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A Remedy for Legal Failure:
Trial by Jury in Russia
by Seth Bridge, 2005

Immediately following the emancipation of the Russian serfs in 1861, a series of liberal governmental and societal reforms were introduced. One of these, the Great Judicial Reform, introduced trial by jury to Russia. Twenty years later, it became conceivable that a former serf could sit on the same jury with his former master.[1] Indeed, this jury system became one of the more notable democratic reforms of the Russian empire.[2] It demonstrates that democratic change is possible in Russia, even in the judiciary, a fact perhaps more important now than ever. Despite a host of current judicial reforms, Russians continue to view their legal system with contempt. They have no faith in its institutions and believe it "…ineffective, unjust or downright corrupt."[3] Russia is in a period of "legal failure," unable to adequately perform basic legal functions because the population has no faith in the rule of law and views laws as illegitimate.[4] Although the challenge seems daunting, Russia can make progress by focusing on smaller, compartmentalized reforms to restore faith. Given the success of jury trials in imperial Russia, encouraging the growth of trial by jury offers a real possibility to emerge from legal failure.

The Russian Legal Tradition

To truly understand current and past developments in the Russian legal system, it is important to first understand the Russian legal tradition. Peter H. Solomon accurately identifies

[1] "The Difficult Return of Trial By Jury in Russia," *RIA Novosti*, 6 July 2004, http://www.lexis-nexis.com/.
[2] Hugh Seton-Watson, *The Russian Empire 1801-1917* (Oxford: The Clarendon Press, 1967), 356.
[3] Valery Zorkin, "Bribery in the Courts Has Become One of the Biggest Marketplaces for Corruption," interview by Georgy Ilyichov, *Izvestia*, 25 October 2004, in The Current Digest of the Post-Soviet Press, vol. 56, no. 43, http://www.lexis-nexis.com/.
[4] Denis J. Galligan, "Legal Failure: Law and Social Norms in Post-Communist Europe," in *Law and Informal Practices: The Post-Communist Experience*, eds. Denis J. Galligan and Marina Kurkchiyan (Oxford: Oxford University Press, 2003), 3-5.

two key aspects by which to analyze the Russian legal tradition: power and culture. Power in the Russian tradition refers to the legal system being run by one strong man, and for much of history that has been an autocratic ruler.[5] Thomas C. Owen contends that Russia has rarely seen the rule of law, but rather "rule through law." Whether it was the tsar or the Communist Party, the ruling elite were not subject to the same rules as the rest of the populace; the law was often a means of imposing imperial or Soviet will on the nation.[6] Culture refers to meaningful experiences or prevailing attitudes that shape the population's view towards the law. Russia's current cultural crisis stems from the apathy and mistrust inherited from the Soviet legal culture.[7] It is important, however, to analyze the Russian legal tradition with one additional factor, manipulability. Manipulability refers to the ability of individuals to influence the outcome of a judicial or legal decision. For example, prior to the Great Reforms, a nobleman's reputation may have weighed heavily in determining a final verdict.[8] Centralized power, a dysfunctional legal culture, and high levels of manipulability were present in both past systems and exist in Russia today. Historically, however, jury trials existed in only one system, the tsarist. Why? The answer lies in the differences between the authoritarian tsarist and totalitarian Soviet systems.

Trial by Jury in Tsarist Russia

There are striking differences between the Russian legal tradition and the Western. The two paths diverged centuries ago. Russia had minimal if any contact with Roman law, while Western Europe received its basis from it. Additionally, the remoteness of Russia insulated the country from much of the Renaissance, during which philosophical and theoretical dialogue on a

[5] Peter H. Solomon Jr., "Court Reform in Russian History," in *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order*,ed. Peter H. Solomon Jr. (Armonk: M.E. Sharpe, 1997), 18.
[6] Thomas C. Owen, "Autocracy and the Rule of Law in Russian Economic History," in *The Rule of Law and Economic Reform in Russia*, eds. Jeffrey D. Sachs and Katharina Pistor (Boulder: Westview Press, 1997), 24.
[7] Solomon, *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order*, 18.
[8] Solomon, *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order*, 6.

wide range of subjects including law started to emerge.[9] Much of Western European history was defined by the struggle between church and state. Conversely, the Orthodox Church was clearly subordinate to the state, so that this conflict never appeared.[10]

Catherine the Great instituted the first system of courts into Russia in 1775. Although Catherine's system actually established both a uniform civil procedure and a court administration, it had certain limitations. The courts were organized along class lines. There were courts exclusively for nobility, exclusively for merchants, and exclusively for the peasantry. Serfs, however, had no standing and received their justice from the nobility.[11] Little was done to the Russian legal system until the period of the Great Reforms in the 1860s. The lack of development was not unique in Russia; it was decidedly marked by stagnation. As clearly seen during the Crimean War; Russia was inept at mobilizing and fighting a war on its own soil.[12] In the wake of this disaster and subsequent international embarrassment, the new tsar, Alexander II, pragmatically set about reforming Russia to make his empire more competitive with Europe. It soon became apparent that if the first step would have to be emancipation.[13] As the empire grappled with this, other systemic problems glared ever more brightly. Corruption and inefficiency had become endemic throughout the Russian judicial system. Alexander II's response was to introduce the Great Judicial Reform of 1864.[14]

The Great Reforms greatly impacted the Russian legal system in several key areas. First, they separated the courts from the imperial and provincial administration, which allowed the

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[9] Jeffrey D. Sachs and Katharina Pistor, "Introduction: Progress, Pitfalls, Scenarios, and Lost Opportunities," in *The Rule of Law and Economic Reform in Russia*, eds. Jeffrey D. Sachs and Katharina Pistor (Boulder: Westview Press, 1997), 4.
[10] Michael Newcity, "Russian Legal Tradition and the Rule of Law," in *The Rule of Law and Economic Reform in Russia*, eds. Jeffrey D. Sachs and Katharina Pistor, 47-8.
[11] Solomon, *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order*, 6.
[12] Larissa Zakhrova, "Autocracy and the Reforms of 1861 – 1874 in Russia: Choosing Paths of Development," in *Russia's Great Reforms, 1855-1881*, eds. Ben Eklof, John Bushnell, and Larissa Zakharova (Bloomington: Indiana University Press, 1994), 20-1.
[13] Zakhrova, 30-1.

courts to operate as an independent sphere within the government rather than as a tool of the government.[15] Additionally, they introduced important concepts into the Russian judiciary, including: the ability to utilize competent and competing counsel, criminal and civil procedure, and trial by jury.[16] Although all of the reforms contributed to a functioning legal system, trial by jury would have the greatest long-term impact as it introduced adversarialism, a western court procedure, to Russia. The pre-1864 system was based on an antiquated inquisitorial procedure that stressed: "…presumption of guilt, predominantly written proceedings, and the centrality of 'confession' as proof of guilt."[17] Conversely, the adversarial procedure stressed "…the presumption of innocence, the overriding importance of orality in adjudication, and an official adherence to rigorous standards of proof in evaluating testimony and material evidence."[18] Jury trials naturally embodied the characteristics of the adversarial procedure. Ironically, the new adversarial Russian legal system never fully escaped the legacy of inquisitorial procedure and instead morphed into a "consensual design" that stressed dialogue and interaction by all parties.[19]

Jury trials initially started in St. Petersburg and Moscow and then spread across Russia. Although the system was designed to be rather exclusive, it became one of the more democratic institutions in imperial Russia. The jury system relied on a pool of potential jurors that were local government officials, peasant elders, or landowners, which cut the majority from the ranks of the eligible.[20] However, the well-to-do landowners and government officials viewed jury

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[14] Sir Donald Mackenzie Wallace, *Russia on the Eve of War and Revolution*, ed. Cyril E. Black (Princeton: Princeton University Press, 1961), 67, 73.
[15] Nicholas Riasanovsky, *A History of Russia*, Sixth ed. (New York: Oxford University Press, 2000), 376.
[16] Riasanovsky, 377; Solomon, *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order*, 6.
[17] Girish N. Bhat, "The Consensual Dimension of Late Imperial Russian Criminal Procedure: The Example of Trial By Jury," in *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order*, ed. Peter H. Solomon Jr., 62.
[18] Bhat, 65-6.
[19] Bhat, 66-7.
[20] Alexander K. Afanas'ev, "Jurors and Jury Trials in Imperial Russia, 1866 – 1885," in *Russia's Great Reforms, 1855-1881*, eds. Ben Eklof, John Bushnell, and Larissa Zakharova, 215-216.

service as distasteful and burdensome.[21] Consequently, the peasants on juries, except in Moscow and St. Petersburg where there was less peasant population, outnumbered the other members. The peasants numbered over 90% of the population but their social class had rarely been involved or represented in any political institutions. With peasants being a majority of the jurors, the system was hardly what the imperial government had envisioned but was certainly a sign of progress. Regardless, it is estimated that from its inception, this system tried three quarters of all criminal cases in imperial Russia.[22]

In addition, jury trials and the judicial reforms fostered a legal environment that encouraged liberal thinking and freedom of speech within the courtroom.[23] As

> …the most democratic of all the institutions created by the Great Reforms…. The jury courts had the right to grant pardons, previously the exclusive domain of the state government; their verdicts influenced the changing of legal statutes; and their activities provided an example of majority rule in judicial matters….[24]

Following the assassination of Tsar Alexander II, the forces of reaction started attacking jury trials because courts comprised of peasants would often reach the "wrong" verdicts and could not be trusted to administer justice "correctly." Indeed, in several exceptional cases, juries set free blatantly guilty political criminals. Critics contended that the backward Russian people were "not yet ripe" for this much civic responsibility and democracy. Regardless, criticism remained superficial. Opponents to jury trials were primarily concerned with securing the rights of the imperial government, or autocracy, over the increasingly radical elements in Russian society.[25]

Another key area that the Great Judicial Reform addressed was the concept of equality before the law regardless of class.[26] Ultimately it was this concept that became incompatible

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[21] Afanas'ev, 224-5.
[22] Afanas'ev, 218-21, 214.
[23] Hugh Seton-Watson, 356.
[24] Afanas'ev, 228.
[25] Wallace 86-7, 83-4; Sarah J. Reynolds, "Drawing Upon the Past: Jury Trials in Modern Russia," in *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order,* ed. Peter H. Solomon Jr., 393.
[26] Riasanovsky, 377; Solomon, *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order,* 6.

with the imperial government and doomed trial by jury, because, certainly, the Russian autocrat was not equal to any other Russian citizen. The legal system was seen as a means for enforcing the tsar's laws. Jury trials often became platforms for open public and political dissent. Unfortunately, as the forces of change fomented in Russia, the legal system became a tool for keeping radical sentiments in check.[27] Indeed, the imperial administration shifted the responsibility of hearing political crimes from trial courts to provincial administration or local "emergency regimes." The tsarist government continued to take steps throughout the latter part of the nineteenth-century to counter-reform the legal system and bring it under the firm control of the autocracy.[28] Despite these efforts, the Great Reforms left imperial Russia with a respectable functioning judicial system, the likes of which post-Soviet Russia has yet to match.[29]

Trial by jury remained an intricate part of the imperial legal system. Moreover, it was possible to adopt judicial reform because "…formal legality is the one feature of the liberal state that an authoritarian regime can adopt without necessarily subverting itself."[30] Tsarist Russia faced crises in all three aspects of the Russian legal tradition but was able to avoid legal failure by allowing a degree of freedom for its citizens.

The Impact of Totalitarianism on the Soviet Legal System

By the October Revolution, Russia was in a legal crisis but still possessed meaningful reforms inherited from the *ancien regime*. As the political climate became increasingly radical,

> The meager base of public and private rule of law that was created in Russia by the early years of the twentieth century – a Duma, semi-independent courts, partially reformed company law, a gold standard as an underpinning of foreign investment – was thoroughly destroyed by the Bolshevik Revolution. All constitutional limitations were cast aside under the Dictatorship of the Proletariat led by the Communist Party.[31]

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[27] Richard Pipes, *Russia Under the Old Regime* (New York: Macmillan Publishing Company, 1992), 296.
[28] Solomon, *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order*, 8.
[29] Solomon, *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order*, 8; William Wagner, "Civil Law, Individual Rights, and Judicial Activism in Late Imperial Russia," in *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order*, ed. Peter H. Solomon Jr., 36.
[30] Pipes, 296.
[31] Sachs and Pistor, 6.

The Bolsheviks dismissed the concept of rule of law as a petty bourgeois construction. Moreover, liberal institutions like jury systems were disbanded and eventually discredited by the communist intelligentsia. The revolutionaries did not only distrust the ruling class and government authorities, they distrusted the entire system regardless of its liberal veneer.[32]

Lenin and other Soviet leaders soon recognized the true implications of the legal system in Russia and impressed laws on Russia as a means of controlling the populace.[33] Although the legal system initially proclaimed all citizens equal, in practice this was rare. The unitary court system soon divided into regional, territorial, supreme, and extra-judicial courts (tribunals often associated with internal security forces), all with varying levels of influence and abilities. Additionally, fairly early in the Soviet experience the courts ceased to be objective, often giving special considerations to the nomenklatura.[34] Moreover, in an ironic switch, the courts reverted back to inquisitorial procedure, much like the system that existed prior to the Great Reforms.

A typical attribute "…of the Bolshevik administration of justice was the preference for cadres who were loyal over those who were expert."[35] As Stalin consolidated power, loyalty became even more important within the legal system. The beginnings of the political purges required politically loyal judges and jurists. Stalin soon, however, added an additional characteristic to administering "justice:" terror. This regime of terror was underpinned by the population's knowledge that it was not justice that determined the outcome of a legal decision but rather the whims of Communist Party bosses.[36] The combination of terror and nearly

[32] Riasanovsky, 478; Seton-Watson, 357.
[33] Solomon, *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order,* 10-11.
[34] Ibid, 11
[35] Ibid
[36] Gabor T. Rittersporn, "Extra-Judicial Repression and the Courts: Their Relationship in the 1930s" in *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order,* ed. Peter H. Solomon Jr., 204; Jane Burbank, "Legal Culture, Citizenship, and Peasant Jurisprudence: Perspectives From the Early Twentieth Century,"

uncontrollable extra-judicial bodies with no judicial oversight resulted in the Great Purges and some 8 million people died.[37] By the end of the Stalin era and during de-Stalinization, the Soviet population learned two important things. First, any alternative to a regime that purges and incarcerates a large percentage of its population, even if totalitarian, is acceptable. Second, law and the judiciary are tools of the state and not in place to protect individuals from the state.[38]

Once Khrushchev had assumed power, he set out to improve the Soviet Union with ambitious reforms. Within the legal system, these reforms were genuinely aimed at bolstering equality before the law and fostering a fairly independent judiciary. Ironically, Khrushchev not only relied on the local Communist Party members to intervene and enforce his reforms, he encouraged them to intervene.[39] The result was not equality before the law and an independent judiciary, but rather a system that exalted a few party members above the population and subjected the courts to the politically expedient wishes of the party.[40] The Brezhnev era, often referred to as a period of *zastoi* (stagnation), saw the continued rise of political interventions in the legal system.[41] By the time of Gorbachev's ascension to power, the Soviet legal system had undergone minimal reforms and largely resembled the same system that had existed at the end of Khrushchev's rule. As Gorbachev introduced perestroika and glasnost, he understood that

> Restructuring has revealed with special clarity the conservatism of our country's present legal system, which in large part is still oriented not toward democratic or economic but toward command-administrative methods of management, with their numerous prohibitions and petty regulations. Therefore, many legal acts now in effect have become a brake on social development.[42]

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in *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order,* ed. Peter H. Solomon Jr., 101.

