

LEGAL CONSCIOUSNESS IN POST-SOVIET RUSSIA:

A PRELIMINARY STUDY

An NCEEER Working Paper by

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Executive Summary

How do Russians solve problems in their daily lives and what does their behavior reveal about their legal consciousness? I pursue these questions by examining how Russians interact with those who are physically closest to them, namely those who live in the same building and who share the same entryway (*pod''ezd*). Reasoning that the essence of relationships emerges through conflict, I focus on the problem-solving strategies employed when one neighbor leaks water into another neighbor's apartment. By listening to Russians in focus groups and follow-up interviews, three basic strategies emerged: avoidance, self-help, and third-party intervention.

Introduction

How do Russians solve problems in their daily lives and what does their behavior reveal about their legal consciousness? I pursue these questions by examining how Russians interact with those who are physically closest to them, namely those who live in the same building and who share the same entryway (*pod"ezd*).¹ Reasoning that the essence of relationships emerges through conflict, I focus on the problem-solving strategies employed when one neighbor leaks water into another neighbor's apartment. By listening to Russians in focus groups and follow-up interviews, three basic strategies emerged: avoidance, self-help, and third-party intervention.

At first glance, law would seem to have little to do with how problems among neighbors are resolved in Russia. Russians are slow to invoke formal law. Litigation or even threats of litigation are the exception, not the rule. This is hardly unique to Russia. As Black observed, "[t]he more we study law ..., the more we realize how little people actually use it to handle their conflicts."² Other studies have confirmed his thesis. As this suggests, what is usually thought of as "law," namely the statutes and regulations that emanate from the state, is only one source of legal consciousness. Unwritten norms or customs can be equally important, especially in a country like Russia where the legitimacy of the formal legal system has long been questionable.

By focusing on this small corner of everyday life and practice, Russians' commitment to fundamental fairness in their interactions with neighbors becomes apparent. One of the constant refrains in the focus groups and the interviews was the expectation that, when dealing with neighbors, one would conduct oneself in a civilized manner. Different phrases were used in

¹Regardless of their size, Russian apartment buildings do not have a single entrance and long corridors as in the U.S. Instead, each stairwell has its own entrance (*pod"ezd*), thereby creating a relatively small community of people who see one another regularly and who have to interact on a variety of household issues.

²Donald Black, "Social Control as a Dependent Variable," in ed. Donald Black, *Toward a General Theory of Social Control* (New York, 1984), 3.

Russian to convey this, such as *po-chelovecheski* (civilized) or *po-sosedski* (neighborly) or *poriadochnyi* (upstanding). Although each has a slightly different meaning, they share a commitment to fairness. This appears to contradict the common wisdom that Russians are legal nihilists.

But the two images may be reconcilable. Perhaps we have paid too much attention to the superficial indicators of Russians' attitude to law and have failed to get at deeper legal consciousness. Uncovering the law of the *pod"ezd* helps us understand Russians' internal metric of what is right and wrong, which is unquestionably a critical element of legal consciousness.

Interactions between neighbors have proven revelatory of deeper legal consciousness in a number of U.S.-based studies. Building on the well-accepted precept that the propensity to litigation is inversely correlated to relational distance, the studies have generally shown that neighbors who have a friendship or other valued relationship are unlikely to appeal to third parties (including the courts) for assistance. Merry's study of an urban New England neighborhood showed that those whose problems degenerated into fights tended to involve "neighbors who knew each other by name and were superficially sociable, but rarely had a deep and personal friendship or a great deal of interest in reconciliation or restoration of a preexisting relationship."³ Her work highlights how the inability to "exit" can exacerbate problems. When unable to exit, her respondents exercised "voice" vociferously, both in their inter-personal relations and by dragging their neighbors through the courts. Hirschman's cautionary note that, "the *effectiveness* of the voice mechanism is strengthened by the possibility of exit" provides some insight into the frustration of Merry's subjects.⁴

My work represents the first effort to integrate the Russian experience into the literature

³Sally Engle Merry, *Getting Justice and Getting Even: Legal Consciousness Among Working Class Americans* (Chicago, 1990), 39.

on how neighbors resolve problems. Leaks of water from one apartment to another through the ceiling constitute a good prism through which to explore the norms governing neighbors' relations in Russia and how they play out through problem-solving strategies. The aging nature of the housing infrastructure makes them a relatively frequent occurrence, even when residents are on their best behavior. Even in buildings where the plumbing is in good repair, the local authorities' practice of cutting off the water supply periodically to buildings and even to entire municipal sectors, both for planned maintenance and for unexpected problems, provides fertile ground for accidents. Not infrequently, a resident will turn on the taps to no avail and will leave them open on the off chance that the water will be turned back on. Forgetting they have done so, they leave to run errands or for a business trip, only to find a sodden disaster in their apartment and annoyed neighbors upon their return.

Though the ceiling leaks that plague Russians are less of an issue in the U.S. context, where problems tend to center on dogs, children, and parking spaces, the essence is the same. In both settings, neighbors have to figure out how to live in close proximity. Like the New Englanders Merry studied, Russians' living quarters tend to be quite cramped,⁵ and they cannot easily move. During the Soviet period, most housing was allocated through the state or its proxies. Getting a different apartment was a tortuous process, requiring either boundless patience or extraordinary craftiness.⁶

The privatization of housing in the 1990s gave rise to a real estate market in Russia for the first time in decades. But participating in this market assumes a financial wherewithal that

⁴Albert O. Hirschman, *Exit, Voice, and Loyalty: Responses to Declines in Firms, Organizations, and States* (Cambridge, MA, 1970), 83.

⁵According to Goskomstat data, the allocation of living space per person in Russia in 2007 was 21.5 square meters. This represents a substantial increase over the 16.5 square meters allocated per person in 1991 when the Soviet Union collapsed. *Sem'ia v Rossii 2008* (Moscow, 2008), table 3.38; *Sem'ia v Rossii 1996* (Moscow, 1996), table VII-2.

has eluded the average Russian, as is documented by a 2007 national survey in which 57% of respondents had been living in the same place for at least 16 years. More than a quarter of those surveyed had lived in the same place for their entire lives. Only a minority of Russians have been able to take advantage of the market. The survey also revealed that 21% of respondents had changed their residence within the past five years.⁷ This means that the population within *pod"ezd* is not as stable as during the Soviet era.

