

**ASSESSMENT OF THE CURRENT STATE OF
RUSSIAN LEGAL EDUCATION:
OPPORTUNITIES FOR TARGETED FUNDING
WITH MAXIMUM IMPACT**

Prepared for USAID-Russia and Submitted By

**William Burnham, Peter B. Maggs,
Vladimir Luzin and Elena Shokina**

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Prepared for W. Patrick Murphy, Senior Rule of Law Specialist**

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1. Background and Rationale for Conducting the Evaluation

USAID/Russia has sponsored programs assisting legal education reform in the Russian Federation since 1994. From 1994-1997, an AID rule-of-law contractor worked extensively with a number of Russian law schools. Included in that work were efforts at curriculum reform and developing new methods of teaching, including clinical legal education and trial advocacy training, and development of institutional capacity of Russian law schools, including local publishing capabilities and e-mail communication. In addition, the formation of a law school association was promoted. Since 1997, its primary emphasis on legal education reform has been through support for clinical legal education in Russia. This work has been implemented primarily through the American Bar Association (ABA/CEELI), and through the Russian-American Rule of Law Consortium (RAROLC), a subgrantee of ABA/CEELI which conducts activities under partnerships between a number of U.S. states and oblasts and republics in the RF.

USAID/Russia conducted assessments of the situation with respect to human rights and of clinical legal education in 2000 and 2001, respectively.¹ The report on clinical legal education necessarily entailed a close look at the operation of clinics in a number of Russian law schools, and resulted in some interesting findings and discussion that suggested other aspects of legal education reform in which USAID/Russia might be able to play a useful role.

USAID/Russia is considering the possibility of more work in legal education other than clinical. Therefore, USAID/Russia ordered this assessment of contemporary Russian legal education, with a view to understanding where the best opportunities lie for USAID-funded work to have the maximum positive impact in this area.

2. Members of the Team

Copies of the bios of team members are attached to this report, so their backgrounds will not be gone into extensively here. Suffice it to say the following.

William Burnham, the team leader, is professor of law at Wayne State University in Detroit. He has worked on Russian legal educational and other legal reforms in Russia and other CIS countries since 1991 with USAID, COLPI, the Soros Foundation, the World Bank,

¹ See *Human Rights in Russia, Next Phase: From Glasnost to Slyshnost* (June 2001) and *Building an Issue-Oriented Legal Representation Capacity Among Law Clinics and Lawyer-Staffed Human Rights NGO's in Russia* (January 17, 2002).

the RFLR, the Department of Justice, and other agencies and organizations. He is co-author of the book, *Law and Legal System of the Russian Federation* (2d ed. 2001) and several other books and articles on Russian law in both English and Russian. He has taught at many different Russian law schools, including 3 (Saratov, Moscow State and St. Petersburg State) of those visited here, and has cooperated with Russian law teachers on a wide variety for projects.

Peter Maggs is professor of law and holder of the Clifford M. & Bette A. Carney Chair in Law at the University of Illinois at Urbana-Champaign. He has had a long-time involvement with Russian legal education, starting with an academic year as a post-graduate student at Leningrad State University in 1961-1962, and including a semester as a Fulbright lecturer at Moscow State University. During 1994, he worked full time on a project sponsored by USAID and was largely responsible for the design of the portion of this project that involved aid to Russian law schools. He is author or co-author of numerous books and articles on Russian and Soviet law. Several of his more recent works are coauthored with Russian legal scholars.

Vladimir Luzin is a professor of law at Nizhny Novgorod State University Law Faculty where he teaches subjects related to human rights, primarily practice in the European Court of Human Rights. He has both his first degree in law and his candidate's degree from Moscow State University Law Faculty. He interned at the European Court for Human Rights and conducted research in human rights at the University of Amsterdam in 2000. He has also been spent time at law schools in the United States and Western Europe and has a strong interest in applying active teaching techniques to Russian legal education. He was a visiting professor of law at the University of Iowa College of Law in 1995 and at the University of Baltimore Law School in 1999. In 1998 and 1999, he was a consultant to the Russian Foundation for Legal Reform and assisted in overseeing implementation of the World Bank funded grants program for law schools in Russia.

Elena Shokina is a 1986 magna cum laude graduate of Moscow State University Law Faculty. She is admitted to the Moscow Regional bar and was a procurator in the Gorbachev and transitional era of the last 1980s and early 1990s. She is now in private practice in Moscow. From 1999 to 2002, she was the director of the commercial law project for ABA-CEELI. Currently she is in private practice and directs the Association of Commercial Law Development (ACLD), a non-profit organization of Russian legal professionals practicing the commercial law area. She also edits the *Commercial Law Bulletin* (the ABA CEELI monthly journal for legal professionals reflecting the most significant commercial law developments in Russia as well as important events of the ACLD). While not a legal academic, Ms. Shokina was included in the team to provide a practitioner's view on legal education. The Commercial Law Project of ABA-CEELI involved Russian commercial lawyer-trainers in using a wide variety of interactive teaching methodologies in its conferences.

3. Methodology

Schools and Fieldwork Schedule The team visited nine Russian law schools. In the order in which they were visited, they were: (1) Sakhalin State University Law Institute; (2) Institute of Economics, Law and Information Technology (Yuzhno-Sakhalinsk), (3)

Khabarovsk State Academy of Economics and Law, (4) Institute of Justice (judicial training institute) Law School, Khabarovsk Branch, (5) Kazan State University Law Faculty, (6) Saratov State Law Academy, (7) Moscow State University Law Faculty, (8) St. Petersburg State University, and (9) St. Petersburg Law Institute (Prince Oldenburg).

The visits to the schools were divided into two trips. The first was to the three Far East schools (Sakhalin and Khabarovsk) conducted December 3- 12, 2002. The second set of visits to the other, European Russian law schools was conducted over the period January 6 – 18, 2003.

Reports Made A draft version of the proposed grants program set out at the end of this Report, with summary findings, was submitted electronically to AID-Russia on February 4, 2003, so as to be used during budget discussions. A draft version of this Report with the proposed grants program was submitted electronically to AID-Russia on February 19, 2003 with a request for comments. Thereafter, comments from AID-Moscow were received and incorporated, and additional materials that AID wished included were translated into English. This final draft of the Report is being submitted to AID-Russia on March 24, 2003.

Choice of Law Schools to be Included The law schools visited were selected in consultation with AID-Russia. The justification for the choices were as follows.

The law schools in Saratov, Kazan, Khabarovsk and Sakhalin were included in large part because each is in a priority geographic area for USAID's work, the Volga Federal District and the Far East. While St. Petersburg and Moscow are not priority areas for funding, the inclusion of St. Petersburg and Moscow State in any assessment of the state of Russian legal education is probably essential just because of their prestige and influence. Moreover, St. Petersburg State – along with Kazan and Saratov – were recipient schools in the World Bank-funded legal educational reform programs of the Russian Foundation for Legal Reform (RFLR). As discussed below, the RFLR grants program, which ran from 1998 through 2002, has to date been the single largest donor effort in aid of Russian legal educational reform. How schools reacted to the RFLR program and the impact that program had on them provide good indications of their similar receptivity to and impact as a result of any AID funding in the future. St. Petersburg was also chosen because it has the reputation as one of the “most reformed” and Westernized of Russian law schools.

Moscow State is essential because, justifiably or not, it continues to exert its influence, by reputation and through its activities as head of the committee that drafts Ministry of Justice standards related to legal education. Moreover, information on Moscow State may also serve as a “control” for judging the impact of Western donor efforts at other schools, since it has a reputation among reformers as the major law school that has most consistently disdained donor-motivated and other efforts at reform and is therefore relatively untouched by them.

Included were two law academies, the Saratov State Law Academy and the Khabarovsk State Academy of Law and Economics. Law academies in Russia are specialized state schools that focus on legal education alone, as opposed to universities, which had the full complement of non-law departments. In Soviet times, Saratov, Ekaterinburg and Kharkov

were the three largest and most prestigious of these types of law schools. The Saratov and Khabarovsk state academies were included as representatives of these non-university based legal educational institutions.

The two private schools, the Institute for Economics, Law and Information Technology and the St. Petersburg Law Institute (Prince Oldenburg), were included to get an idea of the state of private legal education at two of the more substantial institutions of that type. The St. Petersburg Law Institute has already been the subject of several Western donor grants and has worked with ABA-CEELI and others. The Institute of Law, Economics and Information Science also has been cooperating with West Coast law schools and judges under the aegis of the RAROLC organization.

4. Focus and Context of the Assessment

Our purpose was to do an assessment of all aspects of the current state of legal education in Russia in general – curriculum, teaching and administration. In particular, we sought to take note what changes have taken place in Russian legal education in the last 10 years and what have not. All this was done with a focus on what AID might do in terms of future funding to support and promote the kinds of changes we think should take place.

Changes or lack of change in Russian legal education must be viewed in the context of the changes that have taken place in Russia's legal system over the last several years. First is the more adversarial court procedure in both civil and criminal cases, as a result of the passage of new Codes of Criminal Procedure, Arbitration Procedure and Civil Procedure in the last year. This shift to more adversarial procedure is a major change in the division of labor between the judge on the one hand and the parties and their legal counsel on the other. Lawyers today are called on to perform major tasks in the gathering, presentation and arguing of cases that were unknown in the pre-reform systems of procedure.

The second change is the growth and increasing sophistication of the business sector in Russia and the corresponding need for competent and practical legal advice for those businesses. In this respect, there has been wholesale legislative revision of many traditional areas of the law and creation of several new ones affecting civil relations in Russia generally and commercial relations in particular. There is increasing evidence that businesses in Russia, no less than businesses in other countries, resort to the courts for resolution of disputes and enforcement of rights.²

The third change in the legal system is the growth of the field of government business

2 "Suing the State in Russia," *Post-Soviet Affairs*, vol. 18, no. 2, pp. 148-81, 2002; "Beyond the Tip of the Iceberg: Business Disputes in Russia," in *Assessing the Value of Law in Transition Economies*, pp. 20-55, edited by Peter Murrell, Ann Arbor: University of Michigan Press, 2001; "Beyond the Tip of the Iceberg: Business Disputes in Russia," in *Assessing the Value of Law in Transition Economies*, pp. 20-55, edited by Peter Murrell, Ann Arbor: University of Michigan Press, 2001; Coauthor with Peter Murrell & Randi Ryterman, "Law Works in Russia: The Role of Legal Institutions in the Transactions of Russian Enterprises," in *Assessing the Value of Law in Transition Economies*, pp. 56-93, edited by Peter Murrell, Ann Arbor: University of Michigan Press, 2001; Coauthor with Peter Murrell & Randi Ryterman, "Law, Relationships, and Private Enforcement: Transactional Strategies of Russian Enterprises," *Europe-Asia Studies*, vol. 52, no. 4, pp. 627-56, 2000.

regulation and the need to develop new curriculum to prepare future lawyers in this important field. On the regulator's side, government lawyers must understand the ever-changing daily operations and practices of business and the economy in order to take appropriate action without unnecessarily stifling legitimate business activity. On the business side, lawyers need to provide up-to-date advice to steer their clients clear of difficulties with the authorities and, when necessary, to litigate complex issues of law and fact in order to protect their clients' rights, as secured, not just by statutes and regulations, but also by the Russian Constitution and international law.

A fourth change is the increased need to protect human rights. Despite efforts and some progress in moving toward a rule-of-law state, there is still much to be done in making it a reality in terms of respect for human rights of citizens. There is much in the approach of the Russian administrative apparatus that has not changed much since the second Russian Revolution of 1991. Just to name one area, police interaction with citizens suspected of crime is still marked by rampant lawlessness in the form of police brutality and at the other end of the criminal process, the horrible state of Russian prisons and other correctional institutions is well-known and was finally the subject of cases in the European Court of Human Rights. To make compliance by government officials with the laws that govern them and respect for human rights the default position rather than the exception, it is essential that citizens have the assistance of lawyers who know and can obtain effective redress for violations of the law whenever they occur.

The final area of change is not so much a change in a subject-matter area of law, as it is a change in a mode of operating across subject-matter areas. This is the increasing importance of case law – the decisions of judges – as a source of law. Called “judicial practice” (*sudebnaya praktika*) in Russian, it has always been important, even in Soviet times. Now, with the increasing body of judicial decisions, easier access to such decisions on the Internet and in the commercial electronic databases, and the increasing willingness of judges to cite to prior decisions, this source of law is of immense and growing practical importance.

5. Standards for Assessing Progress in Russian Legal Education

The origins of the difficulties faced by Russian legal education today are well-known by now. In short, (1) legal education and other humanities took a back seat in Soviet times to the hard sciences and engineering; (2) within legal education, the emphasis was on public law subjects – those that focused on the relationship between the individual and the state – and on domestic Russian/Soviet law, to the exclusion of foreign or international legal systems or norms; (3) teaching and learning in law have emphasized lecture and rote memorization rather than problem-solving and advocacy skills; and (4) the approach to teaching and writing in law schools has been highly theoretical and abstract and has largely ignored issues of law practice.

In the past five years or so, Russian and foreign donors alike have made some specific assumptions about what direction any reforms of Russian legal education should take. These were addressed in a major analysis of the state of Russian legal education done for the World Bank by William Burnham (one of the authors of this report) and Sergei Khabarov in 1996, and are at this point relatively uncontroversial. The needed directions of reforms in

curriculum, teaching and administration were stated there and the team agrees that they are still valid today. They are the following:

A. Curriculum:

1. Privatization – greater number and wider variety of courses on private law subjects; shifting focus of public law courses to regulation of private economic activity
2. Practicalization – development of courses that seek to emphasize practice over theory, particularly courses that will help to train legal practitioners, and a practical approach to substantive law courses; greater attention to the role of judicial practice in real life rather than on what is written in the law
3. Internationalization – wider variety of courses on international law subjects, inclusion of an international perspective in existing courses and the rules and practice of international business transactions; broader teaching of comparative and foreign law topics that are of use to international practice today
4. Interdisciplinary – promotion of courses that cross traditional boundaries of kafedras and legal categories, such as business regulation or business planning that incorporates elements of civil law, administrative law, tax law, and even criminal law
5. Humanitarianization – promotion of courses that emphasize the value of the individual in general; courses on human rights and their protection in domestic and international forums

B. Teaching Techniques:

1. Use of Active Teaching Methodologies – less emphasis on lecture and greater emphasis on learning basic theory and substance through reading up-to-date texts, including primary source materials, such as statutes and court decisions, and active discussion of such materials
2. Focus on Law Application – emphasis on application of the law to realistic problems rather than rote memorization of rules and theory; promotion of the study and analysis of caselaw and the practice of courts in applying the law
3. Experiential Learning – greater use of discussion of real-life problems, role-playing and interactive computer games; creation and promotion of live-client legal clinics

C. Administration:

1. Emphasis on Computerization – best efforts to provide access for both faculty and students to computers and a place to use them, with an emphasis on computer literacy, use of electronic legal databases and access to legal resources on the Internet
2. Library Support – library collections that reflect the general curriculum directions; computerization of library catalogs and other finding aids; easy access to electronic databases
3. Teacher Support – support and active encouragement of teachers in efforts to

make curricular and teaching methodology changes indicated above, through encouraging grant applications, granting leaves and the like

4. Publishing Capabilities – facilities and resources devoted to duplication and publishing new texts and course materials that emphasize the curricular and teaching methodology directions indicated above

These directions of needed reforms are at once continuing goals of most reforms and standards by which to assess the impact of changes over the last ten years. Consequently, they serve as the focus of this assessment of progress and recommendations for future USAID funding.

A sub-theme of this assessment is the future of *private* legal education – to what extent private law schools might offer an alternative to the state schools. Within this topic, issues are currently being raised as to what criteria should be used to judge whether private law schools should be accredited.

6. Summary of Findings and Recommendations for Funding

A. Findings

Two preliminary comments should be made before going into our findings. First, while specific schools and information from them may be referred to here, this is more of a “cut to the chase” summary of what we found and our recommendations. In this respect, we limit our analysis here to findings and recommendations regarding those characteristics of Russian legal education that are most amenable to change through a grants program in the fundamental areas of curriculum, teaching methods and administration.

A more general analysis of the current state of Russian legal education is included in Appendices B and C. Appendix B more fully outlines the characteristics of legal education at the present time, with appropriate references to the schools we visited. This document also contains general information that is likely to be useful to the reader who is not familiar with Russian legal education. Appendix C is a separate analysis of the Russian legal educational system as seen by Professor Luzin, one of the members of the team. While this report and Appendix B rely on and quote somewhat from Professor Luzin’s statement, it was thought to be sufficiently important to be included in full, given Professor Luzin’s unique qualifications and comparative experience.³

Second, it should be emphasized that a grants program somewhat similar to the one recommended here was in effect up until recently – the World Bank funded program of grants

³ We administered a questionnaire to as many schools as we could obtain e-mail addresses for and hoped to include a summary of the results in an appendix to the report. However, responses did not live up to our expectations. Of the over 200 that were sent out, we received only 12 replies. Replies varied considerably in quality and some were suspect in that they contradicted information we already knew from independent sources. What useful information we received and that seemed reliable is included in the report and in Appendix B, but an overall summary is not. Readers interested in getting the responses to the questionnaires (in Russian) can obtain copies electronically by writing to w.burnham@wayne.edu.

administered by the Russian Foundation for Legal Reform (RFLR) since 1998. Like the grants program recommended here, the RFLR program focused on direct grants to teachers to produce new course and new course materials for existing courses and grants to law schools for support of those efforts, plus assistance to libraries and computerization. During our travels, we witnessed first hand some of the successes that program had and the grants program recommended here largely builds on those successes. Indeed, the schools we saw could well be divided into those that participated in the RFLR programs and those that did not, with the RFLR schools coming out on top.

It may be that the difference between RFLR and non-RFLR schools is largely coincidence. The RFLR schools could well have simply been the more progressive and reform-oriented in the first place – as evidenced by their seeking inclusion in the RFLR programs. Certainly the progress made at St. Petersburg State University – by far the most impressive of all the schools we saw – is not all attributable to the RFLR programs. Among other influences, the Dean there went out of his way to emphasize to the team that the real sources of the “rebirth” of St. Petersburg State law school were ideas he learned during an AID-sponsored trip he took to visit U.S. law schools and the attend the annual convention of the Association of American Law Schools (AALS) in San Antonio in 1995.

Yet, there was evidence that the RFLR programs had a direct cause-and-effect relationship. Certainly it was the opinion of teachers and administrators of the schools that participated that the RFLR program was, as one teacher put it, the “single best thing that has happened to Russian legal education in the last ten years.” Teachers who got RFLR grants spoke in glowing terms about the benefits of the grants, both for their school and students, and for their own professional development. Particularly the fact that money went directly to teachers for deliverable products was applauded. In addition, the curriculum development grants paid teachers enough money so that they could completely stop teaching and practicing for a semester and develop a new course or a new textbook or both. For many teachers, this was the first time they had any time off their regular duties and the many part time jobs they must pursue to maintain a civilized standard of living. As one said, “I felt like a real teacher and scholar for once! I felt like this should be how it should be all the time!” Some of the funded provincial authors even received a certain amount of fame. One teacher in Kazan had her Commercial Law text accepted for publication by the RFLR and a Moscow publishing house and subsequently was hired by a more prestigious school. All spoke of the unique nature of the grants program as one directly focused on teachers rather than a top-down one funneled through the administration.

On its website, the RFLR indicates the financing of the writing of a series of over 70 textbooks and sets of teaching materials for law students, of which the best were published by the RFLR and the rest by the authors themselves.⁴ The RFLR notes that “in the process of realization of the Grants Program, hundreds of the teachers became involved in academic and teaching activities who, it is particularly noteworthy, were teachers who for reasons of financial constraints or other reasons have never before participated in designing texts and teaching materials, books or courses.”⁵ A list of the textbooks and teaching materials that

4 A copy of a list of RFLR-funded teaching materials and textbooks is attached to this Report as Appendix C.

5 See www.rflr.ru/projects/grants01.htm.

were created by the program is set out in Appendix D of this report. In support of this distribution of texts and teaching materials, the RFLR also developed the capacity of its participant schools to publish texts and teaching materials. While as noted below, these resources were not utilized to their greatest effect, these centers are there to permit the quick publication of any new texts or course materials that might be produced.

A more general improvement in the conditions at law schools accomplished by the infusion of RFLR-World Bank financing was in the area of computerization and library support.⁶ The RFLR provided computers to schools that needed them and assured that teachers winning grants had computers to work on their project. The only narrowly tailored RFLR effort with regard to computers was development of a computerized library catalog. As a result, all the RFLR schools had such a catalog. Most of the non-RFLR schools also had some form of computerized catalog, though in some schools it only went back a few years. All the schools we visited had access to both the Internet and to one or more of the standard legal electronic databases. But RFLR schools had particularly well-equipped computer laboratories, computerized catalogs of libraries and many more books and periodicals than the non-RFLR schools.

It is hard to argue with success. Given the doubts that accompanied the RFLR program when it was first implemented – mainly related to the “mistake” of directing grants at teachers and providing such detailed requirements for the work products being funded – it was a spectacular success.