[37] Ibid, 506.

[38] Ibid, 204.

[39] Yorlam Gorlizki, "Political Reform and Local Party Interventions Under Khrushchev," in *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limit of Legal Order,* ed. Peter H. Solomon Jr., 256.

[40] Ibid, 274

[41] Ibid.

[42] Mikhail Gorbachev, "On Progress in the Implementation of the Decisions of the 27th CPSU Congress and the Tasks of Deepening Restructuring," *Pravda* and *Izvestia*, 29 June 1988, in The Current Digest of the Soviet/Post-Soviet Press CD-ROM Database, 1982-2000.

Gorbachev recognized that a reformed legal system could aid in the implementation of and adherence to his political and economic reforms. The legal reforms focused primarily on broadening the courts' jurisdiction, encouraging judicial independence, and strengthening the defense in criminal cases.[43] Even with these reforms, there remained little faith in the system. Indeed, two thirds of law students at Tbilisi University "…consider[ed] the defense lawyer's participation in a trial to be purely a formality … [saying] it has practically no effect on the outcome of the case."[44] Ultimately, the Gorbachev reforms amounted to very little; the Soviet Union ceased to exist three years later. The years immediately following Gorbachev's 1988 legal reforms saw the political environment become increasingly radical. The legal reform debate followed suit and became radical as well. Debate ceased to focus on reforming the legal system but instead suggested with the "Conception of Judicial Reform" that the system be overhauled completely allowing for greater judicial independence, increased judicial powers of judicial review and pre-trial investigations, and a radically changed criminal procedure including jury trials, an institution that had been extinct since tsarist times.[45]

Certainly the Bolsheviks' initial rejection of trial by jury was ideological. They wished to sever any ties with the old regime and start afresh. Moreover, the dictatorship of the proletariat and the centralization of the Bolshevik vanguard made it hard to envision a liberal legal system predicated on the rule of law. By the time Stalin had consolidated power and forged a totalitarian state, jury trials and an independent legal system were impossibility. Worth considering, however, is whether the Soviet Union faced a type of internal legal failure; the Communist Party held all power, Soviet legal culture pervaded the legal system, and the

[43] Peter H. Solomon Jr. and Todd S. Foglesong, *Courts and Transition in Russia: The Challenge of Judicial Reform* (Boulder: Westview Press, 2000), 8.
[44] V. Savitsky, "Ways of Restructuring the Legal System: The Prestige of the Bar," *Pravda*, 22 March 1987: 3, in The Current Digest of the Soviet/Post-Soviet Press CD-ROM Database, 1982-2000.

nomenklatura was able to manipulate many legal outcomes. Throughout the existence of the Soviet Union, the populace had little respect for the law, but rather respected the coercive nature of the law enforcement mechanisms.[46] Coercion from the totalitarian state was the only substance able to hold the Soviet legal system together.

Understanding Legal Failure in Russia

As the Soviet Union drew its last breath, catastrophic economic and political changes gripped the country. Government institutions started to break down and law and order began to vanish. From 1989 to 1990, the number of unsolved crimes rose 39%. Thefts skyrocketed 62% that same year.[47] It is clear that during the twilight of the Soviet Union and during the immediate post-Soviet period, the apparatuses for maintaining state discipline were incapable of enforcing law and order. These realities discredited the rule of law and contributed to what Denis Galligan termed "Legal Failure." To understand legal failure in Russia, one must view it in wide context.

Generally, legal failure can arise from a variety of causes ranging from unclear laws with large loopholes to judicial or legal institutions incapable of fulfilling their mission. Although there may be many contributing factors, Russia's legal failure primarily stems from the legacy of Soviet totalitarian rule and the subsequent "illegitimacy of [Russian] law."[48] Russians tend to be rather cynical when it comes to the legitimacy of law. It is not that they believe that living under a legal framework is pointless or that they despise the law, but rather, the average Russian believes everyone else disregards the law and therefore they should follow suit.[49] The roots of this cynicism and the feeling that law is illegitimate are found in Russia's Soviet legacy, where

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[45] Solomon and Foglesong, 11.
[46] Denis J. Galligan, 7.
[47] A. Illesh and Counselor of Justice V. Rudnev, "The Fight Against Crime – Illusions and Reality," *Izvestia*, 24 July 1990, in The Current Digest of the Soviet/Post-Soviet Press CD-ROM Database, 1982-2000.
[48] Galligan, 2-4; Marina Kurkchiyan, "The Illegitimacy of Law in Post-Soviet Societies," in *Law and Informal Practices: The Post-Communist Experience*, eds. Denis J. Galligan and Marina Kurkchiyan, 25.
[49] Kurkchiyan, 26-7.

law was a tool of the government. Following the collapse of the Soviet Union, "…law was in many respects regarded by the people as alien and coercive, [but] it could not be ignored. That did not mean [the law] had to be obeyed; it meant only that, for life to go on, law had to be avoided and circumvented; it had to be exploited, manipulated, and negotiated."[50] Essentially, the Soviet legacy fostered an environment that has led to legal failure.

Despite cynicism and legal failure in Russia, liberal western legal practices do not seem to be discredited among the majority of Russians. Indeed, in a series of well-documented surveys from 1992-2000, the majority of Russians held the concept of rule of law in high esteem and the Russian disposition towards the rule of law seemed to improve during this period.[51] Even more encouraging was the correlation that existed between favoring the rule of law and favoring the advancement of democratic institutions. In short, despite the legal and political environment that many Russians live in, most of those surveyed favored the rule of law and democracy.[52] "What people prefer, however, does not always perfectly predict how they behave;" Russians remain hostage to a system that has been slow to change and tends to reward those operating outside the law.[53] How can this contradiction be reconciled? Reforming Russia's jury system may start relegitimizing the law and help end legal failure.[54]

A Legal System in Transition and Crisis

The transition from the Soviet legal system to a democratic legal system began with the document "Conception of Judicial Reform," introduced in 1991. The Conception document was a "blueprint" for judicial reform that was formulated by well-known Russian scholars in criminal

[50] Galligan, 7.
[51] James L. Gibson, "Russian Attitudes Towards the Rule of Law: An Analysis of Survey Data," in *Law and Informal Practices: The Post-Communist Experience,* eds. Denis J. Galligan and Marina Kurkchiyan, 88-9.
[52] Gibson, 89.
[53] Galligan, 90.
[54] Kurkchiyan, 45.

law. This blueprint outlined many judicial reforms including trial by jury.[55] Despite jury trials also being guaranteed in the new Russian Constitution, trial by jury came under an increasing number of attacks.[56] Critics believed that jury trials represented an importation of Anglo-American legal traditions into a Russian legal environment that did not require them. Certainly, at face value, the remnants of the Soviet legal system were incongruent with western jury trials, but that was the entire point of Conception, to reform the Russian legal system and distance that system from its Soviet legacy.[57] Although opponents were initially successful at stalling the introduction of jury trials into Russia, by October of 1993 trial by jury had been successfully incorporated into the Russian Legal Code. The opposition was successful, however, in leaving the jury system with little funding and undermining the objective nature of jury selection.[58]

Regardless, by the beginning of 1995, after only one year of existence in nine areas within Russia, jury trials were met with a high degree of success.[59] With a rate of acquittal ten times higher than the standard criminal courts (18.5% acquittal rate compared to 1.7% acquittal rate), Russian juries willingly threw out illegally obtained evidence and actively participated in court proceedings. Additionally, jury trials ran quite efficiently and were generally concluded within a few days. So successful was the "experiment" in its first year that officials began proposing the introduction of jury trials in additional areas within Russia.[60]

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[55] Reynolds, 376-7.
[56] Peter Baker, "Russia Tests Juries By Trial and Error; Courts Slowly Shedding Soviet Model," *The Washington Post*, September 2, 2003, http://www.lexis-nexis.com/; Aleksei Kirpichnikov, "Russian Prosecutor's Office Attacks Judicial Reform," Sevodnya, 10 March 1993, in The Current Digest of the Soviet/Post-Soviet Press CD-ROM Database, 1982-2000.
[57] Kirpichnikov
[58] Sergei Tropin, "Jury Trials Could Change the Country and the People," *Izvestia*, 27 October 1993: 4, The Current Digest of the Soviet/Post-Soviet Press CD-ROM Database, 1982-2000.
[59] The original areas that jury trials were authorized in were Ivanovo, Moscow, Rostov, Ryazan, Saratov, and Ulyanovsk Provinces and Altai, Krasnodar, and Stavropol Territories. Yekaterina Zapodinskaya, "Results of the Work of Jury Trials in Russia: People's Representatives Show Mercy to the Fallen," *Kommersant-Daily*, 23 March 1995: 14. Published in The Current Digest of the Soviet/Post-Soviet Press CD-ROM Database, 1982-2000.
[60]Zapodinskaya; Valery Rudnev, "Jurors Are Not "'Softhearted Old Uncles,'" *Izvestia*, 16 March 1995: 5, in The Current Digest of the Soviet Post-Soviet Press CD-ROM Database, 1982-2000.

Despite the successes of jury trials, there are still challenges to be met. Realistically, jury trials occur in one-half of one percent of cases. One reason for this is their restricted jurisdiction. A defendant may only request a trial by jury in murder, treason, or particularly violent rape cases.[61] This has meant that many high profile cases have not had the opportunity to use juries, which would have generated publicity for them and the rule of law. High acquittal rates have, however, remained constant over the past ten years, ranging from 15% to 20% in jury trials compared to .8% to 1.5% in standard trials.[62] Inquisitorial procedure, a legacy of the Soviet Union, has often led to a type of unofficial cooperation between the judges and the state procurators, creating an environment of collusion and corruption and giving the state advantages. Juries, however, have held the courts to established legal standards, which has limited unofficial cooperation and has manifested itself in higher acquittal rates.[63]

Despite the successes that jury trials have seen and the relatively tiny number that actually take place, jury trials are extremely expensive. During the 1990s, jury trials consumed around 25% of the budget of the regional courts.[64] Jury trials are generally expensive undertakings, and when devising jury reforms in the Conception, there was a concerted effort to provide adequate payments for jurors. The writers of the Conception understood the troubles that tsarist Russia had when requesting that the nobility appear for jury duty. The result is a three-dollar daily wage. Although not much by American standards, this relatively high wage seems to have helped retain jury members once they have been called for duty.[65] Regardless, it has also drained courts' budgets and hindered the further spread of jury trials.

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[61] Baker.
[62] Rudnev; Baker.
[63] Irina Dline and Olga Schwartz, "The Jury is Still Out on the Future of Jury Trial in Russia," *East European Constitutional Review*, Vol. 11, Nos. 1/2, Winter/Spring 2002. http://www.law.nyu.edu/eecr/.
[64] Inga Markovits, "Exporting Law Reform – But Will It Travel?" *Cornell International Law Journal* (37 Cornell Int' L.J. 95), 2004. http://www.lexis-nexis.com/.
[65] Reynolds, 387; Baker.

In early 2004, a Vladimir Putin endorsed bill established jury trials throughout Russia. With results similar to years past, the enlarged scope of jury trials resulted in 17% of suspects being acquitted.[66] Yet, implemented judicial reforms have not yet resulted in meaningful long-term reforms. Indeed, the challenges facing the jury system are only exacerbated by the judiciary's systemic problems including its lack of judicial independence. President Putin has recently indicated that "the judiciary branch's independence is not an honorable privilege but the necessary condition [for] it [to] perform its constitutional duty in the system of divided powers."[67] However, there remains little independence in Russia's judiciary. Recent years have been marked by efforts from the Kremlin to solidify its hold on the court system and influence court decisions.[68] In many of the superior and district courts, the courts' chairmen as well as the majority of all judges are appointed for terms of varying length by presidential decree. When a judge's term has been completed, the Kremlin reviews the judge's performance and decides whether to reappoint him. This system inherently pressures judges who value job security to be sympathetic to Kremlin policies.[69] Recognizing the importance of judicial independence, Russia introduced the concept of lifetime appointments into the judiciary. The progress of this reform has been painfully slow. By 1998, only 23.6% of Russian judges had received lifetime appointments.[70] Unfortunately, a lifetime appointment does not necessarily indicate that the judge is removed from outside influence. For example, if a judge has career ambitions to move to a higher court, they must first pass a new evaluation by the executive branch for promotion.[71]

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[66] Francesca Mereu, "Judges Who Lost Their Jobs Speak Out," *Moscow Times*, October 6, 2004, http://www.lexis-nexis.com/; "Jury Considers Every 10th Case in Russia Last Year," ITAR-TASS News Agency, February 1, 2005, http://www.lexis-nexis.com/.
[67] "President Putin Speaks Out on Judicial Branch's Independence," *RIA Novosti*, 30 Nov. 2004. http://www.lexis-nexis.com/.
[68] Solomon and Foglesong, 33, 36.
[69] Mereu; Solomon and Foglesong, 191.
[70] Solomon and Foglesong, 32.
[71] Ibid, 33-4

Another problem facing Russia's judiciary is its increasing workload and low salaries. The number of cases brought to Russia's courts has steadily increased, but the courts' budgets and staff have not been able to keep up. The danger of this situation is clear: in 2000 President Putin indicated that these problems were "…a cause of miscarriages of justice and of superficial, inattentive hearing of cases."[72] The combination of large workloads and low salaries has bred apathy and bitterness, which has inevitably led to widespread corruption.[73] Indeed, Valery Zorkin, Chairman of the Russian Constitutional Court, has indicated that studies show that businesses are certainly able to corrupt members of the judiciary. Zorkin contends that, "bribery in the courts has become one of the biggest marketplaces of corruption in Russia."[74]

Courses of Action

Much like the period in tsarist Russia preceding the Great Reforms, Russia is now threatened by institutionalized legal and judicial problems. However, it is encouraging that there was success in the Great Judicial Reform when Russia seemed hopelessly backward. Keeping this in mind, there is hope for Russia. The first step in reform must be to secure a larger financial commitment from the government. To properly implement all needed judicial reforms, the current budget would likely have to be tripled.[75] Jury trials are expensive, but if Russia hopes to expand this vital aspect of the needed reforms, these funds are crucial. Russia must also consider expanding the jurisdiction of jury trials. The narrow jurisdiction in murder, treason, and violent rape cases inherently limits the number of jury cases to just a fraction of the cases heard by the courts.[76] Expanding the jurisdiction would likely lead to more high profile cases that would

[72] Ivan Trefilov, "Judicial Reform According to Dal: Funding for Judicial System Trails Behind Plans to Reform It," *Sevodnya*, 28 November 2000: 5, in The Current Digest of the Soviet/Post-Soviet Press CD-ROM Database, 1982-2000.
[73] "President Putin Speaks Out on Judicial Branch's Independence," *RIA Novosti*, 30 Nov. 2004.
[74] Zorkin.
[75] Trefilov, 5.
[76] Baker.

reflect well on the judiciary and demonstrate that Russian citizens are a vital part of the legal process. The impact of increasing the role of jury trials in Russia could be substantial. Juries have helped produce transparency in Russian courts. As juries consistently reject inappropriately obtained evidence and question the defense and procurators alike, the courts become more accountable. Jury trials have often resulted in placing a higher burden of proof on the prosecution.[77] Although officially the defendant is considered innocent until proven guilty, inquisitorial procedure often seems to place the judge on the prosecution's side.[78] Juries check this abuse by forcing law enforcement officials to follow proper procedures in order to have admissible evidence.

