection: Piranha Capitalism in Russia and Ukraine* (Cambridge: Cambridge University Press, 2015).

39 Ol’ga Romanova, *Butyrka* (Moscow: Izdatel’stvo Astrel’, 2010).

40 Masha Gessen, “Is It 1937 Yet?” *New York Times*, 5 May 2015.

41 A good example is the Pulitzer Prize winning series, “Above the Law,” written by Clifford J. Levy and Ellen Barry for the *New York Times* in 2010.

42 Kathryn Hendley, “Resisting Multiple Narratives of Law in Transition Countries: Russia and Beyond,” *Law & Social Inquiry* 40, no. 2 (2015): 531–52.

making their decisions, the results (reported in Table 4) are not entirely uniform. The effect of the relentless emphasis on statutory law in their classroom work shines through in the ranking of the law on the books as the single most important factor by the respondents as a whole as well as the Social Change Group. But our target group is significantly more convinced of the importance of the governing law for judges than are the other respondents. This holds true for both civil and criminal cases. Along similar lines, they also endorse the importance of the litigants' arguments, with the Social Change Group giving them more credence than the others. This may reflect Russia's shift towards adversarialism, which places the burden of proof squarely on the parties and their lawyers, and represents an institutional break with Russia's civil law tradition, in which the parties simply fulfilled the demands of judges, who ran the process with an iron grip. Or maybe these graduating law students want to believe that their oratorical contributions are going to add value to the judicial process. (As I have argued elsewhere,<sup>43</sup> this commitment to adversarialism is stronger on paper than in practice, leading me to wonder whether the respondents' belief in the power of litigants' arguments will fade as they learn more about the day-to-day realities of courts. gain greater experience.)

These results are consistent with the Social Change Group's faith in the rectitude of the judiciary. Cracks in their position emerge when they are asked about the impact of pressure on judges to resolve cases within statutorily-mandated deadlines and to avoid reversals. Though such factors take a back seat to the law itself, the Social Change Group consistently recognizes them to be significantly more important than do the other respondents. This reveals a pragmatic streak. My conversations with Russian judges over many years convinces me that they are, as a group, obsessed with managing their docket efficiently and with avoiding reversals.<sup>44</sup> But both concerns bring in extra-legal careerist factors. Reversals are seen as a stain on judges' records, as is a track record of delays. They put promotions and raises at risk for judges. Risking the ire of their immediate supervisors, the chairmen of their courts, also puts their careers in jeopardy.<sup>45</sup> These chairmen often serve as gatekeepers to higher courts. The Social Change Group is more likely to view the preferences of chairmen as a meaningful constraint on judicial discretion. In a perfect world,

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43 Hendley, "Are Russian Judges Still Soviet?"

44 See, Stanislaw Pomorski, "Justice in Siberia: A Case Study of a Lower Criminal Court in the Ciety of Krasnoyarsk," *Communist and Post-Communist Studies* 34, no. 4 (2001): 447–78.

45 Volkov and Dzmitryieva, "Recruitment Patterns;" Peter H. Solomon, Jr., "Informal Practices in Russian Justice: Probing the Limits of Post-Soviet Reform," in Ferdinand J.M. Feldbrugge, ed., *Russia, Europe, and the Rule of Law* (Leiden: Brill Academic Publishers), 79–91.

all of these practical worries would be irrelevant to the decision-making process.

The Social Change Group's pragmatism sours into cynicism with their reactions to the relative importance of litigants' connections. Though the mean scores for the importance of the financial and political connections of the parties are lower than either the law-related factors or the practical factors discussed above, our target group consistently ranks them as more pressing than do the other respondents. The significance of the difference in means is greater for criminal cases than for civil matters, which is troubling given that personal liberty (rather than personal wealth) is at stake in criminal cases. We would hope that such processes would be freer of outside influences, but the data tell a different story. Perhaps higher stakes enhances the temptation, both for litigants to use all available levers to influence judges and for judges to take bribes. Of course, these results uncover the latent acceptance of the precepts of telephone law by the Social Change Group. In a telling example of the possibility of simultaneously holding seemingly contradictory views, the Social Change Group emerge as more likely to believe in the sanctity of law and in the power of connections.