Integrating my study into the existing literature requires a brief reflection on the nature of the relationship among neighbors in Russia. The difference between an acquaintance (*priiatel'* or *znakomyi*) and a friend (*drug*) is profound in Russia. With friendship comes an almost bottomless trust that stands in contrast to the guardedness exhibited with acquaintances. In the worst days of the Stalinist terror, people were understandably wary of entering into friendships. The memoirs of the period provide untold examples of neighbors betraying neighbors, often with an eye to expanding their living space.

Under Brezhnev, friendship circles expanded and brought an expectation that your life would be intertwined with that of your friends. Few considered their neighbors to be friends. Rather, friends tended to be drawn from among one's schoolmates and relatives.⁸ In the post-Soviet era, as Russians have had to spend more time at work, the mark of friendship has become a willingness to devote time to one another and to share personal problems. A 2006 public opinion survey indicates that few Russians have brought their neighbors within this charmed

⁶For an account of the machinations required to organize a housing exchange in the Soviet period, see Iurii Trifonov, *The Exchange and Other Stories*, trans. Ellendea Proffer (Evanston, 2002), 17-70; Vladimir Voinovich, *The Ivankiad*, trans. David Lapeza (New York, 1976).

⁷Elena Vasil'eva, "Otnoshenie k svoemu zhilishchu," November 15, 2007, available at http://bd.fom.ru/report/cat/home_fam/hosehom/d074623 (Accessed September 15, 2009).

⁸E.g., Iurii Trifonov, *Another Life and The House on the Embankment*, trans. Michael Glenny (New York, 1983), 82; Donald J. Raleigh, *Russia's Sputnik Generation: Soviet Baby Boomers Talk about Their Lives* (Bloomington, 2006), 28, 225; Vladimir Shlapentokh, *Public and Private Life of the Soviet People: Changing Values in Post-Soviet Russia* (Oxford, 1989), 178-180.

circle of friendship.⁹

When problems arose with their neighbors, including ceiling leaks, my respondents generally felt an obligation to behave *po-chelovecheski*. Exactly what this meant in practice varied, depending not only on the underlying relationship with the neighbor in question and the willingness to risk undermining it, but also on factors such as circumstances surrounding the incident, the damage caused, the familiarity of those victimized with their options, and the personalities of key players. As I worked through the many examples of ceiling leaks provided by my respondents, three overarching categories emerged.

Some adopted an *avoidance* strategy, preferring to refrain from, or limit, any direct confrontation, even if this meant that they had to absorb the cost of damages themselves. A second strategy employed by my respondents was *self-help*. Like avoidance, self-help eschews the state. But in contrast to avoidance, self-help assumes the active involvement of the two parties to the ceiling leak in seeking a resolution. The bilateral negotiations can give rise to a variety of outcomes, ranging from simple forgiveness to having the party who caused the leak undertake the repairs personally or pay others to make the necessary repairs. But they tend to leave both sides relatively satisfied.

The third strategy in evidence among my respondents was *third-party intervention*. In incidents involving ceiling leaks, the key third parties are the housing authorities¹⁰ and the

⁹Irina Shmerpina, "Sosed'i po domu," May 18, 2006, available at <http://bd.fom.ru/report/map/projects/dominant/dom0619/dd061925> (Accessed September 15, 2009).

¹⁰These authorities go by a number of different names depending on the ownership structure of the building. They are most commonly referred to as the *ZhKU* (*Zhilyshchno-Kommunal'nye Uslugi* or Housing-Communal Services). They are a vestige of the Soviet past when almost all housing was owned by the state. Although much of the Russian housing stock has now been privatized, these *ZhKU* persist. Whether they act in the name of the state again depends on whether the building has been privatized. They are expected to maintain the buildings and to ensure a steady supply of energy and water. They are often viewed as remote and uninterested in residents' problems.

courts.¹¹ I use the word “intervention”, rather than “enforcement”, deliberately, because often the involvement of the third party was simply to provide a neutral assessment of damages that would allow the parties to resolve the problem themselves. But the category does encompass litigation, which brings with it the power of the state. It is tempting to impute a linear directionality to these three categories. Though it is possible that as one’s frustration grows, avoidance will lead to self-help which, in turn, will lead to third party intervention, there is no inexorable logic to the process.

Methodology

This study of how Russians deal with problems arising from ceiling leaks is part of a larger project aimed at understanding the role of law in contemporary Russian society. The larger project grew out of a data-driven puzzle. Though the public opinion polls consistently report low levels of societal trust in the courts,¹² the caseload data show a steady increase in the use of the courts.¹³ This discrepancy suggested to me that the opinion polls were not fully capturing Russians’ attitudes toward law and legal institutions. In order to get a deeper sense of Russian legal consciousness, I wanted to listen to how they talk about law when able to express themselves more freely than in closed-end survey questions. I convened a series of 29 focus groups during the summers of 2007 (Moscow and Saratov) and 2008 (Tomsk, Shumerlia, and Kushchevskaiia). The selection of these locations for the research was designed to provide a

¹¹Home insurance is relatively rare in Russia. A 2006 survey revealed that only 13 percent of the respondents had opted for homeowners insurance. It is not regarded as essential. See “Rossiiane na rynke uslug strakhovaniia,” available at <http://bd.fom.ru/report/map/dd062526> (Accessed September 19, 2009).

¹²According to national surveys fielded by the Levada Center from 2001 through 2007, only about 13-17 percent of Russians fully trusted the courts. Available at <http://www.levada.ru/press/2007040901.html> (Accessed September 16, 2009).

¹³Between 2001 and 2007, the number of civil (non-criminal) cases decided by the Russian courts of general jurisdiction increased by 80 percent. See “Rassmotrenie del sudami obshchei iurisdiktsii po 1 instantsii za 1996-2007 g.g.” Available at http://www.cdep.ru/statistics.asp?search_frm_auto=1&dept_id=8 (Accessed September 16, 2009).

contrast, as Table 1 documents.¹⁴ Each focus group included 6 to 12 individuals. The focus groups were primarily devoted to discussions of either home repair projects or accidents. Both topics were broad enough to encompass ceiling leaks.¹⁵

In addition, I carried out follow-up interviews with 79 of the focus group participants with the goal of probing more deeply into their attitudes towards law and their motivations for using and/or avoiding the legal system. The conversations ranged from one to two hours and were recorded. It was during these interviews that I was able to pursue the theme of dealing with ceiling leaks more systematically.