Conclusion

Once when I was speaking with a Russian lawyer, she said the problem with jury trials is that Russia has never had them before. She stated that the people are not ready for them, and they are highly manipulable. Once again, she articulated the inherent belief that the Russian people are not ready for reform; they are not worthy of democratic institutions! Not surprisingly, many Russians do not realize the extent of jury trials in imperial Russia prior to the revolution. Certainly there were problems in the implementation and administration of jury trials during this era, but for the most part they were highly successful and democratic. At the same time, there are problems with the current system of jury trials in post-Soviet Russia. The question is, at the present time are the obstacles to successful implementation of jury trials any more difficult to overcome than the obstacles faced when abolishing serfdom and autocracy? The answer to this question remains to be seen, but what is apparent is that Russia, through bolstering the trial by jury system, has the opportunity to combat legal failure.

[77] Ibid
[78] Solomon and Foglesong, 177.

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Variations of Community: The *Kommunalka* and Gated Communities

by Sandra Evans, 2004

Introduction

For presenting two variations of community, I would like to use asynchronous comparative analysis in order to highlight similarities, differences and ambivalences within the context of (post)modernity. The two types of living arrangements in question here are: 1) the *Kommunalka*, or communal apartment (in Russian *kommunalnaja kvartira,* short *Kommunalka*), which was the prevalent living arrangement in the urban spaces of the Soviet Union,[1] where a number of families lived together in common living quarters sharing a kitchen, toilet and bathroom and 2) gated communities, a widespread phenomenon on the current American real estate landscape,[2] where groups of homeowners share common facilities and are subject to stringent rules and regulations behind walls often protected by security guards. While these two variations of community on different continents, in different cultures, at different times in history with different backgrounds and reasons for existing might at first seem unrelated and thus, unfit for comparison, they do have some common denominators that make comparison a nonetheless interesting and valuable exercise.

The relevant variables for comparing these two types of communities are: common space, common values and goals that unite the community, a common public domain within the physical borders of the living arrangement, common infrastructure and "anonymous" external forces that dictate the moral code of the community. Based on these commonalities, I will briefly introduce both types of communities within their historical setting and in

[1] According to a 1926 census, 73% of the population in the city lived in communal and rental apartments and this percentage grew in the following years. In 1936 77% of the renters lived in communal apartments in old buildings and 84% in communal apartments in new buildings. Statistic taken from Obertreis, unpublished version of her doctoral dissertation.

[2] The Community Association Institute estimates that an estimated 50 million Americans, i.e. one in six, live in homeowner associations. See www.caionline.org

conclusion will analyze them considering their present-day implications. The focus will be on the peculiar sets of rules and regulations that dictate everyday conduct and help establish the psychological and actual physical borders between the public and the private sphere within a living arrangement, ordering personal and social experiences as well as the relationship between the state, society and the individual.

The Peculiar Residential Public Square called "Kommunalka"

Immediately after the Russian revolution, in the fall of 1918, *kvartirny peredel* or the repartition or redistribution of the aristocratic apartments and manor houses confiscated by the newly established state began in Petrograd in order to accommodate workers from the surrounding areas that were flooding the city. Initially intended to serve as a temporary solution to the imminent housing crisis, the Bolshevik leadership synchronized its resolution with ideological aspirations, redefining the boundaries between the public and the private sphere and fundamentally changing the spatial structures of housing and with it society. While the post-revolution years of the 20's were, on the one hand, a high time for dreaming about creating a better society via a collection of socialist communities based on experimentation in culture, religion and egalitarianism, the stark realities of the post-revolutionary economic crisis as well as the lack of concrete plans and resources for the construction of housing projects and the precedence of other paramount tasks in building the newly established Soviet state,[3] on the other hand, gave birth to the Soviet residential public square – a.k.a. the kommunalka. Within this context of economizing resources and simultaneously promoting an ethic of cooperation within a "new mode of existence called 'communal' living,"[4] the communal apartment was hailed as an "advanced laboratory of future communism."[5]

Even though in the 1930s there was a general rhetorical retreat form these socialist ideals of communal living toward the promotion of the family, the kommunalka nonetheless

[3] Gerasimova, Ekaterina "Sovetskaja Kommunalnaja Kvartira kak Sozialnii Institut; Istoriko-Soziologicheskii Analiz" Doctoral Dissertation at Euorpean University at St. Petersburg, 2000.
[4] Kotkin, Stephen, *Magnetic Mountain: Stalinism as a Civilization.* University of California Berkley, 1995, p. 158.
[5] Stites, Richard. *Revolutionary Dreams: Utopian Vision and Experimental Life in the Russian Revolution.* Oxford University Press, 1989, p. 205.

remained the primary living space for a majority of urban Soviet citizens, gaining a status of normalcy in the 40s and 50s and experiencing a great exodus in the 1960s as the *Khrushchoby*[6] were made available. The communal living arrangements still exist today and act as reminders of the Soviet past, yet for the purposes of this paper I will concentrate on the early phase of the communal apartment, namely the 1920s and early 1930s, which is the time that the complex, intertwined and often contradictory rules of life together in tight communal quarters were codified and later formed the Soviet everyday.

Common Space: The communal apartments greatly varied in size and social make-up, yet the general layout, definition and organization of common space was similar. There could be as little and two and as many as thirteen families that generally shared the minimal living space. Each family, sometimes consisting of two to three generations, was allotted a single room for cohabitation along a dark hallway. Within their "private" space, the families resorted to a great amount of creativity in order to respect each other's privacy, ranging from symbolic and actual barriers to ad hoc arrangements and fixed schedules. A similar practice was also applied in the common spaces outside of the rooms. At one end of the long, dark corridor the entrance door is generally located and at the other end a telephone, equipped with a telephone table and chair. Following the corridor around the corner from the telephone, the remaining places of common use, i.e., the kitchen, the toilet and the bathroom are usually located.

In such a dense and overwhelming setting of communality that was common during this time,[7] one needed to maintain a separateness in order to distinguish oneself from the others. This need expressed itself, in contrast to what would be assumed in a communal setting, in the complete separation and labeling of everything in common places; hardly anything was shared and everything was claimed by somebody. Even if the items claimed were not useful or broken, they would nonetheless serve as a marker of virtual territory, representative of a person's right to a private sphere and symbolic of common rules and

[6] Khrushchev initiated a project for the construction of mass housing, which gave families to live in their own private apartment. These aparments were lovingly referred to as Khrushchoby.

[7] In a space where 40 years ago 56 people were trying to conduct the Soviet everyday, 15 years ago 33 people were trying to do the same and today only 20. See Utekhin, Ilja. *Ocherki Kommunal'nogo Byta*. OGI, Moskva, 2001, p. 7.

regulations.[8] In the kitchen, separate tables were used by each family for food preparation, the burners on the stove-tops were assigned and with an extra light switch in the room, one could control a separate light bulb in the toilet, just to name a few examples. Other rules were of practical nature like a cleaning schedule (the number of weeks a family would clean the common areas was equal to the number of family members), timetables for the bathroom and other popular areas regulating traffic and even a sort of Morse code was devised for the doorbell (two short rings for Nadezhda, one short and two long rings for the Kabenchikovs), relieving inhabitants of the decision-making process of whether to answer the door.

Common Public Domain: Before the revolution, the term mesto obshchego pol'zovania (places of common use) was used by the municipal administration to indicate streets, alley ways and other municipal spaces. In the 1920s this term represented the kitchen, toilet, bathroom and corridor of the communal apartment,9 which had in effect turned into public spaces for random meetings with quasi-strangers and fluid sociability.[10] One could consider the kommunalka an important tool within a sophisticated system of social engineering and control in the Soviet Union and as such, it served as the domestic collective, i.e., as a tool for social and moral control as well as a source for informants.[11] Essentially, the communal apartment was not a place where the individual could retreat to his private space, but rather it was overall a very public space and hence ideologically charged.

Housing emerged as an important arena where the virtual relationship between the state and the individual was defined and staged, either in support or in defiance. Every item, rule and behavior was representative of this relationship. Because it was such a scarce commodity, living space signified power and the entity in control of the living space was thus

[8]Gerasimova, Katerina. "Public Spaces in the Communal Apartment" in: Gabor T. Rittersporn, Malte Rolf and Jan Behrens (Hrgs.), *Sphären von Öffentlichkeit in Gesellschaften sowjetischen Typs: Zwischen partei-staatlicher Selbstinszenierung und kirchlichen Gegenwelten,* Peter Lang, Europäischer Verlag der Wissenschaften, 2003: 165-193, S. 174.

[9]Obertreis, Julia *„Tränen und Sozialismus". Wohnen in Petrograd/Leningrad zwischen revolutionären Entwürfen sowjetischer Wohnpolitik und der Beständigkeit häuslicher Lebenswelten, 1917 – 1937,* unpublished doctoral dissertation.

[10]Jeff Weitraub has identified four main theories representing different aspects and levels of the public and the private distinction, whereby this theory of fluid sociability in a public space is represented in works by Richard Sennett and und Philippe Ariès. See Weintraub, Jeffrey. "The Theory and Politics of the Public/Private Distinction," in Jeff Weintraub and Krishan Kumar, eds., *Public and Private in Thought and Practice*, Chicago: University of Chicago Press, 1997, p. 7.

[11] Boym, Svetlana. "Everyday Culture" in *Russian Culture at the Crossroads: Paradoxes of Postcommunist Consciousness*. Ed. Dmitri N. Shalin, Westview Press, 1996, p. 163.

in power. In the case of the kommunalka, the public sphere changed in accordance with the individuals conducting and, implicitly or explicitly, negotiating the public and private sphere. Here the private and the public are not opposing concepts with concrete borders, but fluid - one determines the other and thus, the two categories are dynamic. Obertreis verified a similar point in her dissertation where she emphasized that the public space in each of the communal apartments had its own dynamic and was determined by inhabitants who used the official political line only when it furthered their own interests.12 Thus, the public domain in the communal apartments was fragmented, hybrid and polymorphous.

Common Values and 'Anonymous' External Forces: With the intent of building Soviet Civilization, official common values were stipulated from above and served as a guide for appropriate self-fashioning and interaction with others in Soviet society. As indicated above, policies with regard to housing and communal living developed a specific internal logic and dynamism, which were interconnected not only with the institution of political and social structures from above, but also from below in a search for practical solutions to issues concerning communal living. Beginning in 1925, a peculiar micro model of social hierarchy in the communal living space began to form, intensified by selected persons in the apartment affiliated with the NKVD (which later became the KGB) acting as moral beacon of Soviet policies. Here is where the usually private and intimate space of the home became politicized and the feeling of Soviet collectivization of the everyday took shape. Moreover, collectivism arose in the kommunalka owing to the needs of the everyday, which leveled any personal differences and was conducive to the development of not only specific socialist conformism,[13] but also social control. Neighbors made sure that others were following the rules and if not, took it upon themselves to convict and sentence the violator as they deemed necessary.

Gated Communities

As for gated communities, one could travel back through time as far back as the Romans and find gated settlements in the lands the Romans had conquered and later ruled.

[12]Obertreis, unpublished doctoral dissertation.
[13] Lebina, N.B. P*ovsednevnaja Zhizn Sovetskogo Goroda, 1920 –30 Gody,* Sankt Peterburg, 1999, p. 19.

However, the distinct character and features of the US-style gated settlements or common interest developments, as they are also referred to, can be more adequately traced back to the turn of the last century, back to England and to Ebenezer Howard with his utopian community called the "Garden City."[14] Howard's idea for a new perfect community arose in response to the evils of industrialization, which was part of a general European sentiment at that time. The two main elements contained in his concept that are crucial for the purposes of discussing issues related to US-style gated communities are **comprehensive physical planning** as well as **political and economic organization**. Howard's idea was adapted to the American context at the beginning of last century[15] and a new kind of residential construction was established, ultimately evolving into something distinct in its private organization and stringent control by deeds and regulations. Powerful real estate interests in the US took over Howard's idea and applied the concept of economies of scale to property development - property developers used common ownership and strict deed regulations as an instrument of land planning.

In order to provide an overview of the issues surrounding the phenomenon of gated communities today, I will cite fragments from a BBC news service article with the headline "'Gated' Community Warning." The article's first sentence warns, "The growth of US-style "gated" communities threatens to divide Britain's cities into rich and poor ghettos..." and continues, "Well-off city dwellers are increasingly shutting themselves away in high-security compounds, with surveillance cameras, electronic gates and even private security guards…The trend is being driven by fear of crime."[16] This fragment of the article touched on most of the prevalent issues concerning gated communities or common interest developments (CID). The well-off shutting themselves away in high-security compounds implies social and ethnic segregation as well as fragmentation. Surveillance cameras symbolize the strict and

[14] Howard believed that the perfect society was within reach to humans and could be achieved by transforming a nation through rational planning. At the turn of the century, a general surge for improving decaying industrial societies lead to similar responses and experiments internationally, most notably in the Soviet Union. His book "Garden Cities of Tomorrow" was basically a manual for the financing, building and operation of new kind of planned community.

[15] Howard's ideas were initially adapted by the Regional Planning Association of America in their project of a planned community called Radburn, New Jersey in 1928. The distinctive features of this particular community (which never was actualized as a consequence of the Depression), i.e. a form of private government, restrictive rules and regulations and a Residential Homeowner Association, were carried over and are still significant part of common interest developments today.

[16] See http://news.bbc.co.uk/1/hi/uk_politics/2518747.stm

intrusive rules and regulations that are created and enforced by an elected private government – the Residential Community Association (RCA). Electronic gates stand for the shutting out the remainder of society in order to preserve real estate values of the property, which is considered a priority over communitarian principles of life in a community and goes as far as subordinating individual privacy and freedom to these principles. Private security guards refer to the privatization of public services, unique to the American system.[17] Furthermore, fear of crime represents the uncertainties created by an increasing plurality and complexity of society and the process of individualization (Bauman 1990, Giddens 1990 and Beck 1995).

Common Space: Interested homebuyers purchase real estate on developed property and with this purchase buy into a contract. This compulsory contract legally binds the property holder to the local community laws and regulations, which are generally interpreted and enforced by an elected board of directors, who are also residents of this community. Members of the RCA share ownership of and have access to common facilities like swimming pools and recreational facilities. Depending on the size and style of the community, additional amenities offered within the walls might for instance include garbage collection, parks and golf courses, the distribution of utilities, shops, churches, schools and even a police force. Some settlements take on the character and size of a city with the only difference of a wall following the boundary.

Common Values: The demographic makeup of the average association member is: 48 years of age, an annual income of $45,000 or more, the owner of a single family home, holding a professional/managerial position and has at least a basic college education.[18] Essentially, these community associations represent an exclusive segment of American society that is growing along with corporations and high-tech businesses. This trend and its large following does not only represent an economic incentive to buy a home within

[17] Unlike its European counterparts, America has not had many government assets that it can privatize and therefore, privatization in the US rather implies the enlistment of private entities in order to improve the provision tasks that would remain public to a certain degree. See McKenzie, McKenzie, Evan, *Privatopia: Homeowner Associations and the Rise of Residential Private Government.* Yale University Press, New Haven and London, 1994, p. 179. This concept has been taken to the extreme in the US and especially within the framework of the RCA settlements.

[18] http://www.caionline.org/about/facts.cfm

boundaries, but goes much deeper: the arrangements and conditions accepted with the signing of the contract ultimately reach deep inside the private sphere of residents and redefining the boundaries between the public and the private sphere. This private sphere does not only represent the domestic realm located inside of the second set of walls of the home, but also the intimate and personal boundaries of individuals.