*Attitudes towards the Legal Profession.* When asked to indicate their level of agreement with a series of statements about the informal norms governing the profession we see that, as a group, the respondents' positions are inherently incompatible. (See Table 6.) They generally agree that lawyers have high moral standards and that lawyers who regularly violate professional norms should be shunned. The means for the sample for these variables are 2.8 and 2.7, respectively, on a four-point scale. This suggests that they take a noble view of their profession. But their answers to the other questions indicate that this view may be aspirational. After all, the respondents also believe that a majority of lawyers are more concerned with their income than with protecting their clients' interests. Along similar lines, they are quite certain that lawyers actively make use of "loopholes" (*lazeiki*) in the law.<sup>46</sup> Indeed, the mean of 3.4 on a four-point scale, which is the highest of all these variables, reflects the respondents' assessment. Without more, it is not possible to know whether the law students take a positive or negative view of this practice. Although laymen often view the use of loopholes to maximize clients' interests as unethical, the strong pedagogical emphasis on the law on the books could justify the

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46 About 90 percent of the respondents agreed that lawyers use loopholes. In a 2012 survey of 282 Russian law students at the law faculties of the Higher School of Economics, the People's Friendship University and the northwest branch of the Russian Academy of Justice, only 67 percent agreed with this statement. Iakovlev and Kazun, "Sostoianie."

TABLE 6 *Respondents' attitudes towards various ethical norms for lawyers (from 2015 survey of law graduates). All questions used a four-point scale, running from low to high.*

Agree with:	Mean for all respondents	Mean for Social Change Group	Mean for other respondents	p score
Lawyers have high moral standards	2.81	2.85	2.79	0.558
If a lawyer regularly violates the norms of professional conduct, then other lawyers should not work with him	2.73	2.94	2.64	0.008
A majority of lawyers are more concerned with their income than with their clients	2.82	2.92	2.78	0.213
Lawyers make use of "loopholes" in the law	3.43	3.55	3.37	0.043
Russians without legal education tend to distrust lawyers	2.8	2.99	2.72	0.023

use of loopholes. After all, what might appear as a loophole to laymen might be viewed by lawyers as binding legislative language that should be mobilized on behalf of their clients. A failure to take advantage could be seen as malpractice, even if doing so might accrue to the detriment of society more generally.

As compared to the other respondents, the inconsistency in thinking is sharper for the Social Change Group. They are not only more likely to think that lawyers use loopholes, but are also more likely to buy into the need to ostracize lawyers who violate professional norms. For both variables the difference in the means is statistically significant. Once again, this reminds us that attitudes can be situational and, in the abstract, can appear to be somewhat schizophrenic.

As a whole, the surveyed law students are convinced that they face an uphill battle in winning the trust of their clients. When asked to agree or disagree with the statement that Russians without legal training tend to distrust lawyers, almost two-thirds (63.7 percent) agreed, yielding a mean score of 2.8 on a four-point scale. The Social Change Group was even more skittish about

societal approbation of lawyers, with a mean of 2.99. In subsequent rounds of the survey, it will be interesting to track the extent to which these views change.

*Political Attitudes.* Thus far, the analysis has revealed little about the sort of societal changes that interest the Social Change Group. In an effort to tap into their political leanings, we asked the respondents whether they supported the 2014 merger of the Higher *Arbitrazh* Court into the Supreme Court. A few words of background for those not familiar with the Russian judicial system are needed to make sense of the proposal. Since the collapse of the Soviet Union, most economic disputes involving firms have been funneled to the *arbitrazh* courts. The court of last resort for these disputes was the Higher *Arbitrazh* Court. Subsuming it into the Russian Supreme Court (which was the court of last resort for the courts of general jurisdiction) was an initiative closely identified with Putin. The reasons for it remain obscure. Combining the two courts solved no pressing institutional problems, nor is having separate courts of last resort odd for countries with a civil law legal heritage. Germany, for example, has five such courts. Rumors swirled about Putin's dissatisfaction with top officials at the Higher *Arbitrazh* Court, but this hardly seemed to justify a reform that required a constitutional amendment. A full discussion of the pros and cons of the reform is beyond the scope of this paper.<sup>47</sup> For our purposes, it serves as a good litmus test of support for Putin.