Yet, as noted next below, some of the best possibilities of that program were not realized. The RFLR’s limitations and failures provide opportunities for AID to build on the successes of the RFLR program. Such as “new and improved” grants program that learns from the RFLR grants program experience and avoids its limitations will be an assured success.

B. What Remains to be Done

(1) Curriculum – New Courses and Teaching Materials

a. Deficiencies in Subject-Matter Coverage

Inadequacies of subject-matter coverage of the curriculum in gross – general subject-matter areas that must be included in the curriculum of law schools – are largely beyond the ability of grants programs to affect in a major way. Such content is dictated by Ministry of Education standards, which tend to be relatively specific. However, a grants program can affect and shape the content of curriculum in at least two ways.

The first way is by emphasizing some sub-topics of a subject more than others. In this respect, in funding the preparation of textbooks and teaching materials, preference can be given to materials that emphasize the aspects of a given subject matter than are in keeping

⁶ This parameters and results of this program are described on the RFLR website at <http://www.rflr.ru/projects/grants02.htm>.

with the necessary new directions outlined above. For example, while the government standards do not emphasize the protection of individual constitutional rights, that is one of 22 topics listed under Constitutional Law. Materials devoting more rather than less attention to this subject could be favored over others. Second, at least one of the new curriculum directions – practicalization of the curriculum – can be pursued by what has been called the “pervasive method.” Practicalization is in fact pursued by the funding of teaching materials in *any* subject-matter area that emphasize the study of judicial practice and development of problem-solving and advocacy skills rather than rote memorization. In this respect, “the medium is the message” when a particular approach is taken in by teaching materials.

The RFLR program was only partially successful in achieving progress in funding curriculum development through new texts and courses. One general problem was in administration. Some applications to write materials languished without being acted on for up to two years. When finally acted on, the content of the project proposed was already outdated. And even when the proposals were acted on, inexplicably small numbers of copies were produced. For example, an excellent text and problem book on enforcement of judgments were produced by a collective of teachers at the Saratov State Law Academy, but only 4,000 copies were published. Moreover, there were delays in publication and distribution of such books and materials as were produced. While the original model of the RFLR program was to have them published quickly on the local level so they could be distributed widely in a timely fashion, in practice traditional publishing routes were used, with all the attendant delays. Moreover, no effort was made to use the resources of the Internet to gain wider and timelier distribution of the materials for use in other schools.

Perhaps the most acute failure of the RFLR reforms in its new textbooks program was the fact that it left three areas largely unaffected: litigation skills, human rights, and interdisciplinary courses.

Litigation Skills Courses Practical simulation courses on subjects related to litigation skills practice, such as trial and pre-trial advocacy, were not at all emphasized by the RFLR programs. This is unfortunate because this area of the law has become much important in the last year, with the passage of the new Criminal Procedure, Civil Procedure and Arbitration Procedure Codes. These codes are much more adversarial than any before them and are even more adversarial than many of the procedural codes of other civil law countries in Europe. For example, the Criminal Procedure Code requires that evidence be presented by the parties at trial, with the judge relegated to any supplemental questions after all the parties are finished with their presentations. Also, it provides for the defense lawyers to engage in their own investigation of the evidence, permitting them to interview witnesses and demand documentary evidence from governmental and non-governmental organizations. This is in stark contrast to Russia’s inquisitorial past, when the judge was by far the most – and in many cases the only – interrogator of the witnesses and exercised iron-like grip over what witnesses would be permitted to testify and what evidence could be presented. Despite the imposition of these new and important responsibilities on lawyers, there is nothing in the traditional law-school curriculum that trains lawyers to meet them. Without a prepared cadre of both private lawyers and government lawyers, the adversarial innovations of the new procedural codes could well come to nothing.

Human Rights Another area of reform that remains neglected even after the RFLR grants program is human rights, particularly with respect to how protection of those rights can be pursued in courts. For this the RFLR can not be blamed, since the focus of the World Bank loan was more for development of private and commercial law subjects than for public law matters. Whatever the reason, human rights is an area of the law that is seriously underdeveloped in law school curriculums, and it remains so even after the prodigious efforts of the RFLR grants programs. As noted above, individual rights under the Russian constitution is only a small part of the constitutional law. One might add that "human rights and international law" is only one of 17 topics within the 132 hours the government standards allot for international law. Further, there is not a single law school in Russia that has a department dedicated to the subject of human rights. Efforts must be made to encourage the development of a human-rights sensitivity in future lawyers. Indeed, one might well ask where such a sensitivity will come from if not from the law schools. All too soon the natural idealism of students will be blunted under the pressures of the rough-and-tumble of life and law practice. Law students, as future leaders in government and society, must have a firm grounding in the essential foundation that protection of human rights provides for a law-based society. This is essential if they are to make respect for such rights a priority in practice once they start playing their roles in the system.

Interdisciplinary Work The RFLR did only a little to develop interdisciplinary work. The classic interdisciplinary course and academic specialty that should be developed in Russia today, but has not been, is law and economics. But the "interdisciplinary" courses most needed are not those combining law with non-law fields. The greatest need in Russia is for a combination and integration of different *law* fields. Legal education the world over tends to take an atomized approach, given that only one legal subject at a time is usually taught in one course. But Russia and other countries that follow the traditional Pandectist categories of the law in the organization of their departments build even greater walls between sub-disciplines within the law. This is unfortunate for law students who soon find out what every practicing lawyer knows -- that clients in the real world do not come into the office with their legal problem pre-labeled or with a legal problem that involves only one area of the law. Instead one case or client may present a wide variety of issues in many areas of the law, both substantive and procedural. What is needed is a course that integrates various sub-disciplines within the law that regularly coalesce in particular kinds of cases. The classic example is the course in business regulation or business planning, which incorporates elements of contracts, commercial law, corporations law, administrative law, tax law, antitrust law, environmental law and even criminal law, plus many issues of civil, administrative and arbitration procedure.

b. Failure to Utilize Local Publication and Internet Distribution

One failure of the RFLR grants program for new texts and courses was not so much a failure of that program *per se*. It was the RFLR's failure to take full advantage of local publication capacity to assure the quick and cheap distribution of the excellent textbooks and teaching materials that were produced. Instead of quick approval and publication, materials languished in the editing and approval process. And those that were approved, contrary to the original design of the program, were shunted into publication in traditional book format by established publishers. In some cases the number of copies produced was strangely limited.

The result was that once up-to-date teaching materials were out of date by the time they became available, and in any event were not widely available and were expensive.

Another efficient method for distribution of new textbooks and teaching materials that was ignored by the RFLR program was distribution by means of the Internet. Part of this could well have been a rational decision based on the limitations of connectivity in Russia at the present time. But given the fact that local publication was ignored, it was more likely a conscious decision to use traditional paper-publishing outlets. As is addressed below under Administration, one real difficulty with realizing the full potential of electronic distribution of legal publications has been the “under-connectivity” of law schools. Law schools have good basic connection sufficient for communication, but lack sufficient speed and volume to use the Internet for full access to legal materials there available. In any event, the increased computer resources found in law schools today – boosted by grants for better connectivity proposed here – will provide the exciting possibility that the fruits of grant projects producing new courses and new teaching materials for old courses can be extended to almost all law schools almost immediately upon completion by using the Internet.

(2) Teaching Methodology

Perhaps the central qualitative failing of the RFLR programs was the fact that, even as they developed new courses with new teaching materials to accompany them, they did not emphasize the new teaching methodology that was designed to go with those new course materials. This was clear from chatting with even the most progressive teachers of the most modern of subjects – even some the authors of the new generation of textbooks. Despite the fact that the materials were of sufficient detail and were otherwise designed to be used as a substitute for lecture, there was still considerable reliance on lecture.

There are several reasons for this, aside from simple inertia and the RFLR’s lack of a program to promote interactive teaching methodologies. First, Russian law teachers tend to love the performance and adulation aspects of lecture. When questioned about it, they say that it is their “first love.” More than one hearkened to their own legal educational experience and pointed to how brilliant lectures are what everyone remembers with the unspoken hope that they will be similarly remembered. Second, all teachers, to be considered full-time employees and to be paid as such, must spend a certain number of total hours in the classroom. Lecture is much easier than interactive teaching. Moreover, lecture time counts the most in terms of other kinds of less tangible “credits” that teachers get – the most senior and respected teachers teach the most lecture hours, leaving the more junior and not-yet-established teachers to teach recitation sections. Third, while government educational standards do not specify the number of lecture hours, there is a “model plan” for a curriculum put out by the Ministry of Education that specifies a certain number of lecture hours. Despite the fact that it is purely hortatory, this plan merges with tradition and personal preference of teachers and students to produce a general “requirement” that substantial time in coverage of any subject matter – perhaps as much as 50% – be devoted to lecture.

At the same time, as a practical matter there is some play in the joints. There are two kinds of classes for every course – lectures and recitation sections for those lectures. While all the students in the course attend the lecture in a plenary session, students are broken up

into smaller groups for their recitation sections. While the recitation sections are the better place to practice interactive problem-discussion teaching methods, there is nothing that prevents the teacher from asking questions and having a class discussion in the larger lecture session. Moreover, how teachers teach is considered to be up to the individual teacher. Whatever label is given to a particular hour of class, no one is there monitoring what goes on in the class. In fact, whenever teachers are pinned down on why they don't use more interactive teaching techniques, the reasons boil down to two things: (1) the lack of up-to-date reading materials that might substitute for lecture and (2) lack of training in using the problem method and other interactive methods of teaching.

While the RFLR program sought to promote (1) by developing suitable materials, it did not make much of an effort as to (2). Originally, the grants design called for teacher training in interactive teaching techniques. This would have involved extended stays at U.S. law schools – the only place they are consistently used – to experience, observe and discuss how they might be applied in Russia. However, this part of the RFLR program was metamorphosed into simply giving the Russian teachers involved some form of foreign experience. The Western law schools to which they were sent were invariably those of West Europe, where interactive methods are in their infancy. Moreover, the purpose and focus of the trips were more for comparative substantive knowledge than for learning teaching techniques.⁷

The grants set out in Categories I and II below seeks to build on RFLR successes described earlier, while avoiding some of the difficulties and gaps in those programs as described.

(3) Administration – Herein Principally Computerization

The subtitle of this section limiting it primarily to computerization issues is the result of the natural limitations of grants programs – other than grants programs that are so massive and comprehensive that changes in administration can be exacted in exchange for assistance on that scale. The problems that perhaps should be remedied, but cannot be, are nonetheless discussed here as a necessary prelude to the more modest problems of computerization that can be fixed – in part because they provide a cautionary picture that is relevant to administration of any program of grants.

a. General Problems With Law School Administration

The first problem with administration of law schools is the lack of focus on the needs of students and teachers. Instead the focus is on the needs and preferences of the administrative *apparatus* itself. Coupled with this is a natural inclination to invest in things rather than people. Thus, new money is much more likely to be invested in new buildings or renovations than in teachers or teaching materials or support of research or academic conferences. Now, as in Soviet times, administrators have quite well-furnished offices, computers and assistants, while teachers are forced to work in shared quarters of a strikingly shabby sort without much support. Indeed, in some law schools, there seems to be even greater primacy of the

⁷ For a list of the schools to which teachers were sent, see <http://www.rflr.ru/projects/grants03.htm>.

administrator than in Soviet times. For example, in the Saratov State Academy, we noticed that there is now a separate restroom for the administrators. Professor Luzin lists the problems in this area:

- horrible conditions in the libraries, dormitories, and laboratories
- pompous and expensive renovation of office space for university bureaucrats, banquet halls, and other non-essential (non-academic) spaces . . .
- the extremely low number of computers for instructors, the lack of decent space for work and rest or reading halls, and the absence of funding for instructors to attend academic conferences and seminars in neighboring regions

The second negative aspect of current administrative practices is the preservation of the department or “kafedra” organization. Without going into the issue very deeply, the main problem with such a structure is that it produces a narrow view of the law by confining specialists to their own narrow field in their teaching and research. Thus, civil law teachers and graduate students teach and write only in that field and rarely consider questions of how another field, say, administrative law, might intersect with civil law, such as in the all-important field of business regulation. But the overriding reason for the “kafedra” system is control by the *apparatus*. As Professor Luzin remarks:

the strict hierarchical structure of universities has not changed: rector, vice rectors, faculty deans, assistant deans, department and laboratory heads, instructors. Moreover, many private institutions boast that they have “classical university management.” “Classic” means only that within a particular faculty there are traditional departments [“kafedras”] broken down by theme. Department heads are rarely talented academics or creators of a school of scientific thought; more likely, they are administrators with much greater control and supervision over their department colleagues than the faculty dean or his assistants.⁸

A third problem is the bureaucratized conditions of work for teachers. As Professor Luzin observes:

[I]nstructors continue to submit numerous, sometimes useless, reports on the fulfillment of academic, methodological, scholarly, and educational obligations every semester, calendar year and academic year. A hierarchy also exists within the teaching community: professor, assistant professor, senior instructor, instructor, assistant. An instructor’s salary is determined by his rung on the ladder, not by real potential or desire to work.

None of these problems is amenable to change to any substantial extent by a modest-sized grants program of the sort contemplated here. However, the focus of the grants program recommended here is influenced by these concerns about administration. Thus, the proposed program is narrowly focused to provide money directly to teachers to produce specific deliverable teaching materials and course designs, and to provide computerization assistance that directly benefits teachers and students. Where appropriate, conditions are imposed on the administration of the law schools to assure that administrators do not interfere

⁸ Luzin, *supra*.

with the provision of money, services or equipment to the intended beneficiaries of the grants. From the above discussion, it can be seen that it will simply not do to just give grant money to the administration of a law school in exchange for its promise that it will make sure the requisite new courses and teaching materials are produced.

It should be emphasized as well that the fact that grants go directly to teachers is a bit of a “subversive” design element that should help to nudge administrators in the right direction. As Professor Luzin notes:

An instructor who receives a grant independently of his institution feels more self-sufficient and in demand in a scholarly and pedagogical sense. This type of instructor becomes more independent and bold, openly reacting to the problems at his institution. In addition, the faculty and institution leadership understands that such an instructor improves the academic standing of the institution and treats the individual accordingly.

b. The Situation with Computerization and Connectivity

In some schools, as might be expected, the lack of a sufficient number of computers was a problem, such as at St. Petersburg Law Institute (Prince Oldenburg), where there were only a dozen computers and a single low-speed dial-up Internet connection. In others, the number of computers seemed adequate, but they were not necessarily being used to their best advantage. For example, in Saratov, whole rooms of computers existed in labs, but they were not hooked up to the Internet, and in Kazan, where laboratory computers were connected to the Internet, but none of computers in the department (“kafedra”) offices were. But the lack of computer access *per se* does not trouble us that much. Given the strong and consistent demand for legal computing skills by prospective employers and the fact that computers and peripherals will continue to get cheaper and cheaper, this problem will take care of itself as time goes on.

Two more serious obstacles, however, remain. They are technological and instructional. Category III of the proposed grants program below seeks to deal with both problems.

Technological Problems The real problem at the law schools we saw – and we surmise the same is true for the rest of the law schools in Russia – is that the speed of access to the Internet is not sufficient to permit computers to be used for serious legal research on the Internet. More and more legal material in Russia is now available on the web. Under Russian copyright law, official publications, such as laws, regulations, and court decisions are in the public domain. The Russian parliament, the top courts, and many other Russian government bodies are putting their documents in full text on the Internet. The best works of pre-Revolutionary Russian legal scholarship (often much better than Communist-era pseudo-scholarship) are also in the public domain, because their copyrights have expired. Under a contract with the Ministry of Education, the St. Petersburg State University Law Faculty is planning, during 2002-2003, to make its library’s excellent collection of uncopyrighted legal resources available on the Web. The savings in terms of not having to purchase the books and other sources now available and soon to be available is enormous. Many foreign governments have already made their official legal documents available on the Internet. Numerous law books and articles published in Russia and abroad are also posted on the

Internet.

Despite the wealth of material available, however, access to these sources over the Internet is technologically impossible with most of the Internet connections we saw. Legal documents are often quite long and without a fast connection that can handle a large amount of data within a reasonable time, using the Internet to search for, access them and then download them is impracticable. In the near future – say, in the next 5 years – the cost of fast Internet connections will undoubtedly go down. However, at the present time fast Internet connections are very expensive.

The first thing that is needed, then, is financial assistance to solve this acute and serious technological need. It should be emphasized that this form of financial assistance is intended to be only temporary, as the costs of connectivity are sure to fall dramatically in the next 5 years. Without it now, the computers we saw at the law schools will continue to be grossly underutilized.

The Instructional Problem Appropriate training is needed to assure that the greater potential provided by better connectivity is effectively used. The computer training that law students are given in the law schools we saw is instruction concentrated on basic computer literacy (use of word processors, spreadsheets, etc.) and on simple legal research tasks using local copies of legal databases. However, there is no guidance given on how to use the Internet for research on Russian, foreign or international law. We were greeted with exclamations of amazement when one of the team showed teachers at Kazan State some of the electronic journals that are available on the Internet.

The solution is to create appropriate materials and training modules that can be used at all law schools to assure proper and efficient use of law resources on the Internet. All the law schools we visited expressed an interest in providing such training, but did not know how to go about it.

The most acute need is in the area of foreign and international legal materials. In a traditional printed format, access to these essential sources is prohibitively expensive for Russian law schools. A vast amount of such material is available on the Internet, either free or for a cost that is much lower than for print versions. Shockingly Russian law schools – with the single exception of St. Petersburg State University – lack library collections of foreign and international law materials and fail to provide Internet access to these materials. These failures are unfortunate in 2003, since the three most serious obstacles to access to foreign and international materials on the Internet – lack of computers, lack of English language skills and low computer literacy – are gradually being overcome.

Unlike the connectivity technical problem, the instructional problem is less likely to resolve itself over time. The natural tendency among Russian academics is not to look at foreign legal materials, except as digested by existing Russian-language publications, some either from the Soviet era or only slightly removed from it in content. It is essential at this crucial time of major creation and implementation of new laws to assure that the current generation of lawyers be exposed to Western ideas of the legal aspects of the market economy, human rights and adversarial justice. Of course, if important foreign and

international legal materials are available only in print form, funding should be provided for them to be acquired as well.

C. The Recommended Grants program

(1) The Grant Categories

There are three categories of grants. Category I would make available a limited number of grants to promising young teachers for the purpose of producing practice-oriented teaching materials and designing new courses in priority areas of the law. For teachers who respond with good Category I proposals, all manner of support is available under Category II to assure that all obstacles to successful realization of their Category I projects are removed. Under it, books, periodicals, computers, computer programs and the expenses of education and training could all be provided for the successful Category I applicant. In recognition of the difficulties with conservative and perhaps corrupt administrators, Category I funds reform-minded teachers directly to perform discrete tasks and avoids sending money through existing administrative channels. While Category II provides for funding of equipment which will eventually become the property of the law department, that equipment must first be used exclusively to support Category I grantees.

Category III operates independently of the other categories and relates mainly to grants for improvements in computer systems and training.

(2) Administration Issues

A major problem with implementing narrowly focused grants program such as the one proposed in Category I is the fact that it will require expert administrative efforts. Administrators will have to establish a fair and open process for selecting worthy applications for funding and will then have to police compliance with the grant conditions to assure that the activities for which money is granted are being carried out according to specifications. While this is to be expected in any grants program, it will require considerable skill and knowledge of Russian language and Russian legal education. Otherwise, administrators will not be able to tell whether the materials being produced are any different from those that went before.

It is also paramount that the administrators of the grants program understand fully and be in complete sympathy with the reforms and grant conditions required. The reforms contemplated, while narrowly focused, are rather radical and unknown to the Russian or Soviet traditions of legal education. It will be necessary for the administrators of the program to have a clear vision of what work product is required and to communicate that vision consistently to grantees.

It goes without saying that there would have to be assurances of institutional support for any grants made, to be provided by the law department's administration, the central administration of the University and any academic council or other university governing body. This would include assurances that teachers could make changes in teaching methodology, curriculum and the number of hours devoted to lecture (this may raise a red

flag), that teachers would be permitted to go on leave to study or to write educational materials if they are successful in receiving a grant for those purposes, and that teachers would be permitted to return to their position at the university and the law department after their leave is over.

All in all, though the administration issues seem difficult in the abstract, we must remember that the RFLR grants program seemed to strike a particularly responsive chord among Russian law teachers. Indeed, the teachers we spoke to who wrote books and teaching materials under RFLR grants told us consistently that they had been waiting for years for the opportunity to produce just such works.

(3) Less Costly Options

Given the difficulties of administration and the limited funds that are likely to be available, there are two ways of reducing the costs of the program. Either the subject matters covered could be limited or the numbers of schools whose teachers will be permitted to participate could be limited.

a. Limiting the Subject Matter Scope of Grants

The most effective approach would be to focus solely on those subject-matter areas (set out in Category I below) that the RFLR left largely untouched. The three underdeveloped subject matter subcategories were discussed above – litigation skills, human rights and interdisciplinary courses. If courses and teaching materials in these three areas could be coupled with grants for acquisition of active teaching skills, that is a relatively cost-effective core that could be pursued without the great expense involved in a larger effort involving all the Category I subject matters.

Another reason to limit grants to these subject-matter areas is that at least two of these three areas lend themselves to relatively inexpensive acquisition of the requisite teaching skills and knowledge.