With the vastly increasing number of members joining community associations,[19] a network has been established within which the Community Association Institute (CAI)[20] plays an important role. Essentially, the CAI serves the community of RCAs as a clearinghouse offering professional seminars and workshops, publishing a large collection of resources on RCAs, advocating and lobbying RCA interests before legislatures and in courts, conducting research on RCA practices and management and lastly, providing networking opportunities for its members. On their homepage they offer a list of best selling books within the national RCA community. The following is a summary of one:

> *Community First* breaks new ground by reorienting associations toward a higher mission-enhancement of a sense of community. Some of the industry's most respected leaders and visionaries describe how the "building community" concept can be adopted and put into practice by developers, lawyers, community association managers, homeowners, public officials, and others. Their perspectives on this growing and evolving industry (and suggestions for its improvement) offer a broader vision of these communities and much food for thought. Their thoughts will stir debate and, where appropriate, create a new standard – a new model – for this important segment of America's future.[21]

Another function of the CAI is the organization of regional and national conferences. At these conferences RCA members have the opportunity to build professional skills during training seminars and workshops since most of the business activities tend to be conducted within RCA walls. For the welcoming and/or closing dinners famous speakers are invited to speak and instill the audience with, for instance, "inspiration as they address personal development issues including values, ethics and integrity," and provide the participants "with practical ways to make innovation pay off for [their] community."[22]

[19] An approximated 30% of all new homes in suburban areas are behind gates. Moreover, gates are supposed to increase the real estate value by 15 to 20%. See http://www. Taocorn.com/news/2004/0219/front_page/002.html

[20] For more information about the Community Association Institute see http://www.caionline.org/about/index.cfm

[21] https://www.caisecure.net/Merchant2/merchant.mv?screen=SFNT&Store_Code=CAI

[22] http://www.cairf.org/pubs/index.html

Common Public Domain and 'Anonymous' External Forces: As a common interest development is established, the original group of residents that buys into the property takes control of the board of directors, forming a community association by electing volunteer leaders from within the community that are responsible to the residents. One of the initial tasks is to create rules and regulations that order the life within the community; they are generally referred to as covenants, conditions and restrictions (CC&R). CC&Rs are adjusted by the board according to community values and norms, turning this community association into a self-governing body, i.e. into a private government. Accordingly, one of the main functions is to essentially "help protect property values by ensuring compliance with rules and deed restrictions." Depending on the community association, these rules can be very stringent and regulate every aspect of life within the community, which can impinge on very private and intimate aspects of individuals' lives and turn the community association into a body with more or less authoritarian powers, although some claim that community associations are the most "representative and responsive form of democracy found in America today."[23] People seem to situate themselves in structures with the intention of ordering and controlling their lives, creating their own certainty and stability opposed to the chaotic and dangerous outside.

Discourse: While the Kommunalka is a microcosm of the Soviet Union, the gated communities are a microcosm of the contemporary American dream, reflecting the social concerns and conflicts as well as the pleasures and desires of modern life.[24] The common interest of these common interest developments is the preservation of real estate values. Gated communities and their use of CID legal restrictions are both redefining and privatizing the political, social, and aesthetic dimensions of the suburban home. Formulated based on economic objectives, the covenants and regulations that dictate everyday conduct serve as moral codes and govern correct social behavior and relationships. The gates, restrictive covenants and homeowners associations create a limited sense of community based mainly on

[23] http://www.caionline.org/about/facts.cfm

[24] Low, Setha *Behind the Gates: Life, Security, and the Pursuit of Happiness in Fortress America,* Routledge, New York and London, 2003, p. 26

social, cultural and behavioral uniformity. For instance, the community can stipulate the kind of vegetation that can be planted, what color a house may be painted and where the mailbox placed.25 Even the particulars of an individual's living conditions can be stipulated: whether pets are allowed or how many non-RCA residents can spend the night. In some communities it is not allowed for visiting grandchildren to use the common playground facilities. Baumgartner maintains that upper-middle-class suburbs are physically and socially structured to provide privacy and separation. Residents monitor their environments "closely identifying those who do not belong," yet at the same time they are sheltered by the privacy made possible by these loosely held relationships.26 Although many residents complain about the sometimes petty and intruding regulations, the benefits of community living seem to override the drawbacks. Residents are willing to give up liberties in exchange for stability and a sense of security. (And choice is of course one of the most significant differences: gated community residents have the choice to move into a common interest development, kommunalka residents did not have a choice.) A number of residents are glad that the rules exist and welcome the discipline, feeling more comfortable with the prospect of having them applied to their neighbors.

In the Russian example, peculiar sets of rules and regulations were based on ideological and political values dictated by the government, yet the rules with regard to the everyday practices in the kommunalka developed out of necessity: the extreme overcrowding in the kitchen, the toilet and the bathroom at specific times of the day developed codes of behavior for ordering the immanent chaos. The space in the kommunalka is structured by architecture and a code of behavior in order to provide privacy and separation. For the most part, inhabitants tried to block the transparency of the communal space and respect the privacy of others, yet the borders became transparent once the rules of everyday conduct were violated. In the case that a fellow kommunalka inhabitant might overextend his/her time on

[25] http://www.meislik.com/articles/art03.htm

[26] Low, Setha *Behind the Gates: Life, Security, and the Pursuit of Happiness in Fortress America,* Routledge, New York and London, 2003, p. 182.

the toilet, for example, s/he will hear through the door from affected persons waiting in line. They will verbally inform the violating person of their rights being impinged. However, when the rules are not broken, the neighbors abide by principled considerations and etiquette like for instance, not talking about the person occupying the toilet - unless it serves some purpose. These purposes might turn political, depending on the intentions of the initiator and his or her objective within in the given context. It was relatively easy to become an "enemy of the people," especially as neighbors were eager to acquire more living space in the severely overcrowded conditions that dominated the 20s and 30s, regardless of what the costs may be.

By comparing these two living arrangements I do not want to belittle the circumstances of the kommunalka or place the kommunalka and gated communities at the same level. This comparison should function as an exercise to help look at social structures, social order and action from a different viewpoint highlighting similarities, differences and their relationship. While the fundamental goals that dictated the moral code in the above-mentioned communities differ (one was political and the other economic in nature) the rules and regulations however have been devised by anonymous forces that intend to order the immanent chaos in uncertain circumstances. The rules and regulations serve the purpose of regulating the conduct of behavior between interacting entities within a set of social and political circumstances, redefining the borders of the public and private spheres accordingly and thus, ordering personal and social experience. With this in mind, both the kommunalka and gated communities touch on important issues regarding the relationship between subjectivity and housing. Further comparative exploration would give an important insight into and a better understanding of the interrelationship and interaction between the private and the public spheres within a living space and its relationship to the chaotic outside.

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Privately Enforced Capitalism: The Rise (and Fall?) of Russia's Oligarchs
by Jeffrey Louis Weichsel, 2004

- **Introduction**

Today in Russia, a small group of men called the oligarchs control a disproportionate portion of the Russian economy. In a capitalist environment, a large disparity between the economic power of the very wealthiest and the rest of society is not unusual. Yet, in a healthy capitalist system, the economically fortunate are wealth creators, adding to the overall economic performance of their economic system. In contrast, the empires of the Russian oligarchs are largely based on siphoning the wealth of former Soviet industry, "purchased" by questionable means. These oligarchs appear to contribute a net loss to the economy. Who are the oligarchs? How did they become oligarchs? How do they operate? What is going to become of these men and their wealth? These are the questions that this paper attempts to answer.

The rise of the oligarchy is clearly a strange phenomenon to occur in an industrialized country in the modern economic period. Crony capitalism is far more familiar in poor unindustrialized countries than it is to the first-world economies. Many analysts point to Russian culture and unique historical events. Although culture may help to create an environment in which illegal attainment of wealth and power is acceptable, it is also clear that most societies possess people willing and able to take economic control through illegal actions when the costs of doing so cease to outweigh the benefits. American (and European) entrepreneurs' conscience hardly stops them from engaging in illegal activities to increase their wealth. They obey the law (when they do) because it is consistently enforced, and the cost of subverting the law outweighs the benefits. Historical circumstances such as the collapse of the Soviet system certainly made the oligarch class possible, but hardly inevitable. Other transition economies in Eastern Europe

have faired much better. In the Soviet Union, informal and illegal control and use of assets and capital occurred on a regular basis. If anything, the USSR's collapse simply made the informal control more formal. An in-depth analysis is clearly needed to get to the root of the issue.

Therefore, this paper will focus on the transformation of the institutions and structural features of the Soviet and Russian economy that allow various groups to control economic resources and capital. The first section will begin with an historical discourse that traces the structure of Russian society to the modern oligarch system with a focus on relevant institutions. The section will then shift focus to how the Russian economy is transforming in the present. The next section will evaluate various economic and political theories, determine their relevance to our issue, and use them to explain the rise and behavior of the oligarchs by using case studies of individual actors (oligarchs) and overall economic conditions. The final section will give answers to the specific questions raised in the first paragraph above.

- **Historical Summary**

To understand the oligarchs one must understand Russian society. To understand Russian society, one must understand the concept of property rights as understood in Russia. In his book, Russia As It Is, Matthew Maly points out that,

> "in the West, it was the bourgeois who grew strong enough to demand, and to be granted, the rights that they needed. In Russia, that would seem like a contradiction: if you are strong, then why do you need rights? Is not it that your strength allows you to do anything anyway? To get rights, you need to become stronger, but once you are strong, what do you need rights for? The Russian struggle is not for universal rights, but for exceptions: everyone only wants to say, 'Nobody else can – but I can.'"[1]

This has direct consequences on the rule of law as it evolves throughout the 20th century and beyond. The following historical account will shed some light on the very unequal distribution of power ubiquitous to the Russian economic and political system. This section will begin with the early 20th century for simplicity, but could surely begin in much earlier Russian history.

[1] Maly, Matthew (Page 49)

Pre-Revolutionary Russia

The period of Tsarist rule is not known for its capitalism. Historically, the Russian economy was based on the surf system. The Tsar owned all land, but gave long-term temporary rights over that land to certain nobility who would control all resources and serfs that resided on that land. However, by the 19th and early 20th century the Tsar realized that this was not a sustainable system. In fact, the early 20th century saw a rise of capitalist activity.[2]

Although Russia at that time had capitalist activity, it was far from a free market, as a 20th century American would picture it. It would be better to say that there were certain market systems in place that the government promoted for efficiency gains. Furthermore, the nobility and ruling family were well above those who engaged in business transactions. These merchants, many of them Jewish, were looked down upon by the real aristocracy. Entrepreneurial, managerial or mercantile endeavors were seen as "dirty work." Businesses were hardly autonomous and to operate with government approval. The government often granted monopolies. Laws were skirted or enforced based on businessmen's connections.

Goldman notes that many business practices of the late 19th and early 20th century are similar to current ones in Russia: businessmen stole from the government, cheated foreigners and each other. Like today, powerful businessmen were difficult to distinguish from powerful officials and regulators. In fact, like today, to get a high-power government job one needed business connections (money) and to get into big business, one needed political connections. Not surprisingly, even with the serfs freed, social stratification was extreme and a select few dominated the market.[3] However, even this limited economic freedom would end. The Russian Revolution deposed the Romanovs and the Bolshevik Revolution would depose everything else.

[2] Service, Robert (Pages 4-8)
[3] Goldman, Marshall I. (Pages 33-44)

The Bolshevik Revolution and Transformation to Communism

This period was relatively short lived because Lenin recognized the inherent limitations of collectivization and central planning, if only after the fact. Nevertheless, after the Bolsheviks took control, there was an immediate push to collectivize and nationalize all property. This may have been the most egalitarian period for Russian workers. Obviously the old establishment was killed off or sent off into exile, but at least the rest of society could take their possessions and wealth. At this period, ideology seemed to keep most people in check. This is because the people with power were party members who had lived their entire lives for this cause. It would be foolish to question the sincerity of such revolutionaries as Lenin and Trotsky. Unfortunately, for various reasons the country was not ready for a completely state-run economy.

The biggest obstacle to central planning was the lack of capital and economic infrastructure. This is not surprising considering the heavy destruction inflicted on Russia in the First World War. Effective central planning takes complete control. While workers were used to an iron hand regulating all of their actions, it seems that the Communists were not ready or equipped to handle such a big undertaking as the regulation of all aspects of the economy. As a result of these factors, the communist economic system was not very effective; a new if temporary solution was needed.

The New Economic Policy

Lenin's solution was the introduction of the New Economic Policy or NEP. The NEP was basically a retreat back to markets and private trade.[4] However, the NEP was definitely not capitalism. Mostly, this was a way to encourage people to produce on a small level. For example, instead of just confiscating grain quotas from the collectives, a tax was levied. This encouraged peasants to grow more, not less food. By letting allowing small businesses, it was

[4] Ibid (Page 45)

hoped that these would augment production. Lenin did not intend to give up the large-scale industrial enterprises that the Communists had nationalized. In fact, they intended to focus their energies on these concerns and let the rest of the economy heal itself. As they saw it, this was the only way to get back on track to the revolution.

This was also the time when the Nomenklatura system took hold. New, lower level party officials, who perhaps were not as ideologically motivated as original party members, were recruited to help control the one-party system. Even if limited economic freedoms were given, political dissent was not to be taken lightly.[5] This creation of an elite also led to conditions that supported economic corruption. It would be almost impossible for a revolutionary, no matter how ideological, to resist profit motives when put in charge of regulating a semi-market system he believes is evil. This led to increased social stratification as the bureaucracy solidified its power. Businessmen could get privileges by bribing. Furthermore, there was a certain irony in having semi-capitalism in the first major socialist revolution.[6]

Yegor Gaidar quoted Trotsky as writing in the 1930's:

> If…[the bureaucracy] now considers it possible to introduce ranks and decorations, then as the next stage, it will seek support for itself in the realm of property. Some might object that a high-ranking official would hardly care what form of property ownership prevailed, as long as it assured him the income he needed. This reasoning ignores not only the fact that a bureaucrat's rights are never entirely stable, but also the question of his progeny and their future. Our new cult of the family has hardly appeared out of the blue. Privilege is not really privilege if one cannot pass it on to one's children. Yet-the right to will property to one's heirs is inseparable from the right to own it. That is, being the director of a concern is not enough; only being a shareholder is. A victory for the bureaucracy in this crucial area would signal its transformation into a new class of "haves."[7]

This is very insightful. It predicts the future rise of the aristocracy, better known as "Nomenklatura" that had already begun to form. This rise would have to wait for Stalin to finish his purges, however. The next, very dark period of Russian history was to be the closest the Soviet Union came to real Communism.

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[5] Service, Robert (Pages 123-149)
[6] Gaidar, Yegor (Pages 67-68)
[7] Ibid (Pages 66)

Stalin

Stalin was so powerful that he was able to force the Soviet economy to grow through violent means. In this period, there was probably the least amount of corruption in Russian history. That said, Braguinsky and Yavlinsky point out that managers still engaged in parallel market economic activity in order to achieve the results demanded by the plan. This is a key point because Stalin constantly demanded more and more, and would kill if this were not achieved. Braguinsky and Yavlinsky write that, "The tolerance of 'the unlawful practices of management' was produced by the desire to alleviate the problem or poor governance by owners themselves, resulting from an extreme concentration of wealth."[8] Therefore, it was in the government's interests to allow managers to break rules that hindered meeting targets. Note that while the managers did this out of self-interest, it was not in pursuit of money; They were motivated by the threat to their lives.