As Table 7 shows, the Social Change Group is more aware of the proposal and more supportive of the merger. Almost half of them fell in line behind Putin, as compared to 42 percent for the other respondents. It follows that their image of reform may also be Putin-esque. They may share Putin's goal of enhancing the power vertical by increasing the authority of the state. Their support of the court merger suggests that top-down reform does not trouble them and, more generally, that they are comfortable with authoritarianism for Russia.

Another window into the respondents' politics is their views on recent show trials. They were asked to assess the fairness of the sentences rendered in a series of politically-charged trials on a four-point scale with higher scores representing greater support. The members of the Social Change Group again separate themselves from their compatriots (see Table 8). They are consistently more supportive of the verdicts, which most observers see as having been dictated by the Kremlin. With regard to Pussy Riot, the mean for our target group is 2.9, as compared to a mean of 2.6 for the other respondents. The same pattern, albeit less extreme holds true for the Bolotnyi case as well as the

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47 See, Peter H. Solomon, Jr., "The Unexpected Demise of Russia's High Court and the Politicization of Judicial Reform," *Russian Analytical Digest* no.147 (2014): 2-4.

TABLE 7 *Respondents' support for merger of the Higher Arbitrazh Court and the Russian Supreme Court (from 2015 survey of law graduates). Reported as percentages.*

	Full sample	Social Change Group	Other respondents	Chi2
Supported merger	44	49.3	41.9	
Did not support merger	39.1	37.3	39.8	
Unaware of planned merger	16.9	13.3	18.3	0.46

trials of Khodorkovskii and Naval'nyi. For all these trials, the differences in the means are statistically significant. This constitutes even stronger evidence of their support for Putin and his strong-arm tactics. After all, the procedural irregularities in these proceedings, which may have been imperceptible to laymen, ought to have been glaring for these law students. But the results indicate that the Social Change Group is willing – like Putin – to brush aside legal niceties to achieve the desired result. It also buttresses the argument about multiple narratives of law by revealing that the Social Change Group holds the judiciary to different standards in mundane and political cases.

*Political Activism.* On the other hand, the Social Change Group and, indeed, the surveyed law graduates as a group, seem to be more politically active than other Russians. For the most part, Russians, like their fellow-Europeans, are loathe to participate in public demonstrations. The 2012 round of the European Social Survey (ESS) documents their low levels of participation.<sup>48</sup> In most East European and former Soviet countries, less than 5 percent of the overall sample had taken part in lawful protests in the preceding year. Russia is consistent with this trend, with 4 percent reporting participation. Given that these data cover the period of the mass protests in connection with irregularities in the legislative and presidential elections, these low numbers are revealing. They serve to remind us that the thousands who took to the streets in Moscow and St. Petersburg in the aftermath of these elections were probably not typical of the larger Russian population. Participation rates are higher in some of the established democracies of West Europe, such as France and Germany, but the rates in Denmark and Great Britain are similar to Russia. European youth

48 The data are available at, [http://www.europeansocialsurvey.org/download.html?file=ESS6e02\\_2&y=2012](http://www.europeansocialsurvey.org/download.html?file=ESS6e02_2&y=2012). For more survey data, see supplementary Table A-2 available at, <http://law.wisc.edu/profiles/pubs.php?iEmployeeID=143in> Appendix.

TABLE 8 *Respondents' attitudes towards the fairness of the verdicts in politically sensitive trials (from 2015 survey of law graduates). All questions used a four-point scale, running from low to high.*

Defendant	Mean for all respondents	Mean for Social Change Group	Mean for other respondents	p score
Mikhail Khodorkovskii	2.53	2.78	2.42	0.043
Aleksei Naval'ni	2.47	2.74	2.35	0.036
Bolotnyi case	2.27	2.51	2.17	0.087
Pussy Riot	2.72	2.92	2.63	0.091

is more politically active than their elders. Russia is no exception, though the difference is small.

