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Book Review. Courts and Transition in Russia: The  
Challenge of Judicial Reform, by Peter H. Solomon,  
Jr. and Todd S. Foglesong

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Nevertheless, there is much here with which one might take issue. First, Nichols's handling of social trust as a variable is surprisingly impressionistic. Perhaps this is because so many observers—including this reviewer—find the claim that Russia is a society characterized by low levels of social trust to be perfectly plausible. Nevertheless, a more rigorous treatment of social trust would have been welcome, especially given its centrality to his argument. Second, although the book is by no means uncritical of El'tsin, Nichols's treatment of the entire period is exceptionally sympathetic to the president, whose responsibility for the events of September–October 1993, for example, seems in Nichols's view to be minimal. Third, while Nichols is undoubtedly right that the weakness of Russian parties contributed to the failure of parliamentarism, he gives insufficient attention to the ways in which the executive, at federal and regional levels, acted to impede the emergence of strong parties. Finally, there is the question of who chose presidentialism for Russia and why. Nichols more than once writes of “the Russians” opting for presidentialism in December 1993, treating the constitutional referendum as a genuine expression of the electorate's preference for presidentialism over parliamentary democracy. Yet even leaving aside the question of vote fraud and the conditions in which the referendum took place, the fact remains that the electorate was offered no such choice. Voters were offered a plebiscite on a strongly presidential constitution. Rejecting it would have left the country without a constitution, raising the risk of a political crisis even more severe than that of the previous October. Arguably, Nichols's line of argument tells us more about why Russian presidentialism has worked as well as it has than about how and why it came to prevail. Yet these are all issues that will be debated for some time to come, and the *Russian Presidency* makes an important contribution to the discussion.

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*Courts and Transition in Russia: The Challenge of Judicial Reform.* By Peter H. Solomon, Jr., and Todd S. Foglesong. Boulder, Colo.: Westview Press, 2000. xiv, 226 pp. Appendixes. Notes. Index. Figures. Tables. \$25.00, paper.

Peter Solomon and Todd Foglesong's analysis of the decade of post-Soviet judicial reform in Russia is impressive, not only because of their thorough explanation of the macroreality of the post-perestroika administration of justice (the interrelations of the court system with the entrenched bureaucracies of the presidential administration, the procuracy, the ministry of internal affairs, the ministry of justice), but also because of their keen understanding of the microreality of the everyday workings of the courts (workloads, internal hierarchies, salaries, housing issues, opinion writing, and so on), which is the result of their seamless mastery of the literature, acute observation, and an exhaustive number of interviews and surveys of justice officials. But the crowning ambition of Solomon and Foglesong, two of the most preeminent students of the Russian legal system, is to transform their insights into the strengths and weaknesses of the contemporary Russian system of justice into a white paper for judicial reform, taking up, in a sense, where the *Concept of Judicial Reform*—the radical document passed in October 1991 by the old parliament, the Supreme Soviet of the Russian Federation—left off.

The recommendations Solomon and Foglesong make are admittedly pragmatic and, in their own words, *moderate* and aim at finding ways to implement gradual reforms based on the new procedures and institutions that are already in place due in large part to what they call the *visionary* work of the highly theoretical and history-drenched authors of the *Concept*. Their “moderate agenda” coincides to a great degree with the views of the Russian judiciary, which the authors have plumbed through interviews and the use of a detailed questionnaire.

The book begins with a short history of the reform movement from its beginning during Mikhail Gorbachev's perestroika, through the “radical” reforms of 1991–1993, and the stagnation of the reform movement during the later years of Boris El'tsin's presidency. The authors then address a series of problems facing the administration of justice in subse-

quent chapters: chapter 2 deals with the independence of courts and judges; chapter 3 with the autonomy and accountability of trial judges; chapter 4 with the jurisdiction, power, and prestige of the courts; chapter 5 with staffing of the courts; chapter 6 with simplifying the administration of justice and making it more efficient; chapter 7 with the pre-trial phase of criminal procedure; and chapter 8 with civil and commercial judgments and their implementation. Each chapter concludes with an itemized list of recommendations to Russian legislators and officials, as well as to western donors, concerning how the reforms can best be promoted given the current economic and political situation. The book concludes with "The Agenda for Reform" in which the authors discuss which of their 39 recommendations should be perceived as priorities, taking into consideration the political (opposition by entrenched ministries or agencies) and economic situation in the country.

One cannot quibble with the overwhelming majority of Solomon's and Foglesong's recommendations, many of which are aimed at improving the education, training, and work assignments of judges and ensuring adequate financing to hire additional judges and to improve court infrastructure. They also make concrete recommendations for establishing and improving the functioning of the new judicial bailiff system so as to facilitate the enforcement of judgments of the civil and economic courts. By adopting in large part the program espoused by Russian judges and their organs, Solomon and Foglesong are siding with the bureaucracy which, in comparison with the ministry of justice, the ministry of the interior, and the procuracy, is the least opposed to serious reforms in the administration of justice. Two caveats are in order, however. First, although with the liberation of the judiciary from the tutelage of the ministry of justice and the establishment of a judicial department attached to the Supreme Court an important step has been made to establish a judiciary truly independent of the executive branch of government, the judiciary is still a bureaucracy that operates in many of the old Soviet ways and can, even if independent, block some aspects of criminal justice reform. Second, I believe there cannot be any serious reform, even of a moderate sort, if the procuracy is not subject to serious reorganization and if neither the president's administration nor the Duma are willing to overcome its opposition to all profound changes in the way justice is administered.

In summary, I believe that reform will never succeed unless the interests of the mighty procuracy are subordinated to the needs of creating a state bound by the rule of law. Investigating and prosecuting criminal cases can certainly absorb the cadre presently wasting their time engaged in "procuratorial supervision." Those remaining who are not yet of retirement age can become justices of the peace, where their exercise of judicial and quasi-judicial functions will be more appropriate in a democratic society. The old inquisitorial mode of investigating criminal cases must also be transformed to free up judges, procurators, and lawyers from wasting precious hours reading and copying the often peripheral and repetitive documents in the file, so they can "try" cases involving live witnesses in open, oral hearings before the courts, whether staffed by juries, lay assessors, or single judges, who will *always* decide them on the spot and give reasons for so doing. Finally, it is hoped that the simplification and abbreviation of the preliminary investigation and the trial will save judicial resources and enable an expanding of the jury trial system to the whole realm. I agree with Solomon and Foglesong that the jurisdiction of the jury court could be limited, perhaps to aggravated murders, but I do believe its presence will greatly improve the professionalism of judges, prosecutors, and defense attorneys alike, for its unpredictability, its ability to acquit if a case is not proved adequately, will force the professionals to play their roles as forcefully and convincingly as adversary procedure requires.

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*Misteriia regionalizma: Regional'nye praviashchie elity i regional'nye ideologii v sovremennoi Rossii: Modeli politicheskogo vossozdaniia "Smizu."* By Arbakhan Magomedov. Moscow: Moskovskii obshchestvennyi nauchnyi fond, 2000. 221 pp. Bibliography. Figures. Paper.