Even though managers were allowed to engage in limited quasi-market activity, they were not allowed to grow strong. "Those purges," point out Braguinsky and Yavlinsky, "apart from their psychological effects, also effectively reshuffled the hierarchy so that no stable lower-tier hierarchical structures could be formed and assume too much real power." From Mancur Olson, we know that large distributive institutions based on secretive illegal activity cannot form in such an environment. However, the structures of the parallel economy were actually formed during Stalin's reign. Once Khrushchev came to power, the reigns of power were significantly loosened. "Once the fear of purges was removed, it would not (and actually did not) take the agents and intermediate level controllers much time to discover that they could engage in mutually beneficial slack not only to fulfill the plan, but also for their own private benefit."[9]

[8] Braguinsky, Serguey and Grigory Yavlinsky. (Pages 39-41)
[9] Ibid. (Page 42)

Ironically, Stalin's demands and rules created the need for a parallel economy that would become a chaotic and free place (opposite of everything that Stalin stood for) and would help eventually to lead to the collapse of the Soviet Union.

Post-Stalin

For a society that was supposed to be anti-capitalist, anti-consumerist, anti-elitist, and fair, the Soviet Union's post-Stalin period was the opposite. A few well-connected people, primarily the Nomenklatura, made and hoarded a lot of money while the rest of society stagnated. To understand how and why this happened, we need to understand Soviet society of this period. There are two main factors that come into play: the long period of stability, unusual for Russia, and the release from Stalin's repression. Mancur Olson predicts that right after a social upheaval, small groups of individuals with similar interests will be the first to form because it is easier for them to overcome problems of collective action. This indeed happened in this period. But Mancur Olson also predicts that over time, larger, more inclusive interest groups will form. This did not happen in the Soviet Union. Why not?

Although there was limited economic freedom given to the Nomenklatura, this was not extended to the larger population. The average citizen's economic freedom amounted to access to the black market. This presented more consumer choice, but hardly a way to get rich because participation in the informal economy was based on political connections. The Nomenklatura benefited most by granting rights which allowed others to trade illegally or use state enterprises for personal profit. Managers of state-owned enterprises often managed their firms as if it were their private property. The Nomenklatura had a huge collaborative interest in keeping their economic power and it was they who called for Perestroika (restructuring) because they knew it could only work to their advantage. This is not to say that top people did not benefit; the

Brezhnev family was reported to have controlled significant portions of the Soviet economy.[10] Yet, what is clear is that once the reigns were loosened, top officials became a special economic class benefiting from Perestroika, while the very top stood to lose their positions of power.

Perestroika and Transformation

Perestroika and the subsequent dissolution of the Soviet Union were not, as popularly believed, a revolution of the people. Like almost all 20th century revolutions, it was staged by the middle class and for the middle class (top officials) against the nobility (elite Nomenklatura). Those who most benefit are always "almost-elites." In the Bolshevik revolution, the Communist (upper-middle-class) intelligentsia benefited. In Perestroika, the semi-elite Nomenklatura benefited the most. Like other social revolutions, they used the masses by promising them a brighter future, but in the end fought for their own interests. This is unfortunate, because the beginnings of Perestroika brought hope and optimism, as well as mass opportunities.

Many entrepreneurs took advantage of Gorbachev's legalization of some economic transactions. As a result of pent-up demand, anybody smart enough to sell consumer items made a lot of money very quickly. Goldman tells a story of some people who factory-produce pantyhose. This item was extremely scarce in the Soviet Union, but every woman wanted them. They make so much money so quickly, they close shop after only six months for fear that people would think they earned their money through illegal means. With no laws to regulate this new economic system, the market was one of the world's freest. This is unfortunate, because it allowed for corruption and crime. However, this was still a market where ordinary people could make a living and get ahead. With proper safeguards and government effort to institute ordinary market laws, this could have developed into a proper capitalist system. However, the Nomenklatura that still controlled state enterprises were left out of much of this action.

[10] Goldman, Marshall I. (Page 43)

Therefore, it was in their interests to dissolve the Soviet Union and create a society in their image. Goldman quotes President Putin warning the oligarchs:

> When you demand political guarantees for yourselves and your businesses from the government, I want to draw your attention to the fact that you built this state yourself, though a great degree through the political or semi-political structures under your control. So don't blame the reflection on the mirror.[11]

This interesting speech illustrates who really created the Russian federation. However, at the eve of transformation, the Nomenklatura were not yet oligarchs. This is why the early 1990's was such a violent time. Various proto-oligarchs were consolidating and fighting for power. The oligarchs were also competing with other elements of society such as the Mafia and the non-Nomenklatura oligarchs who made money in slightly more legitimate ways. In the end, the Nomenklatura oligarchs won largely because of political connections and their long-term entrenchment. The oligarchs made sure that society would be a pleasant place for them to do business. They ensured that friendly leaders such as Yeltsin were kept in office. According to David Satter, the final oligarch consolidation came with Putin's election.

The Oligarchs Today

Characterizing Putin as solidifying the oligarchs' power may seem strange. Most western observers would point out that he cracked down and even arrested many oligarchs, that he seems most interested in his own power. But the oligarchs who lost favor were not well-connected, traditional oligarchs. Furthermore, they were political opponents of Yeltsin and Putin. Putin is simply favoring the old Nomenklatura, which he comes from. There should be no doubt that Putin's power is based on the oligarchs as much as the oligarchs' power is based on President Putin. Will this change? Will Putin be able to wean himself from the oligarchs? Where would he get his power? Perhaps from intelligence and military structures? These are the some of the questions that will be touched on in the rest of this paper.

[11] Goldman, Marshall. (Page 22)

Russian History and Power

Period	Formal Economic Freedom	Informal Economy	Property Rights	Power Gap between Haves and Have-nots
Pre-Revolutionary	Yes, but not for everyone	Yes	Officially Yes	High
Revolutionary	No	No	No	Medium, Lenin like king
NEP	Some	Yes	Not really	Medium, Lenin like king
Stalin	No	Small, some during WWII	No	High, Stalin like god
Post Stalin	No	Yes	No	High, party leaders like nobility
Perestroika	Some	Yes	Some, but difficult to enforce	In a transition state from high Nomenklatura to low Nomenklatura
Transformation	A lot	Yes	Officially Yes, but difficult to enforce	Beginning of rise of oligarchs, but still room for newcomers
Present	Officially, Yes	Yes, but waning	Officially Yes, a bit easier to enforce	High, oligarchs and political elite far above masses

- **Theory and Explanation**

What motivates homo sapiens? An intelligent observer might say the pursuit of wealth, power, pleasure and survival. Mancur Olson predicts that interest groups will form in any stable society and will come to dominate the institutions of that society. All interest groups, by definition, attempt to mold systems for their own purposes.

On the surface, this appears to be what the oligarchs have done, yet the reality is complicated by the incomplete transition of the Soviet Union to the Russian Federation and the legacies of history. Furthermore, this picture is complicated by the fact that the oligarchs have not usually cooperated with each other, except under extraordinary circumstances. This is why theories of international relations and state conflict such as balance of power theory are also

applicable on the level of the oligarchs. In a sense, the Oligarchs behave like city-states. They fight amongst themselves until a bigger enemy (such as an unfavorable political candidate) comes along. Therefore, this paper will rely on two levels of analysis. First, utilizing theories by Mancur Olson and Douglas North, it will focus on institutional formation and how this allowed the oligarchs to take control. When dealing with oligarchic behavior, Mancur Olson's theory used with classic balance of power theory, modified for the oligarchs, will be used.

Institutions and Oligarchs

How do new institutions form after a peaceful (and perhaps therefore only partial) economic and political transformation such as occurred in Russia? Obviously, even after the most violent of revolutions, pieces remain of the old society's culture and perhaps even institutions. However, in a classic textbook case such as Germany or Japan after the Second World War, institutions were so damaged and incentives to change so great that we can assume they started from almost zero. Political revolutions such as the Bolshevik Revolution in Russia are also examples of a society undergoing fundamental change.

When the Soviet Union collapsed, many observers believed that a fundamental institutional and cultural change was taking place. Indeed, Russia adopted a new economic and political system. People could theoretically choose their leaders. Business and trade were to be dominant in economic activity. Citizens who once relied on the government to take care of them and make all economic choices now had to fend for themselves.

Once the dust of transformation began to settle, the most striking feature of the Russian system was the parallel economy. Initially, it formed in response to the inherent problems and inefficiencies of the planned economy. Soon however, the harsh controls of Stalin were replaced by those of "softer" leaders, and profit incentives grew. Eventually,

> "once the management, together with middle rank Nomenklatura, attained a large degree of control over the planning procedure and cash flows of SOEs, and the system of monitoring by the communist principal virtually broke down, subtler agents promptly discovered the richness of new opportunities offered by the parallel economy."[12]

Over time, especially after Perestroika, the parallel economy came to dominate the emerging market economy. In other words, the parallel economy became the market economy. It can be said that new market institutions did not develop, but evolved from old institutions. Therefore, any analysis of the oligarchs will have to account for the evolution of the economic system from middle to late Communism.

Institutions that perhaps changed even less after the fall of Communism were those of government. In fact, any traveler (or Russian for that matter) can attest to the "Communist feel" of all institutions. This was stronger earlier but was still an overwhelming presence. For example, all foreigners are required to register in every city that they stay (and still are in many). This can bring a traveler head on with an unwelcoming bureaucracy. In fact, the bureaucracy of Russia has actually grown since the fall of Communism.[13] Under the Communist system a large bureaucracy was needed for the tremendous work of economic planning, and even with so many people they failed. Most bureaucrats are still doing the same work that they for the Soviets, which appears to be regulating enterprises into paying bribes.

The essential reason this still occurs is because a large part of the oligarchs' wealth is based on corruption, made difficult by a society of laws. Therefore, the oligarchs desire a "Wild West." Corruption on the higher levels seeps into the lower levels of society and corruption thus becomes normative behavior. This in turn allows the most powerful people to control virtually everything. A corrupt society is actually a very competitive one, though one in which it is much more difficult to succeed. Therefore, people with the right character traits, basically the same

[12] Braguinsky, Yavlinsky (Page 46)
[13] In fact, in 1982 the entire USSR (including all member countries) had a bureaucracy of 800,000 people while in 2001 Russia alone had over 1.2 million people. Goldman (Page 221)

traits that one needed to succeed in the post-Stalin corrupt state, will succeed. So not only did the Nomenklatura start with an advantage, but they also had the right character traits to survive in a corrupt society. They were greedy, dishonest, and ruthless.

Oligarchic Behavior

When studying the Russian oligarchs, the key aspect to remember is Russia's historic lack of strong property rights. This has serious ramifications throughout the entire Russian economic and political system. In short, this situation gives an advantage to those who are better able to protect their property rights. Therefore, oligarchs tend to seek ways to do so. There are four main avenues of power for a Russian oligarch: political, economic, violence management and media. They typically gain control through most if not all categories.

- Political

Political connections can buy an oligarch protection of property rights, but it can also grant him control over more property. Being in politics or having political connections has created many of the oligarchs. Many were senior-level Nomenklatura in the Communist political system.[14] Rem Vyakhirev and Viktor Chernomyrdin, for example, were Soviet apparatchiki but were able to translate this to modern political and hence economic power in the new Russia.[15]

As with many oligarchs, these two derive their wealth from resource extraction. Russia is one of the world's top producers of gas. Chernomyrdin and Vyakhirev had the advantage of coming from the old Soviet Ministry of the Gas Industry. They turned the ministry into a single company, Gasprom, in late 1989. This ensured that they remained in control of a single entity, instead of it being broken up into many small private companies. Like many oligarchs, Chernomyrdin drifted from business to politics and back and forth. In 1992 he became Deputy

[14] Goldman (page 103)
[15] Ibid. (Page 105)

Prime Minister of Russia. He was able to use this power to convert Gazprom from a state-owned enterprise to a private one, with himself and his friends in control. He, with his partner, used this position to extract wealth from "their" company to the detriment of other shareholders including the state. It is obvious why the most powerful oligarchs often come from the Nomenklatura; they can use political connections to gain control of industry and then destroy all competition.

Political connections also work to the advantage of businessmen in the United States. Just think of any president who has left office. They are all rich now. The elder President Bush's consulting firm is one of the most successful in the world, so is that of former New York Mayor Rudolph Giuliani and former Secretary of State Henry Kissinger. Although it is clear that politics can be a useful tool for making money in America, there is a difference of degree between the United States and Russia. Imagine if the United States government decided to privatize the country's highway system as some economists are urging. An auction is held, but only two companies are invited to bid, the other potential bidders being "discouraged" from participating. These two companies happen to be owned by close business partners who happen to be friends and business partners with the Vice President. With no competitive biding, the entire US highway system is sold for 500 million dollars. This would begin to approach the scale of political corruption in Russia that has led to the Nomenklatura oligarchs.

- Economic

It is possible to become rich in Russia through economic means without many political connections, but the case against Mikhail Khodorkovsky squashed all assumptions that money alone was enough. Today, Khodorkovsky, formerly the richest man in Russia, sits behind bars. It is not fare to say that Khodorkovsky had no political connections. He just did not have the same connections that other more established Nomenklatura oligarchs had. In fact, he started in

business with first a discothèque and then a service business offering scientific, technical as well as sales in computers. Later, he started a bank, which allowed him to go into big business and finally to buy YUKOS from the government through questionable means.[16] Obviously, he had connections, but on a much lower level than the Nomenklatura. This would be a fateful mistake that would end with Khodorkovsky in jail as he attempted to gain political power, in the process going against the interests of the established Nomenklatura oligarchs.

Many of the other oligarchs who relied primarily on economic power are now too in exile. Examples include Boris Berezovsky and Vladimir Gusinsky, both of whom are currently in exile after meddling with established political elites through their media empires. One may be successful without political connections of the highest degree, but one cannot become a true oligarch, and then challenge those oligarchs with these greater political connections.

That said, the source of economic control should and cannot be underrated. Economic control gives an oligarch a base of power and allows him to spend his way to the top by bribes, etc. This economic control spans not only industry and natural resources but also banks and finance. Every major oligarch bases their wealth on their financial networks as much as on the output of their industries. Yet, the limitations of money are that people will not risk political power for money if the danger is too great. Also, money cannot always motivate people to act in one's interests and this is when violence management is needed.

- Violence Management

In many ways, violence management is less important now than in the "wild west" days of early reform. If any business hoped to survive, it needed a "roof" to protect it from too much fear of being taken over by armed gangs or simply stolen by a more powerful businessman. The need for violence management directly results from the lack of government ability and/or

[16] Ibid, (Pages 146-148)

willingness to physically protect property rights. In the early 1990's it seemed that this was the way to conduct business in Russia and that the Mafia bosses would end up controlling the country. Fortunately, this is not exactly what happened.

It should be realized that there are two forms of violence management in Russia. These include the classic Mafia model where gangsters provide "protection" for their clients. Another form of violence management is that of private security firms. These can range from a few armed bodyguards to a full army of thousands, such as are employed by the largest of Russian companies. Most oligarchs rely on private agencies or connections to the police or FSB (formerly the KGB) for security and violence management.

At first, criminal gangs and Mafiosi seemed successful. They started businesses or stole them but the criminals have either all killed each other or were destroyed by the government when it cracked down or when oligarchs fought them for interfering with their businesses. Today the Russian Mafia still exits and continues to be very powerful. However, any fantasies of grandeur have long since disappeared. The Mafia and criminal gangs now prey primarily on small and medium size businesses. For example, I was told by Russian friends that street stalls and kiosks pay monthly "rent" to small time gangsters (*banditi* in Russian) and that banditi also prey on handicapped people, placing them on street corners and giving them containers for money given by unsuspecting pedestrians. This money is then collected by the gangster who gives the invalid a piece of bread for their work. Academic sources back these stories up.