The Levada Center and other scholars surveyed the participants in the mass protests of 2011–2013.<sup>49</sup> Though these surveys were not representative, they are nonetheless instructive. They tend to show that young people were more active at the outset, but that their participation tailed off over time. For example, the Levada Center found that 24 percent of the protestors at the December 24, 2011, meeting were under 25, whereas only 11 percent of the protestors at the June 12, 2013, event fell into this age group. This is consistent with Smyth's argument that young people tend to be intermittent protestors; that they are unlikely to be part of the core group of protestors.<sup>50</sup>

The data from my pilot survey suggest that law students participate at about the same rate as other young people. Almost 19 percent of the full sample had taken part in a demonstration (see Table 9). This percentage increases to over 24 percent for the Social Change Group and dips to less than 17 percent for other respondents. The phrasing of the question makes it difficult to draw conclusions about their willingness to stay on the ramparts. Unlike the ESS and the Russia-based surveys, we did not impose any temporal limits, nor did we ask about the type of rallies they joined. Expecting a low rate of participation,

49 See, "Opros na mitinge oppozitsii 12 iyunia," 17 June 2013 <http://www.levada.ru/2013/06/17/opros-na-mitinge-oppozitsii-12-iyunya/>; Regina Smyth, Anton Sobolev, and Irina Soboleva, "A Well-Organized Play: Symbolic Politics and the Effect of the Pro-Putin Rallies," *Problems of Post-Communism* 60, no. 2 (2013): 24–30.

50 Regina Smyth, "Movement Resilience and Patterns of Protest in Contemporary Autocracy." Paper presented at the PONARS Eurasia / Aleksanteri Institute Workshop, Helsinki, June 10–11, 2016.

TABLE 9 *Indicators of respondents' political participation (from 2015 survey of law graduates). Reported as percentages.*

	Participated in demonstration (A)	Participated in charitable organization or foundation (B)	Participated in (A) and (B)	Participated in neither (A) nor (B)
Social Change Group	24.4	33.7	12.7	54.7
Other respondents	16.4	30.1	9.9	63.4
Full Sample	18.7	31.1	10.7	60.9

we opted to ask a more open-ended question about any sort of participation at any time. Even taking this into account, the participation rate is surprising. It is not necessarily inconsistent with my finding of greater regime support among the Social Change Group. After all, they could have joined a pro-Putin rally. Unfortunately, due to the sensitivity of these issues in contemporary Russia, we did not ask any follow-up questions about whether they participated in political demonstrations and, if so, whether they were pro- or anti-Putin. We also did not ask about current or past membership in youth organizations such as Nashi or the Young Guard.<sup>51</sup> My findings do suggest that scholars of protests in the post-Soviet space ought to pay attention to professional identity as a possible explanatory factor.

Working for a charitable organization is a less direct form of political participation. Given the proliferation of such groups across Europe, citizens can easily find one that matches their interests. The sharp divergence in participation rates between Eastern and Western Europe follows from the longer history of charitable organizations in the West and the more well-established practice of volunteering one's time. Under Communism, such organizations were seen as superfluous. Indeed, the fact that societal participation has grown to between 20 and 30 percent in former Communist countries in the several decades since the fall of the Berlin Wall is remarkable. Once again, young people generally emerge as more willing to give of their time to charitable organizations. The 2012 ESS data indicate that a quarter of young Russians surveyed reported

51 Felix Krawatzek, "Fallen Vanguard and Vanished Rebels? Political Youth Involvement in Extraordinary Times," in Mattias Schwartz and Heike Winkel, eds., *Eastern European Youth Cultures in a Global Context* (New York: Palgrave Macmillan, 2016), 177–201.