The 29 focus groups and 79 interviews serve as the source material for this article. (See Table 2 for background information on the respondents referenced in the article.) In organizing both the focus groups and the interviews, the goal was to include a diverse set of Russians. We sought variation in age, gender, educational background, and work experience. Participants were given modest honoraria to compensate them for their time. The fact that these honoraria provided sufficient incentive for them to devote their all-too-rare free to time to my research indicated that they were not entirely secure financially. From a practical point of view, it meant that they were unlikely to have the flexibility to move. The combination of focus groups and interviews permitted my respondents to speak at length on a variety of law-related topics. Though these qualitative methods sacrifice the breadth of topics that a survey can cover, they allow for a depth

¹⁴I worked with Polina Kozyreva and Mikhail Kosolapov of the Institute of Sociology in Moscow, which is part of the Russian Academy of Sciences, on the logistical side of the project. Since 1992, they have coordinated the Russian Longitudinal Monitoring Survey (RLMS), a series of nationally representative surveys designed to monitor the effects of Russian reforms on the health and economic welfare of households and individuals in the Russia (<http://www.cpc.unc.edu/rlms/>). Thanks to this work, Kozyreva and Kosolapov have developed a strong network of social scientists throughout Russia. We worked with their colleagues in each of the focus group sites to organize the focus groups. These local contacts recruited the participants based on the agreed-upon criteria.

¹⁵To accommodate the work schedules of the participants, the discussions took place on weekday evenings and weekends and lasted about two hours each. They were recorded. It was felt that having an American lead the groups would be unsettling for many and, due to the prevailing anti-Americanism in Russia, could skew the discussion. Thus, the groups were moderated by Elena K. Zobina, a research fellow at the Institute of Sociology, who is experienced in leading focus groups.

that is not possible in a survey.

Dealing with Ceiling Leaks

Over the course of the interviews and focus groups, I gathered details of 70 cases of ceiling leaks in which neighbors were seen as culpable, spread across the five locations.¹⁶ Of these, 57 were actual events, of which 46 were reports of events in which the respondent had been involved, either as the perpetrator of the leak (13 or 28%) or as the victim (33 or 72%). The remaining 11 events had happened to someone close to the respondent. Among the respondents who had had no personal or second-hand experience as victims of ceiling leaks, 13 talked about what they would do if water leaked into their apartments from their upstairs neighbors.

Uncovering the Informal Norms that Govern Behavior. The discussions with the 13 respondents who had had no direct experience of flooding, but who were willing to talk about hypothetical situations provided the purest evidence of the informal norms among neighbors. When talking about how they would have behaved, the respondents had no need to defend their actual behavior. They were free to expound on their expectations. The consistency of their responses lends credence to the norm's validity as a societal benchmark.

Boris,¹⁷ a security guard from Saratov, captured the sense of the group well, saying: “What should you do? Simply approach [the other person] in a neighborly fashion (*po-sosedski*) and talk about what happened ...” Everyone agreed that talking to one's upstairs neighbor to find out what happened was the appropriate first step. If it turned out that the neighbor was at fault, the consensus was that the neighbor ought to take responsibility. More specifically, as Rimma, a Tomsk factory worker who, like Boris, lived with her parents on the top floor of her building and

¹⁶Of the 70 incidents, 14 took place in Moscow, 18 in Saratov, 10 in Shumerlia, 24 in Tomsk, and 4 in Kushchevskaiia.

¹⁷The respondents have been given pseudonyms to preserve their anonymity. All translations are the author's.

so could not be a victim of this sort of leak, put it, “If I were flooded, I would say, excuse me, but you need to pay for the repairs.”

This shows that the norm of conciliation is laced with a strong dose of personal responsibility. At the same time, all saw the pursuit of elderly, poor, or incompetent neighbors as wrong. Some characterized such efforts as pointless due to their lack of resources; others felt doing so would be morally wrong. No one was eager to come to blows with the *babushki* in their buildings.

Emerging from these conversations centering on hypothetical ceiling leaks was an overwhelming preference for the self-help strategy. Irrespective of where they were from, the majority of respondents believed that any problem arising from a ceiling leak could be settled between neighbors, without the need to appeal to outsiders for help. Driving their optimism was their characterization of relations among the neighbors in their *pod”ezd* as friendly (*druzhnoe*).

But even the most optimistic were willing to concede that there might be a few bad apples in any building. If a neighbor who was to blame for a ceiling leak refused to step up, most were prepared to take the matter to the housing authority to establish fault definitively. But they drew the line at going to court. If the determination of the housing authority failed to spur the neighbor into action, then the case would go no further. Marina, a Moscow economist, spoke for many when she characterized suing a neighbor as “unacceptable” (*nepriniato*).

Thanks to the respondents’ reflections on how they would respond to a ceiling leak, the contours of what it means to behave *po-chelovecheski* came into focus. In such circumstances, the victim ought to approach the apparent culprit to find out what happened. Ideally, the two neighbors ought to be able to work out the problem on their own. If that were to prove impossible, then turning to the housing authority for help in establishing what really happened is

acceptable, but going to court is not.

Avoidance. Embracing this norm sometimes led the respondents to employ an avoidance strategy. My methodological approach of focus groups and in-depth interviews allowed me to probe not only into why Russians took action, but why they did nothing. For some, avoidance became a second-best alternative to exit.

The costs associated with avoidance vary depending on the circumstances under which it arises. In the handful of cases where the victim of the ceiling leak was stymied from taking any action whatsoever, the costs were high. Several respondents were unable to locate their upstairs neighbor and, therefore, were left on their own. For Karina, a Saratov doctor, the leak happened at the worst possible time, namely, during the New Year's holidays. Her neighbors had gone away and had forgotten to turn off their taps before leaving. She was unable to get into the empty apartment because her neighbors had installed an iron door.

The easiest solution would have been to have the authorities turn off the water to the entire building, but she was unwilling to inconvenience her other neighbors. Eventually she was able to get the water turned off for the floor where the leak originated. When we spoke, three years had passed, but Karina was still seething over the fact that no one had ever apologized to her or even acknowledged their culpability. She felt she had had no choice but to do the repairs herself.