The point is that Russian criminal nature goes to such a low level of society that it, in fact, helps the powerful oligarchs. It would take a very audacious criminal to attempt to steal or extort from an oligarch. Moreover, the violence management capabilities of the largest Mafia bosses pales in comparison to the several thousand strong "private army" security branches of

the largest oligarchs, who employee many ex-intelligence or Special Forces operatives, making them worthy opponents. In any case, as the "rule of law" is more firmly established, violent criminals have been pushed out of the top rungs of society, so that only the average person has to deal with them. The top oligarchs are not organized criminals, but instead are well-placed individuals who have taken advantage of the institutional structure of the Russian economic and political system to make money and gain power. Although the way they acquire and run their businesses may be illegal, the businesses themselves are quite legal.

The violence the oligarchs use is largely of a security and intelligence nature. Former intelligence officers may be hired to gather intelligence on an upcoming bid or a competitor. These services would not engage in the gang wars prevalent between criminal organizations. Violence management is a way to keep power, not a way to gain it for the oligarchs.[17]

- Media Control

Media control has very different properties than any of the other three forms of control. It helps oligarchs to change public perceptions about themselves and their patron politicians. Therefore, media control is very much a political tool. The most prominent instance in which the oligarchs used media to their advantage was in the reelection campaign of President Boris Yeltsin in 1996. The legal spending limit was a mere $1.7 million, but the campaign actually spent up to $1 billion.[18] This is more than the combined total spending of both contenders in the last United States presidential election. Every penny was needed. Yeltsin's approval rating had hit single digits leading up to the election. It is rumored that he even considered postponing or canceling the election. The oligarchs realized that the alternative to Yeltsin was a reformist, perhaps Communist president who would take away their ill-gotten gains of and redistribute their

[17] Vadim Volkov.
[18] Satter, David. (Page 53)

wealth. Even though previously most oligarch-owned media outlets had been critical of the President, the oligarchs pulled together to help Yeltsin win his near landslide victory.

Again, when President Putin was faced with a similar situation, the oligarchs banded together to give him favorable media coverage. However, once the election was won, the oligarchs reverted to their old ways of criticizing the government and each other. Unlike Yeltsin, Putin was unwilling to tolerate this. The government cracked down on the media by ousting Gusinsky who controlled NTV and Berezovsky who controlled ORT. Both oligarchs are currently in exile. Putin had virtually all independent media effectively nationalized by having state-owned or -controlled industry buy it. Now, all coverage that Putin gets is very favorable. Moreover, in the recent election he did not even have to advertise because he got so much favorable coverage as it is. Today, media control is not a viable option for the oligarchs as it is almost all government controlled.

Forms of Control for Oligarchs

Type	**Importance**	**Limits**	**How to Get**
Political	Way to gain an empire, protection	Need top dog, risk that patron will loose power	Need to be from former Nomenklatura
Economic	Able to pay bribes, buy power	Money will only go so far	Political power, rig auctions, connections
Violence	Physical protection	Cannot be too open with violence, it can backfire	Money
Media	Public opinion	Has been taken away by government	Money

The above table illustrates the various forms of control for Russian oligarchs. Notice how the primary reason for all types is to gain or protect property rights. This is not surprising, considering that the main reason that oligarchs were able to become so powerful in Russia was the lack of property rights in the Russian system

- **Conclusion**

Imagine a market economy without property rights. To substitute for government protection, the oligarchs' main goal is to gain power so that he can protect his property and to do so he employs the four forms of control. In the introduction I asked some questions about the oligarchs. This paper has answered them. This section will answer them again, concisely.

Who are the oligarchs?

The oligarchs are a group of Russians who control much of the Russian economy. There are two main types of oligarch: the Nomenklatura oligarch who came from the mid-level to upper ranks of the Communist party, and business oligarchs who took advantage of the Wild West climate of Perestroika and reform. The Nomenklatura oligarchs seem to have won with the election of President Putin and the subsequent crackdown on some of the business oligarchs.

How did they become oligarchs?

The Nomenklatura oligarchs largely took their positions in the parallel economy and their political power and brought this to the market economy. The business oligarchs were able to make lots of money initially and then emulate the Nomenklatura oligarchs. Both types of oligarchs gained their enterprises through rigged privatization auctions and outright stealing.

How do they operate?

Individual and group interests, as has been shown, can explain the behavior of the oligarchs. The main determinants to oligarchic behavior are: the pursuit of power, personal protection, and the retention of a favorable society. Their behavior is motivated by the pursuit of wealth and protection of their property rights. They have four main areas of control: economic, political, violence and media. This system is in their interests because they wish to pursue wealth and because only they have the means to protect their property rights, the government not

providing adequate protection. Therefore, the oligarchs band together when it is in their interests to defend the society that they created.

What is to become of the oligarchs?

It appears that with the election of President Putin, the Nomenklatura oligarchs have solidified their position. Therefore, the questions are: how long Putin will stay in office? Who will replace him? And will Putin or his predecessor find a way to deal with the oligarchs if it is indeed in their interests to do so? The first two questions are of course impossible to answer. It does appear that Putin is still popular with the oligarchs and they have a history of helping to reelect friendly presidents, so I see no reason why they would not do so next time, should Putin find a way to run again. However, with the loss of media control, it is unclear what kind of impact the oligarchs could actually have on an election. President Putin spent $0 on the last election. He simply did not campaign. Favorable media coverage by government-controlled networks was enough.

The real question is: will the oligarchs lose favor with President Putin? I do not see that it is in the interest of the President to completely get rid of the oligarchs and to create a society based on laws. However, if the oligarchs give Putin reason to fear them, he will pounce on them quickly. The situation will likely continue for a long while. What the oligarchs are attempting to do is to create wealth for their children. They are slowly legitimizing their businesses while sending their children to elite European and American private schools. Slowly, the oligarchs may melt away or be replaced by their cultured children who are not interested in illegal games.

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US-Russia Relations After September 11th, 2001:
A Game Theory Analyses

by Neal Kumar, 2003

Foreword from the author:

This paper presents a series of simplistic game theory models to describe US-Russia relations both *ante* and *post* September 11th. Many people have written about the changing nature of US-Russia relations; I am merely seeking to provide an alternative framework for analysis, and show that realism has not been abandoned even if simple game theory models show that neoliberal cooperation is preferable to realist competition. The models created are my own; any relation to other models is coincidental.

Forward from the editors:

While the following is highly informative without understanding such finer subtleties as the difference between realism and neorealism, etc. we recommend the following Wikipedia entries for the curious: Liberalism; Neoliberalism; Realism (note: the article on realism discusses "maximum realism," which is neorealism.

Introduction:

For many Americans, September 11th changed the manner in which they viewed security within their own country and brought about a new reality for which they were not prepared. No longer would remote areas of the globe be unimportant or distant, nor would terrorism be an unfortunate consequence of living outside America's secure borders. The effect on America's foreign policy has directly manifested itself in the current war in Iraq and the alienation of former close allies, Germany and France, by excluding their cooperation, by ignoring their voice in the United Nations, and by limiting their prospects for economic cooperation in the rebuilding of Iraq. This practice of unilateral action has been met with considerable criticism domestically and abroad.[1] Yet there is one country that has managed to

both criticize and support the United States and parlay the effect of September 11th to its advantage with regards to its relationship with the US: Russia.

The only three points of the last century when US-Russian relations could be thought of as cooperative were: (1) the first few decades of the 20th century when the growing might of Germany and Japan made cooperation necessary; (2) the détente in the 1970's when the prospect of Mutually Assured Destruction made cooperation preferable to annihilation; and (3) following communist collapse when the Yeltsin-Clinton partnership was supposed to lay the foundation for a democratic and free-market Russia that would inevitably evolve into one of the United States' greatest allies.[2] Unfortunately, all three periods disintegrated because of misperceptions about the meaning of 'cooperation' from both sides and realist ambitions that evolved even when they were not necessarily practical.[3] The most recent partnership fell apart when good relations between the two ideologically compatible leaders (Yeltsin and Clinton), were superseded by the enmity of other bureaucrats and politicians on both sides, effectively nullifying the leaders' will to foster good relations and leading the two countries into further conflict. By the time Vladimir Putin emerged from the post-Yeltsin election free-for-all as President of Russia, US-Russian relations were decidedly frosty, and looked to either remain in a stagnant and unprogressive equilibrium or continue to regress. President George W. Bush's election to the White House in November of 2000 was thought to be the 'final straw' in the demise of US-Russia relations; a government dominated by such strident realists and students (or former members) of the Reagan administration would be hard pressed to view Russia as anything but an adversary, especially since it seemed Russia's attempt to reform seemed on the brink of collapse following the 1998 financial crisis. Russia was becoming an increasingly marginal actor in world affairs. However, September 11th brought about a change, and while it

was not a complete reversal, it seemed as though a new course of 21st century cooperation between the 20th century's two great superpowers had been set.

Unfortunately, everything has not been perfect since September 11th, despite the seemingly good personal relations between Putin and Bush. Concerns about NATO expansion into former Eastern-Bloc countries and other hard security issues remain at the forefront of both countries' agendas, and while amiable agreements have been reached concerning soft security issues, there are still large problems because of Russia's reluctance to move towards an open democracy and reticence to give up its world and regional superpower ambitions. Similarly, there has been open conflict within multilateral institutions and concerns whether Russia even merits integration into the West if it continues to retain elements of its imperial past and its 'managed democracy.' So, once again there exists the possibility that the post-September 11th goodwill will dissolve as it has in the past.

The purpose of this paper will be threefold. First, it will examine the pre-September 11th relations between Russia and the United States within both a neorealist and neoliberal framework, and show that within such a framework it is possible to see that there was a potential for resumption of Cold War antipathy between the two sides in the Clinton and early Bush regimes. These will be analyzed within a game theory model that will attempt to show why relations became strained towards the end of Clinton's tenure. Second, it will examine the immediate aftermath of September 11th, and how Putin used this situation to indicate the new direction of Russian foreign policy towards America. This new strategy initiated by Putin was an attempt to alter the preexisting status quo—or equilibrium—and reassert Russia's role in world affairs. Both realist and liberal explanations will be used to explain the actions of the parties involved in the second segment. Lastly, I will examine the current political equilibrium

as it has been affected by the war in Iraq and briefly lay out a new paradigm for future relations between the United States and Russia. While prospects for the future of US-Russia are much brighter than in the waning days of the Clinton administration, the possibility of shifting alliances in response to unilateral US actions makes it possible that Russia must, at some level, forsake the US in order to realize broader global and European objectives.

Neorealism vs. Neoliberalism

Realism in the traditional sense views the world as an anarchic system in which competition amongst states restrains cooperation even when common interests are shared.[4] On the contrary, neoliberal institutionalists believe that anarchy inhibits cooperation but that states can work together with the help of international institutions.[5] Essentially, the theory of realism presupposes a zero-sum game, in which the gains of one nation-state actor must be balanced by the losses of another; or, to paraphrase Thomas Hobbes, the realist system is a brutish struggle in a competitive state where survival supersedes cooperation.[6] Conversely, neoliberalists such as Keohane and Nye challenge realism because of its over-emphasis of conflict and the under-emphasis of multi-lateral international institutions that can foster cooperation.[7] My task will not be to champion one theory. Rather, I will show through a game theory framework that elements of both neorealist and neoliberal actions by the Russian and American governments affected the relations between the two countries. These two post Cold War superpowers have not limited themselves to specific realist or specific liberal actions, but have incorporated both.

A Framework for Conceptualizing US-Russia Relations

The main difference between the philosophies of the realists and the neoliberalists revolves around the question of conflict and how conflict shapes the responses of one government to policies enacted versus the other. For realists, an inability to maximize power

results in the balance of power.[8] Neoliberalists see entropy as a result of the lack of a common government and view 'cheating' as an inevitable result of an anarchic system, but believe that international institutions can create a barter system wherein cheating is mitigated through the iteration of strategic games. Thus, the ill effects of asymmetric information are mitigated, creating a 'better' equilibrium with higher utility values (payoffs) for each actor. It is possible to view both theories through the use of simple game theory matrices; for realists, states choose their 'best responses' to the other in a zero-sum game even when repeated, whereas the liberals see the game as positive, with benefits increasing as the game is iterated. For realists, each side will choose the strategy that maximizes their payoff, which in this case is a less quantifiable utilitarian notion of power, until a Nash equilibrium balance is reached. As seen below, I believe this balance to be a sub-optimal solution for all countries involved.

Figure 1:
Simple Realist Game Theory Matrix:
Balance of Power System

1 \ 2	Cooperate	Cheat
Cooperate	B,B	A, D
Cheat	D,A	C,C

A>B>C>D
Preferences are strictly preferred.
A+D=0 (Zero-Sum Utility Function)
Optimal Result is (Cooperate, Cooperate)
Equilibrium result is always (Cheat, Cheat) even with an iterated game.
Note: In all models, the action (Cheat) refers to maximizing power absolutely, while (Cooperate) refers to acting within multilateral institutions

In this realist example, two countries—or, as I will propose later, one country and a coalition of other countries in an oligopoly power structure—do not cooperate in the anarchic world system, and therefore reach a Nash equilibrium at the solution (Cheat, Cheat) with payoffs of {C, C}. In this case cheating is an attempt to maximize power since there is no

possible cooperation.[i] The neoliberal 'non-iterated' result is similar. However, when the game is iterated within international institutions, thereby creating a foundation for cooperation rather than confrontation, the possibility of a first quadrant, or (Cooperate, Cooperate) solution with payoffs of {B, B} can be achieved with greater probability:

Figure 2:
Simple neoliberalist Game Theory Matrix:

1 \ 2	Cooperate	Cheat
Cooperate	B,B	A, D
Cheat	D,A	C,C

A>B>C>D
Preferences are strictly preferred
A+D≠0 (can be greater than zero within neoliberalist framework)
Optimal Result is (Cooperate, Cooperate)
Non-iterated solution is (Cheat, Cheat)
Optimal Solution in the iterated game is (Cooperate, Cooperate)

So, if a simple game theory matrix shows that a neoliberalist framework is preferable, giving each actor a higher degree of utility, why is a realist solution proposed and why are realist actions undertaken? The answer is multifaceted, but the fundamental fact is that life is not quite as simple as a game theory matrix. A government can synthesize both realist and liberalist policies to create their foreign policy concept.[9] One reason why realist policies exist is because of the quest for absolute power maximization:

Figure 3:
Simple realist iterated Game Theory Matrix:
Realist Victory or Imploding Hegemony?

1 \ 2	Cooperate	Cheat
Cooperate	B,B	
Cheat		A,D

[i] Cooperation does exist in a realist system. I am referring to a situation when two countries are in competition.

A>B>C>D
A + D = 0
The solution is at (Cheat,Cheat)
Preferences are strictly preferred

In this case, the iterated game produces a hegemony in which one actor has played its optimal strategy (Cheat) and has won the zero-sum game at the expense of other countries involved. The solution is still at (Cheat,Cheat) but the payoffs have changed to show that country 1 has gained absolute dominance. Thus, the game produces a result where one country (or group of countries if one sees an oligopoly power structure)[ii] has completely won the game. Neoliberalists would argue that this fundamental disparity in power could only lead to future disruptions when the countries now bereft of utility seek to regain the power they once possessed. They would argue that the only solution to this game would be to create institutions so that every country has positive utility. Unfortunately, as is seen from the game matrix, the creation of these institutions does not lead to *maximum utility*; that is, A is the maximum utility, A>B, and a country seeking to achieve utility A will find it difficult to accept utility B even if a more secure power structure is created. Increasingly, the United States has been seen as a country seeking to act unilaterally in order to achieve their maximum utility (A) at the expense of other countries; they are seen as power-maximizing realists seeking a hegemonic position in perpetuity rather than a country who cares about the welfare of others. The question that other countries have been asking themselves recently, including Russia, is how they should act in order to counteract American unilateral—and increasingly realist—behavior so that the result is not an American hegemony that relegates their roles to inconsequentiality.