The first area is trial advocacy and other litigation skills. Courses on these subject are regularly taught in U.S. law schools in a manner that is precisely transferable to Russia. The National Institute for Trial Advocacy (NITA) puts on training conference for trial lawyers of only two weeks duration and has a three-day trial advocacy teacher's training course that is specifically designed to train new instructors in the special role-playing and critique techniques of NITA. Even figuring necessary translation services, NITA programs involve a well-designed and cost effective package that would directly accomplish its goals at a relatively low cost. Moreover, NITA has indicated its willingness before to work with Russian law teachers and to permit them to attend its functions without charge in the past. In addition, much NITA material has already been translated into Russian. AID-Russia funded the participation of several Russian teachers in its lawyer and teacher training conferences back in 1995. Those teachers were able to return and immediately create trial advocacy courses at their schools, which are still taught at those schools to this day. Indeed, one result of that relatively small infusion of AID money was the publication of the first book in Russian on the subject of trial advocacy – Burnham, Reshetnikova and Proshlyakov, Trial

Advocacy [in Russian: Sudebnaya Advokatura], published by St. Petersburg University Press in 1996. Two of the co-authors were Russian teachers who attended NITA conferences in the U.S.

The second subject matter area in which new courses and books could be supported at relatively low cost is in human rights. The European Court of Human Rights sponsors internships in Strasbourg for human rights experts, at which Russian law teachers can improve their knowledge of the Court's practice and the substance of the European Convention on Human Rights. Sending teachers to Strasbourg is not nearly as costly as sending teachers to the U.S. Moreover, Russia is beginning to produce some first-rate scholars and teachers in this area. They could provide – perhaps in conjunction with a few imported U.S. or European specialists – human rights litigation training in Russia.

There are also some possibilities of overlapping with other programs. Learning interactive teaching methods could well be fostered by linking up with the Open World Program, which is concentrating its efforts on bringing law teachers to the U.S. While the length of their stays are relatively short, using that program's resources to expose law teachers working on Category I teaching materials to U.S. law schools would be a way to more efficiently leverage scarce resources. And in the human rights area, there could be coordination with various private and European Union-based programs for internships and other study of human rights in Europe.

b. Targeting a Limited Number of Law Schools

Another way to limit the scope and cost of the grants program is for AID to limit it to only a few law schools. This was the approach taken by the RFLR in its grants program, which was limited to eight law schools. There are benefits to such targeting, as the differences between RFLR schools and non-RFLR schools that we saw suggest. And certainly, such a limitation would cut down on the number of applications that would have to be considered. It would also solve at least one thorny administrative problem by permitting the administrators to draw on the expertise of Russian academics at schools not chosen to participate without the problem of a conflict of interest. When the RFLR hired consultants in legal education to assist in administering its grants program, it relied on Russian law teachers from law schools not directly involved in the program to assist in evaluation proposals.

If the decision is made to limit the grants program to particular subject matters, it is probably not as necessary to also limit it to applicants from specific schools. Concerns that there will be too many applications are ameliorated somewhat by the fact that schools will self-select to some extent. As part of the application process, teacher-applicants' schools would have to "sign off" on the grant application, providing assurances that its teacher, if selected for the grant, would be permitted time off to work on the project and would have to agree to permit the new course to be taught. Plus, if any equipment is involved in the grant proposal (as provided in Category II below), the school would have to agree to make it available for the teacher's new course. These requirements, while modest, are likely to screen out schools that have little interest in improving their curriculum along the lines promoted by the grants programs.

Recommended Grants Programs for Improvements in Russian Legal Education

CATEGORY I GRANTS

GRANTS TO INDIVIDUALS AND GROUPS OF INDIVIDUALS FOR THE PURPOSE OF PRODUCING NEW TEXTBOOKS AND COURSES USING ACTIVE TEACHING METHODOLOGIES

Introduction This category covers payment for the personal services of teachers to produce teaching materials and new courses. Also available is funding for educational expenses in connection with development of such materials and courses. Other support is provided in the Category II below. That category includes computer equipment and programs, video equipment, books, computerized research materials, payment to schools for the expenses of hiring replacement teachers for successful grantees and for other expense. Category I builds on a similar grants program financed by the World Bank and administered by the Russian Foundation for Legal Reform (RFLR) between 1998 and 2003.

Grant Guidelines

1. *Grants for Writing Teaching Materials and Designing New Courses* Grants under this Category and Category II are limited in terms of (A) subject matter, (B) approach to subject matter and (C) teaching methodology, as follows:

A. *Subject Matter Limitations* Materials and courses must concern:

- (1) private civil law subjects, such as property law, contract law, torts, family law, inheritance law, intellectual property, commercial transactions, international trade, enterprise organizations, plus civil procedural topics to the extent they are directly related to realizing the above rights in suits against governments and government officials;
- (2) the law of government regulation of business, such as securities regulation, labor law, antitrust law, product safety, taxation of businesses, bankruptcy and all aspects of privatization of state industries;
- (3) human rights, whether protected by the Russian Constitution, the Convention on Human Rights and Fundamental Freedoms, other international human rights conventions or customary international law, and procedural topics to the extent that they directly relate to suits designed to protect such rights; and
- (4) the skills necessary for law practice, such as trial advocacy skills, pre-trial litigation skills, drafting legal documents, negotiation and legal counseling and advice, including litigation skills in criminal, civil and commercial cases.

B. *Approach to Subject Matter* Materials and courses must emphasize practice over theory and have as their emphasis training future practicing lawyers by focusing on

real-world problems facing practitioners today.

C. *Teaching Methodology* Materials and new courses must contemplate teaching the subject involved using problem-discussion methods and simulation methods of teaching.

(1) *Private Law, Business Regulation and Human Rights* For texts or courses on private law, business regulation and human rights (see 1A(1), (2) and (3) above), a problem-based teaching methodology must be used. Under this requirement:

- (a) The materials must set out the relevant law in a combination of narrative explanation and compilation of original sources (such as texts of laws and judicial decisions) or secondary sources (commentaries, journal articles, etc.) in a manner that is sufficiently detailed that it can substitute for lectures;
- (b) A separate problem book must be produced with realistic problems for students to work out before class and which can form the basis for class discussion;
- (c) Books and problem books must be produced in sufficient quantity that every student will have a copy to read and study outside of class so that the bulk of class time can be devoted to the teacher leading students in active discussion of problems;
- (d) The students' schedules will be arranged in such a way to assure sufficient time outside of class for reading and preparing for discussion of problems; and
- (e) Authors will agree that their texts and materials will be made freely available over the Internet for copying and use (with attribution) by other public and private institutions of higher learning on a non-profit basis.

(2) *Lawyering Skills* Courses on lawyering skills (see A(4) above) must be taught using simulation teaching methodology, as follows:

- (a) The primary mode of instruction will be one in which (a) the student plays the role of a practicing lawyer confronted with a realistic mock fact scenario and must utilize the appropriate lawyering skills needed to resolve the problem and (b) the teacher instructs the student by critiquing each performance and providing appropriate advice for improving those lawyering skills.
- (b) Materials or texts for a simulation course will include (a) a narrative section for students to read before class that provides basic instruction on how to perform the particular lawyering skills and (b) realistic "case files" or other

fact scenarios and problems that require students to perform the role of a lawyer in resolving the problems presented.

2. *Educational Expenses Necessary for Producing Teaching Materials* Supplemental grants for educational expenses are available to teachers who submit successful grant proposals for producing teaching materials and who need supplemental training either in the subject matter area involved or in the use of active teaching methodologies to teach the subject. International travel and study may be funded under this sub-category if (1) they are directly related to the development of courses, teaching materials and active teaching methodologies set out above; (2) the applicant demonstrates that appropriate training is not available in Russia, (3) if essential to successful completion of such supplemental study, the applicant has fluency in the language of instruction in the foreign country involved, and (4) after returning from an exchange visit at a foreign institution that lasts a semester or more, the applicant agrees to remain in the teaching profession at his or her educational institution for at least 3 years following the completion of work on the grant. Every effort will be made to utilize the Open World Program and other exchange programs to fund overseas travel for the purposes of extended visits to law schools in the United States.

CATEGORY II GRANTS

GRANTS TO LAW SCHOOLS IN SUPPORT OF TEACHERS WHO ARE AWARDED GRANTS UNDER CATEGORY I

Grant Guidelines

1. *Books and Other Materials and Equipment Needed for Producing Teaching Materials* Applicants applying for Category I grants who need materials and equipment to properly produce the materials and courses set out in Category I above may submit applications on behalf of their employing law schools to receive such books, materials and equipment as are necessary to successfully complete the project. Although the applicant will be the individual teacher applicant, all equipment and materials granted under this Category II remain the property of the law school and must be turned over to the law school as soon as work on Category I materials and courses is completed.

- A. *Books and Materials* Funding is available for all books and materials demonstrated to be necessary for the purpose of producing teaching materials as specified in Category I, including books and materials from foreign countries. Also included in this category are subscription fees and other costs of computer databases of legal materials essential for the project.
- B. *Computer Equipment and Programs* All manner of computer equipment and programs needed for word processing in the Russian language may be funded. Also included in this category are the costs of electronic mail and Internet access, if these are demonstrated to be useful in communicating with other scholars or obtaining legal materials on the subject of the grant. Similarly, if a body of law needed for use on the project can most efficiently be obtained in electronic form, then the costs of

subscriptions to computerized data bases is also included.

2. *Video-Taping Equipment for Simulation Courses on Lawyering Skills* Grants for video equipment are available for the use of teachers who submit successful Category I applications for design and implementation of simulation courses for the purpose of taping student performances of lawyering skills for review by students and teachers.

3. *Equipment for Local Publication of Teaching Materials* Since it is contemplated that there will be frequent changes in the law and that the normal publication process is too slow to reflect such changes quickly, it is necessary that Category I teaching materials be updated in a regular basis and published at the law school. For this purpose, applicants under Category I may apply for the provision of Risograph or other high-speed duplication technology to their law school to establish or expand a local publishing capacity. The institution must assure that first priority will be given to duplication of materials prepared under a Category I grant.

4. *Payments to Law Schools for Temporary Replacement Teachers* So that the absence of successful Category I grantee will have the least disruptive effect on the law school, funding is available to defray the costs of hiring a replacement teacher for a teacher who on leave working on a Category I project.

CATEGORY III GRANTS

GRANTS TO LAW SCHOOLS FOR IMPROVING ACCESS TO FOREIGN AND INTERNATIONAL LEGAL MATERIALS

Introduction Grants in this category operate independently of Category I and II grants and may be utilized to the extent deemed appropriate given the amount of money available for funding. This Category III deals with issue of the continued non-availability of foreign and international legal materials in Russian law schools and the prohibitive nature of the cost of supplying such materials by traditional means.

Grant Guidelines

1. *Grants to Law School Law Libraries for Acquisition of Books and other Research Materials on Foreign and International Law.* Support is available to aid law libraries in improving their collections of books and other research materials on foreign and international law, with particular emphasis on commercial law and human rights law. A primary item of this support would be technical assistance by U.S. law professors and law librarians in selection of books and materials. This support includes the cost of books and journal subscriptions (with the libraries to match by paying for cataloging and shelving). It also includes paying for computer databases on CD-ROM, DVD, etc., for installation on the libraries' computers (with the libraries to match by providing computers, either new or existing).

2. *Grants in Aid of Access to Foreign and International Legal Materials on the Internet in*

Electronic Form Grants are available as follows:

A. *Single Grant to Law School for Internet Guide to Foreign and International Legal Materials* One grant or contract will be awarded to a Russian law school to create, with the technical assistance of US law professors and law librarians, a comprehensive online guide to Russian, English, and other language Internet materials on Foreign and International Law. This guide will be in the public domain and hosted at multiple websites, such as the "www.law.edu.ru" website maintained by the Ministry of Education.

B. *Grants to Law Schools for Improved Internet Connectivity* Grants are available to law schools to subsidize the cost of high speed communications lines and Internet Service Providers' (ISP) fees for lines used by students learning to use the Internet for research in foreign and international legal materials and by teachers and students using the Internet to research foreign and international legal materials. Law schools are required to have an adequate number of computers and computer staff and supervision sufficient to ensure: (1) that all upper-class students, graduate students, and instructors have a guaranteed minimum number of weekly hours of access to the Internet; (2) that upper-class students, graduate students, and instructors with a good knowledge of a foreign language have extra weekly hours, and (3) that reasonable restrictions are imposed to prevent overloading the Internet connection with recreational web-surfing.

3. *Grants for Development of Training Modules for Law-Related Computer Training* Grants are available for development of a training module of approximately one month's duration designed to teach students and teachers how to access foreign and international legal materials on the Internet. Materials should in general follow the requirements of Category I grants and thus would include realistic research problems that would require the student to apply computer skills learned. The module may be combined with a larger course or module that teaches the use of Russian law sources either on the Internet or on CD-ROMs. Because of the rapid obsolescence of Internet-related materials, the materials and problems for students must be produced online rather than in the form of printed guides and problems. Technical assistance by US law professors and law librarians may be included in the grant request.

**APPENDIX A: CURRICULUM VITAE
OF TEAM MEMBERS**

WILLIAM BURNHAM

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Teaching Positions:

Professor of Law, Wayne State University Law School, Detroit, Michigan (since 1990); Director, Comparative Criminal Law Project (since 2001); Associate Professor (1986-1990); Assistant Professor (1980-1986)

Assistant Professor of Law (Clinical), University of Michigan Law School, Ann Arbor, Michigan (1977-1980); Director, Clinical Law Program (1979)

Visiting: University of Trento, Italy (Spring 2001); Kwansai Gakuin (Japan) Law Dept. (Spring 2000); St. Petersburg State University-Cleveland State University Summer School in Russia (Summer 2000); Mari-El State University (Russia) (Spring 2000) (taught in Russian); University of Limburg, Maastricht, Netherlands (Spring 1994, 1996); University of Utrecht, Netherlands (Winter 1990, Fall 1992, Fall 1995); University of Michigan Law School (Fall 1993); Russian State Humanities University, Moscow State University Law School and Moscow State Institute of International Relations, Moscow, USSR-Russia (Fall 1991) (taught in Russian)

Teaching Experience:

Courses taught: Comparative Law, Federal Courts; Civil Procedure; Trial Advocacy; Civil Rights Litigation; Evidence; Constitutional Law; Welfare Law; Clinical Law, Civil and Criminal; Introduction to American Law; and Introduction to American Constitutional Law and Legal Process (last two courses were for foreign law students and foreign-lawyer LLM candidates)

Faculty-elected member of Law School Tenure and Promotions Subcommittee (1998 to present); Chair, Committee on International Programs; Director, Partnership Program with Mari State University (Russia) Law School

Education:

Indiana University School of Law (Bloomington) (1970-1973); J.D. (cum laude)

Indiana University (1964-1968); A.B. (cum laude) in Russian; B.S. in Music; recipient of Russian-East European Institute Fellowship for graduate study (1968)

Practice Experience:

Staff Attorney, Michigan Legal Services, Detroit, Michigan, legal services back-up center, civil rights, class action and general constitutional litigation (1975-1977)
Staff Attorney, Legal Aid Society of Kent County (now Legal Aid of Western Michigan), Grand Rapids, Michigan, indigent legal services line office (1973-1975)

Litigation:

United States Supreme Court litigation: lead counsel in *Will v. Michigan Dept. of State Police*, 491 U.S. 58 (1989) (civil rights) (argued); *Green v. Mansour*, 474 U.S. 64 (1985) (11th Amendment) (argued); *Anderson v. Harless*, 459 U.S. 4 (1982) (habeas corpus exhaustion) (per curiam)

Articles and Book Reviews:

The Legal Context and Contributions of Dostoevsky's *Crime and Punishment*, 100 MICHIGAN LAW REVIEW 1227-1248 (2002)
The New Russian Criminal Code: A Window Onto Democratic Russia, 26 REVIEW OF CENTRAL AND EAST EUROPEAN LAW 365-424 (2001) (University of Leiden, Netherlands)
Book Review: Bobotov and Zhigachev, Introduction to the Legal System of the USA, ГОСУДАРСТВО И ПРАВО [STATE AND LAW] (Journal of the Institute of State and Law, Russian Academy of Sciences), 1997, No. 10, p. 117 (in Russian)
"Beam Me Up, There's No Intelligent Life Here": A Dialog on the 11th Amendment with Lawyers from Mars, 75 NEBRASKA L. REV. 551 (1996)
The State As a "Non-Person" Under Section 1983: Some Comments on the *Will* Case and Suggestions for the Future, 70 OREGON L. REV. 1-56 (1991) (with Fayz)
Taming the Eleventh Amendment Without Overruling *Hans v. Louisiana*, 40 CASE WESTERN RES. L. REV. 931-995 (1990)
Separating Constitutional and Common Law Torts: A Critique and a Proposed Constitutional Theory of Duty, 73 MINN. L. REV. 515-581 (1989)
Injury for Standing Purposes When Constitutional Right Are Violated: Common Law Public Value Adjudication at Work, 13 HASTINGS CONST. L. Q. 57-118 (1986)
Aspirational and Existential Interests of Social Reform Organizations: A New Role For The Ideological Plaintiff, 20 HARV. CIV. RTS.-CIV. LIB. L. REV. 153-209 (1985)
Federal Court Remedies for Past Misconduct of State Officials: The Legacy of *Quern v. Jordan*, 34 AM. U. L. REV. 53-106 (1984)

Books, Chapters and Other Publications:

LAW AND LEGAL SYSTEM OF THE RUSSIAN FEDERATION, 2D ED. (Parker School of Foreign and Comparative Law, Columbia University 2000) (with Gennady Danilenko)
INTRODUCTION TO THE LAW AND LEGAL SYSTEM OF THE UNITED STATES, 2D ED (West Group 1999) text for foreign lawyers and law students
СУД ПРИСЯЖНЫХ ЗАСЕДАТЕЛЕЙ [JURY TRIALS] (UNESCO Comm. for Human Rights and Democracy and Moscow Independent International Law Institute 1995) U.S. jury trial procedure and trial advocacy techniques (in Russian)

СУДЕБНАЯ АДВОКАТУРА [Trial Advocacy] (St. Petersburg State University Press 1996) (with Reshetnikova and Proshlyakov) Russian and U.S. trial techniques and teaching methodology, comparative analysis of U.S. and Russian jury trials (in Russian)

СУДЕБНАЯ РЕФОРМА: ПРОБЛЕМЫ ГРАЖДАНСКОГО СУДОПРОИЗВОДСТВА [Judicial Reform: Problems of Civil Litigation], Chapter 5 Class Actions and Chapter 6 Enforcement of Judgments (Ekaterinburg Humanities U. Press 1996) (with Reshetnikova) (in Russian)

American Legal Consultant for Суд Присяжных: Пособие для Судей [JURY TRIALS: JUDGES' BENCH BOOK] (ABA-CEELI and Russian Law Academy, Ministry of Justice, Moscow 1994) (in Russian)

State v. Lawrence Casefile (National Institute for Trial Advocacy 1993) (with Seckinger) mock trial casefile for trial advocacy training (in English and Russian versions)

Invited Addresses and Awards:

"An American Perspective on the New Russian Criminal Procedure Code — A Good Tentative First Step," Moscow State Law Academy, Panel with Professor Paulina Lupinskaya and State Duma Deputy Elena Mizulina (upcoming February 2002)

"Federalism and the U.S. Legal System: Abused Historical Oddity or Essential Guarantor of Choice?" University of Limburg, Maastricht, the Netherlands (April 2001)

J. William Fulbright Program Distinguished Lecturing Chair in Comparative Law, University of Trento, Italy (Spring 2001)

"The Effect of Russian Clinical Legal Education on the Standard Russian Law School Curriculum: Threat or Menace?" Keynote Speech, USIA Conference of Russian Clinical Law Teachers (Novgorod, May 1999) (in Russian)

"Western Assistance in Aid of the Rule of Law in Countries of the Former Soviet Union," Yale Law School Russian and East European Forum, Plenary Session and Panel on Legal Education, Yale University Law School (April 1999)

"A Clash of Legal Cultures: U.S. Law Reform Activities in Russia," Conference on Interaction Between Russian and American Cultures "Reflecting Cross-Culturally," Indiana University Department of Slavic Languages and Literatures, Bloomington, Indiana (February 1997)

"The Russian Jury Trial: Spearhead for Judicial Reforms in Russia," Indiana University Russian and East European Institute, Bloomington (January 1997)

"An American Law Professor's View of Russian Legal Education Reforms," Keynote Address, Conference on Reform of Russian Legal Education for Russian law school deans, professors and organizations of Russian law schools, Moscow (in Russian) (May 1996)

"Russian and U.S. Jury Trials — A Comparative Look," Annual Meeting of the Research Committee on Sociology of Law, International Sociological Association, Tokyo, Japan (August 1995)

J. William Fulbright Foreign Scholarship Program Lectureship, Moscow, USSR-Russia (Fall Semester 1991)

AALS Federal Courts Section, Panel on Governmental Immunity, with William Fletcher (California) and Vicki Jackson (Georgetown), Association of American Law Schools Annual Convention (New Orleans, Louisiana 1989)

Service and Consulting:

U.S. Agency for International Development (AID), Team Leader of four-person team evaluating

and making recommendations on Russian clinical legal education (October-December 2001)