having worked at a charitable organization in the preceding year, compared to 19 percent of the overall sample. A 2013 study by Russian sociologists of young people confirms their interest in volunteering, which the authors attribute to the desire of young people to help those less fortunate and to feel like heroes.<sup>52</sup> Of course, as Hemment reminds us, the Putin regime has worked actively to encourage youth voluntarism.<sup>53</sup>

The law graduates were more active than the ESS data suggest, especially the Social Change Group, though the differences are more modest (see Table 9). While 31 percent of the full sample had worked for a charitable organization, this percentage rose to almost 34 for the Social Change Group. I initially suspected that these results were driven by law students' involvement with legal clinics, many of which serve a low-income clientele and might be labeled as charitable organizations. This is certainly part of the explanation. Those who worked at a clinic were twice as likely to have reported working for a charitable organization as the overall sample.<sup>54</sup> But this accounts for only half of those within the Social Change Group who had worked for charitable organizations. The 2013 study of Russian youth documents that the most popular volunteering activities focus on helping the poor and socially vulnerable within society.<sup>55</sup>

### Explanations and Preliminary Conclusions

*Russian Youth.* In some ways, the members of the Social Change Group can be seen as representative of their generation. The literature on contemporary Russian youth generally portrays them as supportive of Putin personally and of the sort of strong state advocated by Putin. They tend to be nostalgic for the comprehensive social safety net of the Soviet era. Some scholars push further, arguing that few Russian young people take an active interest in politics, viewing it as deeply corrupt and impervious to change. They see the opposition as incompetent and self-interested and, consequently, see little point in participating in rallies.<sup>56</sup> Put more bluntly, Russian youth have not

52 "Mental'nost' rossiiskoi molodezhi: politicheskie orientiry i kumiry," Gefter.ru, 18 April 2013. <http://gefter.ru/archive/8369>.

53 Hemment, "Redefining Need."

54 The Social Change Group was not distinguishable from the larger sample in terms of participation in clinical programs. For both, the percentage hovered around 17.

55 "Mental'nost' rossiiskoi molodezhi."

56 Valeria Kasmara and Anna Sorokina, "Post-Soviet Collective Memory: Russian Youths about Soviet Past," *Communist and Post-Communist Studies* 48, no. 1 (2015): 137–45; Mental'nost' rossiiskoi molodezhi.

established themselves as independent thinkers or, in the words of Krawatzek, as a “societal vanguard.”<sup>57</sup> Growing up with no personal memories of the Soviet Union in a market environment, they had few role models. Students of *Nashi* and other mass youth movements of the Putin era argue that membership was motivated by a desire to belong.<sup>58</sup> Though young people turned out for the mass protests of the 2011–12, they did so as followers, not as leaders. And they did so in fits and starts, not on a consistent basis.<sup>59</sup> These larger trends help explain the tendency of the Social Change Group to fall in line behind Putin’s policies. Their commitment to the need for a strong hand at the center takes precedence over any lingering loyalty to principles of human rights.

More puzzling is the higher-than-typical participation of the Social Change Group in public meetings and demonstrations. Making sense of this finding is complicated by my inability to put it into context. Without more information, it cannot be taken as an indicator of willingness to challenge Putin. Just the opposite, the available data strongly suggests that these respondents’ stated commitment to improving and changing society is in service of Putin’s agenda.

*Institutional Incentives.* Lawyers, especially cause lawyers, have pushed for social change in common law countries by bringing cases that called on the courts to rewrite existing laws that no longer correspond to societal needs. In the U.S., examples of this phenomenon include same-sex marriage and public school desegregation. By contrast, Russia’s civil law legal heritage gave rise to an institutional environment that was hostile to judicial precedent as a source of law. Instead, the legislature is expected to initiate social change. Traditionally Russian (and, before them, Tsarist and Soviet) judges were charged with interpreting the law, not with making new law. During the Soviet era, the so-called “guiding explanations” issued by the Supreme Court, which filled the inevitable gaps in the statutory law and were binding on lower courts, fulfilled the same function as precedent in common law legal systems.<sup>60</sup> But they were never framed as precedent, thereby perpetuating the theoretical distinction between civil law and common law. The lack of precedent gave rise to a legal profession that was primarily concerned with satisfying the technical

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57 Krawatzek, “Fallen Vanguard,” 187.