[ii] An example of this would be how the Muslim world often perceives the West. For realist muslims, the 'West' is an oligopoly which, in the zero-sum game of world power, has maximized its utility and has created negative utility for them. This is the situation in figure 3.

Russian Foreign Policy since the Cold War

It is impossible to understand the nature of pre-September 11th US-Russian relations unless the underlying security concerns and goals are examined. Barry Buzan argued that the end of the Cold War also ended the traditionalist, military-specific view of security, but also that traditionalist theories of security are still deeply entrenched in the minds of foreign policy decision makers.[10] He argues that increasing economic globalization and the worldwide adoption of capitalist market systems has widened the scope of security's definition, beginning a new era in security studies even while it diluting its intellectual coherence.[11] For the United States and Russia, the end of the Cold War meant new relations, couched within the historical legacy of each country. Henry Kissinger wrote:

> Nations are formed by their history, by their geography, by cultural legacies. If a nation has done something for 400 years, it indicates a certain proclivity; it means that for 400 years its actions have appeared reasonable to successive generations of the leading people of that society.[12]

Thus, US-Russia relations in the 1990's did not evolve in a vacuum; they were based on nearly a half-century of ideological and other hostilities and were shaped from within by centuries of tradition. Moreover, as with any country, the Russia's foreign policy is interconnected with its domestic political situation, and even under Soviet times could not completely be attributed to a few elite actors or institutions.[13] The question is then: What type of equilibrium existed just prior to the collapse of the USSR and during the first years of the Russian federation when the Yeltsin-Clinton relationship was at its apex, and what changed towards the end of the Clinton administration so that Russia moved from a principal opponent to a marginalized actor?

Russia's post-communist foreign policy is best described as paradoxical. On one hand it seeks integration with the west into the institutions that would help to foster neoliberal cooperation, while on the other hand it continues to attempt to preserve its superpower past through realist policies abroad.[14] In its quest to be both 'normal' and 'unique' Russia has

succeeded in creating a precarious domestic and international position that has the potential to cause both internal discord and strained international relationships.[15] Russia's hybrid policy in the 1990s did little to improve US-Russia relations that were becoming increasingly strained due to disputes such as the wars in Kosovo and Chechnya. To be fair, it must be noted that the increasing tension between the US and Russia was exacerbated by Clinton's "…unwillingness to make clear choices or provide a coherent vision"[16] and attempt to treat Russia both as a potential ally and as an enemy.[17] Therefore, US-Russia relations were a 'vicious circle', with both actors seeking better relations at a soft-security level while simultaneously pursuing conflicting hard-security agendas that undermined soft-security progress. When George W. Bush took office, the preexisting arms control regime which had been in place for 50 years was declared, along with the existing bilateral treaties between the US and Russia, no longer relevant.[18] Figures 4 and 5 show a game theory analysis of the situation.

Figure 4:
US-Russia relations in the early 1990's: Goodwill, Cooperation, and Money

1 \ 2	Cooperate	Cheat
Cooperate	B,B▼	A, D
Cheat	D,A	C,C

A>B>C>D
Preferences are strictly preferred
A+D≠0
The United States is actor 1, Russia is actor 2
Optimal Result is (Cooperate, Cooperate)
Non-iterated solution is (Cheat, Cheat)
Optimal Solution in the iterated game is (Cooperate, Cooperate)
The arrow indicates the declining value of B as it becomes preferable to cheat

In this time period, I would argue that there was sometimes the equilibrium of (Cooperate, Cooperate). However, it must be noted that this equilibrium was dependent on the goodwill of the US, and that Russia was increasingly embarrassed by the US assessment that

Russia was no longer a superpower and should not be treated as such.[iii] As these realistic assessments of Russia became more accepted, this equilibrium became less and less appealing to realist elements in the United States who saw cooperation with Russia as unnecessary and, ultimately, ineffective because of continued corruption and anti-democratic practices within Russia. Realist factions in Russia, notably followers of Zhirinovsky and other nationalist leaders, also undermined cooperation. This increased the US incentive to 'cheat:' to pursue a realist unilateral and hegemonic agenda with regards to Russia, thereby creating more incentive for Russia to ignore cooperation and pursue realist agendas of its own in 'rogue' states such as Iran, North Korea, and Iraq. This led to further deterioration of relations. Unfortunately for Russia, it could not prevent a US cheating strategy from overwhelming its own cheating strategy. Therefore, instead of a (Cheat, Cheat) equilibrium being reached with payoffs of {C, C}, the (Cheat, Cheat) solution in figure 5 was instead reached. This solution is similar to the realist solution where one country (or coalition of countries) is dominant.

Figure 5:
US-Russia relations in the late 1990's and early Bush regime: realism overwhelming neoliberal cooperation. Was Russia being lost?

1 \ 2	Cooperate	Cheat
Cooperate	B,B	
Cheat		A,D

A>B>C>D
Preferences are strictly preferred
The United States is actor 1, Russia is actor 2
A+D=0
Solution is (Cheat, Cheat)
Russia has negative utility

[iii] An example is the incident over arms sales to India where the US strong-armed Russia as it had previously to many insignificant powers. This did little to stem anti-American sentiment within Russia during the mid-1990's.

During the late 1990's US-Russian relations became increasingly realist. While Russia still pursued an active integration policy with the West, disputes over hard security issues and the United States' increasing treatment Russia as a junior partner rather than grant it its historical desire for superpower status further alienated Russia. Even when President Bush made his first visit to Europe in June of 2001 and solidified a personal relationship with Vladimir Putin, it still did not seem as though an increasingly benign relationship between the two countries would develop as long as Russia continued to be treated as irrelevant in issues of hard security; domestic unhappiness over such treatment could not be ignored by Putin even with close personal ties to Bush.[19] Moreover, the 1998 financial crisis and the stagnation experienced by the majority of Russians were blamed on America's influence and its international banking arm, the IMF.[20] The perception of America as an arrogant hegemony determined to maintain a weak Russia was widespread within Russia. Shortly after the relationship had reached a post Cold War low, September 11th and the prospects for a more equal and friendly relationship arrived. But did the fundamental nature of the US-Russia relationship change, or did Putin simply use the events to portray the relationship in a more positive light even when the infrastructure of the relationship remained strained because the tendency of members within each government's bureaucracy was to view the other within a realist framework?

Russia's Westward Shift: A 'Tacit Bargain'

Following September 11th, the United States introduced a controversial interpretation of the concept of *jus ad bellum* (the law on the recourse to force), which was tacitly agreed to by everyone from its NATO allies to Russia.[21] The United States made it very clear that it would, "make no distinction between the terrorists who committed [the acts of September 11th] and those who harbor them."[22] While there were legal challenges to such a position via article 51

of the UN Charter, by in large there was agreement by the international community that the position of the United States was justified, which was shown by NATO's invoking Article 5 of the Washington Treaty and by support from a variety of states such as the 'rogue' state of Iran.[23] Although states felt that they could challenge the United States *jus in bello* (conduct of war) doctrine, they were left little room to challenge its *jus ad bellum* position especially after President Bush announced that, "Either you are with us, or you are with the terrorists."[24] Russia and Putin decided to actively support the US course of action. Putin found that following the events of September 11th he could support the United States' military actions by providing intelligence and allowing a US presence in CIS states while simultaneously criticizing the war itself.[25] Putin believed that such support could be used to both strengthen Russia's international position, which had been on the decline, and help to force integration into the West through acceptance to multilateral institutions such as the G8 and WTO. Improving bilateral relations with the United States was seen as the first step towards real integration with the West. Also, it can be argued that Putin's newly created foreign policy position was also an attempt to consolidate his domestic power by propagating Russia's quasi-democratic political system and his powerful role in it. As in the US, the War on Terror could serve as a means to force the centralization of power. Indeed, the United States found it easy to forget Russia's relations with its newly defined Axis of Evil states (Iran, North Korea, and Iraq) and Russia's conduct in the Chechen War as long as Russia cooperated in the War on Terror. The United States created this 'tacit' or 'limited' bargain so that its short-term goals in the War on Terror could be accomplished.[26] Unfortunately, such a short-term tactical assessment of the situation can be detrimental to both sides, for it perpetuates the US assessment of Russia as a strategic ally rather than an ideological, long-term ally.[27] The US

managed to ignore the fact that Russia does not equate the 'West' with the United States, nor does Russia accept the presence of America as a unilateralist force and has officially elucidated a policy to counteract the presence of American hegemony in its Foreign Policy Concept.[28] A failure to create more ideological ties will only lead to the same strategic short-term partnerships that occurred in the 20th century.

Who are Russia's allies?

It is important to note that Russia's structural and cultural identification has always been with Europe and not the United States.[29] Alliances made with America have traditionally been tactical and strategic, rather than cultural and structural. Vladimir Putin speaks fluent German, not English, and has often stressed the need for closer ties between Europe and Russia in more concrete terms than with the United States. Of the $55 billion invested in Russia by 2003, European companies invested almost two-thirds and only 12 percent came from the U.S.[30] Recent energy talks between Europe and Russia have advanced, while U.S. forays into the dialogue have been effectively dissolved.[iv] Moreover, the foreign policies of both the EU and Russia explicitly outline detailed prospects for economic and military cooperation, while barely a paragraph of the Russian Foreign Policy Concept is dedicated to the United States. The U.S. National Security Strategy mentions only broad goals for its relations with Russia.[31] Russia's relationship with Europe is more functional and structural which therefore creates better prospects for long-term cooperation, but in the immediate aftermath of September 11th, concerns in the short-term outweighed long-term goals of integration into Europe and closer ties were forged with the United States. However, the outbreak of hostilities in Iraq showed how quickly this alliance could be disrupted and Russia's international position quickly shifted.

[iv] The arrest of Yukos head Mikhail Khordokovsky ended any potential deal.

Game Theory Analyses of the Situation in Iraq

George Bernard Shaw once wrote: "There are two tragedies in life—one is to lose your heart's desire. The other is to gain it." It was based on this quote that Henry Kissinger aptly described the United States as unexpectedly gaining its heart's desire and then not knowing how to proceed following the end of the Cold War.[32] While the first Gulf War and the operations in Kosovo provided some opportunity for a new world order to form, this did not completely occur; indeed, the *ante* September 11th world order was an indeterminate system built around major states' mutual distrust of each other.[33] Despite the chaos created, September 11th should have been an opportunity to realign the international order. Anatol Lieven makes an analogy between the post-September 11th world order and the Holy Alliance of 1815. He sees alliances forming for the protection of states with a principal policing actor (here the United States).[34] He acknowledges that a conflict in Iraq had the potential of uniting Russia and her European neighbors in a coalition against American unilateralism (the article was written before the US invasion of Iraq), and that Russia was (and is) too weak for such an alliance to fundamentally upset the balance of world power.[35] Although Lieven's analogy is strong, to equate the Holy Alliance with the existing world order is problematic, giving too little credit to America's overwhelming power in relation to the rest of the world. Russia's weakness is coupled with the EU's unwillingness to fully integrate Russia into western institutions such as NATO and the EU, and bilateral relations between EU states and Russia are congenial but produce little action. Neither possesses a strong military, and Russia's economic weakness and lack of democratic institutions makes it a less than perfect ally. Most importantly, while the EU sees Russia as a potential ally to counteract America's recent disassociation from international norms and laws, it would never choose Russia over America

because the EU and the US are interdependent in both hard and soft security issues. However, if the George W. Bush is reelected and a military quagmire develops in the Middle East, a greater strengthening of EU-Russian relations may occur, and whatever US-Russia goodwill gained after September 11th will vanish. The Iraq situation did create a German, French, and Russian coalition against America, but it is difficult to determine exactly how this has affected US-Russia relations. Figure 6 offers a simple game theory model with a brief note on how such a game can be viewed in an oligopoly or duopoly competition framework.

Figure 6:
The Game Between the US and the France, Germany, Russia coalition:
Oligopic competition and the potential for hegemonic failure.

	Cooperate	Cheat
Cooperate	B,B	A,D
Cheat	D,A	C,C

A>B>C>D
Preferences are strictly preferred
The United States is actor 1, the opposition coalition is actor 2
A+D=0

Solution is (Cheat, Cheat): Payoff is {C,C} (or is it {A,D}, with the US[v] receiving {A}?)
Does the European Bloc (France, Germany, Russia) have negative utility?

I view this game as realist because the attempt at solving the game through iterated bartering in the UN failed prior Iraq's invasion; hence, A+D=0. I also argue that the game is still in flux and still requires a solution. If the US had unequivocally won the game *at the expense* of the coalition opposing it, then the utility of the US would be positive in relation to the opposing coalition. However, if the situation is a stalemate and the US fails in its unilateral mission, then the bargaining power of coalition will be increased, and the resulting equilibrium will still be (Cheat, Cheat) because there is still the incentive to Cheat; the payoff will be {C,C}.

[v] Here I use the US to mean the US and her allies. I recognize that this is a US led coalition in Iraq, however, the US is providing the vast majority of money and resources to the operation.

Recent events in the conflict have increasingly forced the US to turn to international institutions for help, but there have also been instances (such as the Pentagon's recent decision to limit rebuilding contracts to US approved states) that show a lack of a completed equilibrium. If the US continues to turn to its opposition for help, then the payoff for the coalition will continue to increase. Moreover, as the game is iterated, it is possible that a solution of (Cooperate, Cooperate) and a payoff of {B,B} will occur. The US would rather have a payoff of A, and have therefore been reluctant to cooperate and make concessions.

Russia's role in the coalition opposing the US is difficult to define but an oligopoly model of competition can be offered. Here, competition can be viewed as a competitive oligopoly with price takers, price makers, and sometimes-tacit collusion leading to cartel-like behavior. I argue that France, Germany, and the US are clearly powerful states in competition over the situation in Iraq and are clearly setting the boundaries of conflict (i.e., they are setting the "prices" of conflict). Russia has a more benign role. In its quest to remain a world power and remain a regional superpower, it joined Germany and France, but in reality it was never setting the boundaries for the conflict, it was and is only along for the ride. In this case it was a "price-taker" in the conflict. This does not mean that the action undertaken by Russia is negative for Russia. First, this action may allow it to push for integration with Europe, which can only help its economy and future ability to act independently in world affairs. Second, because Russia's alliance was more symbolic than practical (due to its current military and economic weakness) and because this fact is known to both the US and the EU, Russia has managed to retain good favor with both. Furthermore, Russia is now standing on moral high ground versus America, something which it has not been able to do since World War II. By

being weak and being a price-taker in this oligopolic power struggle, Russia has managed to increase its international prestige and reassert itself on the world stage.