State Duma of the Russian Federation, Committee on Legislation, foreign consultant on the draft Criminal Procedure Code, on invitation of Deputy Mizulina (September 2000 to present)

Director, University Partnership of Mari-El State University Law Department and Wayne State University Law School, funding awarded by U.S. State Dept. (1999 to present)

U.S. Agency for International Development (AID), Moscow, Consultant, Assessment and Recommendations on Future Assistance on Judicial Reform (November 1999); Ukraine, Team Leader and Consultant, Rule of Law Country Assessment (March - April 1999)

American Institute for Legal Education, Ann Arbor, Michigan, teaching summer programs for foreign lawyers, Orientations in U.S. Law and U.S. Business Law for foreign lawyers (Summers 1998 to present)

Russian Foundation for Legal Reform, Moscow, designing and implementing World Bank-funded grants program for reforms in Russian legal education (1996 - 1998)

World Bank, Washington, D.C., Russian Privatization Center, and State Legal Administration of the President of the Russian Federation, Moscow, preparing report and recommendations for World Bank financing of reforms in Russian legal education (Fall 1995)

Constitutional and Legislative Policy Institute (COLPI), Budapest, Moscow, Tashkent, Uzbekistan and Almaty, Kazakhstan, Conference on Active Methodologies for Law Teaching and Comparative Law for law professors from Russia and other CIS countries (May, August, November 1996); Administrative Law (November 1996, October 1997, November, 1999); Civil and Criminal Procedure (May and October 1997); Introduction to U.S. Law (July 1997); Human Rights Summer School for Russian Law Students (August 1996), International Commercial Law and Environmental Law (May 1999) (all taught in Russian)

International Law Institute, Washington, D.C., Legal Education and Active Teaching Methodologies in the United States, lecturing and demonstrating Socratic, problem-based and role-playing teaching techniques used in U.S. law schools to Russian law school deans and teachers (September 1996); The Adversary System and Jury Trials, program for Armenian judges (April 1997) (all taught in Russian)

USAID Rule of Law Project (ARD-Checchi) and National Institute for Trial Advocacy (NITA), developing and teaching trial advocacy courses at St. Petersburg State University Law School, Urals State Law Academy, Saratov Law Academy, Irkutsk State University Law School, Russia (1994-1996); Contemporary Active Teaching Methodologies for Teaching Law (May 1997); Trial Techniques for an Adversary System (role-play and lecture course for prosecutors, Bishkek, Kyrgyzstan) (November 1997) (all taught in Russian)

Moscow Social Academic Foundation, Methodological University, St. Petersburg, Russia, Winter Session, teaching and demonstrating active law teaching methods for Russian law teachers (January 1998) (taught in Russian)

Member of the Executive Committee, Michigan Institute for Continuing Legal Education, Ann Arbor, Michigan (1997-2000); subcommittee assessing Director's performance (1999)

Center for Democracy, Washington, D.C., Jury Trial Follow-On Training (with Russian Federal Judge Sergei Pashin), jury trial training for defense attorneys and court workers (October 1996) (taught in Russian)

Federal Judicial Center, Washington, D.C., training program on jury trials for judges from Russia and 10 other republics of the former Soviet Union, presenting demonstration-lecture on jury trials (August 1992); same for Russian judges and officials (July, August 1993, 1994) (taught in Russian)

American Bar Association Central and East European Law Initiative (ABA-CEELI) advice and

technical assistance to Russian government on jury trial legislation and training of judges, prosecutors and defense attorneys on jury trial procedure (January 1993 to 1995)
University of Michigan Center for Russian and East European Studies (CREES), Research Associate (1992 - present)
Faculty Member, National Institute for Trial Advocacy (NITA) Midwest Regional Training Conference, Northwestern University Law School, Chicago (1987-1996), trial advocacy training for lawyers; Faculty Member, NITA Teacher's Training Notre Dame Law School (1992 and 1994) and Harvard Law School (1995, 1998), training trial advocacy teachers
Lecturer, Trainer and Training Consultant, Legal Services Committee on Regional Training, New Lawyer Training (1979, 1991); Trial Advocacy Skills Training (1981, 1984, 1986, 1989); Federal Practice Training (1981, 1985-1988, 1992, 1995)
BAR-BRI of Michigan Bar Review Course, teaching Michigan and Federal Procedure and Practice (1987-1995)
West Bar Review, teaching Michigan and Federal Procedure (1996-1997)
Educational Leader, Legal Study Tours of USSR (1986, 1987, 1989), People's Republic of China (1988), Greece (1990), leading tours of U.S. lawyers to meet their counterparts in other countries and lecturing on the other countries' legal systems and lawyers
Consultant, Legal Services Corporation, evaluating Legal Services Programs (1978, 1981)

Language: Fluent in Russian

Extracurricular Activities:

Law School: Student Legal Services; clarinetist in Indiana University German Band; Board Member and Principal Clarinetist, Bloomington Symphony Orchestra
Undergraduate: Russian Language Study Tour of the USSR; clarinetist in Indiana University Philharmonic Orchestra; Indiana University Rugby Football Club

Personal:

[REDACTED]

Peter B. Maggs -- Biographical Information

Office Address: University of Illinois College of Law, 504 East Pennsylvania Avenue,
Champaign, Illinois 61820, USA

Telephone: [REDACTED]

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Employment:

Clifford M. and Bette A. Carney Chair in Law, University of Illinois at Urbana-Champaign, 2002-present.

Peer & Sarah Pedersen Professor of Law, University of Illinois at Urbana-Champaign, 1998-2002.

Richard W. & Marie L. Corman Professor of Law, University of Illinois at Urbana-Champaign, 1988-1998.

Acting Dean, College of Law, University of Illinois at Urbana-Champaign, fall 1990.

Professor of Law, University of Illinois at Urbana-Champaign, 1969-1988.

Associate Professor of Law, University of Illinois at Urbana-Champaign, 1967-69.

Assistant Professor of Law, University of Illinois at Urbana-Champaign, 1964-67.

Associate, Harvard Russian Research Center and Research Associate, Harvard Law School, 1963-64.

Fellowships and Visiting Appointments:

Spring Semester 2002. Fulbright Distinguished Chair, University of Trento, Italy.

Spring 1998 - Visiting Professor, George Washington University Law School

January 1995 - present. Consultant for USAID contractors and the World Bank on numerous law reform projects in the former USSR, including legislative drafting and educational projects in Armenia, Belarus, Moldova, Kazakstan, Kyrgyzstan, Russia, and Ukraine.

Prepared draft Civil Code for Moldova now being considered by the Parliament of Moldova.

1995-1999 - Member, Panel of Recommended Arbitrators, International Commercial Arbitration Court of the Russian Chamber of Commerce and Industry

January 1994 - January 1995. On leave from the University of Illinois to serve as Director/Legal Reform Specialist for the Rule of Law Consortium, Washington, D.C., administering a contract from the United States Agency for International Development to support the "rule of law" in the newly independent states of the former Soviet Union.

Fulbright, Lecturer, Universidade Federal de Santa Catarina, Florianopolis, Brazil, May-August 1982.

Guggenheim Fellow, January-December 1979.

Fulbright Lecturer, Moscow State University, Spring Semester, 1977.

ACLS - Soviet Academy of Sciences Exchange Scholar, Novosibirsk, USSR, August 1972.

Senior Fellow, East-West Population Institute, Honolulu, Hawaii, Spring Semester 1972.

ACLS Summer Language Fellowship, Rumania, June-August 1969.

IUCTG Exchange Scholar, Bulgarian Academy of Sciences, Sofia, Bulgaria, June-August 1967.

Fulbright Scholar, Belgrade University, Belgrade, Yugoslavia, January-June 1967.

IUCTG Exchange Student, Leningrad State University [now St. Petersburg State University], Leningrad, USSR, September 1961 - June 1962.

Education:

A.B., Harvard College, 1957; J.D., Harvard Law School, 1961.

Subjects Taught:

Contracts; Sales, Copyright, Trademark & Unfair Competition, Statutory Interpretation, Russian Law.

Foreign Languages:

Fluent in Russian & Portuguese, competent in French; reading knowledge of German, Serbian, Bosnian & Croatian; Bulgarian; Macedonian; Ukrainian; Italian; Spanish; Romanian & "Moldovan".

Major Funded Research Projects Completed:

The Process of Making and Implementing Laws in the Soviet Union in the Gorbachev and Brezhnev Periods, under a contract with the U.S. Department of State, 1988-1989.

Soviet Law Under Gorbachev, under a contract with the U.S. Department of State, 1987-1988.

The Soviet Economy: A Legal Analysis, supported by the National Council for Soviet and East European Research, 1985-1986.

Soviet and East European Law and the Scientific and Technical Revolution, supported by the National Council for Soviet and East European Research, 1979-1981.

Talking Computer Terminals for the Blind, supported by the U.S. Department of Health, Education, and Welfare, 1978- 1979, 1980-1981.

Soviet Law Under Khrushchev and Brezhnev, supported by the Ford Foundation, 1975-1978.

Computer-Based Legal Education, supported by the Council of Legal Education for Professional Responsibility, 1973-1975.

Miscellaneous:

Member, Practicing Law Institute Advisory Committee on Intellectual Property Law, 1996-present.

Member, American Law Institute, Members Consultative Group on Uniform Commercial Code, Articles 2 (Sales), 2Aç(Leases), and 2B (Licenses)

Member, Board of Advisors, Central and East European Legal Materials, 1990-present.

Corresponding Member, International Academy of Comparative Law, 1988-present.

Member, American Law Institute, Members Consultative Group on Restatement of the Law, Third, Unfair Competition, 1987- present.

Member, American Law Institute, 1986-present.

Member, Subcommittee on Law, American Council of Learned Societies--USSR Academy of Sciences Commission on the Humanities and Social Sciences, 1986-1989.

Member, Board of Directors, Center for Computer-Assisted Legal Instruction, 1982-1985.
Parliamentarian, American Association for the Advancement of Slavic Studies, 1978-1983.
Editor, Soviet Statutes and Decisions, 1976-1984.
Consultant on Computer Systems, U.S. Department of Justice, 1979-1981.
Chairman, Committee on Soviet Law, American Bar Association Section of International Law, 1975-1981.
Co-Editor-in-Chief, Bulletin on Current Research in Soviet and East European Law, 1974-1981.
Chairperson, Section of Comparative Law, Association of American Law Schools, 1976-1977.
Member, Advisory Committee on Research on Law and Computer Technology, American Bar Foundation, 1975-1977.
Reporter, Uniform Land Transaction and Uniform Simplification of Land Transfers Act, National Council of Commissioners on Uniform State Laws, January 1974 - August 1976.
Guide, American National Exhibition, Moscow, summer 1959; awarded Medal of Merit of United States Information Agency.

Admitted to practice in the District of Columbia.

Peter B. Maggs -- List of Publications

Books

Translator (with Alexei Zhiltsov) and editor, *The Civil Code of the Russian Federation, 2d edition* (manuscript undergoing final editing).
(With and Roger Schechter), *Teacher's Manual for Use With Trademark and Unfair Competition, Cases and Comments*, 6th ed. (St. Paul, Minn.: West Group, scheduled for publication in 2003).
(with John Soma and James Sprowl) *2002 Supplement to Internet and Computer Law: Cases--Comments--Questions* (St. Paul: West Group, 2002).
The Civil Code of the Russian Federation, Third Part (Armonk, N.Y.: M.E. Sharpe, (2002).
(With and Roger Schechter), *Trademark and Unfair Competition, Cases and Comments*, 6th ed. (St. Paul, Minn.: West Group, 2002).
(with John Soma and James Sprowl) *Internet and Computer Law: Cases--Comments--Questions* (St. Paul: West Group, 2001).
(with A.P. Sergeev) *Intelektual'naia sobstvennost'* ("Intellectual Property") (Moscow: Iurist, 2000). Published on the Internet by the Open Society Institute (Moscow) (supported by the Soros Foundation) at:
<http://www.auditorium.ru/library/soros_books/soros_books_pravo.html>.
Copyright / Statutory Interpretation (Teaching Materials) (Champaign: University of Illinois College of Law, 1998, 1999, 2001)
Translator (with Anna Tarassova and Alexei Zhiltsov) and editor (with Vladimir Nazaryan and Anna Tarassova), *Civil Code of the Republic of Armenia* (Yerevan: Iris, 1999). Published on the Internet by the "Law Reform in Transition States" project at the University of Bremen with the support of "Deutsche Gesellschaft fuer Technische Zusammenarbeit mbH" (GTZ) at:
<http://lex.gtz.de/lexinfosys/LexInfoSys/arm/02/civilcode/civilcode_eng.htm>
Translator (with Alexei Zhiltsov) and editor, *The Civil Code of the Russian Federation*, with

a Preface by A. Makovsky and an Introduction by A. Makovsky and S. Khokhlov (Armonk, N.Y.: M.E. Sharpe, 1997) (prepublished, without the Preface and Introduction in *Soviet Statutes and Decisions*, 1996-1997).

Translator (with Alexei Zhiltsov) and editor, *The Civil Code of the Russian Federation*, with a Preface by A. Makovsky and an Introduction by A. Makovsky and S. Khokhlov (Moscow: International Centre for Financial and Economic Development, 1997).

(With John Soma and James Sprowl), *1996 Supplement to Computer Law, Cases-Comments-Questions*, (St. Paul, Minn.: West Publishing Co., 1996).

The Mandelstam File, the Der Nister File: An Introduction to Stalin-Era Prison and Labor Camp Records (Armonk, N.Y.: M.E. Sharpe, 1996)

(With John Soma and James Sprowl), *Teacher's Manual for Use With Computer Law, Cases, Comments, and Questions*, (St. Paul, Minn.: West Publishing Co., 1992).

(With Glen E. Weston, and Roger Schechter), *Teacher's Manual for Use With Unfair Trade Practices and Consumer Protection, Cases and Comments, 5th ed.* (St. Paul, Minn.: West Publishing Co., 1992).

(With Glen E. Watson, and Roger Schechter), *Unfair Trade Practices and Consumer Protection, Cases and Comments, 5th ed.* (St. Paul, Minn.: West Publishing Co., 1992).

(With John Soma and James Sprowl), *Computer Law, Cases, Comments, and Questions*, (St. Paul, Minn.: West Publishing Co., 1992).

(Translator and co-editor with Robert Sharlet and Piers Beirne), *Stuchka: Selected Writings on Soviet Law and Marxism* (Armonk: M.E. Sharpe, 1988).

(With William E. Butler and John B. Quigley, Jr., co-editors), *Law After Revolution* (New York: Oceana Publications, 1988).

(With O.S. Ioffe), *The Soviet Economy: A Legal Analysis* (Boulder: Westview, 1987).

(With James Sprowl), *Computer Applications in the Law* (St. Paul, Minn.: West Publishing Co., 1987).

(With D.A. Loeber, editor-in-chief, Donald Barry, F.J.M. Feldbrugge, and George Ginsburgs, co-editors) *Ruling Communist Parties and Their Status Under Law* (Dordrecht: Martinus Nijhoff, 1986).

(With S. Chesterfield Oppenheim, Glen E. Weston, and Roger Schechter), *1986 Supplement to Unfair Trade Practices and Consumer Protection* (St. Paul, Minn.: West Publishing Co., 1986).

(With John N. Hazard and William E. Butler) *The Soviet Legal System: The Law in the 1980's* (New York: Oceana Publications, 1984).

(With S. Chesterfield Oppenheim, Glen E. Weston, and Roger Schechter) *Teacher's Manual for Use With Unfair Trade Practices and Consumer Protection, Cases and Comments, 4th ed.* (St. Paul, Minn.: West Publishing Co., 1983).

(With O.S. Ioffe) *Soviet Law in Theory and Practice* (New York: Oceana Publications, 1983).

(With S. Chesterfield Oppenheim, Glen E. Watson, and Roger Schechter) *Unfair Trade Practices and Consumer Protection, Cases and Comments, 4th ed.* (St. Paul, Minn.: West Publishing Co., 1983).

(With Gordon Smith and George Ginsburgs, co-editors) *Soviet and East European Law and the Scientific-Technical Revolution* (New York: Pergamon, 1981).

(With S. Chesterfield Oppenheim and Glen E. Weston) *1981 Supplement to Oppenheim and Weston's Unfair Trade Practices and Consumer Protection* (St. Paul, Minn.: West Publishing Co., 1981).

(Translator) *Pashukanis: Selected Writings on Marxism and Law*, edited by Piers Beirne and

Robert Sharlet (London: Academic Press, 1979).

(With Donald Barry, F.J.M. Feldbrugge, and George Ginsburgs, co-editors) *Soviet Law After Stalin, III: Soviet Institutions and the Administration of Law* (Alphen aan den Rijn: Sijthoff & Noordhof, 1979).

(With Donald Barry and George Ginsburgs, co-editors) *Soviet Law After Stalin, II: Social Engineering through Law in the USSR* (Alphen aan den Rijn: Sijthoff & Noordhof, 1978).

(With Donald Barry and George Ginsburgs, co-editors) *Soviet Law After Stalin, I: The Citizen and the State in Contemporary Soviet Law* (Leiden: A.W. Sijthoff, 1977).

(With John N. Hazard & William E. Butler) *The Soviet Legal System*, 3d ed. (Dobbs Ferry, N.Y.: Oceana Publications, 1977).

(With John N. Hazard & Isaac Shapiro) *The Soviet Legal System*, 2nd ed. (Dobbs Ferry, N.Y.: Oceana Publications, 1969).

(With Harold J. Berman) *Disarmament Verification Under Soviet Law* (Dobbs Ferry, N.Y.: Oceana Publications, 1967).

Laws, Monographs, Translations, and Technical Reports

"Soviet Health Law" (400 pages of selected and translated legislative materials constituting Volume XX of Soviet Statutes and Decisions).

"Soviet Economic Law Reform" (400 pages of selected and translated legislative materials constituting Volume XIX of Soviet Statutes and Decisions).

"Soviet Higher Education Law" (400 pages of selected and translated legislative materials constituting Volume XVIII of Soviet Statutes and Decisions).

"Soviet Social Welfare Law" (400 pages of selected and translated legislative materials constituting Volume XVII of Soviet Statutes and Decisions).

"Soviet Labor Law" (800 pages of selected and translated legislative materials constituting Volumes XV and XVI of Soviet Statutes and Decisions).

"Soviet Copyright Law" (400 pages of selected and translated legislative materials and judicial decisions constituting Volume XIV of Soviet Statutes and Decisions).

"Soviet Patent Law" (400 pages of selected and translated legislative materials constituting Volume XIII of Soviet Statutes and Decisions).

Law and Population in Eastern Europe. Medford, Mass.: Fletcher School of Law and Diplomacy, Law and Population Monograph Series, No. 3 (1977).

Reporter (with Marion Benfield), Uniform Simplification of Land Transfers Act, Uniform Laws Annotated, Vol. 14, 209-349.

Reporter (with Marion Benfield, chief reporter), Uniform Land Transactions Act, 1975 Official Text with Comments, (St. Paul, Minn., West Publishing Co., 1976).

"Report of Research on Computer Model of the Legal Regulation of the Communist Economic Enterprise," American Philosophical Society Yearbook 1972 (Philadelphia, 1973), p. 496.

Representation of National and Regional Political Units in a Computerized World Future Model. Honolulu: East-West Population Institute, East-West Center, Worker Paper No. 27, October 1972.

Legal regulation of Population Movement to, from and within the United States--A Survey of Current Law and Constitutional Limitations. Honolulu: East-West Population Institute, East-West Center, Working Paper No. 25, June 1972.

Law and Population Growth in Eastern Europe. Medford, Mass.: Fletcher School of Law and Diplomacy, Law and Population Monograph Series, No. 3 [1972].

"A Proposal for Cooperation . . .," Second Symposium on the coordination of Research

Concerning the Legal Systems of Central and Eastern Europe, Strasbourg, 1971. Document AS/Coll. RSJ (71) 17.

(With R.T. Chien and F.A. Stahl) *New Directions in Legal Information Processing*. Urbana, Ill.: University of Illinois Coordinated Science Laboratory, Report R-538, December 1971. Nonmilitary Secrecy Under Soviet Law. RAND Corp. P-2856-1, 1964.

Articles

"The '.us' Internet Domain," *American Journal of Comparative Law*, Vol. 50 Supplement (2002), pp. 297-318 ; preliminary version at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=283908

"*The Process of Codification in Russia: Lessons Learned from the Uniform Commercial Code.*" *McGill Law Review*, Vol. 44, No. 2 (August 1999), 281-300.

"The Impact of the Internet on Legal Bibliography," *American Journal of Comparative Law*, Vol. 46, Supplement 1998, pp. 665-675.

"Civil Law Reform and Privatization in the Newly Independent States," *Rule of Law Consortium Newsletter*, Spring 1998, pp. 3-4.

"Consumer Protection on the Internet," *Ajuris*, March 1998, pp. 105-112. (This is a paper presented at the First Interamerican Congress of Consumer Law.)

"The Russian Courts and the Russian Constitution," *Indiana International and Comparative Law Review*, Vol. 8, No. 1, pp. 99-117 (1997) (This is an expanded version of the Third John N. Hazard Lecture at the Association of the Bar of the City of New York.)