A common thread among those who did nothing was the absence of any sort of meaningful relationship with the culpable neighbor. In Karina's case, she could recognize her upstairs neighbors by sight, but had never talked to them. In the other cases, the neighbor at fault was not a long-term resident, but had recently moved in. Their ability to relocate indicated a financial flexibility that was absent among most of my respondents. But the fact that the

respondents lacked even a nodding acquaintance with their new neighbors suggests that these new residents had made little effort to learn about the informal norms. My sense was that they tended to hold themselves apart from the community.

Those who were rebuffed by their neighbors constituted a second variant of avoidance. Rather than the palpable anger that united those who had been unable to do anything, this group exhibited a sense of resignation. Zina, a Kushchevskaia doctor, shared the story of a friend. Her friend's upstairs neighbors had repaired some pipes, leaving a hole through which water flowed. When her friend asked the neighbors to fix this problem, they cursed at her. Zina told her friend, "Forget about it; just get your husband off the sofa. It's a half an hour of work--three bricks, and that's it." Zina's friend tried to follow the norm and come to an accommodation with her neighbor, but her neighbors were having none of it. A number of other respondents told me of analogous incidents. Fixing the problem themselves was easier than pushing their neighbor to behave *po-chelovecheski*. Indeed, the very notion of forcing someone to behave *po-chelovecheski* runs counter to the norm.

Self-help. In contrast to avoidance where victims of ceiling leaks are left on their own to cope, neighbors working together to solve the problem in a mutually satisfactory fashion is the hallmark of self-help. What some have described as the "radically decentralized" nature of self-help leads to wide variation in outcomes.¹⁸ The lack of procedural rigamarole allows for speedy resolution. People figure out their own solutions, independent of state-sponsored rules and regulations, and their needs are far from uniform. Some have no interest in material assistance; they simply want an apology. Others are keen for help, whether financial or hands-on, in repairing their apartments. As this suggests, the goal is typically compensatory. The parties work

¹⁸Donald Black and Margaret Baumgartner, "On Self-Help in Modern Society," in *The Manners and Customs of the Police* (New York, 1980), 206.

to manage the problem and to avoid recurrences. Occasionally it can even be therapeutic or conciliatory, but rarely is it punitive or vengeful. Anger or resentment rarely follows in the wake of self-help.

Self-help is the strategy that hews most closely to the informal norms governing relations among Russian neighbors. It was the primary strategy used in 30 (53%) of the 57 reported ceiling leaks.¹⁹ In all of these cases the perpetrator of the leak acknowledged responsibility. Failure to do so led either to avoidance or to third-party intervention. These instances where the perpetrator conceded responsibility can be divided into two categories. In the first, the victim did not ask for any assistance. In the second, the parties agreed that the perpetrator would aid in repairing the damage caused by the leak, either through monetary relief or by renovating the apartment himself.²⁰

Within this first category, there were a handful of cases in which the victims simply forgave their upstairs neighbors. For example, upon learning that the leak had been caused when Gloria's three children left their handkerchiefs in the sink after washing up, her downstairs neighbor told Gloria (a Tomsk tutor) that they would do the repairs themselves. No doubt the fact that the families had a longstanding good relationship facilitated this outcome. The almost-universal social norm of looking the other way when children's play leads to damage left the victims reluctant to press their claim.

Other times, those victimized by ceiling leaks chose to look the other way when the damage was minimal and the relations among those in the *pod"ezd* were friendly. The fact that the victims of these leaks chose to "lump it" rather than pursue damages might appear to

¹⁹In addition, the bulk of the cases involving third-party intervention began with an effort to resolve them through self-help.

²⁰The use of the male pronoun here is deliberate. I encountered no instance where the offer of hands-on help involved women doing the repairs.

constitute avoidance. But because the parties worked together to come to this resolution, this fits better into the self-help category, though it does illustrate that the dividing line between the two is rather porous.

A few of my respondents had to deal with repeated instances of water leaks from their upstairs neighbors due to their carelessness. Such negligence was typically the product of either old age or alcoholism. Tolerance tended to be greater for *babushki* than for alcoholics. Susanna, a Tomsk accountant, has been the victim of multiple leaks at the hands of her elderly upstairs neighbor. Each time, she would go to see her and ask, “How many times are you going to flood us?” Susanna explained that getting angry or yelling was pointless due to her neighbor’s advanced age. In her view, it was better to handle the problem “*po-chelovecheski*.”²¹

Several others had similar experiences with elderly neighbors. At least one of them took money if offered, but did not demand it. This buttresses what I learned during the conversations about hypothetical ceiling leaks, namely, that pressing someone who was down on his/her luck, especially when such a person was a pensioner, was unacceptable. Susanna and the others who were repeatedly victimized by negligent *babushki* were loathe to violate this norm. When the problem arose due to the repeated carelessness of alcoholic neighbors, however, my respondents were less forgiving.

More often than not, the negotiations between neighbors that lie at the heart of the self-help strategy resulted in the perpetrator of the ceiling leak offering concrete assistance to his or her victim. This was the outcome in two-thirds (20 of 30) cases in which my respondents reported using self-help. Thirteen of these (65%) involved financial assistance. In the rest, the neighbor at fault pitched in to fix the damage caused. In all cases, the parties emerged from the

²¹In addition to her age, the fact that Susanna’s neighbor had gotten her current apartment from the city after fire had destroyed her previous apartment left Susanna unwilling to ask for money to cover the damage caused by these leaks.

self-help process relatively satisfied.

Over and over again, I was told that those responsible for ceiling leaks covered the cost of repairs. I heard this from respondents who were responsible for such leaks and from those who were their victims. For example, Sara, who is otherwise quite competent as the manager of a Saratov crisis center, sheepishly confessed that she has a bad habit of turning on the water and then getting distracted. As a result, she has repeatedly flooded her neighbors. Without fail, they have adopted a self-help strategy. When the tables were turned, the basic story remained much the same. In all locations, respondents told of how their neighbors had compensated them for the damages caused by the ceiling leak. Their matter-of-fact recitations of what had happened convinced me of the power of the informal norm when problems arose with neighbors.

Some respondents were less charitable. Khristina and her parents were livid when their newly renovated Tomsk kitchen was flooded with scalding water. When the water had been turned off centrally for maintenance, their upstairs neighbors had left their taps on. When the water supply was restored, no one in this family was home, and the water flowed freely into the apartment below. The wallpaper and linoleum that Khristina's mother had recently installed was destroyed. Their immediate reaction was to run upstairs and scream at their neighbors. These neighbors offered them 5000 rubles, which was less than a third of the cost of the repairs.