Domestic Discord Within Russia and the US

If Russia had not allied with America in the operations against Afghanistan it would have seriously undermined its own national security interests. Not only did the Taliban regime undermine Russian interests in the CIS by destabilizing the entire region, but it was also the only government to officially recognize Chechen independence. In fact, avoiding an alliance with the United States would have been tantamount to 'lunacy' because the actions of the United States could only improve the relative security of the Russian Federation.[vi] It can be argued that the avoidance of lunacy, while very important in international diplomacy, does not result in what can be considered a true 'partnership' in the same vein that, say, the United States and the United Kingdom have a partnership.[36] Moreover, Russia was in no position to deny the US concessions regarding WMD, NATO expansion, or increasing influence in Georgia and the Ukraine if Russia wanted to be integrated into the West. Pragmatism had to outweigh traditional security concerns. The relationship between the U.S. and the U.K. is built around economic and ideological interdependence, while if one were to (very) generously interpret U.S.-Russia relations it would only be possible to say that America and Russia have economic interconnectedness. Both the so-called neo-conservatives and the neo-chekists, in the United States and Russian governments respectively, continue to pursue realist policies and promote realist ideologies, both of which fundamentally undermine prospects for cooperation.[vii] The actions of these domestic actors hurt the international positions of their respective states because they promote zero-sum ideologies and traditional realist tactics. In

[vi] This is in line with realist theories of international security. As the security level of the Taliban was decreased, Russia's would increase in the zero-sum game.
[vii] This is the equilibrium reached in figure 1; a non-optimal solution to the game as a result of realism.

effect, this means that for Russia the enemy is the West and domination of the former Soviet Republics is the first goal of its foreign policy.[37] Cooperation with the West is not seen as a positive goal and the Expansion of NATO eastward cannot be viewed as anything but a threat to Russian sovereignty. These views can only hurt the prospects of future US-Russia cooperation, but as long as Putin and Bush maintain good relations, the views of these domestic actors can be mitigated.

Conclusion: A View of the Future

Russia has managed to increase her international prestige since the events of September 11th. Prior to September 11th, Russia was thought of more as a 'lost cause' by American leaders rather than as a potential ally. Following the terrorist attacks in New York and Washington, Russia managed to become an ally in the War on Terror and press for acceptance into western institutions while at the same time stabilizing its domestic political situation by centralizing power and stopping the creation of democratic institutions. The future of US-Russia relations remains ambiguous. Good relationships between the two countries' leaders and the inevitable partnership in the War on Terror have improved the relationship that was declining in the waning days of the Clinton administration and the early days of Bush's tenure in office, but as demonstrated in the recent confrontation in Iraq, this relationship is not synonymous with complete obedience to American dictates. Moreover, the close structural, economic, and ideological ties between Europe and Russia will undermine relations with America if America continues to treat Russia as a short-term strategic ally rather than fostering broader ideological relations. Furthermore, unwillingness by American business and government to create stronger economic ties also undermines the prospects for a long-term relationship.[38] While Russia's current economic and military weakness forces it to be a 'price-

taker' in the present world system, if its power increases and if presented the opportunity to have closer ties with Europe both in security issues and in economic markets, the strategic alliance with America will likely be broken. Although the current relationship between America and Russia seems superficially altruistic, if the United States continues its solipsistic and unilateral behavior the tenuous ties between the US and Russia will be easily broken, and the real potential for long-term cooperation following September 11th will have been lost.

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[1] For a recent example of such domestic criticism please see: *The New York Times*, December 12, 2003: Editorial section. Sources from abroad are plentiful and daily.
[2] Goldgeier, 2002, pg.
[3] Ibid. pg., 282
[4] Chung, pg. 252
[5] Ibid.
[6] See Hans Morganthau's *Politics Among Nations: The Struggle for Power and Peace* (1948), or alternatively, Joseph M. Grieco, *Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism* (1988).
[7] Keohane and Nye, *Transnational Relations and World Politics*:
[8] This is not to say that states are not trying to maximize their power. What this means is that states, that is non-hegemonic states, realize that complete maximization of power is not possible and therefore power is balances amongst different actors. See: Waltz, *Theory of International Politics*, 126-127.
[9] See both the 2002 United States National Security Policy and the 2001 Russia National Security Policy for more details. The relationship between realist and liberalist policies will be further explored later in the paper.
[10] Buzan, pg. 7-8
[11] Ibid. pg. 10-11. See also Edward N. Luttwak, *From Geopolitics to Geo-Economics*: *Logic of Conflict, Grammar of Commerce*, for a good description of the increasing weight of economics in foreign policy doctrine.
[12] Kissinger, pg. 2
[13] Of course I recognize that under Stalin it may be the case that one principal actor determined Russian foreign policy. Under Soviet times and in the first decade of the new Russian states it is impossible to say that only a few actors determined all foreign policy. See: Leon Aron, *The Foreign Policy Doctrine of Postcommunist Russia and its Domestic Context* and Cyril E. Black, *The Pattern of Russian Objectives.* Postcommunist Russia does have more actors than the communist USSR did in influencing foreign policy.
[14] Stent and Shevtsova, pg. 122.
[15] Ibid.
[16] Yegor Gaidar, *A View from Russia*
[17] Stent and Shevtsova, pg. 122.
[18] Ibid. pg. 123
[19] Ibid.
[20] George Stiglitz, *Globalization and its Discontents*, "Who Lost Russia?" (2002)
[21] Steven R. Ratner, *Jus ad Bellum and Jus in Bello after September 11th*, The American Journal of International Law, Vol. 96, no. 4 (October, 2002), pg. 905-911.
[22]George W. Bush: Address to the Nation on the Terrorist Attacks (Sept. 11th 2001)
[23] See: John Ward Anderson, *Iran Vows to Rescue U.S. Pilots Who Crash on Its Soil*, Washington Post October 18th, 2001. See also: Statement by NATO Secretary General Lord Robertson (October 2nd, 2001) available at http://www.nato.int/docu/speech/2001/sw011002a.htm.
[24] Steven R. Ratner, *Jus ad Bellum and Jus in Bello after September 11th*, The American Journal of International Law, Vol. 96, no. 4 (October, 2002), 905-921. Also, Bush September 20th, 2001 speech to the Nation.
[25] Stent and Shevtsova, pg. 123.

[26] Ibid.
[27] Renee de Nevers, Ponars Policy Memo 275, pg. 4.
[28] See: The Foreign Policy Concept of the Russian Federation (2000).
[29] Ted Hopf, Ponars Policy Memo 300, pg. 4.
[30] Ibid. pg. 3
[31] See: The Foreign Policy Concept of the Russian Federation (2000) and The National Security Policy of the United States (September 2002) available at <http://www.whitehouse.gov/nsc/nss.pdf>.
[32] Kissinger, pg. 1.
[33] Anatol Lieven, *The Secret Policemen's Ball: the United States, Russia, and the international order after September 11th*. Pg. 251-253
[34] Ibid., pg. 249
[35] Ibid., pg. 257
[36] Ibid.
[37] Andrei Piontkovsky, *Neo-Cons and Neo-Cheks*, The Moscow Times, December, 22, 2003.
[38] Renee de Nevers, Ponars Policy Memo 275, pg. 5

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Boris Pasternak as an Embodiment of Art's Nonconformist Nature

Book Review: Lazar Fleishman, *Boris Pasternak: The Poet and His Politics* (London, England; 1990) 359 pages

by Shannon Meyerhoff, 2005

In *Boris Pasternak: The Poet and His Politic*, Lazar Fleishman provides his reader with an in-depth look at the novelist and poet Boris Pasternak, beginning with his origins as a child musician and concluding with his receipt, and rejection of, the Nobel Prize. This biography is not Fleishman's first book on Pasternak, and much of his earlier research on the author is included in this text. *Boris Pasternak* presupposes a great deal of knowledge about Russia's history. Fleishman targets an audience who is aware of the different literary movements and figures in Russia, as well their political context, beginning with the late nineteenth century and concluding with the 1980s. In writing this book, Fleishman's ultimate agenda was to portray Pasternak as a philosopher who posed questions without answering them, as an artist who did not fit into one exclusive mold, and as a nonconformist who was not defined by the will of the state.

Fleishman refers to Pasternak as proof of the tenacity of art to endure even through difficult social situations, such as severe censorship. For this reason, Fleishman focuses on the person of Boris Pasternak and not his artistic works. Although *Doctor Zhivago* was Pasternak's most controversial and perhaps most famous novel, Fleishman does not speak of it in detail until nearly two hundred and fifty pages into the biography. Even then, he makes vague references without quoting directly or showing how exactly it represents Pasternak's intellect or dissenting qualities. In painting a verbal portrait of Pasternak, Fleishman references a daunting list of names and movements, and often quotes other people's perceptions or responses to Pasternak, without showing how, exactly, the context was manifested in Pasternak's texts. Perhaps it is a weakness on Fleishman's part; though he often references the names of Pasternak's works, including his

poetry and translations, he does not use direct quotes to supplement his analysis. Though his intention is to show that "Pasternak's works and fate serve as a constant reminder of the eternally noncomformist essence of art" (314), the art itself is strikingly absent from the biography.

Instead of art, Fleishman presents intellectual history, especially the extreme intellectual fluctuation that occurred in Russia during the early part of the twentieth century. In a sense, Fleishman portrays Pasternak as an embodiment of the cultural flux, as Pasternak wrote in many different modes, through several genres, and his reception by the public varied greatly from year to year. Fleishman quotes Valery Briusov—a man "whose evaluations of young poets carried enormous weight at that time" (68)—as saying, "with Pasternak one feels the greatest power of imagination; his strange and at times awkward images do not seem artificial—the poets indeed felt and saw that way; the 'futuristicity' of B. Pasternak's poems are not a matter of subordination to theory, but his own special kind of mentality" (69). As Fleishman outlines Pasternak's intellectual and creative trajectory, he also notes Pasternak followed futurism as if an apprentice, learning from the genre and those who worked strictly within it. He refused, however, to identify wholly with any movement, or limit himself to writing within only one genre to express concrete ideologies. Similarly, Fleishman describes how, "as the members of Centrifuge [the publishing company with which Pasternak was involved] became more pronounced, Pasternak began to distance himself from its goals. It is here that we witness the birth of his consistent non-commitment, so clear throughout his life and works" (83). In the 1920s, he goes on to say, Pasternak was actually seen as "antifuturist" (112).

According to Fleishman, Pasternak was a man of inconsistencies. Fleishman never portrays these inconsistencies in a negative light, though, and always uses them to further his argument that Pasternak was a creative genius who transcended the limitations imposed upon

him by his time. Fleishman writes, "in all the different periods of Pasternak's life, literally in every text and perhaps in every phrase he wrote, there existed an essential evasiveness, relativism, and ambivalence. These qualities stood in sharp contrast to the directness, straightforwardness, and adherence to unquestionable truths which had been considered the supreme virtues of Soviet literature and thinking since the early thirties" (Preface, vii). Though Fleishman is successful in showing the ways in which Pasternak evolved as an artist and broke away from the status quo, his biography is problematic in that it is biased against the Soviet system, and does not portray Pasternak objectively. Throughout the biography, it is clear that Fleishman has high esteem for his subject—or else he would not have studied Pasternak in such depth—but he often seems to perpetuate the transformation of human into myth. Fleishman justifies all of Pasternak's actions as if they were the right actions—regardless of whether they were conforming, as with his rejection of the Nobel Prize, or dissenting, as with his repeated refusal to write within the rubric of Social Realism. However, Fleishman convincingly portrays Pasternak as a man who represents the nonconformist nature of art, through his own inability to conform to his contemporaries, to the state, and to the past and future versions of himself.

In perceiving Pasternak as a nonconformist, two questions must be raised: if a person is a nonconformer, does that automatically make him a dissenter? Also, is a person a nonconformer and/or a dissenter if he is not consciously breaking with custom, but is merely expressing himself apolitically? Fleishman does not answer these questions directly. He does suggest, though, that although Pasternak was generally considered a dissenter, and certainly a nonconformist, he did not consider himself a dissenter, and did not generally act with political motivations. Pasternak

> "never considered himself a member of the Communist—or any other—Party, and he too was not prepared to subordinate himself to its directives in his writing…In response to declarations expressing opposition to the Soviet regime, Pasternak loved to say that he was a communist. He would add then that he was a communist in the same sense that Peter the Great and Pushkin were communists, and that in Russia now, thank God, these were Pushkinian times" (115).

More than being a political conformist or a political dissenter, Pasternak was primarily politically ambivalent. Also, though his works became more controversial later in his life, Pasternak often managed to ride the political fence in ways that his contemporaries—who often found themselves in prison—could not, especially through the 1920s. Fleishman suggests that it was the "hermetic character of Pasternak's poetry and prose, and the difficulty of his style" (161) that made Pasternak relatively immune to political attacks in the 1920s.

Regardless, this neutrality did not carry over into the 1930s. In 1931 Pasternak traveled to Georgia, and spent time with Georgian artists and intellectuals. After this trip, Pasternak insisted emphatically "on freedom of creativity for poets and protested against the tiresome instructions issued on literature [by the state]" (166). These claims coincided with Pasternak's publication of *Safe Conduct*, which was condemned for being idealistic, and representing bourgeois restorationism; by 1933 Pasternak could no longer maintain his position as a neutral figure. Through the 1930s he suffered from growing creative difficulties: he did not know how to react to the burgeoning genre of "social realism," or to the growing role of Stalin within the realm of literature. Pasternak experienced an "interval of silence" that lasted through the 1930s, and was unable to produce anything complete until the 1940s. Fleishman does not want Pasternak's silent period to appear strictly a political demonstration, even though it was due, in part, to the difficult political climate. Instead, Fleishman makes Pasternak appear not wholly political, but more introspective and removed from place and time; he writes that Pasternak was quiet because he was conflicted within, trying to "find an answer to questions that were tormenting him" (172).

Yet he quotes Pasternak as saying, in 1934, "I have become a part of my times and the state, and its interests have become my own" (188). Does not this statement directly contradict the notion that Pasternak never identified with any party? Fleishman says that Pasternak was

never so closely attached to the state as he was in 1934, when he was named a premier Soviet poet, yet that he was politically removed in the 1930s. The fluctuation that occurred within the literary scene is interesting to note, and may account for the inconsistencies within Pasternak and the words of his biographer. A man who was revered as a literary genius one day could be condemned the next; Pasternak saw some of his works banned and some exalted.

By the 1950s, Pasternak was almost a nonentity to the arbiters of the literary sphere; Fleishman quotes an editor of a literary magazine as saying, "Pasternak, unfortunately, has shown no advance in his understanding of people and the times, and he has expressed neither belief in these people nor belief in his epoch" (272). Perhaps Fleishman's statement that Pasternak never identified with one movement can only be true if Pasternak is examined not from within his time, but from the removed perspective of the late twentieth century. In retrospect, Pasternak seems more of a nonconformist if looked at from a distance, since there were moments in his history during which he was more of a conformer than a nonconformer.

Pasternak's greatest achievement of dissent, as is seen from the western perspective, was *Doctor Zhivago*. "In the 1960s not only disseminating *Doctor Zhivago* underground but even reading it were considered criminal offenses" (314). About *Doctor Zhivago*, Fleishman writes,

> "[it] is not a philosophical treatise or a political pamphlet. It is a work of art, and as with all genuine works of art there are no final truths in it; the various points of view and theoretical systems are part of the formal composition…Pasternak obstinately refused to answer questions about his philosophical positions: 'my philosophy itself…is in general rather an *inclination* than a conviction'" (266).

Fleishman's biography would benefit from more detailed analysis of *Doctor Zhivago* and Pasternak's works in general, and how they actually help prove his definition of art as open-ended, and as Pasternak as a philosopher. Fleishman ultimately does, however, achieve his goal of presenting nearly one hundred years of cultural transition and artistic nonconformity through the person of Boris Pasternak.