"The Mutual Restoration of Russian and United States Copyright," *3 Parker School Journal of East European Law* 305-324 (1996).

"The Right Arbitration Forum Can Make the Difference Between Winning and Losing Disputes," *Russian Petroleum Investor*, June/July 1996, pp. 71-73.

"Russia's New Production Sharing Law Provides for Arbitration, But is Hampered by Politics," *Mealey's International Arbitration Report*, May 1996; reprinted in *Mealey's International Arbitration Review* 1996.

(With Robert Sharlet) "Reforming Legal Education in the Newly Independent States," *Rule of Law Consortium Newsletter*, Winter/Spring 1996, pp. 1-3.

"The Uniform Simplification of Land Transfers Act and the Politics and Economics of Law Reform," *20 Nova Law Review* 1091- 1093 (1996).

"Industrial Property in the Russian Federation," in G. Ginsburgs et al., eds., *The Revival of Private Law in Central and Eastern Europe* (Leiden: Kluwer, 1996), pp. 377-90.

"The Russian Constitutional Court's Decisions on Residence Permits and Housing," *2 Parker School Journal of East European Law* 561-582 (1995).

"Russian Commercial Courts Expand Jurisdiction Over International Business Disputes," *International Practitioner's Notebook*, August 1995, pp. 20-21.

"Legal Databanks in the United States and their Use in Comparative Law," *22 International Journal of Legal Information*, 214-227 (1994).

"The Non-Role of Financial Intermediaries in Voucher Privatization in Russia, October 1992-February 1993," in Hans Smit & Vratislav Pechota, eds., *Privatization in Eastern Europe: Legal, Economic, and Social Aspects* (Irvington-on-Hudson: Transnational Juris Publications, 1994), 104-107.

"Overcoming Legal Obstacles to Doing Business in Russia," in *Law in Russia* (Donald W. Treadgold Papers, No. 101, 1994), 18-27.

"Importing Russian Intellectual Property; the Interaction of Russian and United States Law," *1 Parker School Journal of East European Law* (1994).

"The Use of Expert Systems in Comparative Law," United States national report prepared for the XIVth International Congress of Comparative Law, *American Journal of Comparative Law, Supplement 1994*, 801-812.

"International Trade and Commerce" in the proceedings of a conference on the work of Harold J. Berman, *42 Emory Law Journal*, 449-473 (1993); reprinted in Harold O. Hunter, ed., *The Integrative Jurisprudence of Harold J. Berman* (Boulder: Westview Press, 1996), pp. 51-74.

"Russian International Arbitration Legislation, *International Arbitration Report*, Nov. 11, 1993, (Vol. 8, #11), pp. 16-18.

"The Role of Publishing Houses in Developing Legal Research and Publication," Académie internationale de droit comparé- International Academy of Comparative Law, *Rapports Généraux XIIIe Congrès international Montreal 1990 XIIIth International Congress General Reports* (Cowansville, Québec: Yvon Blais, 1992), 961-967.

"Legal forms of doing business in Russia," *North Carolina Journal of International Law and Commercial Regulation*, Vol. 18, No. 1, pp 173-192 (1992).

With Leonid P. Malkov, "Protecting Intellectual Property in Russia," *Research-Technology Management*, Jan.-Feb. 1993 (Vol. 36, No. 1), pp. 15-16.

"New Russian Intellectual Property Legislation," *Mealey's Litigation Reports: Intellectual Property*, Dec. 28, 1992 (Vol. 1, #6), pp. 43-47.

"Substantive and Procedural Protection of Enterprise Rights," in Donald D. Barry, ed., *Toward the "Rule of Law" in Russia; Political and Legal Reform in the Transition Period* (Armonk, M.E. Sharpe, 1992), pp. 277-290.

Translator, "Soviet Enterprises on the Difficult Path to a Market Economy," by V.P. Mozolin, in Donald D. Barry, ed., *In Search of the Law Governed State: Political and Societal Reform Under Gorbachev* (1992).

"The Ministry of Finance," in Eugene Huskey, ed., *Executive Power and Soviet Politics; The Rise and Decline of the Soviet State*, (Armonk, M.E. Sharpe, 1992), pp. 129-142.

"Legal Rights of the Handicapped in the USSR," in *The Emancipation of Soviet Law [Law in Eastern Europe No. 44]*, 1992, pp. 249-255.

"Developments in Arbitration Law in Russia, Ukraine, and Kazakhstan," *International Arbitration Report*, Nov. 1992, pp. 16- 18.

With Leonid P. Malkov, "Telfonye brokery." *Delovoi mir*, Sept. 18, 1992, p. 15.

"Taking the 'Poison Pill': A Commentary on a Case Study," *Soviet Economy*, April-June 1992 (Vol. 8, No. 2), 158-163.

"Enforcing the Bill of Rights in the Twilight of the Soviet Union," *1991 University of Illinois Law Review* 1049-1063.

"Legal Forms of Doing Business in Russia," *18 North Carolina Journal of International Law and Com. Reg.* 173-192 (1992).

"Ownership Rights." In Michael P. Claudon and Tamar L. Gutner, *Investing in Reform: Doing Business in a Changing Soviet Union* (New York: New York University Press, 1991), pp. 155-169.

"Judicial Activism in the USSR." In Kenneth M. Holland, ed., *Judicial Activism in Comparative Perspective* (Houndmills: MacMillan, 1991), pp. 202-214.

"Post-Soviet Law: The Case of Intellectual Property Law." *Harriman Institute Forum*, Vol. 5,

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- Research at College of Law University of Iowa (Iowa, USA) from August to November 1995.
- Legal Studies Department of Central European University (Budapest, Hungary) from July to August 1995.
- Law Faculty of Moscow State University named Lomonosov (Post-graduation) from 1990 to 1994. Candidate of Judicial Science.
- Law Faculty of Moscow State University named Lomonosov (Moscow, Russia) from 1985 to 1990. Lawyer. Graduated with excellence.

Professional Experience

- Associate Professor (Dozent) of Law of the State University named Lobachevsky, Nizhny Novgorod, Russia from 2000 to present time. Duties included teaching Law and Practice of the European Court of Human Rights.
- Consultant of the Abt Associates Inc. from November to December 2001. Duties included an assessment of clinical legal aid programs in the Russian Federation and suggesting possibilities for expanded involvement of such clinics in civil rights or human rights work.
- Visiting Fellow at Law Faculty of the University of Amsterdam from April to July 2000.
- Visiting Fellow at Center for International and Comparative Law of the University of Baltimore School of Law from August to November 1999. Duties included research and study American Legal Education System .
- Consultant of the Russian Foundation for Legal Reform from June 1998 to 1999.

Duties included work at Law Faculty Krasnoyarsk State University and Law Institute Irkutsk State University on issues related to legal reform in Russia on behalf of the World Bank (IBRD).

- Dean, Head of Department of Public Law, Associate Professor of the Volzhskaya State Academy from June 1996 to December 1999.

Duties included teaching Comparative Constitutional Law, Introduction to US Legal System.

- Visiting Professor at College of Law of University of Iowa from August to November 1995.

Duties included research, study case-teaching method and presentation a few lectures in course Comparative Constitutional Law Prof. Adrien K. Wing.

- Associate Professor of the Law Faculty University of Nizhny Novgorod from 1994 to 1997.

- Lecturer/Instructor of Law Faculty of Moscow State University named Lomonosov from 1990 to 1994.

Languages

Russian: native speaker

English: excellent

French: good

Professional awards and scholarships

- 2000/2002: Fellowship Civic Education Project

- 2000: Fellowship in Tempus-Tacis Project by the European Commission.

- August-November 1999: Fellowship in Contemporary Issues Program of USIA and IREX.

- August-November 1995: Fellowship of American Bar Association.

- 1986-1987: Scholarship of the Scientific Council of Moscow State University.

List of the most important publications (complete list is included 29 items)

1. Reform Russian Legal Education System. Personal

Experience. (In English). //Legal Education in the postcommunist world: training legal minds in transition societies. Collected articles. Moscow. 2002. 2. Presidential System of Separation of Powers in the USA. // Gosudarstvo i pravo. 1999. N 3. 3. Private life: The most important restrictions and reasons in the USA. // Siberian Law Herald. 1999. N 2(5). 4. Semi-presidential System of Separation of Powers in France. // Pravo i Politika. 2000. N 1. 5. Right to Privacy. // Theses of speech at "Round table" of the Journal of Russian Academy of Science 'Gosudarstvo i pravo' and international conference "Principles, limits, foundations of limitation of human rights and freedoms in accordance with Russian legislation and international law". Gosudarstvo i pravo. 1998. N 8. 6. Methods of interpretation of the Constitution in activity of the Supreme Court of the USA. // Gosudarstvo i pravo. 1997. N 10. 7. Right to Die. // Siberian Legal Herald. 1998. N 3(3). 8. A. Blankenagel. "Childhood, adolescence, youth" of the Russian Constitutional Court. // Gosudarstvo i pravo. 1998. N 4. 9. Parliamentary System of Separation of Powers in the UK. // Pravo i Politika. 2000. N 6..

10. The System Separation of Powers is a base of Constitutionalism. Monograph. N. Novgorod. 1997.

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Moscow State University named after M.V.Lomonosov, Law degree, diploma
magna cum laude *1981 – 1986*

San Diego State University, San Diego, California, USA.

A short term research scholar, observation of a US legal system. *October 2002 - present*

Giving a series of presentations on Russian legal system, sharing own legal experience with the system during 14 years of practising law in Russia. As a part of the program working with Federal Defenders Office in San Diego, observing Federal Court and State Court trials and US Attorney’s office investigation process.

Work Experience

American Bar Association Central European and Eurasian Law Initiative, ABA CEELI

Directing Attorney for the Commercial Law Project in Russia. *July 1999 – Sept 2002*

The first Russian attorney who took over the whole project after the American predecessor in CEELI’s office overseas. Reporting directly to the Director of ABA CEELI

Organized two major all-Russia conferences in 2001-2002. The first conference on problems of reimbursement of indirect taxes from the budget and violation of constitutional rights of small and medium sized businesses (November 2001) and a follow-up roundtable on the same topic eventually have resulted in several important rulings of the Russian Constitutional Court. Another conference on criminal liability for tax violation (June 2002) resulted in the resolution passed by the participants and draft changes to certain existing criminal legislation

Participated in CEELI personnel training sessions on NGO development, strategic planning, fundraising, monitoring, public relations, conflict prevention, office administration

Delivered to the group of American undergraduate students from San Diego State University, California, a presentation on the CEELI activities in Russia, results of all-Russia conferences, conducted by CEELI, the Russian criminal justice system as well as the forthcoming changes.

Launched the Association of Commercial Law Development (ACLD), a non-profit organisation of Russian legal professionals, to unite legal professionals and to assist in facilitating legal reforms in Russia

Chief Editor of Commercial Law Bulletin (the ABA CEELI monthly journal for legal professionals reflecting the most significant commercial law developments in Russia as well as important events of the Association - ACLD)

KOLLEGIA, a monthly legal journal for legal professionals. A member of the Experts' Board. Prepared interviews, edited several issues. *Sept.2001 - present*

Moscow Regional Collegium of advocates, joined as a qualified member.

Sept.1995 - present

A defence attorney in criminal trials. Represented the interests of Russian and foreign businesses in state arbitration court proceedings. In July 1996 participated in IBA (International Bar Association) conference "Russia: Economy and Law in the period of transition".

Trust-Capital Insurance Company, a Chief of the Legal Department.

Sept.1994 - Sept.1995

IZOL Brokerage company, a Legal Counsel *Feb.1992 – Sept. 1994*

Provided legal support for one of the first successful privatisation of the large undertakings in the Moscow region, that eventually enabled the company to acquire assets on extremely favourable conditions. Provided legal support for LOGOVAZ company concerning the first auction of foreign cars in Russia in 1994, at the time when there was no specific legislation on the matter.

The State Prosecutor's Office, a Supervising Attorney *Aug 1986 – Feb 1992*

Supervised law application by organizations and individuals in economic, judicial, and human rights areas at the time of Gorbachev's reforms, acted as a Public Prosecutor in civil and criminal trials

Key Points

- Languages:** Russian, English (fluent), French (conversational)
- Character:** team-player, extrovert, strong organizational skills, inventive, adaptable, sociable, persistent
- Membership:** American Bar Association, Moscow Regional Collegium of advocates
- International Experience:** ABA CEELI in Russia, workshops in Croatia, Bosnia, Bulgaria, Ukraine. International conference of International Bar Association, July 1996. San Diego State University scholar. Leuvan La Neuve University in Belgium, French course.
- Computer Skills** Word, Excel, Internet, Group Wise
- References** available on request

APPENDIX B

A GENERAL OUTLINE OF RUSSIAN LEGAL EDUCATION

This summary outline is provided as background for readers who may not be familiar with the Russian legal education system. It also states some opinions of the team with regard to issues in Russian legal education that are probably not remediable through donor-sponsored funding programs of the small size that are now being considered. Following it in Appendix C is a separate statement by one of the team members, Professor Vladimir Luzin, who is himself a full-time law teacher at a major Russian state university law school. This separate statement sets out his views on a wide range of issues in Russian legal education that should be of interest to readers who have concerns and interests beyond what can be remedied by the grants program proposed here. These views also suggest the correctness – and serious need for the focus of the grants proposed here – faculty and curriculum development.

In addition to these documents, readers may also wish to consult a recent article on Russian legal education that collects many sources and is focused on the issue of U.S. aid to Russian legal education, Jane M. Picker and Sydney Picker, Jr., *Educating Russia's Future Lawyers: Any Role for the United States?*, 33 *Vanderbilt Journal of Transnat'l Law* 17 (2000). Another good recent, though unpublished, overview in English is Alexei Trochev, *Legal Education in Russia*, 7th Conference of the International Society of the Study of European Ideas, University of Bergen (17 August 2000).

B. Structure and Regulation of Legal Education

(1) General Characteristics

Russian legal education, like that in most of the world outside the United States, is undergraduate. Thus, students enter law school at 17 or 18 and graduate either 4 or 5 years later, depending on their degree program. The legal education system, like the legal system itself, was largely copied from the model in continental Western European countries of the Romano-Germanic or civil law tradition.

Legal education in Russia is very popular, perhaps having even assumed cult status. But beyond the herd instincts of the uninformed, there are serious objective reasons for the growth in interest in law. In Soviet times, there were relatively very few lawyers or law schools, and the need for lawyers was modest. Today, in Russia's effort to establish a vigorous economy and business climate and to move toward a "rule of law state," many more lawyers and law schools to train them are needed. The explosive growth of legal education is described by Trochev:

According to the Russian Ministry of Education, in 1986 there were about 100 law schools in Russia (all of them public). In 1995, there were over 170 law schools (113 of them public), and in 1999, Russia had 295 law schools (143 of them public) (Marchenko 1999:222). More than half of these law schools are newly established educational institutions. Most of them are affiliated with already existing universities and institutes. In 1999, the Russian Association of Law Schools had 125 members (56 of them public) (*id.*:223). Russian public law schools trained 73 220 students in 1994, 111 438 students in 1995 and 320 000 in 1999. The number of law students

studying in private law schools also grew quickly from 50 445 in 1995 to 104 000 in 1999 (*id.*; Petrukhin 1996; Topornin 1996).⁹

At the present time there are 271 accredited law schools in Russia,¹⁰ but many other licensed, but unaccredited schools.

A new law school must first have a license to open. Licenses have been given out relatively liberally. As Dean Sukhanov, the head of the Ministry's academic council for advice on licensing issues, told us, "MinVUZ [Ministry of Education] issues licenses; we do expert examinations. If we say 'yes,' MinVUZ always says 'yes.' If we say 'no' – often MinVUZ says 'yes'."

However, to be able to offer the "state diploma" in law that is necessary to work as a lawyer in most settings, a law school must be accredited. Accreditation is awarded for five years and renewed for a like period for most public law schools, although some of the new private law schools are renewed for only three years at a time. While public law schools that were in existence in the early 1990s have been accredited for years and accreditation has for them been a relatively uncontroversial issue, the growth of a new generation of both public and private law schools since that time has raised the question of what characteristics of an institution are essential for a good legal education. For new public schools attached to existing state institutions, this process is considerably easier than for private ones. This is because of the requirement that a new applicant for accreditation have graduated three classes before it can receive accreditation. Thus, a private school that offers the 4-year bachelor's degree gets accreditation only after 7 years of existence, while public institutions need not wait as long.¹¹ Unaccredited students or graduates who want the standard state diploma usually seek to transfer to an accredited institution.

As discussed below, the explosion in the numbers of law schools, law students and law graduates raises serious questions about the quality of legal education that the Ministry of Education is only now beginning to deal with. There are indications of a new policy of the Ministry to begin to crack down. Some has estimated that "up to 80 percent of non-governmental and 30-40 percent of governmental institutions of higher education take money from students for a degree, but without giving them the necessary education."¹² As the cited article notes, the Ministry of Education has launched a new front in the struggle to close down marginal public and private institutions of higher learning, the first among them the new law schools. The article describes lawsuits by the ministry shutting down two law schools that were not licensed.

The people in charge of at least one of the private schools we visited, St. Petersburg Institute of Law, complained that its accreditation and reaccreditation process have been

9 Aleksei Trochev, "Russian Legal Education," Paper Delivered at 7th CONFERENCE OF THE INTERNATIONAL SOCIETY FOR THE STUDY OF EUROPEAN IDEAS UNIVERSITY OF BERGEN (17 August 2000).

10 Accredited Institutions of Higher Learning Training in the Specialty 002100 and/or 521400 "Law," supplied by the Russian Foundation for Legal Reform on September 22, 2002.

11 Trochev, *supra*, p. 3.

12 Anton Zverev, "Khalturschchiki na nive znanii" ["Hacks in the Field of Knowledge"], *Rossiiskaya Gazeta* (January 9, 2003).

marked by lack of clarity in the standards that it must meet and thus the result has been vague exhortations to improve without any indication of any specific deficiencies to be remedied. And even clear deficiencies did not prevent its students from scoring well on examinations given by a visiting accreditation team. The institute was visited by a commission that, after considerable initial reservations, finally approved its re-accreditation for three years – primarily on the strength of its students’ performances on the exams administered by the commission. Clearly the question of what it takes to have a good accredited law school is one that the Ministry is still struggling with. One might argue that if students can pass exams administered by an independent commission, that should be enough. On the other hand, most would point out that faculty-student ratio, educational level and scholarly productivity of faculty, library facilities and the physical plant should count for something. It should be mentioned that the Institute’s main building is one it shares with a local high school and it is only after 3:00 PM that it has full access to the building, including its library, which is in the back of a high school classroom that is otherwise actively used until that time. Law students must use the public library downtown to do research. Whatever role the physical plant plays in the accreditation calculus, the accreditation commission that visited the Institute agreed that the Institute simply has to find better quarters.

(2) The Legal Framework of Russian Legal Education

The legal regulation of Russian legal education has largely the same structure it did in Soviet times. Some elements of self-governance were introduced by amendments to the laws on education in 1992, which were retained in the 1996 amendments. But strict control over the content and methods of legal education is retained by a committee of the Ministry of Education. The specific legal education standards are drafted by a committee made up of the deans of major law schools, currently headed by Dean Sukhanov of Moscow State University. Direct state regulation of this sort is unlike the United States, where regulation takes the form of standards promulgated by private non-profit associations, primarily the American Bar Association (ABA) and the Association of American Law Schools (AALS), which in turn are simply adopted by states through the requirement (true in most all states) that a person who sits for the bar exam be a graduate of an ABA-approved school.

Most importantly for the content and methods of educating lawyers in Russia, there is no input from practicing lawyers, except perhaps as might be incidentally communicated to deans of law schools by their graduates or by their teachers who might be practicing law on the side. Certainly the notion that an organization of practicing lawyers – such as the American Bar Association – would be in charge of legal education would be a shocking idea to Russian legal educators. While there are committees appointed to oversee the accreditation of law schools, these committees are invariably committees of academics, not practicing lawyers.

The first three years of law school are largely spent on general subjects – foreign language, Russian language, Russian history, culture studies, economics, political science, philosophy, sociology, and even physical education and higher mathematics and natural sciences. In the third year, students begin to take more law courses and are asked to choose among some four or five concentrations starting in their third year. There is some discretion among schools to choose among the specializations it offers, but the traditional ones have

been civil law, public international law, criminal law, administrative and financial law. The exact number and type of concentrations varies somewhat among schools.¹³ Other than these general choices of concentration, there are few completely elective courses. Professor Ajani counted 2% optional courses.¹⁴

(3) Regulation by the Ministry of Education

When amendments to the education law in 1992 and 1996 were discussed, the notion of perhaps letting law schools experiment and develop in their own directions for a while before settling on what the state requirements should be. However, this brief flirtation with anarchy was quickly dropped as the opposite policy of maintaining central control from the top quickly overtook any such notion of letting Russian legal education define own destiny. Part of the need for strict control over the new face of Russian legal education was justified by a perceived need to assure quality of legal education at the many new public and private law schools that appeared during this time. Several revelations of poor quality of those law schools came to the fore in 1995, and the Ministry reacted by tightening standards and enforcement of them.