58 Ibid.; Julie Hemment, “Redefining Need, Reconfiguring Expectations: The Rise of State-Run Youth Voluntarism Programs in Russia,” *Anthropological Quarterly* 85, no. 2 (2012): 519–54.

59 Smyth, “Movement Resilience.”

60 Donald D. Barry and Carol Barner-Barry, “The USSR Supreme Court and Guiding Explanations of Civil Law, 1962–1971,” in Donald D. Barry, William E. Butler, and George Ginsburgs, eds., *Contemporary Soviet Law* (The Hague: Martinus Nijhoff, 1974), 69–83.

requirements of the written law. Unlike lawyers in Anglo-American system, Soviet lawyers did not swing for the fences by arguing for qualitatively new interpretations or extensions of existing law.

The institutional environment began to change under Gorbachev with the introduction of the Constitutional Supervision Committee in 1990, which evolved into the Russian Constitutional Court in 1991. For the first time, a judicial institution was given the authority to declare acts of the legislative and executive branches to be unconstitutional.<sup>61</sup> In time, the Russian Supreme Court was also recognized as having the power of judicial review.<sup>62</sup> But the decisions of trial courts continue to be binding only on the parties. Russia's evolution toward a recognition of judicial opinions as a source of law follows a pattern first established by Germany. Perhaps because precedent remains the exception rather than the rule, it has not stimulated much change in the norms or practices of the legal profession. Russian lawyers continue to operate primarily as technicians, not as social engineers. The fact that most of my respondents had consulted prior decisions of courts via their websites suggests that this younger generation may see a greater role for judicial practice.

*Socialization through Legal Education.* This follows from their training. The tradition of studying law by memorizing the key sections of the major codes inculcates a deep respect for the law on the books among law students. They are not encouraged to question its content. They neither study the twists and turns of legislative history nor do they debate how the law might be improved. This lack of emphasis on critical thinking facilitates an unquestioning acceptance of the status quo. It is not an innovation of the post-Soviet era, but is a continuation of pedagogical norms from the decades of Soviet power.<sup>63</sup> In the contemporary setting, however, these practices translate into a desire to help Putin achieve his vision for Russia. The resulting conservatism seems more deeply ingrained in the Social Change Group. As compared to the other respondents, they are more likely to see the statutory codes as critically important for judges. Along similar lines, they are less likely to question the verdicts in politically charged cases.

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61 Russia followed the German path in creating a stand-alone constitutional court. See, Donald Kommers *The Constitutional Jurisprudence of the Federal Republic of Germany*, 3d ed. (Durham, NC: Duke University Press, 2012).

62 William Pomeranz and Max Grutbrod, "The Push for Precedent in Russia's Judicial System," *Review of Central and East European Law* 37, no. 1 (2012): 1–30.

63 James O. Finckenauer, *Russian Youth: Law, Deviance, and the Pursuit of Freedom* (New Brunswick, NJ: Transaction Publishers, 1995).

At the same time, the Social Change Group does not whitewash the legal system entirely. Their support for Putin is laced with a healthy dose of realism. They fall into line on political issues, such as the merger of the top courts and the verdicts in show trials. Yet they recognize the existence and power of extra-legal factors on the courts, such as connections and bureaucratic incentives. But the data provide no evidence of a willingness on the part of the Social Change Group to make waves or challenge the status quo in any meaningful way. This suggests that their passion for changing and improving society will be expressed by yoking themselves to the Putin agenda. They are unlikely to serve as the spark to reinvigorate civil society.

Whether their predilection for conservatism is a result of educational indoctrination or reflects a predisposition that predates their enrollment in the law faculty is not clear. The relatively small size of the pilot study makes it more useful for generating hypotheses to be tested with the larger dataset than for rendering definitive conclusions. Whether the political convictions of the Social Change Group will stand the test of time will only become clear in subsequent rounds of the survey.