Ultimately, Khristina and her mother decided that pressing their claim further would be counter-productive. They were less affected by the poverty of their neighbors²² than by the fear that they would be shunned within the *pod"ezd* if they took a hard line. They had lived in the *pod"ezd*, which she described as friendly (*druzhnyi*), for over eight years. In her words, "If you litigate it is as if you are going against your own... It is not acceptable. All of your neighbors will

be vexed with you. Situations vary, but resolving quietly and peacefully is better. Don't immediately run to the court or complain to the police." Among those who used self-help, Khristina was one of the few who harbored some resentment long after the incident.

When those responsible for a ceiling leak have the necessary skills to make repairs, they often offered to do so. The older respondents indicated that this was more common in the Soviet era, probably because work-related demands on time were less. Arkadii confessed to having flooded his neighbors several times recently, but said that he always pitched in to help repair the damage. Sometimes the perpetrator offered either services or money. When Anastasia, a Saratov professor, and her downstairs neighbor were both flooded, her upstairs neighbor offered the services of her brother-in-law, who was a contractor. He showed up within an hour of the accident and sized up the damages. Anastasia accepted the offer of services and was pleased with the results. Her downstairs neighbor opted for a cash settlement.

Having the culpable neighbor do the repairs is most likely when the two families are close. The experience of Elena, a Moscow administrator, is instructive. Her family had a longstanding relationship with the pensioners who lived above them. They held spare keys to each others' apartments. When a ceiling leak developed in the wee hours, Elena called them.

The neighbors found the problem, but not before enough water had accumulated to cause serious damage. They insisted on repairing the damage themselves. When Elena and her family were away for a few days, the neighbors came in and took care of the problem. As Elena said, "We returned and the apartment was already clean. They apologized one hundred times. They gave us a box of candy... If neighbors are normal, this is how they behave." Her words captured the expectations embodied in the informal norm. Neighbors ought to work with each other and

²²Khristina characterized the family as poor (*malobespechennaiá*) and told of how the younger daughter had gone through three operations to improve her sight. The family included a son who had been a classmate of Khristina's. When they

those responsible ought to offer either to do the repairs or to pay for the repairs.

Third-Party Intervention. In Russia, as elsewhere, self-help does not always work. It requires both parties to be invested in solving the problem and, to that end, to be willing to contemplate compromise. When neighbors do not know each other, they are more likely to look to third parties for assistance. This would seem to confirm the relational distance thesis.

The motivations for bringing in a third party vary. Sometimes the goal is simply to get a fresh pair of impartial eyes on the problem. While such cases reflect a low level of trust between the parties, they can be seen as an extension of the self-help process. The goal remains compensatory. As the process ratchets up, however, less salutary motives can creep in. In its basest form, third-party intervention evokes images of thugs imposing their will on others. Even when limited to state-sponsored third-party intervention, the desire for vengeance often spurs the process. It is rarely the sole motivating factor. Typically it is woven together with more socially acceptable goals, such as compensation.

Whether third-party intervention represents a failure of the informal norm favoring self-help depends on what form the third-party intervention takes. When resolving problems arising from ceiling leaks in Russia, there are two key third-party interveners: the housing authorities (or *ZhKU*) and the courts. Residents turn to the *ZhKU* to get a neutral assessment of who was responsible for the leak and an estimate of the cost of repairs. Sometimes this serves as the basis for renewed negotiations between the parties leading to a settlement. In such cases, the housing authority acts to buttress and facilitate self-help.

On the other hand, sometimes appeals to the *ZhKU* serve as a precursor to litigation. This does not necessarily imply that the parties have given up on self-help. As Galanter reminds us,

were younger, they had hung out in the same crowd.

“[i]nvolving a court is not an abandonment of negotiation, but a shift in bargaining formats.”²³ Filing a lawsuit or threatening to do so often has the effect of reframing the discussion. Fear of the time, money, and emotional energy required to see a lawsuit through can jumpstart negotiations. For those seeking retribution, the courts serve a different function. Through their enforcement powers (which the *ZhKU* lack), punishing damages can be imposed on their neighbors.

Among my respondents, one-third (19 of 57) of those who had been involved with ceiling leaks sought help from their *ZhKU*. The *ZhKU* structure and the practice of using the *ZhKU* to establish what happened in cases of ceiling leaks is a vestige of the Soviet past. Both then and now, the report (or *akt*) produced by the housing authorities can be used by the parties to set a limit on the amount of damages, or it can serve as a first step towards litigation.

In only one of the post-Soviet cases was this *akt* dispositive on its own. This is a reflection both of the low esteem that most Russians have for their local housing authorities and of their recognition that the *akt* cannot be directly enforced. Grumbling about *ZhKU* was a theme throughout the focus groups and the interviews. The well-known tendency of housing authorities to play fast and loose with the facts whenever their workmen were implicated in ceiling leaks only further undermined their reputation. A few respondents decided not to pursue their claim when their neighbors continued to balk at compensating them even after receiving the report from the housing authority. Faced with the prospect of a lengthy and messy fight, they opted for an avoidance strategy.

The *akt* was most effective when accompanied by a credible threat to file a lawsuit. The experience of Svetlana, a Saratov physician, whose neighbors flooded her in the middle of the night, captures this behavioral pattern well. She knew her upstairs neighbors by sight, but had no

²³Marc Galanter, “Vision and Revision: A Comment on Yngvesson,” *Wisconsin Law Review*, no. 3 (1985): 653.

relationship with them. She began with a self-help approach, but found it to be impossible. She turned to her housing authority. Armed with its *akt* and an estimate of the cost of repairs from a local construction company, she reopened the negotiations with her neighbors. She told them that if they continued to refuse to pay, she would file a lawsuit.

Her neighbors understood that, between the *akt* and the estimate, Svetlana would have had the upper hand in court. They were sufficiently frightened by the prospect of litigation that they ended up paying her. She explained this change of heart by noting that Russians generally do not like to participate in judicial proceedings. More specifically, she believed that she benefited from her neighbors' poor character (*ne poriadochnost'*) and their reluctance to expose themselves to scrutiny. Svetlana was satisfied with the outcome. She had not been keen to initiate litigation, fearing that it would have taken too much of her time.