The Ministry of Education has set uniform and strict, if vague, curriculum standards. In each category of subject matter, there are specific numbers of total hours of class time and the content of each subject matter. For example, the content of the required 216 hours devoted to Labor Law is specified as follows:

Employment relationships of workers and the relationships arising out of them as a subject of labor law; method and system of labor law; basic principles of labor law; sources of labor law; subjects of labor law; understanding of employment relationships; the labor collective; rights and role of labor unions; understanding the collective bargaining agreement; legal regulation of job placement; understanding of the employment agreement; types of labor agreements; contract, work time and break time; methods of legal regulation of wages; wage rate system for paying employees and service providers; wage payment systems; staff regulations; work discipline; liability for compensation of parties in the employment relationship; protection of labor; individual and collective labor agreements; labor-management conflicts and methods of their resolution; supervision and control over compliance with labor laws.¹⁵

This is in general contrast to course content in the U.S., which tends to be dictated more – if “dictated” is the word – by tradition and the table of contents of the several possible choices of privately published textbooks available on the market that the teacher might choose to use.

The absence of much room for electives makes curricular experimentation impossible

13 See “Top Russian Law Schools,” www.lawschool.hotmail.ru (1998-2002), accessed October 25, 2002.

14 Gianmaria Ajani. 1997 “Legal Education in Russia: Present and Future- An Analysis of the State Educational Standards for Higher Professional Instruction and a Comparison with the European Legal Education Reform Experience,” *Review of Central and East European Law*, 23:3/4, 267-300 (1997).

15 State Educational Standards for Higher Professional Education: Specialty 021100 – Law – Qualification – Lawyer (Moscow 2000).

except within narrow limits. And while the components of the legal subject matter categories, such as the one from labor law quoted above, might be read somewhat broadly, the sub-topics within subject-matter areas disclose some rather major omissions and instances of underemphasis. In general, there is an overemphasis on history and theory, and an underemphasis on judicial practice and the details of contemporary legal problems.¹⁶ As an example of a rather skewed subject-matter description, 240 hours of “Constitutional (State) Law of Russia” are required and there are 22 subtopics within it. Of these 22 subtopics, only one concerns the “constitutional rights, freedoms and obligations of Russian citizens, their realization and protection” – and this includes coverage for the “obligations of Russian citizens” as well as their “rights” and “freedoms.” By and large, the subtopics concern governmental structures and election law. And, while the state standards require that 144 hours be devoted to “Constitutional Law of Foreign Countries” and 132 hours to “International Law,” there is very little space devoted to comparative protection of individual rights or to international human rights standards.

The legal educational standards require that there be a certain number of hours of exposure to “practice.” This is by way of mandatory internships, called “praktika,” that involve students spending time in a procurator’s office, the courts or an advocate or notary’s office. However, these internships are rarely of much use, as busy practitioners do not have time to try to teach the students anything and would rather not have them underfoot. One student reported that when he showed up for his internship at the procurator’s office, the procurator offered him a deal – the procurator would sign his slips saying he had been there if he promised not to return.

In terms of practice education, clinics have been a rare bright light for those few students who have access to them. They also fulfill a serious need for legal assistance among that large segment of the population that needs legal assistance, but cannot afford it. However, as an educational innovation, clinics cannot be counted as much of a success. They are highly labor intensive and expensive and so are able to reach only between 1% and 3% of the student body. They have failed to get themselves accepted as a regular part of the curriculum – except to count them as “praktika.” In other words, they are valued not more than the casual passive observation involved in an internship. Given its non-recognition as a course, students’ clinical work must be done on their own limited time.

Given the above, it is no wonder that in one student survey, law students ranked their degree of preparation for law practice at 3.9 on a 10-point scale.¹⁷

(4) Efforts at Self-Regulation or Influence on Regulation

With AID assistance in 1996, an association of Russian law schools was created on the model of the AALS in the U.S. Officials from the AALS even attended the first meeting of the association and signed a cooperation agreement. The primary moving parties behind the Russian association were St. Petersburg State University Law Faculty and the Urals State

¹⁶ See Gianmari Ajani, “Legal Education in Russia: Present and Future- An Analysis of the State Educational Standards for Higher Professional Instruction and a Comparison with the European Legal Education Reform Experience,” *Review of Central and East European Law*, 23:3/4, 267-300.

¹⁷ Trochev, *supra*, p. 5.

Law Academy. The idea was that all the quality law schools would join the association and it would generate standards for legal education, would operate as a near unanimous voice of legal educators and would provide services for its members and their teachers by holding academic conferences and other collective actions in the interest of its members. There was the thought that perhaps it could eventually perform a self-regulating function by working closely with the Ministry of Education. However, almost immediately a rival organization headed by Moscow State University Law Faculty was formed and, while there has been some talk of combining the two, the rift continues to this day.

Moreover, in a throwback to Soviet times, both organizations have tended to be associations – not of whole law schools – but of the deans and other administrators of those law schools. Certainly, in neither of the competing associations has there been any move to sponsor substantive programs for teachers or other services that might be useful for their members. Nor have they made any move toward otherwise seeking the support of teachers in order to enlist them in efforts to self-regulate or to improve legal education. Certainly, a prerequisite to any such activities has not been satisfied, since none of the members of either association has appeared to be willing to donate any financial resources to fund the association. Instead, they seem to be waiting for funding to appear from donors or somewhere else. As Dean Kropachev of St. Petersburg State observed, “there are no associations of law schools, only names of organizations, which are trotted out when needed for use in lobbying efforts, but otherwise have no real significance.”¹⁸ It is noteworthy that Dean Sukhanov affixes the name of his “Federal Association of Law Schools” to as many of the products of his council within the Ministry of Education as he can. The association is not listed on the state standards for legal education themselves, but it is listed at the end of the “model curriculum” developed by Sukhanov’s group and approved by the Ministry.¹⁹

As noted later, the battle over whether law schools will control their own destiny may be reaching a new stage, as law schools become less dependent on government funding for their operations. However, so far, law schools have not attempted to wrest control from the Ministry of Education.

(5) Other Barriers to Reform

Beyond the Ministry’s close control of curriculum and the failure of law schools to take any real leadership role, there three other serious barriers to innovation in Russian legal education that should be mentioned.

The first is the lack of time and incentive for teachers to innovate. Indeed, teachers do not have time to do anything other than teach the required courses that are assigned to them. Because of their low salaries (Trochev reports \$30 a month in 1999), they must work several other jobs – mainly practice or teaching in other law schools – in order to get by. This leaves no time at all for putting together new courses, writing books or teaching materials, or experimenting with new teaching methods. Most importantly, this kind of work schedule

¹⁸ Interview on January 13, 2003 by the Team.

¹⁹ See, e.g., the model curriculum issued by the Ministry:

<http://www.dvgu.ru/umu/gosstand/new/uchplan/spec/021100.htm>.

leaves little time or energy for lobbying with administrators to permit them to make changes in the curriculum or teaching methods.

The second is the fact that upwards of 90% and in many cases 100% of teachers at the established state law schools – which should be in leadership positions in legal education – are graduates of that very law school. This produces, in general, a very stagnant atmosphere and a failure of imagination of anything different. The natural tendency is simply to teach exactly the same way that their teachers did – and often to read the very same lectures that their teachers did. This natural tendency is reinforced by the fact that the new teacher is often under the supervision of their former teacher and does not have time to make any changes anyway. As noted both here and by Mr. Luzin in his separate report, the supervision of teachers in these departments within the law faculty by their superiors is quite close.

Third, the prime motivation for getting better – competition between law schools for students – is absent. This is the natural result of the admissions process (discussed below) which requires that most law school applicants appear personally before an admissions committee for an oral examination. There is no standardized admissions test (such as in the U.S.) that students can take and then use their scores to “shop” for their preferred law school – nationwide if they like. Thus, Russian law schools have no great incentive to do any more than is necessary to meet the local competition, which in the case of the established state schools, is probably a few clearly inferior private and often unaccredited law schools. With legal education in great demand, the oral admissions process results in a “captive audience” of local applicants who as a practical matter cannot go to law school anywhere else.

Despite the Ministry straitjacket and other barriers to innovation, our on-site visits and review of the answers to the questionnaires reveal at least some development of new courses. And most of them are in the directions that Russian legal education should be progressing, as set out in the main Report. Among the new courses that have been introduced at some of the schools surveyed were Communications Skills for Lawyers, Trial Advocacy, Canon Law, Antitrust Law, Protection of Human Rights, Practice in the European Court of Human Rights, Investigation of Computer Crime, Enforcement of Judgments, International Commercial Arbitration, Law of Mortgages, Real Estate Contracts, Comparative Civil Law and Procedure, Recovery for Personal Injuries, and Intellectual Property Protection.

C. Types of Law Schools, Forms of Education and Degree Programs

(1) Types of Law Schools

There are four types of law schools. The first are the most numerous – university departments of law, which are called law faculties. The second are the state law academies, which are freestanding institutions devoted to legal education mainly, but which have other departments within them to satisfy general educational requirement. The third are the specialized institutes, which often have as their primary mission research and other support of some agency of the government, but which also have an educational institution with them. Examples are the Institute of the Prokuratura within the parallel procurator structure, the Institute of State and Law of the Russian Academy of Sciences and the Institute on Legislation and Comparative Law.

The fourth type of law school are the private law schools that have grown up and have a variety of names. Some are parts of private universities, such as the Humanitarian University Law Faculty in Ekaterinburg, some are separate institutions concentrating primarily on law, such as the St. Petersburg Institute of Law named for Prince Oldenburg, and some are somewhere in between, such as the Institute of Economics, Law and Information Sciences that we visited in Yuzhno-Sakhalinsk.²⁰

(2) The New Law Schools

When it became clear that the facilities and teachers of existing “old” law schools were not sufficient to handle the expected number of law students, the government could perhaps have decided on a policy of increasing government funding to permit the existing public law schools to expand and other public schools to establish new law departments. Instead, it decided to permit public law schools to expand on their own and pay for that expansion by charging a certain percentage of their students tuition. In addition, it permitted the formation of new law schools by public institutions of higher learning that did not have them and by private institutions. This policy choice has had several important effects.

The most visible effect of this policy has been the huge growth of new private law schools since 1992 – a completely new phenomenon for Russia. For perhaps obvious reasons, none of these institutions can match any of the “old” public law schools in terms of physical plant, library holdings or importance or even numbers of teachers. The failings of the new commercial law schools have been noted by experts and are illustrated by stories in the popular press of such dubious institutions as “Ivan’s School of Law and Business” that is located in a 3-room apartment and at which Ivan and his wife are the only full-time teachers. The situation of some of the private new law schools has improved somewhat over the last decade, including that of the two that we saw. But serious problems remain. Mr. Luzin, a veteran teacher and consultant on legal education and a member of the team, described some of the problems:

The most disastrous areas are quality of teaching and the conditions of libraries and library reserves. The commercial aspect of these institutions leads many founders to consider them private companies in the sphere of education that should make steady profits. As a result, the cost of an education in a private institution is almost always lower than that in a government university. Private institutions strive to attract as many students as possible by offering rock-bottom prices for education, but generally do not offer any other advantages over a government university. . . .

Compare the numbers: the number of all types of students (day, evening, etc.) at the two institutions under consideration on Sakhalin is roughly equal (750 in the private and 620 in the government institution), but the private Institute of Economics, Law, and Informatics spent RUR 80,000 in the 2001-2002 academic

²⁰ A hybrid state schools we visited was the Law Institute of Sakhalin State University. It was essentially a department of the university, but the name “institute” was used to denote its somewhat more autonomous status within the university.

year on acquisition of legal publications (according to the library director), while the government university spent RUR 170,000 (according to Aleksandr Stovpovoi, dean of the law faculty). The huge difference in funds spent on library reserves by private and government universities is a trend throughout Russia. This disparity is indecent, especially upon analysis of the conditions in institutions who have received grants from, for example, the Russian Foundation for Legal Reform.²¹

It is important to emphasize, however, that the problem of “new” law schools providing low quality student-paid legal education is not just or even principally a problem of new *private* law schools. In fact, the vast majority of the new law schools are public ones. *Publicly funded* universities and institutes that previously did not have a law department quickly saw the financial and prestige advantages to creating one. Among such public institutions were a few long-established state universities that for various reasons had never developed a department of law before, and sought to do so now. But most were not in this category. As Dean Sukhanov pointed out, practically every manner of specialized institute seems to have opened a law department. A glance at the list of accredited law schools confirms this, where one finds law departments at the Moscow State University of Geodesics and Mapmaking, the State Academy of Oil and Gas, the Siberian University of Consumer Cooperation, the Kislovodsk University of the Academy of Defense Industries and the Moscow State Textile Academy.²²

In fact, the government standards for legal education make it relatively easy for most state universities and many institutes to open a law department. About 40% of the curriculum required for lawyers is the same general humanitarian and science education required for other disciplines, so many institutions just have to add a few law teachers to add a law department. This also made establishing a new law department all the more popular at such institutions, as it was a way to insure the continued employment of many teachers of history, language, psychology, sociology, math and other non-law subjects, as students moved away from those disciplines and major subjects of study and went into law or business.²³

Some of the new law departments of public institutions of higher learning have quickly assumed their place among the better law school in Russia. One such upstart is Mari State University in Yoshkar-Ola, Mari-El Republic. In its less than 10 years of existence, it has managed to be chosen as one of only 8 schools included in the World Bank-funded RFLR grants program. It is a pioneer in the development of computer-assisted legal instruction and clinical legal education (it is the only school in Russian at which the clinic is a required course) and it has a wide variety of international contacts with foreign law schools under the European Union’s Tempus Tacis program, the US State Departments University Partnerships Program (NISCUPP) and the private foundations. Mari State also holds major conferences devoted to issues of teaching and curriculum, the most recent one scheduled for April 23-24 of this year. As some indication of the quality of its students, its student moot court teams

21 See Report of Luzin, attached as Appendix D.

22 The dean of St. Petersburg State University Law Faculty said that by far the richest law school in his city was the law school of the Academy of Mining and Metallurgy, since the Academy had extensive gold holdings.

23 Sukhanov Interview. The team remains divided on the issue of whether 40% non-law subjects is a good thing or not, with the American members tending to favor it and the Russian members tending to oppose it. See Appendix B, p. 64.

have for the second year in a row now bested teams from Moscow State, St. Petersburg State and other schools far more prestigious than it when it won first prize in the Russia-wide Jessup International Moot Court Competition. Some of its graduates have been hired by White & Case in Moscow – perhaps the dream job of law graduates from anywhere in Russia. However, Mari State is one of only a few of the new law schools of public institutions of higher learning that has accomplished as much.

(3) The “Old” Law Schools Reinvigorated by Tuition

The situation of the old, established public law schools has been radically altered by the policy of permitting public educational institutions to charge tuition. During Soviet years, they were required to educate all their law students for free and students were paid a stipend for living expenses. The costs of both were part of the budget of the university or other institution of higher learning. When public institutions were permitted to charge tuition, at first there could be no more than 25% of such “paying” students, thus reserving the resources of the law schools for the remaining 75% of “budgetary” students. Later this was raised to 50%. However, as far as we could see, even this limit is almost universally ignored.

The shift from government funding to a private-pay system of legal education has had several effects on the old public law schools. The first has been a building and renovations boom. Entering the public restrooms of the older law schools is no longer the assault on the senses that it used to be. New office furniture is in abundance, especially in administrators’ offices. There are computers and computer laboratories in most schools and internet access of sorts is available at least to some. Libraries have expanded their collections and computerized their catalogs. Textbooks are more available than they have been in years, though in some schools they are reserved for paying students.

Less money appears to be spent on teaching, research and faculty, as schools continue to expect that teachers will do academic research and writing and stay current in their teaching on the salaries they are paid. Only at St. Petersburg State University did we hear satisfaction expressed as to the amount of salaries paid. While the exact figures are hard to find out, there was some mention that the top salaries at St. Petersburg State, including money from legal consulting arranged through the law school were in the range of \$20,000 to \$30,000 a year. Moreover, unless funded by outside donors, there are no academic conferences for teachers or development of the substantive conference potential of either of the associations of law schools. There are no sabbaticals. Nor is there any move toward even assuring that anyone other than administrators have their own offices and individual computers – except at St. Petersburg State, which has managed to build private, computer-equipped, Internet-connected offices for almost all offices senior full-time teaching staff.

By contrast, one can compare this rather flush situation at most of the old law schools with that of the only law school we visited that still insists on having only budgetary students – Moscow State University.²⁴ The two graduates of Moscow State and the one American

²⁴ In fact, even Moscow State charges tuition, but only for students who are getting a “second” education. These are older students who already have received one education at state expense and can receive a specialist law degree after finishing primarily law courses over three and a half years.

team member who taught there in 1991 saw virtually no improvements in the physical structure of the law school premises from 10 year ago, other than the presence of a shopping center (including a copying-computer-internet center) on the first floor of the building.

At the other end of the development spectrum, the Saratov State Law Academy has expanded to several times its original size. It is now spread over 5 (soon to be 6 buildings) and has over 2000 students in its entering class (Moscow State has about 300). While the Saratov law school expanded for commercial reasons, some altruism was mixed in as they explained to us that students are better served by a crowded state law academy than by one of the fledgling, grossly inferior commercial law schools in the city. The Saratov State Law Academy's questionnaire lists 8253 students in its day division, 707 in its part-time evening division and 5340 correspondence students. In the middle in terms of the number of students, but at the far end of quality of development is St. Petersburg State University, which has 1962 day students, 1157 evening students and 781 correspondence students.

A second and more subtle effect of charging tuition has been the potential for a major shift in power away from the Ministry of Education control. As the "old" public law schools develop sources of funding independent of the federal government, it is possible that they will begin to actively exercise their power to oppose controls that they do not like. Dean Kropachev of St. Petersburg State University Law School made no secret of his plan to form an alliance of the more prestigious of the "old" law schools – or perhaps only St. Petersburg and Moscow State – and to inform the Ministry in a united front that they would no longer be offering the government degrees in law and would, therefore, no longer feel bound to follow the Ministry's educational standards. Instead, he explained, law schools would just issue their own degrees. In his view, the state diploma had been discredited by the Ministry's unwise and archaic requirements and by the fact that numerous inferior new private and public law schools had been authorized by the Ministry to bestow it. It is not known whether he was serious about this plan. It should be noted that Dean Kropachev is known for his impetuosity and is given to outspokenness.

Two side final points should be made about paid Russian legal education. First, the amounts of tuition paid by law students are not great by Western standards. Petrukhin found rates of between \$US 1,500 to \$US 4,000 per year when he studied the question in 1996.²⁵ At the schools we surveyed, the tuition fee for a year at the law department of Sakhalin State University was 32,000 rubles (about US\$1000); at the private Institute of Economics, Law, and Information Science in the same city of Yuzhno-Sakhalinsk, it was 24,500 rubles (about US\$820). In St. Petersburg the tuition fee at St. Petersburg State University was about US\$2,500 per year, while in the Prince Oldenburg Institute of Law it was about US\$900. (Market forces compel private law schools, which offer an inferior product, to charge a lower tuition rate than state law schools.) In the experience of the team, these figures are typical for the whole of Russia. By contrast, the University of Michigan Law School, a state school, charges out of state students \$30,804 a year. However, the amounts charged in Russia are quite high when compared to the average wage rates. And when multiplied by the numbers of students who are attending law schools, these amounts represent a considerable amount of income for the institutions involved with a relatively small amount of outlay to get it.

25 Petrukhin, page 11.

The second point that should be made about public law schools charging tuition is that the tuition money does not automatically go to the law school. Whether any given law school realizes any major return on its paying students depends on the percentage of “its” tuition money that it has been permitted to retain. State law academies, like the one in Saratov that we visited, do not have to support the rest of a university. Consequently, they have been in more direct control of the tuition income they generate. The more numerous university-based law schools have faced varying policies of their central administrations, which covet the money as well. However, at least one university-based law schools, St. Petersburg State Law Faculty, has managed to reach an agreement that permits it to retain over half of what it takes in.

With the majority of law students paying students either at private or public law schools, Russian legal education has not-so-subtly shifted from a government-funded to a private pay-based system in the span of only a few years. At least in this respect, Russian legal education has moved away from the Western European ideal and more toward the U.S. model. Unlike the U.S., however, it is not likely that Russia will develop large private university law schools on the order of Harvard, Yale or Stanford anytime soon. It is likely that the trend setters will continue to be the “old” public universities with “old” law schools – invigorated by injection of tuition money – plus perhaps a few of the new public law schools. This is simply too much that the public schools already have in terms of physical facilities that cannot be matched by the private organizers currently willing to invest in private legal education. Thus, the real influence on state standards and other facets of legal education will continue to be an alliance of law deans from the old schools, headed by Dean Sukhanov of Moscow State University Law School.²⁶

(4) Forms of Legal Education

There are three principal forms of legal education in Russia – in-residence full-time education, in-residence part-time evening education, and correspondence (*zaochnoye*) education. Residential full-time education is the same as other university study and, as noted elsewhere, it is quite full-time, demanding class attendance of upwards of 36-40 hours a week. Evening part-time education is conducted usually four evenings a week and, for this reason, takes longer. It is particularly well suited for law students who already have one university education and work during the day. It does not take them quite as long as it might take another evening student, since they must just take law courses to get their law degree.