Svetlana's passing acquaintance with her neighbor was typical for those who turned to their *ZhKU*. Those who knew each other well found it easier to resolve problems on their own. Prior litigation experience turned out to be a good predictor of how they purposed the *akt*. Those with such experience were more likely to threaten and/or file lawsuits against their neighbors, whereas neophytes tended to walk away.²⁴

Filing a lawsuit against a neighbor would seem to contradict the informal norm in favor of behaving *po-chelovecheski*. Yet lawsuits were more common than I had expected, arising in nine (16%) of the 57 ceiling leaks.²⁵ Of these, only one was a clear violation of the norm. Most

²⁴Of the 14 respondents who invoked litigation or ended up in court, 13 had prior experience. Of the seven who walked away or accepted the *akt*, only two had prior experience.

²⁵The non-representative nature of my sample makes it difficult to know whether the penchant for litigating is shared more broadly in Russian society. I am skeptical that it is. Earlier work on the role of law in Russian business revealed that of every 100 transactions, 24 experience potential disputes. Of these, 16 are resolved through informal complaints, seven are resolved through threats of litigation and/or penalties, and one is litigated. Kathryn Hendley, Peter Murrell, and Randi Ryterman, "Law, Relationships and Private Enforcement: Transactional Strategies of Russian Enterprises," *Europe-Asia Studies* 52, no. 4 (2000): 633, n. 52. A U.S.-based study of disputing behavior found that "71.8% of individuals with grievances complained to the offending party, and that a dispute arose in 63% of those situations. Of

of the others involved neighbors who were new to the *pod"ezd* or neighbors who barely knew one another. For example, Kira, a Tomsk accountant, told of how her new neighbors refused to compensate their downstairs neighbors after flooding them. She was surprised that the case ended up in court, particularly given that the victim of the leak was a pensioner. She chalked it up to the fact that the perpetrator was new to the *pod"ezd* and felt no sense of community with the other residents. Following the prediction of the socio-legal literature, Russians prove more willing to file lawsuits against strangers than against friends.

The norm-busting lawsuit arose after Berta, another Tomsk accountant, flooded her downstairs neighbors when one of the hoses leading to her washing machine broke while she was at work. The water flowed uninterrupted for hours, damaging the apartments on the three floors below her. Her first instinct was to apologize to her neighbors and to offer to pay for the damages. She was able to reach an accord with those on the first and second floor.

The woman who lived immediately below her was less accommodating. She was a lawyer (*advokat*) and was uninterested in a settlement from the outset. Though she was relatively new to the *pod"ezd*, she and Berta had become friends, sharing their problems with one another. Berta believed that the hose had exploded due to a sudden surge in water pressure, which meant that fault lay with the housing authority and not with her. Not surprisingly, her *ZhKU* was not interested in helping her prove this theory, preferring to point the finger of blame at her.

Her downstairs neighbor took the easy way out by blaming her as well. She presented Berta with an estimate for repairs for 110,000 rubles, which Berta believed had been inflated by at least 70 percent. When their negotiations broke down, the neighbor filed a lawsuit. Having no prior experience with the formal legal system, Berta felt herself to be at a severe disadvantage.

these disputes, 11.2% resulted in a court filing.” They concluded that “it is clear that litigation... is by no means the most common response to disputes.” David Trubek, William L.F. Felstiner, Herbert M. Kritzer, and Joel B. Grossman, “The

She was cowed by the process, saying, “I was afraid to speak candidly, because any lawyer can take normal words and twist them against me. I remained quiet.” She believed that the judge was biased in favor of her neighbor, due to their preexisting relationship. Lacking faith in the evenhandedness of the judge, she settled the case for 40,000 rubles.

The case appears to reveal fissures in the informal norm. Pinpointing the motives of Berta’s neighbor was complicated by my lack of access to her. Ruminating on this question, Berta said, “[e]very person treats others according to their own standards. When I was young, we didn’t bother with contracts. I was raised at a time when it was possible to rely on someone’s word, on their upstanding character... But she took it to court. As a result, we had to have it out.”

Thus, Berta attributes her neighbor’s behavior to her poor character, comparing her with the other neighbors who had also been flooded, who were more forgiving. Indeed, the person who lived on the first floor helped clean up the mess in Berta’s apartment. Digging deeper, Berta’s litigious neighbor can be seen as opting out of the societal norm in an effort to maximize her own interests. The contrast with the other neighbors is instructive. It suggests that there was a genuine community within the *pod”ezd* and that the *advokat* cared little about being ostracized from it. Perhaps this is because she had never fully integrated herself into it.

More puzzling is her willingness to forsake her burgeoning friendship with Berta. It may have been that the friendship was more important to Berta than to her downstairs neighbor. Though Berta characterized her as a “friend” (*podruga*), her neighbor may have viewed Berta as a mere acquaintance. It is also possible that Berta’s version of what happened glossed over some facts that would have shed light on her neighbor’s behavior. She may have said or done something to antagonize her neighbor. Or the damage may have been as extensive as the neighbor claimed.

Costs of Ordinary Litigation,” *UCLA Law Review* 31, no. 1 (1983): 86-87.

Explaining Russians' Responses to Problems with Neighbors

Relationships. Though reading too much into any single case is perilous, Berta's case reminds us of the nested quality of informal norms. Between the focus groups and the interviews, I found no one who did not support the norm favoring self-help when problems arose between neighbors. Just the opposite: the respondents repeatedly emphasized that such problems should be worked out *po-chelovecheski*, *i.e.*, on an interpersonal level and without involving outsiders. In fact, the consensus seemed to be that suing a neighbor could be grounds for ostracism. But it is possible for a person to adhere to such a norm as a general principle while, at the same time, viewing his or her situation as somehow exceptional. The review of the cases involving third-party intervention, especially those that gave rise to litigation, identify the tension points in the informal norm. As a rule, the respondents found it easier to sue someone they saw as an outsider.

The hypothesis that people are more likely turn to the courts or other third parties when problems arise with strangers than with intimates held true for the Russians I studied. Echoing Engel's finding from his study of attitudes toward personal injury lawsuits in a small Midwestern towns,²⁶ my respondents regarded litigation as being beyond the pale. While conceding that it is sometimes unavoidable, the consensus was that it should be pursued only when no other alternatives remained.