Correspondence legal education has a long tradition in Russia. Part of the reason is that it fit well into the Soviet policy of promoting educational improvement of the masses and of having true “people’s” judges, who could be selected from the population at large and given legal training without having them quit their regular jobs. Today, it is more often thought of as simply a necessity, given the still relatively small number of law schools and in the great geographical expanse of Russia. Correspondence study is not just that, however. Correspondence students are required to come to their law school at the end of each year for a month of intensive lectures, review of their written work and exams. State standards require

²⁶ As this report was being written, word came that Dean Sukhanov would not seek another 5-year term as dean.

at least 160 contact class hours every year. In terms of the number of students enrolled, correspondence divisions of law schools often dwarf their full-time residential daytime or evening study divisions. Thus, while the day division of a given law school might be several hundreds students, while the correspondence division will often be in the thousands.

There is a lively debate about what to do with correspondence legal education. Some argue (among them Dean Sukhanov of Moscow State University) that it should be abolished or treated as a limited form of study to be used only for that 10% of students who are very talented and cannot study any other way and then only temporarily until there are a sufficient number of places in quality law schools for everyone. At the other extreme are those who argue that correspondence study is the wave of the future – that technological advances in distance learning make quality correspondence study more possible than ever before. Even the rather strict standards of the American Bar Association in the U.S. with regard to in-residence study have been relaxed on a temporary basis to permit some experimentation with interactive distance education through electronic means, notably Concord University Law School.²⁷ The response to this argument is to admit its theoretical possibility, but to point out that the level of distance learning capacity at the present time in Russia is, as Dean Sukhanov commented, nothing more than “mailing videotapes of lectures to remote locations for students to watch.” Certainly, if the quality of *in-residence* full-time legal education might be doubted and hard to monitor at the new private and public law schools, the quality of correspondence divisions of these institutions is even harder to determine.

Despite this spirited debate, it is not likely that reliance on correspondence legal education will be eliminated or substantially reduced any time soon. First, much has been invested in the system and it is easy to administer, thus resulting in a relatively easy source of money for law schools with even less outlay than for regular classroom legal education. Second, there are many correspondence law graduates out in practice and many of them are in relatively high government positions. In this respect, eliminating correspondence legal education in Russia is somewhat like the move in some US law schools to eliminate their evening divisions. Despite agreement in principle that part-time evening legal education is inferior to full-time day education, some law schools in the U.S. that have tried to eliminate their evening divisions have faced opposition from the many alumni of those divisions – some of them quite successful lawyers in powerful policy-making, among them judges – who think that their part-time legal education was perfectly fine.

An opportune time for ending correspondence legal education may come soon, as the expected dip in the birth rate reduces the applicant pool for law schools in the near future. It may be that correspondence legal education can be adapted to the computer age in a way will permit it to approximate in-residence study. However, the technical base necessary for conversion of correspondence study in Russia into an electronic substitute for in-residence study does not yet exist. So, improvement along these radical lines does not seem to be an option in Russia.

²⁷ See www.concordlawschool.com.

(5) Degree Programs

Traditionally, basic legal education has been 5 years, with the person receiving the state diploma of "specialist in law." Thereafter, if the person had academic interests, a candidate's degree (kandidatskaya) was possible after a few more years' study and a dissertation. Unlike the U.S., where few lawyers go beyond the first degree in law (LLB or JD) to get a Masters in Law (LLM), quite a few non-academic lawyers get at least the candidate's degree in Russia, particularly judges. A doctorate in law is also possible in Russia after a long period of study, writing and teaching, but those few who earn this degree are almost invariably academic lawyers – teachers or researchers at institutions of research or higher learning.

In the 1996 reforms, the idea of replacing these degrees with a four-year bachelors in law, followed by another two years leading to a masters in law, was discussed. The inspiration for this was both the general educational model of undergraduate and graduate education in the US and the reforms embodied in the educational standards of the European Union. There was much opposition to the change, however, and the compromise reached was to superimpose the new system on the old. Consequently, in Russia a person can go to law school for 4 years and earn a bachelor's degree in law, for 5 years and earn a specialist degree, for 6 years and earn a masters degree, for perhaps 8+ years and write a dissertation and earn a candidate's degree.

Officially, the bachelor's and specialist degrees are considered to be equivalent and both permit the graduate to take the examination for a license to practice law. In practice, however, the old system is still in place. In all the schools we visited or heard about, the 5 year specialist degree was the degree of choice (with the idea among some academically minded students of perhaps continuing on to get a candidate's degree). Among the practical reasons for choosing this path was the fact that neither the courts nor the procurator's office would hire anyone with just a bachelor's degree. A more general reason for seeking the five-year degree was the fact that students did not feel that a four-year degree gave them a sufficient grounding in law subjects. We heard the opinion expressed several times that there were so many general educational requirements applicable to the first two years of both the bachelor's and specialist degrees that an extra year was really necessary to be able to get enough law to feel like one was a lawyer.

There is some change afoot, however, as some law schools are only now getting their masters programs approved by the Ministry of Education. This was true at the Saratov State Law Academy and Kazan State University, for instance. It may be that as these programs are put in place, the same concerns about the adequacy of the four-year bachelor's degree and the attractions of master's courses will result in six years and master's degree becoming the standard basic legal education for anyone who wishes to practice law or work as a judge or government lawyer.

There are also financial aspects to the issue of degree programs that will probably push state schools in this direction. Clearly if 6 years becomes the norm for a basic legal education, that is one less year of budgetary students state schools must take, since they are required to accept budgetary students only for the 4-year bachelor's degree. Then if students stay for their master's degree – as they are likely to do given how both students and

employers are unhappy with the legal education that degree alone represents – that is two additional years of tuition that all students will be required to pay. Probably spurred by the financial incentives of doing so, the administration at St. Petersburg State is speeding the transition to 6 years by phasing out its 5-year specialist degree, thus in effect forcing students to take the 6-year option. Once the financial benefits of this course of action become clear to other state schools, there will probably be many more that will phase out their 5-year specialist degree programs.

Degree programs must be sufficiently long to insure well-prepared lawyers, but not so long that they are inefficient and serve as a financial barrier to attracting talented people to the field of law. The question of the optimal length of legal education is a hard one to answer in the abstract. Some argue that the U.S. system, in requiring 7 years of education (4 years in the university plus 3 years of law school) is too long. In the Russian system, there are complaints that four years is not sufficient. Clearly a major variable is how the time allotted is used. As discussed below, full advantage has not been taken of efficiencies that could be gained in teaching through a change in teaching methodology.

Whatever the resolution of the question of “how long” might be, what is clear is that the compromise of simply superimposing the new bachelors and masters programs over the old specialist and candidate system has resulted in a complexity that is unnecessary and has served to handicap development of the new degree programs. Currently the bachelor's alone is not considered to be sufficient. It remains to be seen if a bachelor's plus a master's will become the new standard. If so, it would certainly seem that 6 years is sufficient to train good lawyers, especially if the two additional master's years are 100% law courses. However, if a switch to the masters as the standard will result in yet another year of payment of tuition for students unable to afford it, it will to that extent place legal education further beyond the reach of needy, but talented students.

D. Admission to Law School

In general for most of the public law schools, a high school diploma with highest honors will result in automatic admission. Otherwise, the majority of students must pass admissions exams. These tests are almost invariably oral and suspicions of bribery and favoritism abound. In some places, corruption takes a less direct form as members of the admissions committee, who are from non-law disciplines by and large – history, literature and language – hire themselves out as tutors for law school applicants at very high prices. And, miraculously, their pupils seem to come out on top at the admissions examination. Many of these problems could be remedied by using an anonymous standardized admissions exam, but there has been no overwhelming push to go to such a system.

It should be noted that more than cleaning up the admissions process is at stake here. As mentioned earlier, the current system of admissions makes competition among law schools impossible. In the U.S., prospective students take a standardized test and can have their scores sent simultaneously to any number of schools. When applicants are free to apply anywhere, all law schools must remain competitive to attract students from all over the country. In Russia, law schools know that students cannot afford to travel to more than a few law schools to appear personally before their admissions committees for the admissions

exam. Consequently, they are forced to apply only to the law schools in the area where they live. So long as law schools have a “captive audience” of local applicants there is little incentive to improve and to offer a better product than applicants can get elsewhere.

The difficulties in the admissions process are likely to become critical in just a few years, when the dip in the birth rate that accompanied the uncertainties of the early 1990s begins to be felt in an unusually low number of high school graduates. It is projected by some that by 2009 there will not be enough high school graduates applying to law school to support the current number of law schools that exist, certainly not at the level that they have been operating and most probably for many of them at any level of operation. Many of the more marginal law schools will fail and close. To insure that there is a rational allocation of such qualified high school graduates among the best schools, it is thought critical to develop and put in place before that time an objective, anonymous admissions examination. Somewhat surprisingly, the Ministry of Education has foreseen this problem and has appointed a committee of law deans to develop just such an examination.²⁸

E. Curriculum and Teaching Methodology Issues

(1) Curriculum Issues Raised by Russian Legal Educators

We heard several complaints about the Ministry of Education's requirement that 40% of legal education be in general humanitarian subjects (math, philosophy, science, economics, history, etc.) rather than in law. The team is somewhat split on this subject, with the American members tending to think more that this was not such a bad idea. First, some other systems have an even higher percentage of non-law courses. U.S. legal education devotes approximately 55-60% of the total educational time of lawyers to non-law subjects, since law students must have earned a 4-year bachelor's degree before they can apply to law school. Second, everyone seems to agree that there has been a decline in the quality of Russian high school education, thus making at least some supplemental education of graduates in general subjects a good idea. Third and perhaps more importantly, lawyers will be important in Russia in the next few decades in the development of business and the economy and in the building and administration of a rule-of-law-based government. As policy makers and advisors to policy makers, they will have to understand subject matters beyond pure law. Indeed, as in the US and perhaps unlike Western Europe, lawyers are on their way to becoming somewhat of an elite in Russia. Certainly, the more ambitious young Russians are tending toward legal education more than any other subject.

There are apparently many problems with the way that many of the general non-law required courses are taught, however. The low pay and prestige of university teaching compared to Soviet times has caused many of the best teachers of these general subjects to leave the university for more lucrative careers in other fields. Many who remain have not changed the content of their courses since Soviet times. At Moscow State University students bitterly complained about a required course in economics that sounded much like the old Soviet era course in political economy. Despite the substantial number of hours devoted to it, the course failed to touch at all on issues of business and private finance.

²⁸ Conversation with Dean Anatoly Lomonosov of Mari State University Law Schools, February 16, 2003.

One side benefit of the requirement of so many non-law subjects may be that the resulting time pressure will cause law faculties to try to find more efficient means of covering law subjects than the time-worn, inefficient lecture system that is still used in almost all the law schools we saw. Certainly, the approach to many subjects is rather roundabout and the lecture means of conveying basic information is ponderous.

The general directions in which the curriculum should be nudged have been stated in the report and will not be repeated here. To develop more depth and encourage experimentation within the broad subject-matter areas specified in the State Standards, it would be better if they were stated a bit more generally. But as the report states, there is sufficient play in the joints for educators who wish to do so to emphasize some of the sub-areas of law that are set out in the proposed grants programs over others.

(2) Issues of Teaching Methodology

There are two types of classes for most courses – lectures and recitations, called “*seminarskiye zanyatiya*.” While one could translate this term as “seminars,” they are more like recitation sessions in which students are supposed to discuss and go over material that was covered in lecture. Typically, there are equal numbers of lecture and recitation classes.

The unadorned lecture is a dinosaur in the modern age of written publications and electronic transmission of them. Not only is it inefficient, but it builds a passive dependency on the teacher that is not healthy for future professionals who will have to continue to learn the law on their own when in practice by reading analytically and thinking critically about what they are reading. While bright practitioners who learned under the rote system have eventually learned this in practice, it makes sense to equip future practitioners explicitly with the skills for doing so while they are in law school.

We would not propose the U.S.-style Socratic dialog as a substitute, as it builds its own kind of dependencies. But a consistent application of the problem method in all classes, handled in a humane and helpful way, presents the student with a realistic model of what they will face in practice. It is for this purpose that the team recommends that AID support the development of up-to-date texts and problem books and the teaching skills needed to teach from them in an interactive manner, as set out at the end of this report.

It should be noted that the issue of teaching methods has an impact on curriculum issues just discussed above. Thus, while team members disagreed somewhat on the law vs. non-law subject proportion, all members of the team agreed that if changes were made in teaching methodology, the law subjects required could be taught much more efficiently than they are being taught. Massive hours of class attendance are typically required of Russian law students. Students at the schools we saw are in class upwards of 36 to 40 hours a week. The Ministry of Education standards require at least 27 on average – still a substantially higher number of hours than the standard 15 to 18 hours of class required of law students in the U.S. Much of class time that is taken up in lecture could be avoided if there were up-to-date reading materials for students. And the total number of class hours could be reduced, while keeping the same proportion of lecture to recitation, if that is desired, by turning the lectures

into more participatory classes.

While AID and other donors should not fund activities that violate state standards, its programs can prefer grantees whose classroom hour requirements are closest to the Ministry of Education minimum and who already utilize students' time outside of class to acquire basic knowledge that can be applied actively in class.

APPENDIX C

Report of Vladimir Luzin – Views on the Russian System of Legal Education From the Point of View of a Current Teacher

A Study of the State of Legal Education in the Russian Federation
A Report for the U.S. Agency for International Development
By Vladimir V. Luzin

The report was compiled based on analysis of the current state of the following institutions of higher education in Russia:

- Institute of Economics, Law, and Information Science (city of Yuzhno Sakhalinsk)
- Law Faculty of Sakhalin State University
- Law Faculty of Khabarovsk State Academy of Economics and Law
- Far Eastern Academy of Justice (Khabarovsk city branch)
- Law Faculty of Kazan State University
- Saratov State Academy of Law
- Law Faculty of Moscow State University named after Lomonosov
- Law Faculty of Saint Petersburg State University
- Saint Petersburg Institute of Law named after Prince P.G. Ol'denburgskiy

In addition to the above institutions, over the past two years I have visited and become familiar with more than ten law schools in Russia, including the following:

- Law Institute of Irkutsk State University
- Law Institute of Krasnoyarsk State University
- Law Faculty of Tomsk State University
- Moscow State Law Academy
- Law Faculty of the University of People's Friendship (city of Moscow)
- Law Faculty of Mari State University
- Law Faculty of Nizhegorodskiy State University named after Lobachevskiy

1. Introduction: What did we have before the 1990s?

Prior to 1991/1992, aside from special institutes created by various government organizations (such as the Ministry of Internal Affairs, the KGB, and the Ministry of Foreign Affairs), there were no more than 20 law schools in Russia. The total for the entire USSR was not greater than 30. For this reason, the number of Russian law students compared to western Europe, the United States, and Canada, was paltry.

Three main types of education were available in the period under consideration. Correspondence courses were more widespread than day and evening courses. Once enrolled in a full-time day course, a student could relax, as he had been accepted into an elite club that was extremely hard to get into and nearly impossible to leave. Competition during entrance exams was, on the whole, fictitious. A well thought-out, multi-stage system for selecting future students existed. The majority of students applied through "working faculties," a type of year-long preparatory faculty that accepted only men who had completed military service and had special recommendations from the political department of the army, government

decorations and medals. The small number of women accepted into “working faculties” had vocational legal education and experience working in the legal system as secretaries or clerks. Individuals who successfully completed the “working faculties” were given preferential treatment when applying to law schools, as they were subject to intense control and observation by Communist party, Youth Communist League (Komsomol), and educational authorities to determine their suitability for the existing political “regime” for an entire year prior to enrollment.

A separate group of “minority nationality” students was composed of individuals not considered during the regular enrollment competition. American universities have similar policies for Indians and other indigenous peoples of North America. The stated goal of this “affirmative action” policy in the former USSR was to build up a cadre of lawyers which included representatives of all nationalities, even those residing in republics without law schools. In reality, this policy meant that the children of Communist party and government officials from former Soviet republics and autonomous republics within Russia who would not normally pass entrance exams to law schools received special dispensation to enter prestigious law schools without exams.

Additionally, there was a group of law students from “Communist” countries who applied and passed exams at home. The final group of students successfully competed in the regular application process and passed four exams: essay (a written exam), history, Russian language and literature, and foreign language (all oral exams). Cases of corruption arose regularly, but were fairly localized.

In the mid 1980s, only five students in a class of 25 were accepted based on the results of a more or less honest competition. At Moscow State University, for example, there were more than 30 applicants for each available spot. Cases of expulsion for academic reasons were extremely rare. Class attendance was quite high and was carefully controlled by the university administration. Generally, the relationship between instructor and student could be described as a “social contract” determined by personal and political motives; for that reason, final grades only partially reflected the student’s true knowledge of a particular subject. The essence of the “contract” was the following: You (comrade student) punctually attend my lectures and seminars (if required by the academic plan), prepare essays and reports for practical lessons, demonstrate loyalty, and avoid politically incorrect statements. For my part, I (instructor) pledge to award you passing marks on exams.

The study of all disciplines was highly regulated and, in most cases, was of a scholarly nature far removed from real life. Theory prevailed over practicality in every course. Students studied not civil or procedural law, but the “science” of civil or procedural law: the subject and its methodology, development, schools of thought, and doctrines.

2. The Past Ten Years: Hopes and Disappointments

2.1 The Sharp Take-off of Legal Education in Russia and its Consequences

The past ten years have been characterized by a true boom in legal education; the number of law schools has risen a hundred times. According to Professor Yevgeniy Sukhanov, Dean of

the Law Faculty at Moscow State University and Chairman of the Academic-Methodological Council on Legal Education, two-thirds of Russia's 3200 institutions of higher education have law faculties. The number of students and legal publications have increased thousands of times, and the content of traditional courses has changed. Despite all this, there has not been significant growth in numbers of instructors, new courses, or teaching methodologies.

The main change in this area has been a lessening of government control over education in general and, as a result, the decentralization of higher education. Along with government institutions, private institutions of higher education have entered the playing field. The government has been unable to finance the system of higher education at the proper level, creating an unrestrained and uncontrolled increase in the number of new institutions of higher education and leaving instructors to fend for themselves in a time of economic reforms. As a result, many (up to 80%) instructors now work at several institutions of higher education simultaneously, which has had catastrophic consequences on the quality of teaching and scholarly work of the instructors.

The weakening of government control in the sphere of higher education has had a deceptive nature. In accordance with federal law #125-FZ (August 22, 1996) "On higher and continuing professional education" (last amended December 24, 2002), the government maintains control over institutions of higher education through licensing, attestation and accreditation (article 10FZ). The procedures for awarding academic degrees (for more detail see "Provision on the procedure for conferring academic degrees" (#74), ratified by decree of the Russian Federation Government on January 30, 2002) and academic titles (for more detail see "Provision on the procedure for conferring academic titles" (#194), ratified by decree of the Russian Federation Government on March 29, 2002) and government standards in the sphere of higher education (the so-called "federal component") have remained under the jurisdiction of the Ministry of Education of the Russian Federation (article 24 FZ). Moreover, the Ministry of Education has reserved the right to develop and approve model academic schedules (plans) for institutions of higher education (provision 3.3, article 24 FZ). These schedules have resulted in the equal division of classroom time between lectures and seminars. The government also strives to control and regulate the acceptance rates at government institutions of higher education as well as the rules for entrance exams (article 11 FZ).

2.2 The "New Russian Professorship" or "A Question of Reproduction"

A certain portion of mid-career professors and instructors of large government institutions have been able to successfully adapt to the new system of education. A new university/institution bureaucracy that views education as a fairly profitable business has emerged, and commercialism dominates in many institutions. By observing such institutions from inside, one sees that literally every step of the academic process has been commercialized: entrance exams (in government institutions where free [budgetary] "places" are available), unlimited acceptance of paying students regardless of the capabilities of the libraries, auditoriums, or staff, and bribes while studying (in theory, a student could avoid ever seeing his teacher, as "price lists" exist for exams, tests, papers, etc.). Other sources of income come from control of defenses of dissertations, the conferment of academic titles, and election or appointment to university positions. More highly profitable areas of an

institution's bureaucracy include the distribution of budget funds, long-term renovation and construction projects, control over foreign grants, and trips abroad for administrators that, in the best case, turn into shopping tours.

It is possible to distinguish such institutions fairly accurately based on several criteria:

- horrible conditions in the libraries, dormitories, and laboratories
- pompous and expensive renovation of office space for university bureaucrats, banquet halls, and other non-essential (non-academic) spaces
- low salary of the majority of the teaching staff (including the additional money provided for teaching paying students) and irregular payment of salaries
- the absence of social activism of the instructors and staff of the institution as well as the student government in relation to the faculty/university administration
- the extremely low number of computers for instructors, the lack of decent space for work and rest or reading halls, and the absence of funding for instructors to attend academic conferences and seminars in neighboring regions

Intellectual laziness has become a distinct characteristic of a university bureaucracy that strives to reproduce itself and prevent true competition within the institution, faculties, or departments. Many feign actual scholarly work by naming themselves co-authors of scholarly publications and grants received by younger, more talented instructors. Those who do not play by the rules of the game are sooner or later forced to leave their institutions. Most former Soviet professors have not disappeared at all, having successfully "privatized" their positions in government institutions by turning them into easy sources of income.