Institutional Infrastructure. Perhaps the claims did not give rise to recriminations because they were so straightforward. Among my respondents, lingering anger was typical only for those who avoided the problem. Those who engaged in self-help, even when it escalated into third-party intervention, were able to put the problem behind them once it had been resolved.

This was not what those who studied U.S. neighbors found. In her study of New England

neighbors who, like my respondents, shared close quarters and whose economic situation left them with little opportunity for exit, Merry found that,

[w]hen simple issues of shared space escalate into fights, there is usually something else involved... most of the parties were tied together only by proximity, by the fact that they could not easily avoid one another. The more they felt trapped together, the more intense and prolonged the battle. When avoidance was impossible or very costly—when there was no room to build a fence, for example, or when the victim of abuse could not afford to sell his house and move away—fights became more intense.²⁷

Unlike Merry, I heard no stories of drawn-out feuds. The non-representative nature of my sample limits my ability to provide a definitive explanation, but I can suggest several possible reasons. It may be that ceiling leaks are not the sort of problem likely to give rise to simmering resentments. Unlike barking dogs or noisy children, a ceiling leak is a discrete problem that can be solved. On the other hand, Merry persuasively argues that the cause cited for instigating a feud is usually a pretext, standing in for a series of lingering slights. A ceiling leak would seem capable of serving this function.

Digging deeper, the differences between the two judicial systems may account for the variation in outcomes. Arguably, the U.S. judicial system eggs on feuds by treating the parties as adversaries and requiring them to battle it out, whereas the inquisitorial model found in Russia provides more fertile ground for compromise. These differences are, however, greater in theory than in practice. In both systems, engaging the legal process is seen as a hardship that most try desperately to avoid.

This leaves us with cultural explanations. Though the stereotypes of Russians as endlessly patient and Americans as combative seem helpful, they are too superficial to serve as a

²⁶David M. Engel, “The Oven Bird’s Song: Insiders, Outsiders, and Personal Injury in an American Community,” in Carol J. Greenhouse, Barbara Yngvesson, and David M. Engel, eds., *Law and Community in Three American Towns* (Ithaca, 1994).

²⁷Merry, *Getting Justice*, 39.

convincing explanation. Indeed, my study provides little evidence to support the stereotype of Russians as passive. The informal norm militates in favor of activist problem-solving, not grim suffering. As a rule, my respondents embraced this norm. Those who appeared to depart from it by avoiding the problem did so grudgingly and, long after the fact remained angry about their inability to address the problem directly.

The commitment to self-help as way to solve ceiling leaks may have a more mundane source. The aging nature of the plumbing infrastructure in the Russian housing stock contributed to the equanimity with which most of my respondents dealt with ceiling leaks. Many had been both the victim and the perpetrator of such leaks. Yet it is important to remember that none of the 57 instances of ceiling leaks on which this paper focuses were the direct result of shoddy building maintenance. Such problems would be laid at the door of the housing authorities. Rather, my study is limited to leaks attributable to the negligence of neighbors and for which these neighbors are culpable. Both in the discussions of what they would do if flooded and what they actually did, many respondents commented on how the fact that the tables could easily be turned had a calming effect on them.

Generational Effect. Those respondents who came of age in the Soviet system when moving was almost impossible learned the importance of establishing cordial relations with their neighbors in the *pod"ezd*. Realizing they were stuck together for the foreseeable future, they developed informal norms that minimized tensions. Encouraging self-help when faced with ceiling leaks made sense in that institutional context.

Yet my conversations reveal that this is not entirely a vestige of the past, though it is beginning to show signs of wear and tear. When teasing out the norm by analyzing the “what if” conversations, I rely on respondents at both ends of the age spectrum. That those over thirty like

Marina (58) would adhere to the norm is not surprising. But others (e.g., Boris and Rimma) were in their twenties. They had no memory of life under state socialism. They grew up in a world where the existence of a viable real estate market made “exit” possible. For them, however, moving elsewhere to escape annoying neighbors was not realistic. Like the rest of my respondents, they lacked the financial resources needed to buy a different apartment. As Hirschman predicted, they reacted by utilizing “voice” through self-help.

Nature of Damage. Common sense pushed me to explore whether there was a link between the response to ceiling leaks and the damage caused. It is true that most of those who resorted to third-party intervention sustained serious damage. But the vast majority of the incidents reported involved serious damage, so the same could be said for those who opted for self-help and/or avoidance. Thus, the extent of the damages was not the critical determinant of behavior.

Instead, the key was the underlying relationship. More specifically, it was a combination of the attitude of the neighbor who caused the damage and the victim’s perception of his/her circumstances. Almost without exception, being rebuffed by their upstairs neighbor after a ceiling leak caused my respondents to see red. Some ended up lumping it either because they realized their neighbors had no resources and/or because they decided going after them would be too much trouble. Others pursued their neighbors through the formal legal system. Yet a number of my respondents, who sustained devastating damage, including Sara and Elena, managed to work things out with their neighbors. When both neighbors were invested in a self-help strategy, they might seek third-party intervention in the form of seeking a neutral estimate of damages from the *ZhKU*. Irrespective of the seriousness of the damages, none of these incidents devolved into litigation.

Attitudes towards Courts. At first glance, my respondents' distaste for litigation might seem to buttress the polling data that ostensibly documents Russians' lack of trust in the formal legal system. But the conversations told a different story. Though dissatisfaction with the courts was a recurring theme, being railroaded by a corrupt system was not the respondents' principle fear. When pressed, most conceded that Russian courts can be "bought," but they felt themselves to be far removed from the high stakes cases in which outcomes are settled by money-filled envelopes or by telephone calls from on high. Thus, this sad reality about the Russian judicial system did not determine their attitudes about suing neighbors over ceiling leaks.

Instead, my respondents' complaints about the courts were dominated by more prosaic concerns, such as the cost, time, and energy required. Vadim, a Saratov entrepreneur whose family, despite being flooded three times, chose not to pursue a claim against their poverty-stricken upstairs neighbors, reflected the views of many when he said, "Courts aren't necessarily good or bad. It's better not to have any connection with courts—it's a question of time, nerves, and money. Usually we try to resolve such problems in a friendlier way." These sentiments are not unique to Russians. Going to court can be daunting, even in societies considered to be litigious, like the U.S. Those who lack experience can come away feeling like their outsider status has disadvantaged them.