Authoritarian management in many institutions of higher education is much more widespread than imagined. This authoritarianism in relation to departmental colleagues, graduate students and students is designed to hide the intellectual limitations of administrators. Of the university bureaucrats who actually teach, the majority prefer lecture classes, thus avoiding direct, unpredictable contact with students during practical lessons. For this reason, many administrators remain the most steadfast supporters of classical education in the form of lecturing.

2.3 Free Cheese That Stinks

The issue of transparent entrance exams for free [budgetary] "places" in government universities is extremely important. Despite the fact that institutions now require compensation for education, some fairly significant "islands" of free [budgetary] learning remain. While they still exist, corruption, bribes and nepotism will flourish in higher learning. The mere existence of free [budgetary] education is proof of a sickness in university education and Russian society in general.

The depth, seriousness and consequences of this disease can be witnessed at Moscow State University's law faculty. In my opinion, the faculty is in a state of crisis. At first glance, the increase in day students (full government scholarship) from 200 before perestroika to 320 is inexplicable and strange. However, upon closer consideration the reason is clear. Why develop a system of paid education and honestly compete with other institutions when a small but privileged group of faculty and university staff have access to and great influence over

entrance exams? This is a rhetorical question, of course. Until applicants and their parents and sponsors begin paying for education, societal control over the quality of higher education is impossible. The solution to this problem lies not only with the government (amendments to article 43 of the Constitution of the Russian Federation and federal law “On higher and continuing professional education” (paragraph 4, article 2 FZ) are required) but with the rectors and teaching staff of the leading Russian institutions of higher education.

2.4 The Status of Instructors

Aside from much greater academic freedom than during the Soviet period, there have been very few significant changes in the status of instructors in higher education. First, the strict hierarchical structure of universities has not changed: rector, vice rectors, faculty deans, assistant deans, department and laboratory heads, instructors. Moreover, many private institutions boast that they have “classical university management.” “Classic” means only that within a particular faculty there are traditional departments broken down by theme. Department heads are rarely talented academics or creators of a school of academic thought; more likely, they are administrators with much greater control and supervision over their department colleagues than the faculty dean or his assistants.

Second, instructors continue to submit numerous, sometimes useless, reports on the fulfillment of academic, methodological, scholarly, and educational obligations every semester, calendar year and academic year. A hierarchy also exists within the teaching community: professor, assistant professor, senior instructor, instructor, assistant. An instructor’s salary is determined by his rung on the ladder, not by real potential or desire to work.

Every institution of higher education has its own “Provision on the procedure for appointment of teaching staff” and “Required qualifications for pedagogical positions” (the basis for which is the federal “Provision on required qualifications” developed by the Ministry of Education, for more detail see “Provision on the procedure for appointment of teaching staff of academic institutions of professional education of the Russian Federation” (#167), established by edict of the Ministry of Education on August 6, 1999). There are two main mechanisms for appointing an individual to a position on a teaching staff: appointment by order or election followed by an appointment and a new contract. It is difficult for me to evaluate, whether this dry theory might be interesting, but for the sake of a full picture I will attempt to describe the main aspects.

Initially, any individual who meets the required qualifications (education, academic degree, academic titles, pedagogical experience, a number of scholarly and methodological publications) is hired by order of the rector or director of the institution for a particular time period, usually one year, before an election. In the course of the year, if, for example, a vacant spot for an assistant professor exists (this depends on the general pedagogical workload of the department: number of lectures, seminars, consultations, dissertations, etc.), the rector publicly opens a competition for the vacancy through an announcement in a periodical no less than two months prior to the actual competition (paragraph 4 of the Provision).

Candidates apply for the position according to procedure, providing their biographies, a list of publications, copies of diplomas, etc., to the academic council. In 99 out of 100 cases, the new instructor has been selected before public announcement of a competition. The individual becomes the only candidate for the vacant position, and the university bureaucracy has the opportunity to reproduce incompetent and unprofessional staff that are totally loyal to the existing system. New blood, new instructors from other institutions, regions, or even countries, is absolutely critical for higher learning. I know of only a few cases of truly competitive elections to a vacant position. Competition occurs when there is no unity within in the academic council and various groups within the university, faculty, or department are openly fighting. Of course, some idealists still work in academia, but they are few and far between.

If a candidate has “successfully passed the competitive selection process” as a result of the academic council’s secret vote, he is appointed to the position by the rector or dean and receives a contract for no less than five years (paragraph 17 of the Provision). If, for some reason, the institution or faculty administration is not satisfied with an instructor, there are numerous ways to dismiss him. First, on the pretext of changed conditions (a decrease in departmental work, fewer students, etc.), the institution can opt to “liquidate” a position by not announcing a new competition. Second, without even bringing the issue to the academic council, it is possible to deny a candidate the required recommendation from the department in which he taught. Finally, the academic council is able to reject an inconvenient candidate during the official vote. It is also hypothetically possible to break a contract in the event an instructor is unqualified (paragraph 24 of the Provision). The procedure for this option is determined by the academic council of the institution.

Those hired by appointment prior to election can be fired at the end of the contract (one year) in the event the institution’s administration does not announce a competition. It is important to remember that the competition is the institution’s prerogative, and it can easily be used in the interest of the institution. So, “the theory is dry, but the tree of life is splendidly flowering.”

2.5 Private Institutions of Higher Education

The great majority of institutions of higher education that currently prepare future lawyers are private, non-governmental educational institutions. With few exceptions, the state of education in these institutions does not hold up to any criticism. The most disastrous areas are quality of teaching and the conditions of libraries and library reserves. The commercial aspect of these institutions leads many founders to consider them private companies in the sphere of education that should make steady profits. As a result, the cost of an education in a private institution is almost always lower than that in a government university. Private institutions strive to attract as many students as possible by offering rock bottom prices for education, but generally do not offer any other advantages over a government university.

Compare the numbers: the law faculty of Sakhalin State University costs RUR 32,000 per year, whereas the Institute of Economics, Law, and Information Science on Sakhalin charges RUR 24,500. In Saint Petersburg, a year at Saint Petersburg State University costs approximately \$2,500 while a year at the Institute of Law named after Prince Ol’denburgskiy

costs \$900. This situation is typical throughout Russia and brings me to an interesting conclusion. It is believed that one of the few advantages of private institutions is the greater motivation of students who pay for their education. This theory is not supported, as the paying students of government universities clearly provide their institutions more money than their peers at private institutions. If government institutions truly suffer from a lack of financing, private institutions with readily available funds do not spend them on modernizing libraries or creating interactive classrooms with multimedia technology.

Compare the numbers: the number of all types of students (day, evening, etc.) at the two institutions under consideration on Sakhalin is roughly equal (750 in the private and 620 in the government institution), but the private Institute of Economics, Law, and Information Science spent RUR 80,000 in the 2001-2002 academic year on acquisition of legal publications (according to the library director), while the government university spent RUR 170,000 (according to Aleksandr Stovpov, dean of the law faculty). The huge difference in funds spent on library reserves by private and government universities is a trend throughout Russia. This disparity is indecent, especially upon analysis of the conditions in institutions who have received grants from, for example, the Russian Foundation for Legal Reform.

Special attention should be paid to the practice of private institutions offering diplomas from government educational institutions. For example, after completing the Institute of Economics, Law and Information Science in Yuzhno-Sakhalinsk, students travel over 2,000 kilometers to Irkutsk, where they take government exams and receive diplomas from Baikal State University. This important fact confirms that not only employers, but students themselves, are skeptical of the quality of education at private institutions. Another striking example: at the Institute named after Prince Ol'denburgskiy, we were able to speak with some of the institution's best students. At least half of them applied to Saint Petersburg State University multiple times and only after repeated rejections chose the private institution where the cost of education is almost three times lower.

But the weakest link in training specialists in private institutions remains the teaching staff. There is no point in explaining the well-known axiom that the level of an institution of higher education is determined by its instructors and libraries.

Compare the numbers: in the institutions under consideration in Yuzhno-Sakhalinsk, the ratio of full-time instructors at the private and government institutions is 1:3. More important is the ratio of full-time instructors to the number of students. At the Institute of Economics, Law and Information Science, there is one instructor for every 107 students, while in the law faculty of the government university, there is one instructor for every 33 students.

Moreover, non-government institutions widely attract part-time teachers, a practice that should be regarded with great caution. Special lectures and elective courses taught by practitioners, for example, judges and advocates, play a positive role in the preparation of future lawyers. However, I am seriously concerned by institutions that attract government officials, procuracy staff, or employees of the Ministry of Internal Affairs to teach important courses in required disciplines. These individuals not only lack pedagogical experience but also time to spend consulting students. Such classes are often cancelled or postponed, and the level of training of many part-time instructors is unsatisfactory. It is clear that the leadership

of institutions (not only private) that attract such practitioners is interested in “befriending” the right people. Offers of part-time positions without any educational goal are widespread (“just teach something...”).

2.6 Several General Notes on the Most Important Deficiencies in the System of Legal Education in Russia Regardless of the Type of Institution

- 1) One clear defect of the current system for training lawyers in Russia is the preservation and even growth in popularity of correspondence courses. At present, more than half of all lawyers are prepared by correspondence. The list of professions ineligible for training by correspondence is established by the Russian Federation Government (see “List of areas of specialty in which correspondence courses or external studies are not allowed” (#1473), ratified by decree of the Russian Federation Government on November 22, 1997). Until the list includes “lawyer”, it would be expedient to end all financial support to institutions that particularly rely on this form of education.
- 2) Another serious problem is the harsh Ministry of Education standard for the training of future lawyers, which mandates that only 60% of classroom time be spent on teaching legal disciplines. Within the specialty, the standard stipulates both special courses and elective courses chosen by students. It seems wise to tie funding to the existence of a number of elective courses (in academic schedules) that truly offer a wide and interesting choice to students. The availability of a long and diverse list of subjects offered to students characterizes the most advanced and forward-thinking institutions. Moreover, it would be advisable to support the development of new textbooks, workbooks, and courses not included in the list of 24 courses required by the government standard.
- 3) There is a real need to provide financial support (on a competitive basis) to leading institutions for the creation of high-speed Internet lines. To prevent the institutions from equipping special spaces that will frequently be closed or inaccessible for most students and instructors or will only be used for computer science classes (as observed in several institutions), it is necessary to require the grant recipients to set up the technology in library reading rooms. Also, the grant should stipulate that computer access should remain unrestricted by the institution’s administration.

2.7 Outside Financing and Grant Programs

In the mid-1990s, law schools in Russia began to receive financial aid from western foundations and the European Union. In many cases, the activities of grant-making organizations were unsystematic and weakly coordinated. The Russian Foundation for Legal Reform’s program from 1998-2003 was largest grant that truly influenced the modernization of legal education in Russia. More detailed information is available on the organization’s Internet site, found at <http://www.rflr.ru>.

The positive results of the program were:

- 1) qualitative changes in the condition of the law libraries at Saint Petersburg State University, Saratov State Academy of Law, the law institutes of Krasnoyarsk and Irkutsk State Universities, and the law faculty of Mariiskiy State University. No information on

Volgograd State University or Urals State Law Academy is available. There is no hard evidence that the quality has improved at Kazan State University. Grants were generally spent on the purchase of new textbooks or computer classrooms that were empty upon one visit to the institution and closed during another.

- 2) the creation and support of law clinics
- 3) the development of new courses and textbooks. The course topics were largely determined by the grant-making organizations, which was a positive step, as institutions received necessary and highly-demanded courses in required disciplines (family, financial, land, and environmental law) and new elective courses. I would especially like to note new courses on intellectual property and copyright law, arbitration, and judgement enforcement.

Unfortunately, the level of circulation and publishing speed of these academic materials is not great. But a more serious problem exists, in my opinion, in the methodology for teaching such courses. First, the Foundation was unable to make the majority of the new course materials highly interactive. In this respect, only the materials of Mari State University completely met the program's goals. Second, under many of the new textbooks hide traditional manuals that have already been exhausted. Third, a number of consultants and even participants in the grant competition were critical of the group of experts that selected materials for publication.

3. Some Preliminary Conclusions

Analysis of my observations leads me to several preliminary conclusions:

- 1) With rare exception, the most effective aid was provided to particular individuals (instructors), not to institutions. When offering financial support on a competitive basis it is advisable to continue to give priority to instructors who develop new course materials or improve teaching methodologies. An instructor who receives a grant independently of his institution feels more self-sufficient and in demand in a scholarly and pedagogical sense. This type of instructor becomes more independent and bold, openly reacting to the problems at his institution. In addition, the faculty and institution leadership understands that such an instructor improves the academic standing of the institution and treats the individual accordingly.
- 2) The best mechanism for achieving reform is to award grants for the development or improvement of particular courses of great interest due to recent economic and political changes. The grant-givers' policy of setting strict deadlines for development of new courses and texts and determining the topics is admirable.
- 3) It would be appropriate to require institutions interested in participating in grant competitions to include the new courses in academic schedules as electives so that any student could attend the classes.
- 4) It is necessary to support the development of inter-disciplinary courses, which will break down the faulty practice of encouraging instructors to focus only on the interests of the department or specific branch of law. Currently, an enormous amount of legislation and case law falls through the cracks because it does not fit into one particular department or area of law.
- 5) It is necessary to emphasize the following key areas when developing new courses and materials or improving current courses:

- Remedies for violations of rights, evidence-based law, and judgement enforcement
 - Human rights (priority should be given to courses that have clear relevance for every individual and are by nature inter-disciplinary, such as medical law, reproductive law, the right to defense and access to justice, inviolability of privacy and home and criminal investigation); in such courses a student can use information learned in civil and criminal procedure courses and administrative and constitutional law courses while also gaining knowledge in the field of comparative law
 - Special attention should be given to the practices of the European Court for Human Rights (further ECHR). To my great disappointment, not one of the researched institutions offers a course that includes case study of the ECHR. “European law” courses at Moscow State University and Kazan State University are mostly dedicated to European legal systems and are theoretical. Such courses offer simple overviews of court cases in the form of student presentations. What to do? It is essential that grant-giving organizations include at least two potential course topics for development: Procedures of the ECHR and Practice of the ECHR in the area of substantive law of the European Convention. The grant could stipulate an internship at the European Court in Strasbourg, which would be very useful. These types of courses are absolutely invaluable, as they are very complex, and a student studying case law of the ECHR will be forced to consult Russian legislation, decisions of the Constitutional and Supreme Courts of the Russian Federation and multiple branches of the law.
 - A special all-Russia project to develop (on a competitive basis) texts for training justices of the peace is needed. It is highly desirable that the project result in an interactive course that can be implemented fairly rapidly.
- 6) The development of new and interesting courses is pointless unless directly tied to changes in teaching methodology. The main requirement in this area is the study of a particular subject through case law. Unfortunately, the Russian Foundation for Legal Reform’s attempt to create a new generation of textbooks was not entirely successful. I am familiar with many publications from the first and second “waves” of grants published by Statut. Most are traditional textbooks on important subjects such as private civil, and commercial law. Innovative texts and workbooks are a rarity. The teaching community and potential grantees seem to have taken the position, “give us the money and we will prepare a new book on banking or tax law,” which must change immediately.

Grants should be awarded in exchange for new courses based on study of case law and workbooks that contain not only the author’s text and commentary but also sources of unedited court decisions. If access to certain decisions is available or if the decision is more than ten pages, the texts should also include the author’s commentary, which will help students understand the decision. In other words, the textbooks should allow students to focus their attention on the most critical aspects of the decision depending on the topic of the particular seminar.

A few more words about textbooks in the traditional sense. It is probable that traditional textbooks are the absolute worst part of the Russian legal system. Grants for the purchase of new textbooks should have been stopped long ago. We push students to mechanical memorization (using the words of a well-known professor) of certain topics or constructions. In theory, a student can skip every class and simply read the required

textbook two days ahead of the exam. Seminars result in endless theoretical discussion of, for example, the meaning of “property” or “crime”.

What do you think? How many students in Russia read court decisions instead of textbooks and lecture notes the night before an exam? Very, very few. Based on my observations, by the way, courses based on case law are attended by the maximum number of students. It is impossible to understand the 10-15 decisions studied over an entire semester in one or two nights prior to an oral exam or written test. Constant classroom work with an instructor is needed to study court decisions.

Only through the study of case law is a student able to display independent thinking and the ability to critique the positions of the judge, defense and plaintiff. A widespread argument against such methodology is the fact that Russia has a Romano-Germanic legal system. As a rule, instructors who support this position simply do not want to (or cannot) creatively teach their courses.

- 7) financial aid to institutions of higher learning should be restricted to three main areas:
- fiber-optic cable Internet access (on the condition of free access to computers for instructors and students)
 - support and development of law clinics (funds are primarily needed to pay the honoraria of the practicing lawyers and instructors); in theory, any institution, regardless of type, is capable of assigning space and obtaining the necessary equipment
 - modernization of libraries, including computerization, creation of an electronic catalogue and search engine, and availability of legal data bases

Funding for the purchase of new textbooks must be stopped. New grants should be awarded only for the purchase of scholarly literature and subscriptions to periodicals. Financial support for the creation of new departments, centers of European law and human rights “laboratories” (through European Union Tempus Program grants) was not justified. As such, it seems unwise to appropriate more funds for the creation of specialized centers of various legal disciplines within existing faculties.

One note regarding the financing of institutions of higher education. The Russian Foundation for Legal Reform’s idea to focus most of its funding on eight institutions was completely correct. By establishing a group of elite law schools in leading regions of Russia it will be possible to hasten the reform of higher education in general. It is possible, however, to argue whether the most reform-minded institutions in cities with significant economic, cultural and educational potential were included in the list. For example, I am quite dubious of the inclusion of the law faculties of Volgograd State University and Kazan State University in the project. If for geopolitical reasons, it is necessary to include one institution from the Russian Far East; Khabarovsk State Academy of Economics and Law has good potential.

Thus, my understanding of the issue is the following: it is preferable to invest money in

institutions that have already proven their reform capabilities by appropriately and effectively using available funds.

The law faculty of Saint Petersburg State University could become a herald of reform; its experience and achievements should become well-known in Russia. Special attention should be paid to a project to motivate institutions that are ready and willing to make reforms. With this aim, an academic conference or seminar in Saint Petersburg for the legal community, representatives of institutions of higher learning, and librarians could play an important role in reforming legal education in general.

The connection between grant-giving organizations and reforming institutions should be constant and, as much as possible, independent. The consultants of the Russian Foundation for Legal Reform played a positive role in the first stage of the grant program for institutions of higher education (according to the universities' feedback). The lack of consultants in later stages was a mistake that resulted in numerous problems: publication deadlines, selection of publications, payment of honoraria, implementation of new courses, delivery of new technology and equipment, etc.

A mega-project to support the Russian Association of Law Schools is also worthy of attention. The project's goal would be to create a full-time executive committee with five to seven staff located in Saint Petersburg. The executive committee, formed at an association convention, could begin work on a number of documents, such as:

- the association's charter and procedures for admitting new members
- licensing and accreditation indices (in the future the association could take on the function of accrediting law schools on a voluntary basis, i.e., at the request of the institution); moreover, public accreditation does not contradict current legislation (paragraph 8, article 10 FZ, "On higher education")
- development of a standard for legal education in Russia
- creation of a rating system for law schools

Aside from coordinating the activities of institutions of higher education, the executive committee could take on the role of a government lobbyist to support the interests of association members and the entire legal education community.

With respect,
Vladimir Luzin

APPENDIX D

RFLR-FUNDED BOOKS AND TEACHING MATERIALS

LIST OF THE GRANTS AWARDED UNDER CATEGORY 5.1

#	(i) PROJECT
1.	Commercial transactions: theory and practice
2.	Contractual regulation of family property relations (L.L.M. course)
3.	Judicial practices in the area of labor relations
4.	Business regulation
5.	Legal regulation of the mass media (teaching manual for special course)
6.	Teaching manual and materials for the course on mortgage law
7.	Intellectual property right in the European Union (interactive multimedia L.L.M. course)
8.	International commercial arbitration (interactive multimedia L.L.M. course)
9.	Alternative forms of resolution of labor disputes (interactive multimedia L.L.M. course)
10.	Contract law in EU member states (interactive multimedia L.L.M. course)
11.	Law of competition in the European Union
12.	Right of ownership and other rights to land (L.L.M. course)
13.	Arbitration proceedings (teaching-methodological materials for L.L.M. program)
14.	Liability for violation of contractual obligations
15.	Business and commercial law (baseline theoretical course of lectures for L.L.M. program)
16.	Electronic documents in civil circulation and court
17.	Mediation in resolution of legal disputes
18.	Legal aspects of the commercial use of intellectual property objects (new L.L.M. course)
19.	Protection of investors' rights (L.L.M. course)
20.	International commercial arbitration (L.L.M. course)
21.	International civil procedural and executory law (L.L.M. course)
22.	Execution against property of commercial organizations in business relations (L.L.M. course)
23.	Exchange law (L.L.M. course)
24.	Bankruptcy proceedings (L.L.M. course)
25.	Problems of implementation and improvement of legislation on companies (teaching course)
26.	Russian tax law (teaching manual and tutorial for the course)
27.	Protection of business law subjects' rights through distribution of losses (development, realia, implementation issues)