Prior experience with the courts seemed to embolden my respondents to go down that road again. All of the respondents who initiated lawsuits had been to court in the past. But this did not make them eager to return. Most saw litigation as a last resort, to be employed when self-help fell flat. Table 2, which shows that many of those who used avoidance and self-help strategies were court veterans, provides persuasive evidence that filing a lawsuit was not an

automatic response to problems for anyone.²⁸ Yet it suggests that Russians may be like Americans who tend to be more favorably inclined towards courts after using them.²⁹ The fact that those without court experience did not opt for litigation is telling. No doubt the media drumbeat about the difficulties of using the courts in Russia has taken its toll.

Preliminary Insights on Russian Legal Consciousness

My study differs from most research on Russian law. Rather than exploring how Russians use (or avoid) particular laws, I focused on a problem that Russians confront in their daily lives with the goal of understanding how Russians think about law. The non-representative nature of the sample makes definitive conclusions impossible, but certain patterns have emerged that deserve more systematic exploration. My respondents' strong commitment to the informal norm favoring self-help suggests that the communitarian ideals that successive Soviet regimes tried to inculcate took hold and continue to hold sway.

But the tenacity of this norm has little to do with an attachment to Soviet ideals more generally. My respondents' continued adherence to it reflected its practical value in their lives. Having been thrown together with the neighbors in their *pod"ezd*, they recognized the need to get along. Hence, the general norm was adapted to create a quasi-law of the *pod"ezd*, which residents violated at their own peril. Though the shadow of the law hangs over all of the reported incidents, the formal legal system was mostly an afterthought for my respondents. Their behavior was dictated more by their internal moral code and the code of the *pod"ezd* than by state-

²⁸A systematic review of those who opted for avoidance and self-help shows that they were fairly evenly divided between those who had prior court experience and those who did not.

²⁹E.g., Joseph A. Aistrup and Shala Mills Bannister, "How Previous Court Experience Influences Evaluations of the Kansas State Court System," *Court Review* 36, no. 3 (Fall 1999): 32-34; David B. Rottman, "On Public Trust and Confidence: Does Experience with the Courts Promote or Diminish It?" *Court Review* 35, no. 4 (Winter 1998): 14-22; Herbert M. Kritzer and John Voelker, "Familiarity Breeds Respect: How Wisconsin Citizens View Their Courts," *Judicature* 82, no. 2 (1998): 58-64.

promulgated statutes or regulations. This reality reminds us that law flourishes best when it is in harmony with such codes.

My research suggests that the solidity of the informal norm is beginning to crack. No longer do the populations within *pod"ezdny* remain unchanged from one generation to the other. The privatization of the housing stock and the consequent emergence of a real estate market has brought with it the possibility for relatively rapid turnover. Few of my respondents had the financial flexibility to participate in this new reality, but they were impacted as those around them did so. It is surely no accident that the likelihood of third-party intervention increased dramatically when the neighbor was a newcomer. The informal norm to behave *po-chelovecheski* is grounded in inter-personal relationships. When neighbors did not know each other, they felt less of an obligation to live up to its ideals.

Table 1: Background Information on Research Sites as of the End of 2007(1)

	Population	Average Monthly Wage (2)	Unemployment Rate	Average Square Meters Available Per Person	Population Density (people per square kilometer)
Moscow	10,470,300	23,623 rubles	0.8%	19.9	9597
Saratov (Saratov oblast')	836,100 (2,583,800)	10,601 rubles (9,103 rubles)	1.17% (8%)	23.9 (23.7)	2090 (25.5)
Tomsk (Tomsk oblast')	496,500 (1,035,000)	16,091 rubles (14,429 rubles)	0.66% (6.9%)	19.6 (20.3)	1736.4 (3.3)
Shumerlia (Republic of Chuvashia)	34,100 (1,282,600)	(8,703 rubles)	(6.5%)	(21.5)	(69.6)
Kushchevskaia (Krasnodarskii krai)	(5,121,800)	(10,260 rubles)	(8.8%)	(21.4)	(67.9)

(1) Data are generally available for the regional sub-units of Russia. These have various names, *e.g.*, oblast', republic, or krai, but all are equal members of the Russian Federation. Where possible, I have provided data for both the city and the surrounding region. Saratov and Tomsk are the capitals of their respective regions and, therefore, more information was available.

(2) The exchange rate at the close of 2007 was 24.55 rubles to the U.S. dollar, according to the Central Bank of Russia.

Sources: *Sem'ia v Rossii 2008* (Moscow 2008); *Regiony Rossii. Osnovnye kharakteristiki sub"ektov Rossiiskoi Federatsii 2008* (Moscow 2008); *Regiony Rossii. Sotsial'no-ekonomicheskie pokazateli* (Moscow 2008); *Regiony Rossii. Osnovnye sotsial'no-ekonomicheskie pokazateli gorodov* (Moscow 2008).

Table 2: Background Information on Respondents Referenced

Name	Age	Residence	Education	Occupation	Court Experience?	Strategy employed
Anastasia	44	Saratov	University degree	Professor	No	Self-help
Arkadii	29	Kushchevskaia	University degree	Psychologist	Yes	Avoidance and Self-help
Berta	50	Tomsk	University degree	Accountant	No	Third-party intervention
Boris	24	Saratov	High School degree	Security guard	No	Self-help (Hypothetical)
Elena	35	Moscow	University degree	Office manager	No	Self-help
Gloria	51	Tomsk	High school degree	Tutor	No	Self-help
Karina	42	Saratov	University degree	Doctor	Yes	Avoidance and Self-help
Khristina	21	Tomsk	Incomplete high school	Packer	No	Self-help
Kira	52	Tomsk	High school degree	Library worker	Yes	Third-party intervention
Marina	58	Moscow	University degree	Economist	Yes	Self-help (Hypothetical)
Rimma	25	Tomsk	University degree	Unknown	Yes	Self-help (Hypothetical)
Sara	45	Saratov	University degree	Manager	No	Self-help
Susanna	53	Tomsk	High school degree	Bookkeeper	Yes	Self-help
Svetlana	38	Saratov	University degree	Doctor	No	Third-party intervention
Vadim	26	Saratov	University degree	Entrepreneur	Yes	Avoidance
Zina	37	Kushchevskaia	University degree	Doctor	Yes	Avoidance